



TWEED SHIRE COUNCIL

AGENDA

PLANNING COMMITTEE MEETING

Tuesday 17 February 2009

Mayor: Cr J van Lieshout

**Councillors: Cr B Longland, Deputy Mayor
Cr D Holdom
Cr K Milne
Cr W Polglase
Cr K Skinner
Cr P Youngblutt**

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ITEMS FOR CONSIDERATION OF THE COMMITTEE:

ITEM	PRECIS	PAGE
	REPORTS THROUGH GENERAL MANAGER	5
	REPORTS FROM DIRECTOR PLANNING & REGULATION	5
P1	[PR-PC] Development Application DA08/0841 for a Dwelling & Swimming Pool at Lot 3 DP 253861 No. 49 Elanora Avenue, Pottsville	7
P2	[PR-PC] Development Application DA08/0753 for a Dwelling, Swimming Pool & Front Fence at Lot 351 DP 1087716, No. 19 Cylinders Drive, Kingscliff	33
P3	[PR-PC] Development Application DA08/1007 for a Dwelling & Swimming Pool at Lot 282 DP 1120559, No. 13 Woodfull Crescent, Pottsville	65
P4	[PR-PC] Development Application DA08/0857 for a Dwelling, Swimming Pool & Front Fence with Fence Height Variation at Lot 356 DP 1087716, No. 29 Cylinders Drive, Kingscliff	93
P5	[PR-PC] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards	121
P6	[PR-PC] Development Application DA08/0387 for Additions to Amenities and New Awning and Farm Shed at Lot 6 DP 596699, Lot 11 & 12 DP 1086837 Duranbah Road, Duranbah - Unauthorised Works	123
P7	[PR-PC] Part V Application - PTV08/0001 for an Upgrade of the Banora Point Water Reclamation Plant & the Demolition & Reconstruction of the Tweed Heads West Water Reclamation Plant at Lot 482 DP 591546; Lot 2 DP 591548; Lot 1 DP 1011625, Parkes Drive, Tw	129
P8	[PR-PC] Development Application DA08/0931 for Boat Tours on Tweed River at Tumbulgum, Tweed Heads South and Murwillumbah	141
P9	[PR-PC] Kings Forest Concept Plan - Residential Community Development - Council Submission to the Department of Planning	163
P10	[PR-PC] Cobaki Lakes Concept Plan - Residential Community Development - Council Submission to the Department of Planning	193

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REPORTS THROUGH GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & REGULATION

MATTERS FOR CONSIDERATION UNDER SECTION 79(C)(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The following are the matters Council is required to take into consideration under Section 79(C)(1) of the Environmental Planning and Assessment Act 1979 in assessing a development application.

MATTERS FOR CONSIDERATION

1. In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:
 - (a) the provisions of
 - (i) any environmental planning instrument; and
 - (ii) any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
 - (iii) any development control plan, and
 - (iv) any matters prescribed by the regulations,that apply to the land to which the development application relates,
 - (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,
 - (c) the suitability of the site for the development,
 - (d) any submissions made in accordance with this Act or the regulations,
 - (e) the public interest.

P6 [PR-PC] Development Application DA08/0387 for Additions to Amenities and New Awning and Farm Shed at Lot 6 DP 596699, Lot 11 & 12 DP 1086837 Duranbah Road, Duranbah - Unauthorised Works

ORIGIN:

Development Assessment

FILE NO: DA08/0387 Pt1

SUMMARY OF REPORT:

Council received an application for the construction of a fruit processing and packaging shed, new amenities building and awning to the existing tourist fruit shop. Un-authorized construction work commenced on the fruit processing shed namely the footings and all steel frame work apart from walls and roof prior to Council determining the application (without Development Consent) and without a Construction Certificate.

Council issued a cease work letter to which the applicant complied. The applicant requested what would be required for the application to proceed and enable re-commencement of construction. Council requested an Engineer's Certification for the building works undertaken and lodgement of a Building Certificate for the subject building work.

The applicant satisfactorily provided the requested information, with Council issuing a Building Certificate and Development Consent on 27 and 30 January 2009.

RECOMMENDATION:

That Council issues a Penalty Infringement Notice (PIN) for an amount of \$600.00 for the unauthorised building works of a fruit processing and packaging shed, additions to amenities, new awning and farm shed at Lot 6 DP 596699, Lot 11 & 12 DP 1086837 Duranbah Road, Duranbah.

REPORT:

Applicant: Group 4 Architects

Owner: Miss JL Brinsmead and Mr RD Brinsmead

Location: Lot 6 DP 596699, Lots 11 and 12 DP 1086837 Duranbah Road, Duranbah

Zoning: 1(b1) Agricultural Protection

Cost: \$573,625

BACKGROUND:

The subject development application was lodged with Council on 15 April 2008. The application proposed the following;

Located on Lot 6 DP 596699 is the following:-

1. Additions to the existing amenities building to create new amenities to the staff (male and female amenities) 9.4 metres x 3.4 metres.
2. New awning to existing fruit market shop which also connects to the existing souvenirs and kiosk building. The awning structure is 15.5 metres x 6 metres. The rain water caught by the awning is discharged into the existing stormwater system.

Located on Lot 11 DP 1086837 is the following:-

1. The construction of a farm shed 15 metres x 45.66 metres 7 metres high with a 6 x 15 counter levered awning and nine (9) car spaces. The shed contains a mezzanine level measuring 4.5 metres x 15 metres which contains a lunch room bunk room and office. The ground floor level of the shed contains amenities, cool rooms, Papaya ripening room, processing room, freezer, leaf and fruit drying room and processing area, fruit wash down areas.

On 16 December 2008, Council's development assessment planner photographed unauthorised building works relating to the processing shed. Council issued a letter to the owner and the applicant on 17 December 2008, advising all works in relation to the application cease immediately and to show cause as to why Council should not instigate legal proceedings.

On 29 December 2008, Council received correspondence from the owner dated 24 December 2008 in response to Council's letter of 16 December 2008. The owners' letter in part questioned what needed to happen for construction to re-commence.

On 6 January 2009, Council issued a letter to the owner advising what Council required for the assessment of the application and development to proceed.

The applicant was requested to provide;

- Engineer's certification of the all of the building works undertaken.
- Lodgement of a Building Certificate for the subject building work.

On 14 January 2009, Council received correspondence from the owner dated 13 January 2009 in response to Council letter dated 6 January 2009. The information was assessed and considered to satisfy Council's request.

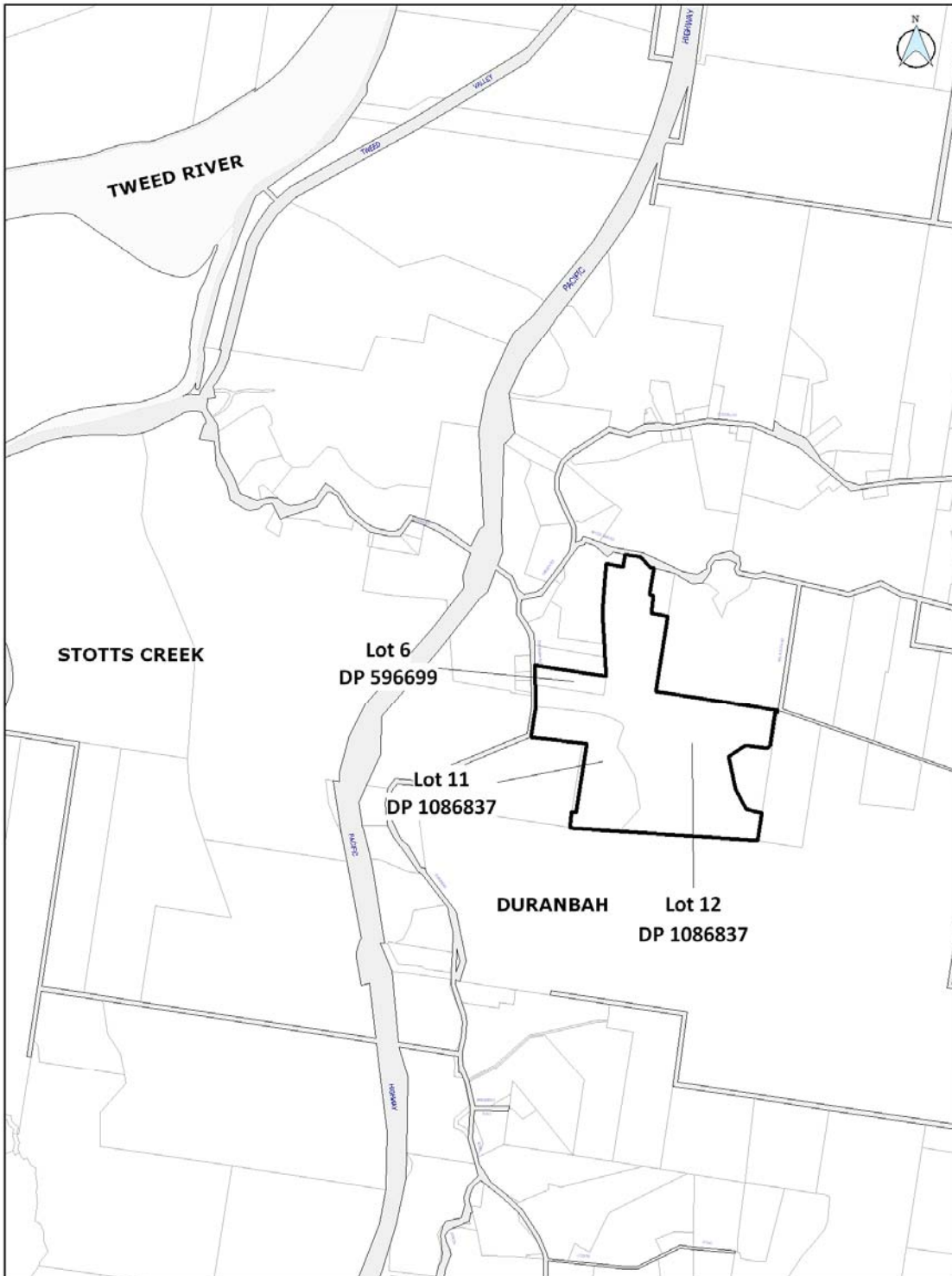
On 27 and 30 January 2009, Council issued a building certificate and development consent.


Below is a time line of correspondence and events.

- 24 April 2008, application lodged with Council.
- 29 April 2008, further information request for additional plans.
- Wednesday 14 May 2008 to Wednesday 28 May 2008, application advertised for a period of 14 days.
- 11 June 2008, further information request (land contamination report, OSSMF report).
- 19 June 2008, information received – not satisfactory.
- 19 June 2008, information received (in relation to 11 June 2008).
- 11 July 2008, information received – relating to contaminated lands report.
- 14 July 2008, further information request – environmental health issues (OSSMF – on-site sewer management facility, contaminated land investigation).
- 18 July 2008, information received – not satisfactory (OSSMF outstanding).
- 28 July 2008, further information request - environmental health issues (OSSMF and water supply management plan).
- 18 August 2008, information received – relating to OSSMF for the amenities building only does not include farm shed.
- 22 August 2008, information received – relating to OSSMF for the proposed shed.
- 19 September 2008, information received – relating to water supply management plan.
- 15 October 2008, further information request to modify the water management plan
- 22 October 2008, information received regarding the modified water supply management plan.
- 27 October 2008, Council's EHO's complete assessment and sign off on report and conditions.
- 16 December 2008, site inspection reveals unauthorised building works (construction of shed).
- 17 December 2008, letter sent to owners and applicant directing all construction work to cease immediately.
- 24 December letter received from owners in response to Council's letter (17 December 2008).
- 6 January 2009, letter to owners advising what Council requires for the applicant to proceed.

- 13 January 2009, information received from owners in response to Council's letter dated 6 January 2009.
- 30 January 2009, consent granted.

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2009 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P. O. Box 016 Murwillumbah, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i></p> <p>Lot 6 DP 596699, Lots 11 and 12 DP 1086837</p> <p>Duranbah Road, Duranbah</p>	<p>Site Plan</p> 		
<p>File: Z:\GIS_Jobs\Site Plan Wor</p>	<p>Author: J. Batchelor</p>	<p>Date: 05/Feb/2009</p>	<p>Scale: 1:20,000</p>	<p>Sheet: 1 of 1</p>

OPTIONS:

1. Issue a Penalty Infringement Notice (PIN) for the unauthorised building works.
2. Engage Council's solicitors to commence appropriate action through the Local Court.
3. Engage Council's solicitors to commence appropriate action pursuant to s21 of the Land and Environment Court Act 1979, Class 5 - environmental planning and protection summary enforcement.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Legal cost incurred from legal representation.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Due to the unauthorised construction works of the fruit processing shed and the subsequent approval it is recommended that the owners be issued with a Penalty Infringement Notice.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

P7 [PR-PC] Part V Application - PTV08/0001 for an Upgrade of the Banora Point Water Reclamation Plant & the Demolition & Reconstruction of the Tweed Heads West Water Reclamation Plant at Lot 482 DP 591546; Lot 2 DP 591548; Lot 1 DP 1011625, Parkes Drive, Tw

ORIGIN:

Development Assessment

FILE NO: PF2150/610 Pt2

SUMMARY OF REPORT:

Council at its meeting held 27 January 2009 resolved:

"...that this item be deferred to the meeting of 17 February 2009 to allow for a workshop with Councillors and Council officers."

Council commissioned an Environmental Impact Statement (EIS) be carried out to assess the impact of upgrading the Banora Point Waste Water Treatment Plant (WWTP – formerly known as Water Reclamation Plant (WRP)) at Banora Point and decommissioning, demolishing and rebuilding a new WWTP at West Tweed Heads to service the current population growth in Tweed Heads and the surrounding area. The impacts of the proposal are within acceptable limits and ameliorative measures proposed should result in a cumulative benefit.

The application is considered under Part V of the NSW Environmental Planning and Assessment Act and not Part 4 as the works do not require development consent from Council under the provisions of the State Environmental Planning Policy (Infrastructure). As such, the environmental impacts of the proposal are required to be considered via an Environmental Impact Statement. Council as the determining authority is required to decide to proceed or not with the project.

The application has been submitted to Council for determination given the proposed value of the works is \$30 million.

RECOMMENDATION:

That Part V application - PTV08/0001 for an upgrade of the Banora Point Waste Water Treatment Plant at Lot 482 DP 591546 & Lot 2 DP 591548, Enterprise Avenue Tweed Heads South & the demolition and reconstruction of the Tweed Heads West Waste Water Treatment Plant at Lot 1 DP 1011625, Parkes Drive, Tweed Heads West be approved subject to the following conditions: -

1. The development shall be completed in accordance with the *Banora Point and Tweed Heads West WRP Reclaimed Water Management Strategy Environmental Impact Statement* prepared by GHD and dated August 2005, except where varied by the conditions of this consent.
[GEN0005]
 2. Prior to commencement of work, separate construction approvals shall be obtained for the works proposed by this approval at the Banora Point site and the Tweed Heads West site .
[GEN0185]
 3. Within 12 months of the date of this approval, Council's Sewer Fund will allocate funds sufficient to commence a program of works towards Terranora and Cobaki catchment rehabilitation, including riparian buffer and stormwater works, as detailed in the EIS.
[GENNS01]
 4. No excavation or works shall be undertaken within the area marked as "Grit Burial Waste" on Figure 6.2 *Existing Layout Site Map of Banora Point WRP* of the Environmental Impact Statement until such time as a Site Contamination Assessment has been undertaken by a suitably qualified person and a Remediation Strategy, if appropriate, has been formulated and approved by the Director of Planning & Regulation.
[GENNS02]
 5. Environmental Management Plans are to be prepared for the construction and operational phases of the development. In this regard the Environmental Management Plans are to be prepared in accordance with the Environmental Impact Statement and are to detail the proposed mitigation measures, modelling and monitoring programs.
[GENNS03]
 6. Council shall continue to investigate options for effluent reuse and shall implement identified viable options.
[GENNS04]
 7. Where practical, all critical facilities or equipment susceptible to water damage should be located at or above RL 3.1m AHD to provide 0.5m freeboard, as required for habitable development in the area.
[GENNS05]
 8. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.
[PCC0865]
 9. Prior to the issue of Construction Approval the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.
 - (a) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
-

- earthworks
- roadworks/furnishings
- stormwater drainage
- water supply works
- sewerage works
- landscaping works
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, Country Energy and Telstra)

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

10. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Principal Certifying Authority PRIOR to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

[PCC1065]

11. Permanent stormwater quality treatment shall be provided to treat runoff from new carparking, driveway and similar hardstand areas exposed to gross pollutants, sediments and nutrients in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
 - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
 - (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
 - (d) Specific Requirements to be detailed within the Construction certificate application include:

- (i) **Shake down area along the haul route immediately before the intersection with the road reserve.**

[PCC1105]

12. **Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".**

[PCC1155]

13. **Non-structural (effluent and sludge storage ponds) and structural infrastructure shall be constructed so as to prevent groundwater inflows to those structures or discharges/infiltration to groundwater.**

[PCCNS01]

14. **All imported fill material shall be from an approved source and free of contaminants.**

[PCW0375]

15. **Prior to the excavation of soils on the site an Acid Sulfate Soils and/or Dewatering Management Plan, if applicable, shall be submitted to the Director Planning & Regulation for approval.**

[PCWNS01]

16. **Prior to the commencement of work, detailed site investigation shall be carried to determine whether acid sulfate soils are present on the site and whether groundwater will be intercepted as a result of the proposed redevelopment.**

[PCWNS02]

17. **A detailed environmental management plan shall be submitted to and approved by Council prior to the commencement of any decommissioning works on the existing Tweed Heads West Waste Water treatment Plant. All works shall comply with the approved plan.**

[PCWNS03]

18. **Should any decontamination or remediation works be necessary on the existing Tweed Heads West Waste Water Treatment Plant site, then those works shall not be commenced without the separate prior approval of Council.**

[PCWNS04]

19. **Irrigation of effluent shall not occur without the prior written approval of Council.**

[PCWNS05]

20. **During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.**

[DUR0015]

21. **The roof cladding is to be of a non-reflective nature. Colorbond shades classed as "very light" by the BCA are not approved.**

[DUR0245]

22. Operation times and noise attenuation shall be undertaken in accordance with Section 10.4.6 of the Environmental Impact Statement submitted with the application.

[DURNS02]

23. Odour from the Plant shall not be permitted to impact the amenity of any premises. Should odour from the plant unreasonably impact the amenity of any premises then a odour report shall be prepared and submitted for the consideration of the Director Planning & Regulation. Where directed in writing by the Director, amelioration measures identified in the odour report shall be implemented as directed in writing.

[DURNS03]

24. The Plant shall be operated in accordance with the license or operational requirements of the NSW Department of Environment and Climate Change

[POCNS01]

25. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.

[PTV0030]

26. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.

[PTV0050]

27. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[PTV0060]

REPORT:

Applicant: Tweed Shire Council
Owner: Tweed Shire Council
Location: Lot 482 DP 591546; Lot 2 DP 591548; Lot 1 DP 1011625, Parkes Drive, Tweed Heads West
Zoning: 5(a) Depot and Sewage Treatment & 5(a) Sewage Treatment
Cost: \$30,000,000

BACKGROUND:

Council is proposing to upgrade two of its existing Waste Water Treatment Plants (WWTP's) at Banora Point and Tweed Heads West. The Banora Point plant is designed to serve the catchments of central and south Tweed Heads, Banora Point, Bilambil Heights, Terranora, Piggabeen and Cobaki localities. Tweed Heads West WWTP serves the area north of Terranora Creek. Both plants discharge effluent into Terranora Creek downstream of the Dry Dock on the ebb tides.

The Tweed Heads West WWTP was constructed in the 1960's and has expanded over the years to a capacity of 10,000 equivalent persons (EP). This WWTP has failed to meet required effluent quality guidelines for discharge to receiving waters. Council resolved on 2 March 2005 that works and approvals required to enable raw sewerage to be diverted on a temporary basis to the Banora Point plant for treatment be commenced.

The Banora Point WWTP has been in operation since 1978 and has a capacity of 50,000 EP, with a present loading at capacity. This WWTP is meeting effluent guidelines in all respects apart from phosphorus levels. The Department of Environment and Climate Change has indicated that Council must resolve certain water quality issues before increases in the current discharge licences will be considered.

In 2004, Council engaged Consultants GHD to prepare an Environmental Impact Statement (EIS) for the upgrade of the Banora Point Water Reclamation Plant (now referred to as waste water treatment plant (WWTP)) and the demolition and reconstruction of the Tweed Heads West WWTP.

A number of options with regard to effluent disposal were considered over a number of years and are discussed within the EIS. Council selected the preferred option, option 6, from a series of nine options following a series of community consultation engagements.

Scope of Works

The scope and description of the major components of option 6 follows:

- Upgrade Banora Point WWTP to 75,000 EP and enhancement of Banora Point and Tweed Heads West WWTP's effluent quality to reuse standard for domestic non-potable reuse;
- Implement an Effluent Reuse Strategy including the encouragement of beneficial reuse for domestic non-potable uses in new developments;

- Implement the Integrated Water Cycle Management Plan;
- Capital investment in a Terranora and Cobaki catchment rehabilitation program; and
- Discharge of excess water to Terranora Creek on the ebb tide.

Banora Point WRP

Works to 75,000 EP would consist of the following works:

- Construction and installation of a chemical dosing system for Phosphorous reduction;
- Construction of a Cloth Fabric filtration system including re-lift pumping station;
- Construction of additional blowers;
- Installation of additional mechanical inlet screening capacity;
- Modifications to process controls to improve nitrogen removal;
- Modification to flow controls including construction of a flow and load attenuation tank;
- Modification of electrical/SCADA.

Tweed Heads West WWTP

To achieve effluent quality to reuse standard the old process plant is proposed to be demolished and a new plant rebuilt on the existing site. Construction is likely to involve the following:

- Demolition of the old trickling filter plant;
- Construction of an inlet works including a screen, grit removal system, flow reception pit, storm bypass system and flow divider;
- Construction of a stormflow lagoon and storm bypass line;
- Construction of a storm return pumping station;
- Construction of an aerobic digester;
- Construction of sludge thickening / dewatering facility;
- Construction of a biological reactor tank,
- Construction of clarifiers;
- Construction of a disinfection system;
- Construction of a blower house / switch control room / amenities;
- Construction of a chemical storage and dosing system;
- Provision of ancillary services including potable water, road works, drainage, lighting, fencing and site landscaping; and
- Various pump stations, pits and pipeline systems for the conveyance of sewage, effluent, sludge and supernatant.

Need for the development

The upgrade of the two WWTP's is required for the following reasons-

1. To improve effluent quality in order to meet the Department of Environment and Climate Change (DECC) effluent quality criteria, and hence comply with the conditions of the DECC Environmental Protection Licence.
2. To provide sewerage services for the predicted increases in population in the WWTP catchment area.
3. To meet community expectations.

The new plant is vital to meet the demands of the existing and expected population growth. Without an increase in the capacity of the sewerage treatment plants, development in the Cobaki, Terranora and Bilambil areas would not be able to proceed.

The proposed plant is a critical component of the strategic planning for the catchment.

Impacts

Consultants GHD were commissioned to prepare the Environmental Impact Statement and a subsequent report on the representations received during the exhibition of the document. The EIS has identified the following issues as key impacts of the proposal-

- Receiving waters, including water quality, aquatic ecology and downstream water use requirements.
- Groundwater and floodwaters management.
- Incident management, particularly effluent overflows.
- Noise, particularly during construction.
- Odour, from both general WWTP operation and biosolids handling and management.
- Flora (including weeds) and fauna management.
- Heritage, both Aboriginal and European.
- Visual amenity.

The issues have been assessed in detail in the EIS and a summary of the assessment is provided in Section 3 of the consultant's Representations Report that is attached to this report. The EIS proposes mitigation measures to manage the impacts. In brief, effluent quality will be improved, while quantity will increase.

It is considered that the impacts can be managed so that they are within acceptable limits. The impacts of the plant will not be at a level that cannot be controlled or managed satisfactorily.

Council has committed to undertake a Terranora and Cobaki catchment rehabilitation program as part of offsetting the impacts of increasing the volume of discharges into Terranora Creek. This action is based on the understanding that the majority of nutrient contributions into the Terranora system are sourced from stormwater run off. The proposed Terranora and Cobaki catchment rehabilitation program will consist of:

1. A rural area riparian buffer strip establishment, stock management and stream bank stabilisation project.

2. An urban area stormwater enhancement project. The urban component of the project will involve retrofitting Stormwater Quality Improvement Devices (SQIDS) into existing residential and commercial areas, and consideration of sewerage connection to areas that remain on septic systems.

It is proposed to formulate environmental management plans (EMP) for the upgrading, construction and operation of the WWTP's. The plans will include details of monitoring and modelling for water quality, discharge dilution, aquatic ecology etc. Other matters to be addressed in management plans are acid sulfate soils, dewatering and contamination assessment and remediation if required, construction traffic and erosion control and landscaping.

It is considered that development of EMP's for the plants are an appropriate way to manage the operations of Banora Point WWTP and any new plant at Tweed Heads West.

Appropriate conditions are proposed to reflect the requirements of the EIS and Council commitments to amelioration.

Statutory Context

Public utilities such as sewerage treatment plants do not require development consent from Council under Part Four of the Act. These types of developments fall under the provisions of Part Five of the Environmental Planning and Assessment Act due to the provisions of Part 106 (1)(a) of State Environmental Planning Policy (infrastructure) 2007. The provisions enable Council to be the proponent for public utilities and also the approval body.

Council is required to send the attached Consultants report to Department of Planning and the Department of Environment and Climate Change (DECC) prior to determining the proposal. This has been undertaken and no further submission was received from Department of Planning, whilst issues raised by DECC have been satisfactorily addressed. Council may therefore now make a decision on the proposal.

In accordance with the section 243 of the Environmental Planning and Assessment Regulation, Council is required to prepare a report on the proposal, mitigation measures and give full particulars of the decision. The report is also required to be made public.

The majority of this requirement has been complied with in the attached report from the Consultants and in this report. The Regulations will be complied with by making Council's decision and both reports available to the public.

General Matters

Whilst effluent reuse does not form part of the EIS, the Engineering and Operations Division has prepared an Effluent Reuse Strategy. Further assessment and approvals will be required prior to commencing the reuse of effluent.

Further assessment and approvals will also be required for remediation of the existing Tweed Heads West site should site contamination investigations reveal issue of concern. Construction approvals will be required prior to any construction works.

Public Submissions

One submission from an environmental organization was received during the recent exhibition for approval purposes. Further issues were raised by DECC via referral. These issues have been responded to by the Council Water and Sewer Engineers who have generally agreed to meet DECC requirements.

Previous exhibition was undertaken from September 12 to October 21 2005 to accord with the EP&A Regulation 2000. During this period two submissions were received, one from a Government Authority and one from an environmental organization. Issues raised, and the assessment of these issues, are provided in the attached Consultants report. The recent submission from the environmental organization repeated the issues raised in the previous submission and thus the assessment previously provided applies to the current submission.

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2009 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Tel: (02) 6670 2409 Murwillumbah, NSW, 2484 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i></p> <p>Lot 1 DP 1011625, Parkes Drive, Tweed Heads West Lot 482 DP 591546 & Lot 2 DP 591548, Enterprise Avenue, Tweed Heads South</p>	<p>Site Plan</p> <p>TWEED SHIRE COUNCIL</p>
<p>File: Z:\GIS_Jobs\Site Plan.Wor</p>	<p>Author: J. Batchelor Date: 19/Jan/2009 Scale: 1:15,000 Sheet: 1 of 1</p>	

OPTIONS:

1. Approve and proceed with the activity.
2. Approve and proceed with the activity subject to conditions.
3. Don't approve and don't proceed with the activity.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

See Statutory Context section above.

Approval of this activity commits Council's Sewer Fund to capital investment in the local stormwater catchments and rural catchment riparian zones. Currently 3% of the total revenue generated from water and sewer charges is set aside for use on such projects, presently \$180,000 per year, thus a clear funding source is available.

POLICY IMPLICATIONS:

Provision of a new WWTP has significant strategic planning implications for the Tweed Heads, Terranora, Cobaki and Bilambil areas. If WWTP capacity is not increased, development will be prevented from occurring.

If effluent quality is not improved, DECC licence criteria will not be met.

CONCLUSION:

The Banora Point and West Tweed WWTP sites are considered suitable for the upgrade of the treatment plant. The upgrade will result in improved effluent quality and is required to meet population growth, DECC effluent discharge criteria and community expectations.

Amelioration measures aimed at improving catchment health will ensure any impacts from an increased volume of discharge are offset satisfactorily.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Banora Point and Tweed Heads West WRPs Reclaimed Water Management Strategy EIS Representation Report. (ECM 1976859)
-

P8 [PR-PC] Development Application DA08/0931 for Boat Tours on Tweed River at Tumbulgum, Tweed Heads South and Murwillumbah

ORIGIN:

Development Assessment

FILE NO: DA08/0931 Pt1

SUMMARY OF REPORT:

This matter was referred to the Council meeting of 16 December 2008 where it was resolved as follows that the application be:-

- “1. Re-advertised on 14 January 2009 for the community to comment on the revised attributes of the application*
- 2. Deferred for consideration to the next meeting of the planning committee to be held on 27 January 2009”.*

Due to the fact that the application could not be re-advertised until the first Tweed Link publication in January, submissions were accepted from the date after the Council meeting up until and including the formalised advertising period from 21 January 2009 to 5 February 2009.

This addendum report aims to summarise the issues raised in the submissions during the re-advertised period and to reconsider the application in light of the issues raised.

The information advertised included the original development application and Statement of Environmental Effects and a response to a further information request from Council further clarifying the nature of the tour as a “sightseeing tour” and providing information regarding the proposed speed and details of the boat and the proposed use of the public jetties. This further information was advertised in conjunction with the original development application and Statement of Environmental Effects.

During the re-advertising of the application Council received a total of 73 submissions against the application and 4 submissions for the application at the time of writing this report. The main issues raised with the application are environmental impact, cumulative impact, incompatibility with other uses of the river, speeding, safety, noise pollution, wake produced and impact on river erosion, concern with monitoring and compliance with consent.

In a review of the submissions received during the re-advertising period the majority of the concerns are raised due to the type of boat to be utilised during the tour. It has been confirmed by NSW Maritime and Council’s Coordinator of Natural Resources that they have no concerns with the proposal as it is not considered to create more wake than

other boat users on the River. Therefore, the application is assessed on the description of a "sightseeing tour boat" and is an alternative tour to the jet boat thrill rides that they have approval for in the Ocean. Therefore it is considered that the recommendation for approval as proposed in the original report remains.

The only alteration to the original recommended conditions is an addition to Condition 2 that now requires the operator to maintain a log book recording journey activity. Therefore the proposal is recommended for approval, subject to conditions of consent.

RECOMMENDATION:

That Development Application DA08/0931 for boat tours on Tweed River at Tumbulgum, Tweed Heads South and Murwillumbah be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Figure 1 Locality Plan prepared by Darryl Anderson Consulting submitted on 7 August 2008, except where varied by the conditions of this consent.**

[GEN0005]

- 2. The proposed development is to be restricted from 9:00am to 6:00 pm seven days per week for a trial period of six (6) months from the date of commencement of the tour operation. The applicant should notify Tweed Shire Council by notice in writing of the date of commencing the boat tours.**

In this regard the tour boat operators are to submit a boating log by the end of each month reporting on the number of tours conducted on the Tweed River documenting the date and time of departure and arrival at Foysters Jetty and duration of the tour, including the number of passengers, weather conditions and the route of the tour.

Any request to vary this condition to a permanent arrangement will require a Section 96 application to be lodged at least two (2) months prior to the expiry of the six (6) month trial period. If after the trial period no application has been received, the consent would have lapsed.

[GENNS01]

- 3. Comply with all NSW Maritime signage and boating regulations.**

[GENNS02]

- 4. Prior to extended trips to Murwillumbah liaison with the Murwillumbah Rowing Club is to be undertaken to avoid entering the waters between Condong and Murwillumbah when an exclusive licence is over the river for rowing events.**

[GENNS03]

- 5. Section 94 Contributions**

Payment of the following contributions pursuant to Section 94 of the Act

and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, all Section 94 Contributions should be paid prior to operation.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

(a) Tweed Road Contribution Plan:
2 Trips @ \$639 \$1,278
S94 Plan No. 4
Sector1_4

[PCC0215]

6. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

7. Boat tours are to be undertaken at a speed consistent with cruising speeds and within the requirements of NSW Maritime Authority and the Tweed Estuary Boating Plan 2006-2010 (NSW Maritime).

[USENS01]

8. No freestyling (irregular driving) or power turning within the Tweed River and tributaries.

[USENS02]

9. Reduce wash created from the boat in accordance with best boating practices.

[USENS02]

10. The use to be conducted so as to not cause nuisance or interference to other water based and land based activities.

[USENS03]

11. The boat is to be fitted with a water box muffler and the exhaust is to be discharged below the water line prior to the use for the proposed development.

[USENS04]

12. The boat is not to be left unattended at the public jetties during the tour, the boat is to anchor clear of the jetty when passengers have disembarked.

[USENS05]

13. This consent is for the operation of one boat only.

REPORT:

Applicant: Pena Jet Boat Rides Pty Ltd
Owner: Tweed Shire Council
Location: Tweed River at Tumbulgum, Tweed Heads South and Murwillumbah
Zoning: Unzoned Land
Cost: Nil

BACKGROUND:

The application was referred to Council meeting 16 December 2008 where it was resolved by Council that the application should be re-advertised to 14 January 2009 for the community to comment on the revised attributes of the application and deferred for consideration to the next meeting of the Planning Committee to be held on 27 January 2009. Council resolution was made without knowledge of Tweed Link dates and therefore the application was not able to be advertised until the next Tweed Link newspaper. Therefore, Council has accepted submissions from 17 December 2008 through to 5 February 2009. The formalised re-advertising period was from Wednesday 21 January 2009 to Thursday 5 February 2009.

As provided in the original report, the application is for boat tours on the Tweed River. The primary route proposed is to operate between Tweed Heads and Tumbulgum where it will be optional for guests to have lunch at Tumbulgum. The boat will utilise the public jetty at Tumbulgum for this purpose. An extended route is proposed from Foyster's jetty to the Cobaki Broadwater and the Terranora Broadwater. A further extended tour is proposed from Foyster Jetty through Tumbulgum and then further on to Murwillumbah.

The proposed development is for a "sightseeing tour on the Tweed River" which is an alternative tour to the approval the applicant has under DA07/0974 for jet boat rides in the Ocean.

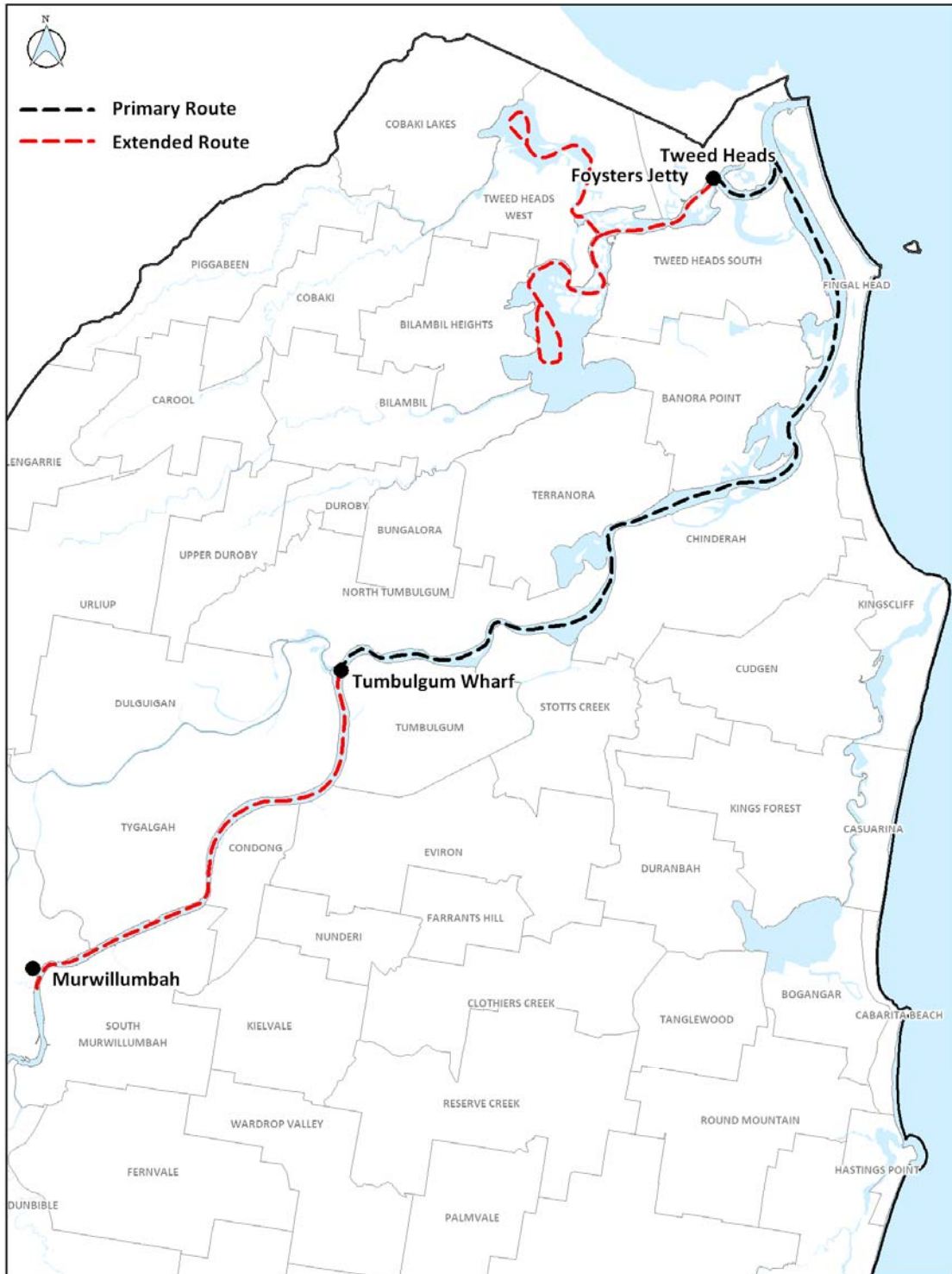
The proposal operation hours are on demand between 9:00am and 7:00 pm seven days per week. The proposal tour bookings and transport arrangements are similar to that approved under DA07/0974. The booking will be taken by the sales office (Shop 2 in the Harbour Tower, Tweed Heads).


The nature of the boat tour was clarified in further information letter from the applicant dated 28 October 2008. The letter stated that the proposed operation is a sight seeing tour to be undertaken on the Tweed River, primarily between Tweed Heads and Tumbulgum. No "irregular driving" or "thrill riding" is proposed as part of the sightseeing tour". The proposed tour is to provide a detailed commentary of the sites and local history along the Tweed.

The proposed speed of the boat during the tour is proposed at 8 to 10 knots at points of interest along the river and 35 knots (up to 65 kph) elsewhere. The proposed boat used for the tour is 9m in length, with a beam of 3 metres. The seating capacity will be up to 12 passengers and 2 crew members. The boat will be powered by twin Yenmar diesel engines and propelled by twin jet propulsion units.

Passengers will be transported to Foyster's jetty from the sales office or their place of accommodation in a minivan. The proposed boat tours will utilise the Foyster's jetty for departure and arrival of passengers on the boat. The applicant has an existing licence for the use of this jetty under DA07/0974. Further the proposed tours have outlined the use of the Tumbulgum jetty and the Murwillumbah jetty. The Tumbulgum and Murwillumbah jettys are proposed to be used for short periods of time for the loading and unloading of passengers. The boat will be attended at all times and it is proposed it will either return to collect another group from Tweed Heads or will anchor clear of the jetty while waiting for passengers to return.

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2008 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P. O. Box 016 Murwillumbah, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i></p> <p>Proposed Boat Tours on the Tweed River</p>	<p>Site Plan</p>  		
<p>File: Z:\GIS_Jobs\Site Plan Wor</p>	<p>Author: J. Batchelor</p>	<p>Date: 03/Dec/2008</p>	<p>Scale: 1:100,000</p>	<p>Sheet: 1 of 1</p>

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(d) Any submissions made in accordance with the Act or Regulations

It was recommended at Council's meeting of 16 December 2008:

1. *Re-advertised to 14 January 2009 for the community to comment on the revised attributes of the application*
2. *Deferred for consideration to the next meeting of the planning committee to be held on 27 January 2009"*

Due to the uncertainty regarding the advertising dates, submissions were accepted from 17 December and including the formal advertising period from the 21 January 2009 to 5 February 2009. At the date of this report on 5 February 2008, 73 submissions against and 4 submissions in support of the application were received during the time period from 17 December 2008 to 5 February 2009.

Objection Reason	Comment
Riverbank Erosion	Further to the consideration of this issue in the original report, Council's Co-ordinator of Natural Resources provided that the proposed development to operate at its planning speed will produce less wake than other large boats currently operating on the river. Therefore, the proposed development is not considered to impact on riverbank erosion.
Impact on economic prosperity on Tweed Shire	The proposed development is not considered to have a significant impact on other business uses of the river as it is for one boat sightseeing tour that will be dependent upon bookings for the tour to operate. Therefore, the proposed development is not considered to have a detrimental economic impact on the Tweed River.
Concern with speed proposed and speeding	The proposed development stated the speed for the tour to be 8-10 knots at points of interest and 50 – 65 kph (35 knots) while travelling between points of interests. When the boat travels at planing

Objection Reason	Comment
	<p>speed between sites of interest this reduced the wake produced by the boat. However, to ensure that the boat does not travel at excessive speeds a condition is placed on the approval for the tour to operate at cruising speeds. Therefore the speed of the proposed boat tour is considered to be in keeping with other boats on the river.</p>
<p>Safety</p>	<p>As mentioned in the previous report, the application is for sightseeing on the river not for thrill jet boat rides. Therefore, the proposed development is considered compatible with other uses of the river and therefore will not impact on the public safety.</p>
<p>Environmental Impacts –impact on marine wildlife and migratory bird species</p>	<p>The original report assessed generally the environmental impact of the proposal. However, the following specific issues of the impact of the proposed development on marine wildlife, such as dolphins and on bird and migratory bird species have been raised by numerous objectors.</p> <p>The proposed “boat tour” is a sightseeing boat that will not be considered to have a significant impact on the marine wildlife beyond the existing boat users of the river. The proposed boat is not a thrill ride in the river and will be subjected to the same maritime regulations as other boat users on the river. The boat will be a sight seeing tour that will travel at approximately 35 knots and at slower speeds of 8-10 knots at points of interests, or where signage requires set speeds. Therefore, the proposed development is not considered to impact on marine wildlife or migratory species.</p>
<p>River part of World Heritage Area</p>	<p>The Tweed River is not listed as part of the World Heritage Area and therefore this was not issue addressed as part of this application.</p>

Objection Reason	Comment
<p>Management Plans (Cobaki & Terranora) encourage low key activities</p>	<p>Further to the consideration of this issue in the original report, the Cobaki Broadwater Management Plan 1998 encourages low key recreational boating. Therefore the proposed development is considered consistent with this objective as it is a sightseeing tour.</p> <p>The Terranora Broadwater Management Plan 1994 objectives of the plan is to encourage low key boating. The proposed development is considered consistent with this objective as it is a sightseeing tour.</p>
<p>Commercialisation of the River</p>	<p>A number of submissions raised concerns of the type of activities resulting in an increase in commercialisation of the river.</p> <p>The proposed development is for one boat to be utilised as a sightseeing tour along the Tweed River, it is not considered that the proposed development will dominant the use of the river.</p>
<p>Incompatible with Tweed tourism marketing of the Tweed “Green Cauldron”</p>	<p>The “Green Cauldron” is one of the marketing strategies employed by the Tweed Tourism. However, there is no Tourism Plan for the Tweed produced by the Tweed Shire Council or Tweed Tourism. Further the Tweed has been advertised as valley of contrasts and on the Tweed Tourism home page advertises the Tweed as</p> <p style="text-align: center;"><i>“region of contrasts and contradictions that offers a truly memorable holiday experience.”</i></p> <p>Further this application was supported in a submission from Tweed Tourism body.</p>

Objection Reason	Comment
Set Precedent	Further to this issue addressed in the original report. Every application is assessed on its merits and an assessment is carried out to determine the proposed impact of the development and whether the site is suitable for the proposed development.
Visual impact affect aesthetics and intimidating appearance	The proposed development, while a jet boat is only one boat that will conduct boat tours on the Tweed River when it receives bookings. Therefore it is not a permanent structure, but a watercraft similar to other boats that utilise the river. Therefore, the proposed development is not considered to have a visual impact on the locality.
Increase in undesirable characters	The type of people that will be attracted to the proposed tours is not a matter for consideration under s79C Heads of Consideration. The proposed development is for
Lack of policing resources	This issue was addressed in the previous report. This is not an issue for consideration under the development application. However, a six month trial period will provide applicant opportunity to demonstrate compliance with conditions of consent.
Increase businesses on waterway	The subject development is for one boat tour operation and is not considered to cause a significant increase to business operations on the Tweed River.
Question validity of application	<p>A number of submissions questioned the accuracy of the application, in particular question the use of different speed measurements.</p> <p>The proposed development proposes an alternative tour, in regards to the proposed speeds of 50 – 65 kph (up to 35 knots). The slower speeds at points of interest are for 8-10 knots or where signage has set speed limits.</p>

Objection Reason	Comment
	<p>Submissions question the nature of the tour as for “jet boating and speeding on the river”. However, an assessment of the application can only be carried out based on the submitted information and not based on suspicion of other potential activities. Further the applicant has a separate approval for jet boating in the ocean and has not applied for that activity in the Tweed River.</p>
<p>Existing scenic tours available no additional tours required</p>	<p>In accordance with the Tweed 4/24 Strategic Plan 2004-2024 it is recognised that Council will be supporting tourism bodies to promote tourism development. Further the strategic plan recognises the challenge is to:</p> <p style="text-align: center;"><i>“capitalising on the recreation and tourism potential of the shire’s landscape and heritage in ways that maintain and enhance its character”.</i></p> <p>The proposed development is considered in keeping with the strategic plan by providing further tourism opportunities for boat tour along the tweed.</p> <p>Further submissions have been received that support the idea that the river is under utilised which is discussed below.</p>
<p>Inappropriate site</p>	<p>The Tweed River is considered suitable location for boat tours. The proposed development does not propose any thrill rides on the Tweed River and is therefore considered compatible with other uses of the river.</p>

Objection Reason	Comment
Impact on natural based tourism	The proposed development for one boat tour is a sightseeing tour and therefore is considered to have minimal impact on natural based tourism. The proposed tour is considered to be in keeping with other motor boats that utilise the river.
Ban the proposed development upstream from Tweed River Motel	As addressed in the previous report, the proposed development has stated that the application has a primary tour route to take place between Tweed Heads and Tumbulgum, trips that go to Murwillumbah are considered extended tours. Further a condition is recommended to liaise with Murwillumbah rowing club prior to conducting the extended tours.
Ban 2 stroke outboard motor in near future	The proposed development uses diesel engines and therefore this comment is not relevant to the proposed development.
Survey illegal construction on foreshore	This issue is not a matter to be carried out during the assessment of this application.
Amenity	The proposed development is not for a thrill jet boat rides on the river, but the proposal is for a boat sightseeing tour in a jet boat and therefore is not considered to have a significant impact on the amenity in the locality.
Hours too long concern over operation on public holidays	The proposed development was for seven days a week 9:00 am to 7:00pm. While the proposal has requested 7 days a week the boat will only conduct the tour when they receive passengers. Public holidays are considered an acceptable time for a boat tour.
Does not satisfy Precautionary principle	The original report has assessed the application in accordance with clause 5 Tweed Local Environmental Plan which includes an assessment of the precautionary principle. The application is for one boat tour that will travel along the river and

Objection Reason	Comment
	slow down at points of interest, therefore it is considered in keeping with other power boats that currently utilise the river, and therefore, is considered to satisfy the precautionary principle.
SEPP 71 measures to protect cultural places, values customs, beliefs and traditional knowledge of aboriginals.	The original report addressed SEPP 71 Clause 8 (l). As stated in the original report It is considered that the proposed development will not impact on cultural places. Further the proposed development is not considered to interfere with values, customs and beliefs, as the proposal is for a boat tour. It is not considered that the proposed development will impact on existing aboriginal tour of the river as the proposed development will be a sightseeing tour that is compatible with other uses of the river.
Social impact	The proposed development is considered to have minimal social impact on the locality, as it is one boat tour in a jet boat. The proposed development is considered in keeping with other motorised boats that utilise the river. The proposed boat tour is considered in keeping with the use, noise and visual impact of other boats utilising the river.
Impact on recreational fishing	As addressed in the previous report, the application is for sightseeing on the river not for thrill jet boat rides. Therefore it is considered to be compatible with other uses along the river, by being similar to other recreational boats and would not interfere with commercial fishing practices.
Question validity of application and whether proposing commuter travel	The application is for a boat tour for one boat that will take passenger's from Foyster's jetty along the River and then back to Foyster's jetty. The application is not for commuter transport and therefore has not been assessed as such an application.

Objection Reason	Comment
Noise pollution	<p>This issue was addressed in the previous report and the applicant provided the following information in this regard:</p> <p style="padding-left: 40px;">“the boat is powered by diesel engines which are fitted with a “water box” exhaust system and discharge the exhaust water below”.</p> <p>The applicant stated that this would reduce the engine noise of the boat.</p> <p>Further the application as mentioned in the earlier report was referred to NSW Maritime who provided the following information.</p> <p>In regards to noise issue of boat, this is regulated by NSW Maritime Authority who had no concerns for the application and stated that the waterbox muffler is considered sufficient for the proposed development.</p>
Global warming	<p>The development application such as the proposed development cannot be assessed as significantly affecting global warming above and beyond commuter cars, land clearing and other boats utilising waterways.</p> <p>Therefore, the proposed development is not considered to have a significant effect on global warming above current acceptable boating practices.</p>
Incompatible with passive uses	<p>Further this issue was addressed in the original report. As mentioned, the application is for sightseeing on the river not for thrill jet boat rides. Therefore, the speed and nature of the proposed tours is not considered to impact on other passive, low key uses on the river. A sightseeing tour is considered compatible with other variety of uses of the river.</p> <p>As this is a concern that has been</p>

Objection Reason	Comment
	<p>raised by various submissions to Council the proposed condition for a trial period should provide the applicant and the community the opportunity to see how the proposed development can be compatible with other uses of the river.</p>
<p>Request Community consultation after trial</p>	<p>The previous report recommended a trial period of six (6) months, after that time period the applicant is required to lodge an additional application which would be advertised for public comment.</p>
<p>Cumulative impact attract other similar development</p>	<p>Each development application is assessed on its merits, which includes an assessment of the cumulative impacts of the development. The proposed development has been assessed in the original report in accordance with clause 8(c) of Tweed Local Environmental Plan.</p> <p>Any new applications will be assessed on its merits and in accordance with clause 8(c).</p>
<p>Concern applicant will operate outside of approval</p>	<p>The original recommendation remains for conditional approval. The six months trial and other conditions are required to be adhered to. Concern that the applicant will not follow their consent is not grounds for refusal. Given, the public nature of the operation Council and NSW Maritime will be able to be informed and monitor compliance with the conditions of consent.</p>
<p>Increase in pollution affect on threatened species</p>	<p>The proposed development is for one boat tour that utilises twin yenmar engines that the applicant provided that the “engines comply with the American 2010 EPA standard – which are well beyond the requirements of the Australian emissions standards”.</p> <p>Therefore, the proposed engine of the boats comply with current recommended guidelines and</p>

Objection Reason	Comment
	<p>therefore are not considered to impact on threatened species. The proposed boat is considered to be an acceptable standard.</p> <p>Therefore the boat is unlikely to cause any pollution greater than the existing boats utilising the river.</p>
River Underutilised	<p>Comments were made that the Tweed River is currently under utilised for tourist visiting the Tweed and therefore the proposed development will provide an opportunity for visitors to experience the Tweed River.</p> <p>The proposed tour is considered in keeping with the low key uses of the river and therefore is considered an acceptable tour on the river.</p>
Request Tweed River waterway study / study and related environmental management plan	<p>As mentioned in the previous report there has been a study and research conducted on the Tweed River, produced by NSW Maritime Tweed Estuary Boating Plan 2006 – 2010. This report identified specific issues for specific localities and included public consultation about uses of the river.</p>
Against local community interest	<p>It is acknowledged that there has been a significant degree of community opposition to the proposal, however, the majority of objections are against “jet boats” in general and not against a sightseeing boat tour, which the application is for.</p> <p>In accordance with the Tweed Estuary Boating Plan 2006-2010 no jet boats or power boats have been banned in the main stretch of the river. This plan was created after extensive community consultation that received over 250 letters and two petitions (with total 100 signatures). Therefore the plan resulted in balancing uses of the river.</p>

Objection Reason	Comment
	As discussed below, the proposed application is not considered contrary to public interest.
Liability if accident occurs	It is the applicant's responsibility to operate in accordance with the conditions of consent and the NSW Maritime regulations. It is not a matter for Council to consider further in regards to the development application.
Safety	<p>The proposed boat tour as mentioned previously is for one boat sightseeing tour that will not be carrying out jet boating thrill rides in the river.</p> <p>Therefore, the boat will be required to operate within NSW Maritime signage and restrictions.</p>
Significant wake produced	<p>Wake produced from boats mostly occur from sitting position to high acceleration. Submissions that refer to the applicant web site where advertising is for the existing approval for jet boating in the ocean. This application is for a boat tour of different intention of providing sightseeing along the tweed.</p> <p>The original report addressed this issues and further condition was recommended by NSW Maritime to reduce wash created by the boat. Further information was provided by NSW Maritime that significant wash is created more at slower speeds. Boat that operate at planning speeds produce less wash.</p>
Application should be reviewed in accordance with Tweed Estuary Boating Plan 2006-2010	The previous report addressed the Tweed Estuary Boating Plan 2006 - 2010 and the proposed development was recommended for approval with a condition that the development be undertaken in accordance with the Tweed Estuary Boating Plan 2006-2010.

Objection Reason	Comment
Request for a Tweed River boating plan	As mentioned above there is an existing Tweed River Boating Plan produced by NSW Maritime that was addressed in the previous report.
Impact on seagrasses	Further to addressing this issue in the original report, the proposed development is not for “thrill rides” therefore the development is considered to have minimal impact on seagrass beds. A further condition would be placed on the approval to comply with the Tweed Estuary Boating Plan.
Need for a holistic conservation based tourism industry for Tweed River.	It is recognised that there is a need for a Tweed Tourism Plan, however, the Tweed Estuary Boating Plan is a comprehensive plan for managing uses of the river.
The advertising description of the proposed development	The advertising material that the applicant has produced for the proposed development and for its other approval in the ocean is not a planning matter for consideration under the Environmental Planning and Assessment Act.
Impact on protected area	The proposed development would need to comply with NSW Maritime regulations and signage and therefore will be required to adhere to speed zones in particular sensitive areas.
Type of boat utilised	Submissions raised questions as to why a ‘speed’ boat will be utilised for a boat tour. The applicant has an existing approval under DA 07/0974 for jet boating in the ocean. The proposed development is for an alternative tour to the thrill ride and is to provide a boat tour along the Tweed to view points of interest along the river.
Concern how operation will comply with NSW Maritime regulations of 30 metres from any person or anything in the water when travelling at 10 knots or more.	Further to the discussion on this issue in the original report, the applicant would need to comply with NSW Maritime signs and regulation and a recommended condition is proposed for the consent.

Objection Reason	Comment
Impact on Fingal locality	As discussed in the original report, the proposed development is not for thrill rides, the proposed route of the tours does not stop at Fingal and therefore the boat will be travelling past the locality on the water. As there are no “thrill rides” proposed in the river, the impact will be considered to minimal and in keeping with other recreational boats along the Tweed River.
Recommend speed limit imposed on the river, suggested in keeping with other tour boats 8-10 knots	The application has provided that at points of interest they would travel at 8-10 knots, however, between points of interest they propose to travel at approximately 35 knots. As reviewed by NSW Maritime and Co-ordinator of Natural Resources a boat will produce less wash and therefore less impact on erosion when a boat is planning. However, a condition is placed on the approval for the boat to operate at cruising speed.
Council should lobby state government to increase Maritime resources on Tweed River	The request for increased maritime resources is beyond the scope of the assessment for this development application.
Cook Island restrictions	Cook Island is not included in this assessment, as this application does not include the ocean in the proposed route.
Loss of reputation for “Tweed Naturally”	As mentioned above the proposed development is in keeping with the Tweed Strategic Plan and is supported by Tweed Tourism as utilising the Tweed River and providing a diverse recreational tour for visitors and residence. Therefore, the proposed development is not considered to impact on the Tweed image and cause a loss of reputation on Tweed naturally.

Objection Reason	Comment
Request Ban jet boats	The request to ban jet skis and boats on the river, is not a matter that can be addressed by way of this development application. Further restriction of boating activities is the jurisdiction of the NSW Maritime and not a matter for Council to regulate.

(e) Public interest

While there have been numerous submissions submitted against the proposed development, the majority issues raised are concerned with jet boating activities and the use of jet boat. Therefore the issues raised such as environmental impact and noise and amenity impact are considered to be minimal from the proposed "sightseeing boat tour".

The proposal is a small tourism operation for visitors and residents of the Tweed to experience the river and the proposed development is not considered to have more significant impacts than existing recreational boat users of the river.

Therefore the proposed development is considered to be in keeping with the Tweed Strategic plan and in keeping with Tweed Tourism body and therefore is not considered contrary to public interest.

OPTIONS:

1. Approve the application in accordance with the recommendation in the original report and the proposed conditions of consent
2. Refuse the application

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be unsatisfied with the determination they have the right to appeal the decision in the NSW Land & Environment Court.

POLICY IMPLICATIONS:

The proposed development has been assessed on its merits and does not generate a policy implication for Council.

CONCLUSION:

The proposed development has been re-advertised to allow the community to view the additional information and provide further submissions. On review of the additional issues raised and a revisit of ongoing issues, the proposed development is considered to have minimal impact on the environment, amenity and is considered compatible with other uses of the river. The recommended conditions of consent address potential

concerns in regards to compliance with regulations, speeding, irregular driving and possible conflict with other uses in the upper river.

Further as mentioned in the previous report the proposed development is considered to comply with Tweed Local Environmental Plan, Tweed Development Control Plan and the various Tweed River Management Plans. Therefore provided the recommended conditions are included on the consent the application is recommended for approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

P9 [PR-PC] Kings Forest Concept Plan - Residential Community Development - Council Submission to the Department of Planning

ORIGIN:

Development Assessment

FILE NO: GT1/51 Pt5

SUMMARY OF REPORT:

The purpose of this report is to seek Council's endorsement of the proposed submission to the Department of Planning on the Major Project Application (Concept Plan) for the Kings Forest Residential Community Development (MP06_0318).

RECOMMENDATION:

That Council endorses the attached draft submission on the Kings Forest Concept Plan Residential Community Development and be submitted to the Department of Planning.

REPORT:

Applicant: Leda Manorstead Pty Ltd

Owner: Leda Manorstead Pty Ltd

Location: Lot 76, 272, 323 and 326 DP 755701; Lot 6 DP 875446; Lot 2 DP 819015; Lot 40 DP7482; Lot 38A & 38B DP 13727; Lot 1 DP 129737; Lot 1 DP 781633; Lot 7 DP 875447; Duranbah Road, Kings Forest; Lot 1 DP706497 Melaleuca Road, Kings Forest; Lot 37A DP 13727 Cudgen Road, Cudgen

Zoning: 2(c) Urban Expansion, 5(a) Special Use, 7(a) Environmental Protection (Wetlands & Littoral Rainforest) and 7(l) Environmental Protection (Habitat)

Cost: N/A (concept plan only)

BACKGROUND:

Kings Forest was first identified as an urban release area in the early 1980s and was considered to have potential for 15,000 people. The site was rezoned for urban development in 1988 pursuant to Amendment 3 of the then Tweed Local Environmental Plan 1987.

In June 1992, Tweed Shire Council approved a Development Application for a 273 lot rural residential subdivision of the site and an 18-hole golf course. The development approval was never acted upon.

In 1998, Council resolved to prepare a new draft LEP for Kings Forest and in 1999 a Local Environmental Study (LES) was commissioned, and a draft LEP, draft DCP and draft Section 94 Contributions Plan were prepared. The LES and draft LEP (Tweed LEP 2000 Amendment No. 20) were subsequently publicly exhibited in March/April 2001.

The LES and LEP process were discontinued in June 2001 pending investigation and review by the Department of Local Government. This investigation (the Bulford Inquiry) was completed in March 2003. The Bulford Inquiry recommended that Council continue with the exhibition of the LES and draft LEP.

In 2003 LEDA Properties Pty Ltd acquired Project 28 Pty Ltd (then named Narui Gold Coast Pty Ltd), the company which owns the Kings Forest Property.

In March 2006, the Minister for Planning advised Project 28 Pty Ltd that he would use his discretionary powers under Part 3A of the EP&A Act to consider the inclusion of the Kings Forest site as a State Significant Site under State Environmental Planning Policy Major Project 2005 (the Major Projects SEPP).

A State Significant Site Study was accordingly prepared by Planning Workshop Australia (PWA) and publicly exhibited in April and May 2006. In November 2006, the Kings Forest site was designated as a State Significant Site as an amendment to the Major Projects SEPP.

Following the State Significant Site declaration and the inclusion of the Kings Forest in Schedule 3 of the Major Projects SEPP, LEDA requested the Minister to authorise lodgement of a Concept Plan for the urban and recreational development of the site.

On the 9 January 2007, the Minister authorised a Concept Plan for the Kings Forest site and the Director-General's Environmental Assessment Requirements (DGRs) were issued in August 2007. A copy of the DGR's are annexed to this report.

The listing in the SEPP contains the following controls:

"Part 6 Kings Forest site

5 Zone 2 (c)

(1) Subdivision

Subdivision of land within Zone 2 (c) is permitted with consent regardless of the size of each allotment to be created by the subdivision.

(2) Dwelling houses

Development for the purposes of a dwelling house is permitted with consent on land within Zone 2 (c) regardless of the size of the allotment on which the house is to be located.

6 Zones 7 (a) and 7 (l)

(1) Subdivision that is permitted

Subdivision of land within Zone 7 (a) or 7 (l) is permitted with consent if the subdivision is for one or more of the following purposes:

- (a) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,*
- (b) a minor realignment of boundaries to reflect the zone boundaries, being a realignment that does not involve the creation of a greater number of lots.*

(2) Other subdivision

Subdivision of land within Zone 7 (a) or 7 (l) for any other purpose is prohibited.

(3) Temporary development

The consent authority must not consent to development on land within Zone 7 (a) or 7 (l) for which consent may be granted under [Tweed Local Environmental Plan 2000](#) only because the development is carried out for not more than 14 days, whether consecutive or not, in any one year.

(4) Dwelling houses

Development for the purposes of a dwelling house is prohibited on land within Zone 7 (I).

(5) Earthworks

Development for the purposes of earthworks is permitted with consent on land within Zone 7 (I), but only if the applicant for consent has demonstrated to the consent authority's satisfaction that:

- (a) the development is necessary for any one of the following reasons:
 - (i) it needs to be in the locality in which it is proposed to be carried out due to the nature, function or service catchment of the development,*
 - (ii) it meets an identified urgent community need,*
 - (iii) it comprises a major employment generator, and**
- (b) there is no other appropriate site on which the development is permitted with consent (other than as advertised development) in reasonable proximity, and*
- (c) the development is generally consistent with the scale and character of existing and future lawful development in the immediate area, and*
- (d) the development is consistent with the aims of [Tweed Local Environmental Plan 2000](#) (to the extent that those aims are consistent with this Policy) and at least one of the objectives of Zone 7 (I).*

7 Ecological buffers

- (1) Consent must not be granted to development on land within an ecological buffer unless the consent authority is satisfied, after considering a detailed environmental assessment, that:
 - (a) the development complies with the objectives for ecological buffers and other provisions of this clause, and*
 - (b) there is no practicable alternative to siting the development within the buffer.**
- (2) The objectives for ecological buffers are:
 - (a) to protect wetlands or areas of particular habitat significance, and**

- (b) *to restrict development so that, as far as practicable, it does not occur within ecological buffers, and*
 - (c) *to help ensure that development is designed, sited and managed so as to minimise its impact on the ecological and hydrological functions of ecological buffers, and*
 - (d) *to encourage the restoration and maintenance of native vegetation and the ecological processes of land within and adjacent to wetlands or areas of particular habitat significance.*
- (3) *Development on land within an ecological buffer is to:*
 - (a) *incorporate effective measures to manage wetlands or areas of particular habitat significance, and*
 - (b) *be designed and sited to maintain connectivity of vegetation and minimise vegetation clearing, soil disturbance and alterations to the rate, volume or quality of surface and ground-water flows, and*
 - (c) *retain and maintain all existing native vegetation outside the area immediately required for the development, and*
 - (d) *incorporate measures to regenerate native vegetation for all disturbed areas within the buffer, and*
 - (e) *incorporate appropriate stormwater and erosion control measures to protect the buffer from surface water run-off or other disturbance.*
- (4) *When considering whether or not there is a practicable alternative to siting development inside an ecological buffer, the consent authority must consider:*
 - (a) *the design, type and site cover of the proposed development, and*
 - (b) *the physical characteristics of the land on which the development is proposed to be carried out, and*
 - (c) *the suitability of the land for the proposed development.*
- (5) *Before deciding whether or not to grant consent to development on land within an ecological buffer, the consent authority must consult the Department.*

8 Agricultural buffers

Consent must not be granted to development on land within an agricultural buffer unless the consent authority:

- (a) *has considered the potential impact of the proposed development on agricultural activities on land adjoining the buffer and of those agricultural activities on future occupiers of land within the buffer, and*
- (b) *has consulted the Department of Primary Industries.*

9 Complying development

For the purposes of determining whether development within the Kings Forest site is complying development, the provisions in Tweed Development Control Plan No 40 (as adopted by Tweed Shire Council on 6 October 2004) relating to single dwelling houses, or to development ancillary to single dwelling houses, are taken not to apply to the Kings Forest site.

10 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to or in respect of development within the Kings Forest site are as follows:

- (a) *in the case of development that is a project to which Part 3A of the Act applies—this Policy and all other State environmental planning policies otherwise applicable to the land, except [State Environmental Planning Policy No 1—Development Standards](#),*
- (b) *in the case of all other development—all environmental planning instruments otherwise applicable to the land, except [State Environmental Planning Policy No 1—Development Standards](#), but only to the extent that those instruments are not inconsistent with this Policy.”*

The following zoning map applies to the Kings Forest site.

SEPP (MAJOR PROJECTS) 2005 (AMENDMENT NO. 10) – ZONING MAP

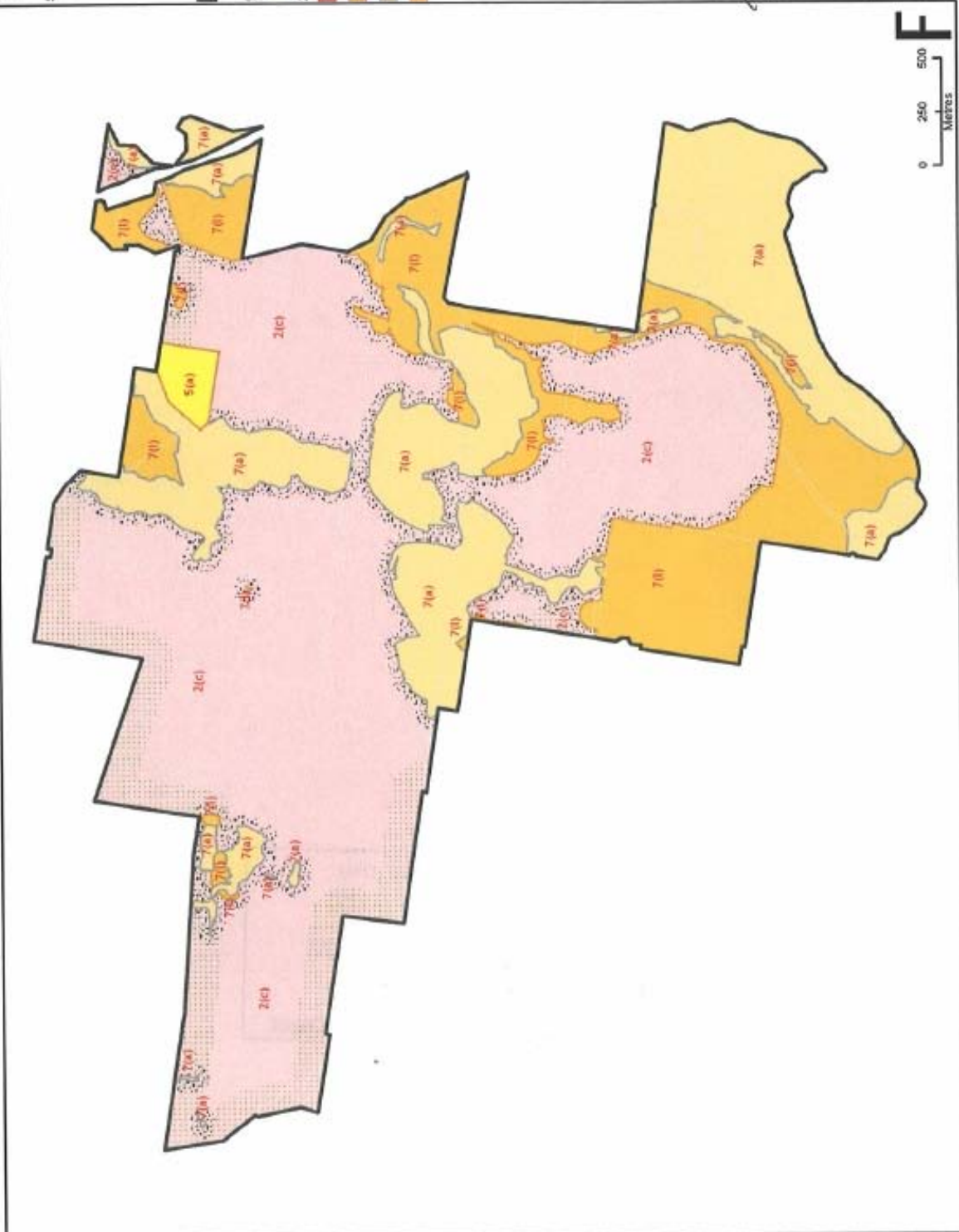
Environmental Planning and Assessment Act 1979
 State Environmental Planning Policy (Major Projects) Amendment No. 10

- Site Boundary
 - Parcel Boundary
 - Ecological Buffer - 50m
 - Agricultural Buffer - 150m
- Zone**
- 2(c) - Residential Urban Expansion
 - 5(a) - Special Uses
 - 7(a) - Environmental Protection (Wetlands & Upland Barrowaba)
 - 7(b) - Environmental Protection (Habitat)

[Signature]
 Minister for Planning
 Date: 30/10/06



State Environmental Planning Policy (Major Projects) 2005 (Amendment No. 10)
 - Zoning Map



THE SITE

The site is known as Kings Forest and comprises of 11 allotments. It has a total area of 880ha.

The site is bounded by agricultural and rural uses to the north, west and south-west and by Cudgen Lake (Cudgen Nature Reserve) and Cudgen Creek to the south and east. The coastal suburb of Casuarina is directly to the east of the site and there is a small area of residential development along Tweed Coast Road to the north of the site near Depot Road. Adjacent to the site is the former Depot Road Tip. The former Cudgen Quarry adjoins the southern boundary near Blacks Creek. Land to the north, north-west, west and south-west boundaries is predominately used for agriculture including grazing, small crop production, timber production.

The site is accessible from Tweed Coast Road (via Depot Road) and Duranbah Road, Duranbah.

The site is on a gently undulating coastal floodplain. The majority of the site (and surrounding lands) is at a relatively low elevation, with approximately 94% below 10m AHD and the remainder generally less than 20m AHD. Approximately 25% of the coastal plain within the site is permanent wetland.

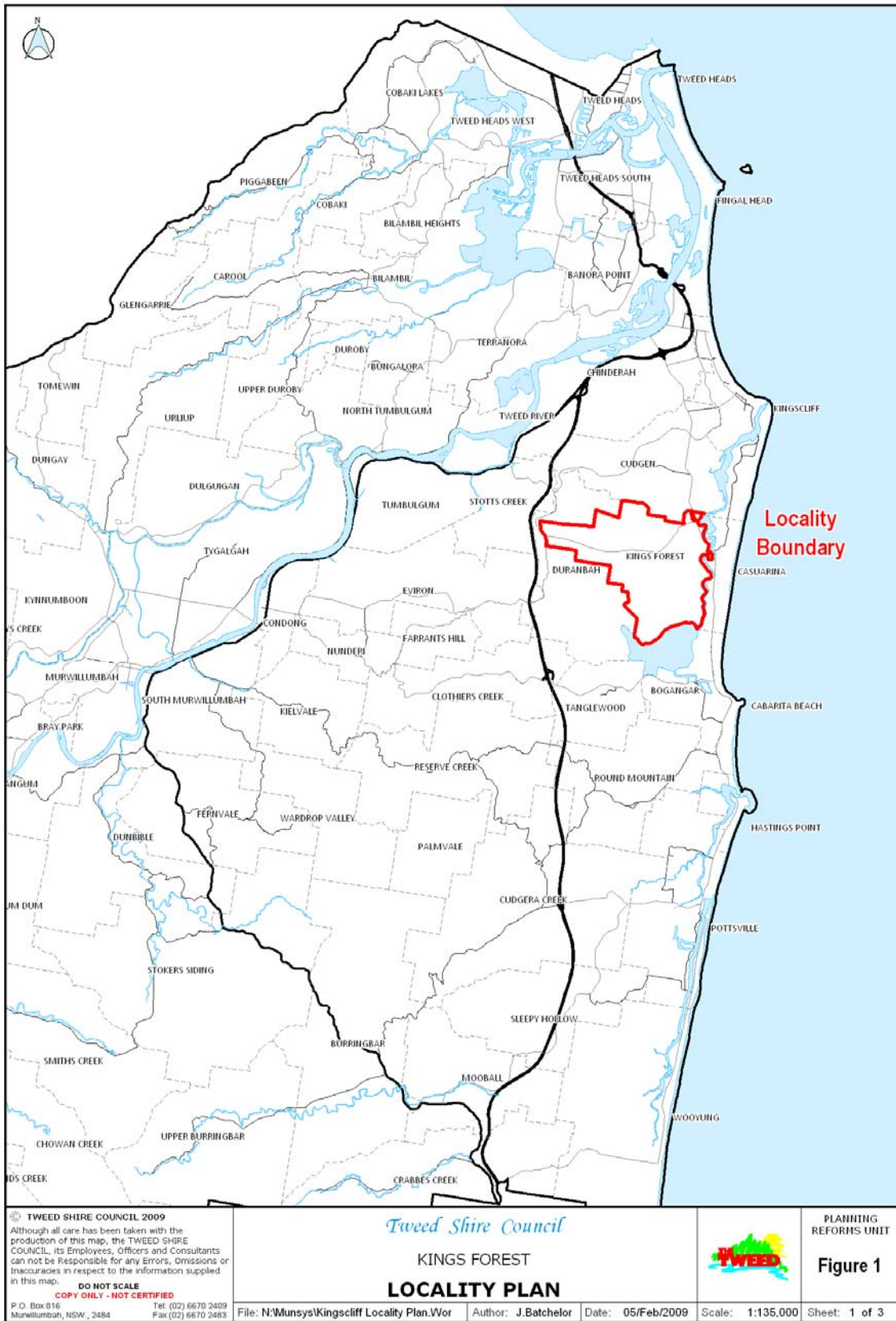
The site has historically been used for sand mining, turf production, dairy farming, small cropping and grazing, for sugar cane production, and as a pine plantation. Most of the site is benefited by existing use rights for cattle grazing and / or silviculture, which also allows associated routine agricultural activities. In addition, parts of the Cudgen Paddock are used for the grazing of cattle under an approval from Tweed Shire Council.

Site Constraints

The site is subject to the following constraints:

- Part of the site is sensitive coastal location and part coastal location under SEPP 71 (primarily within release "Area A");
- SEPP 14 – Wetlands occurs over part of the site;
- Koala habitat is identified on the site (SEPP 44 is applicable);
- On-site and adjoining wetland areas are possible breeding areas for mosquitoes and midges;
- Tree Protection Order 1990 apply to the entire site;
- Acid Sulfate Soils class 2 to 3 are applicable over most of the site;
- Small parts of the land are flood prone;
- The site is identified as bushfire prone;
- The site has been identified to accommodate future road corridors
- An old cattle dip is located on the site (Duranbah);
- The site is contained in Council's Aboriginal Cultural Heritage landscape mapping; and Aboriginal relics and artefacts are known to be located on isolated spots throughout the site; and
- Previous land uses undertaken on-site may have resulted in contaminated land (SEPP 55 remediation of land is applicable).

LOCALITY PLAN



AERIAL PHOTOGRAPH



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 P.O. Box 816
 Murrumbidgee, NSW, 2484
 Tel: 02 6670 2400
 Fax: 02 6670 2483

Tweed Shire Council
 KINGS FOREST
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Tweed Shire Council
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AERIAL PHOTO - TAKEN MAY 2007



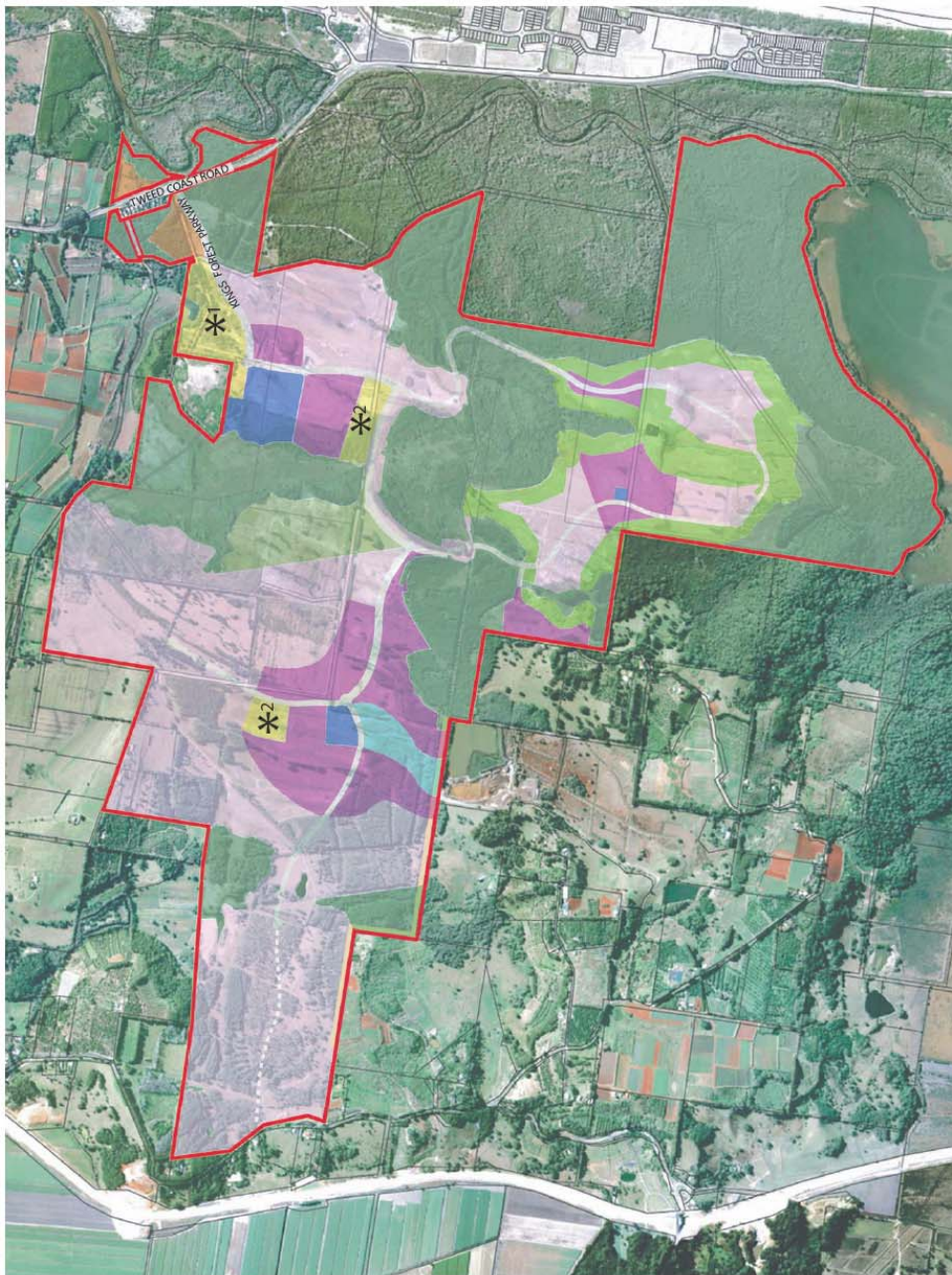
PLANNING REFORMS UNIT
Figure 2

Author: J.Batchelor Date: 05/Feb/2009 Scale: 1:20,000 Sheet: 2 of 3

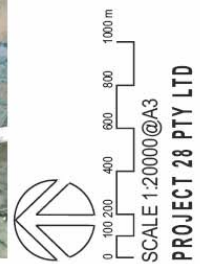
PROPOSED CONCEPT PLAN

- TOWN CENTRE / NEIGHBOURHOOD CENTRE
- MEDIUM DENSITY RESIDENTIAL
- LOW DENSITY RESIDENTIAL
- COMMUNITY FACILITIES / EDUCATION
- EMPLOYMENT LAND
- GOLF COURSE
- PUBLIC OPEN SPACE (ACTIVE)
- ENVIRONMENTAL PROTECTION AREA
- LAKE
- *1 INDICATIVE PRIVATE SCHOOL SITE
- *2 INDICATIVE STATE SCHOOL SITE

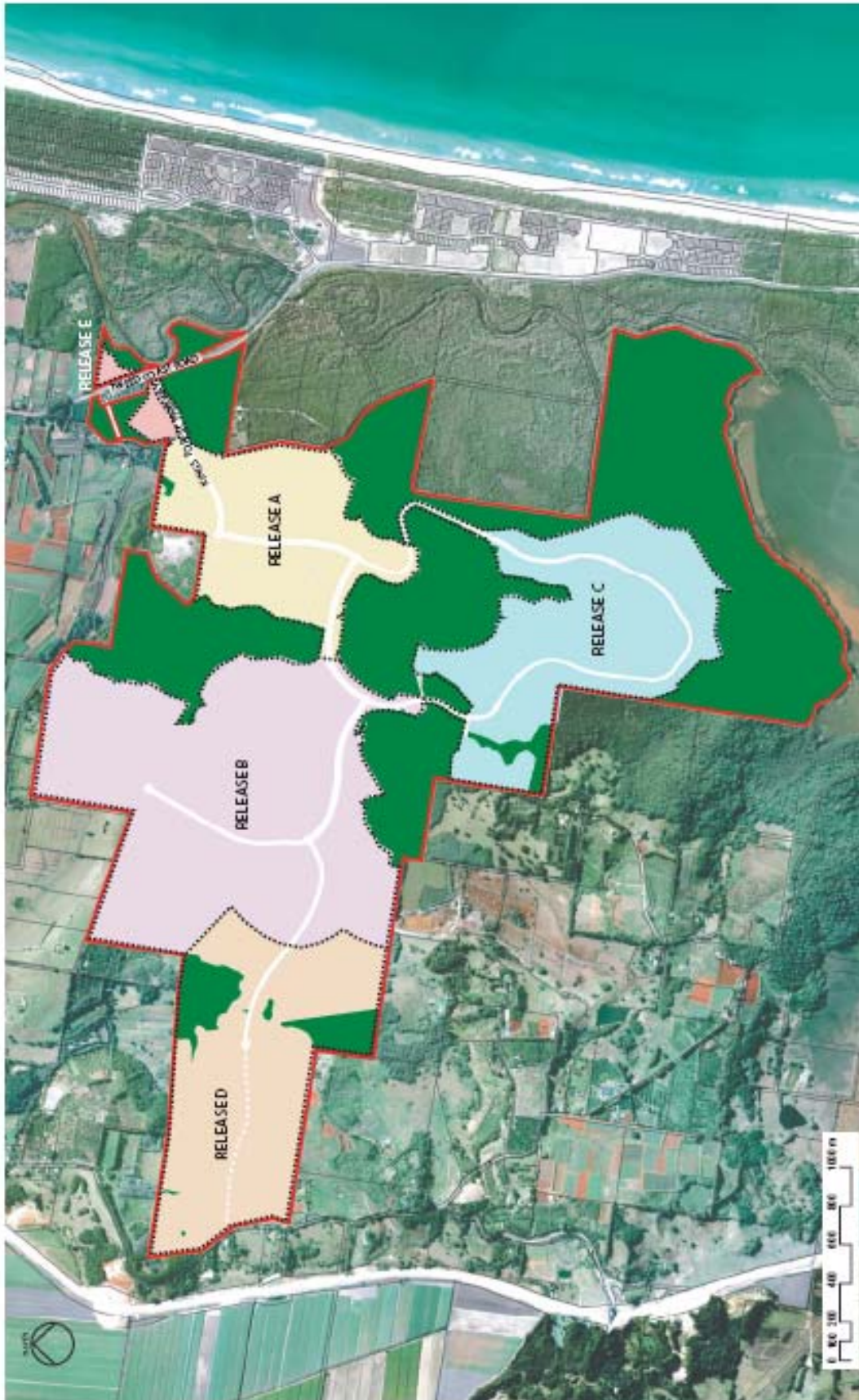
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Architects
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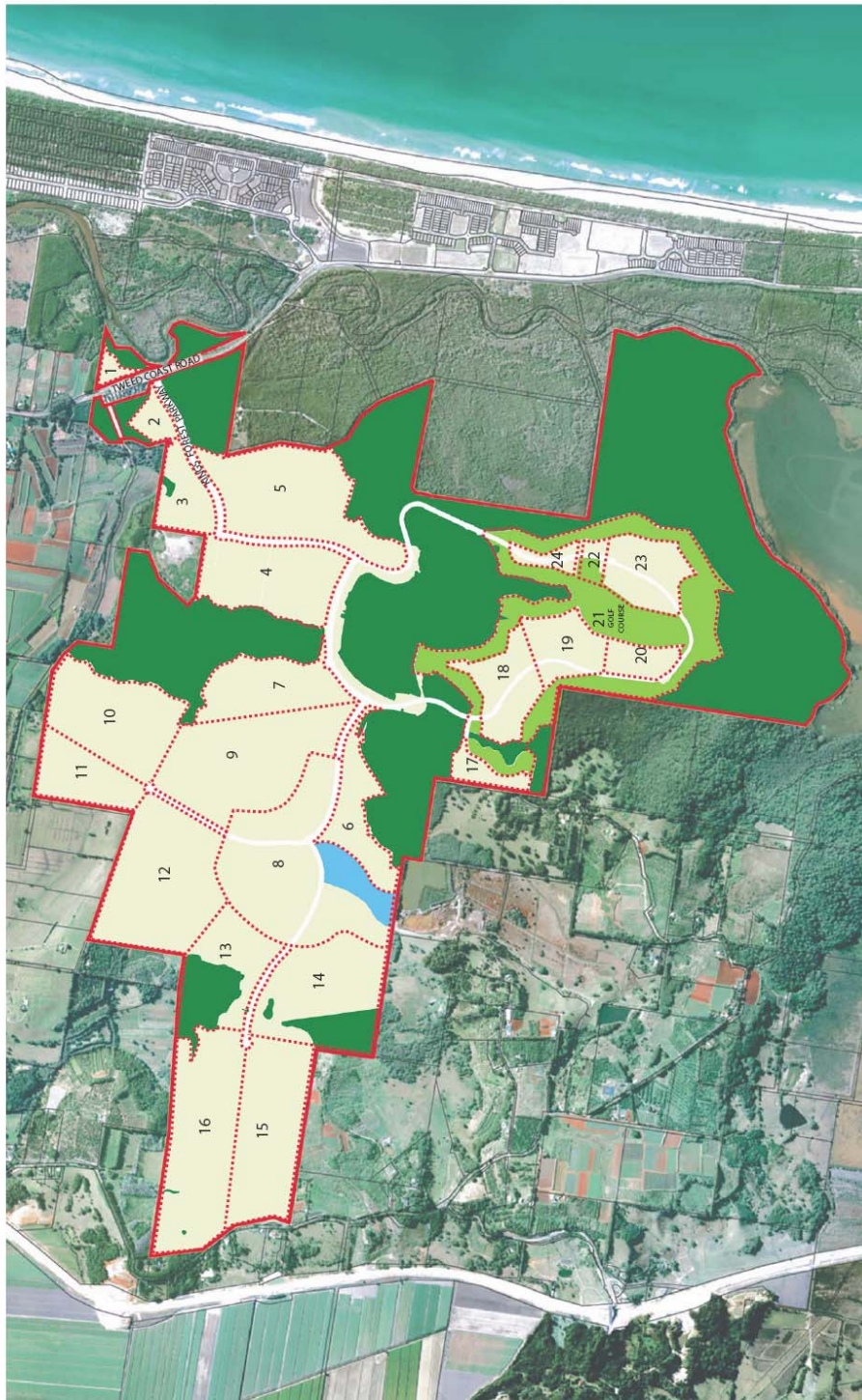
CONCEPT PLAN KINGS FOREST



PROPOSED RELEASE AREAS



PROPOSED PRECINCT AREAS



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PRECINCT PLAN
KINGS FOREST

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PROJECT 28 PTY LTD

Process

In November 2006, the Kings Forest site was designated as a State Significant Site as an amendment to the Major Projects SEPP.

Following the State Significant Site declaration and the inclusion of Kings Forest in Schedule 3 of the Major Projects SEPP, the applicant requested the Minister to authorise lodgement of a Concept Plan for the urban and recreational development of the site.

On the 9 January 2007, the Minister authorised a Concept Plan for the Kings Forest site and the Director-General's Environmental Assessment Requirements (DGRs) were issued in August 2007.

The Department of Planning accepted the Environmental Assessment (EA) prepared for the Concept Plan and placed the EAR on exhibition from 17 December 2008 until 19 February 2009. Council has been invited to provide comments in the form of a submission to the Department of Planning during the exhibition period.

The purpose of this report is to seek Council endorsement of the Draft Submission attached.

The Concept Plan allows only for approval of the concept and additional development applications will be required to undertake the subdivision.

Future Applications for Development Approval

The applicant has provided that

The following works in Release Areas A, C and E are proposed to be the subject of a future Part 3A Project Application for the approval of the Minister for Planning:

- *subdivision to create new lots/land parcels for future development in Precinct 5 of Release Area A;*
- *construction of the entrance road to the site and associated works for the intersection with Tweed Coast Road, as well as a new connecting road to the Tweed Council waste tip and Precinct 5;*
- *subdivision and associated infrastructure works for the first stage of urban development in Release Areas A and E;*
- *bulk earthworks and planting for the future golf course in Release Area C; and*
- *a service station and fast food outlet on part of the developable land east of Tweed Coast Road – Release Area E.*

Subsequent subdivision and other development in Release Area A and the other release areas are proposed to be the subject of future development applications for the consent of Tweed Shire Council under Part 4 of the EP&A Act.

The detailed design and construction of some forms of lower density housing are proposed to be subject to complying development certification and exempt development provisions under Part 4 of the EP&A Act.

Development

The EAR identifies the proposal is comprised of the following components:

- Approximately 396.4 hectares (gross) of residential development for 4500 dwellings consisting of;
 - a. 2700 low density dwellings; and
 - b. 1800 medium density dwellings, including 300 in the Town Centre.
- Approximately 13 hectares for the Town Centre (10.3 hectares) and neighbourhood centre (2.7 hectares) for future retail and commercial uses;
- 19 hectares for community and education facilities;
- 7 hectares as employment land;
- a 57 hectare golf course;
- 28.3 hectares of active and passive open space in the form of playing fields,
- neighbourhood parks and other areas for passive recreation; and
- 9 hectare extension to the former Turner's Quarry lake.

The proposal will also have

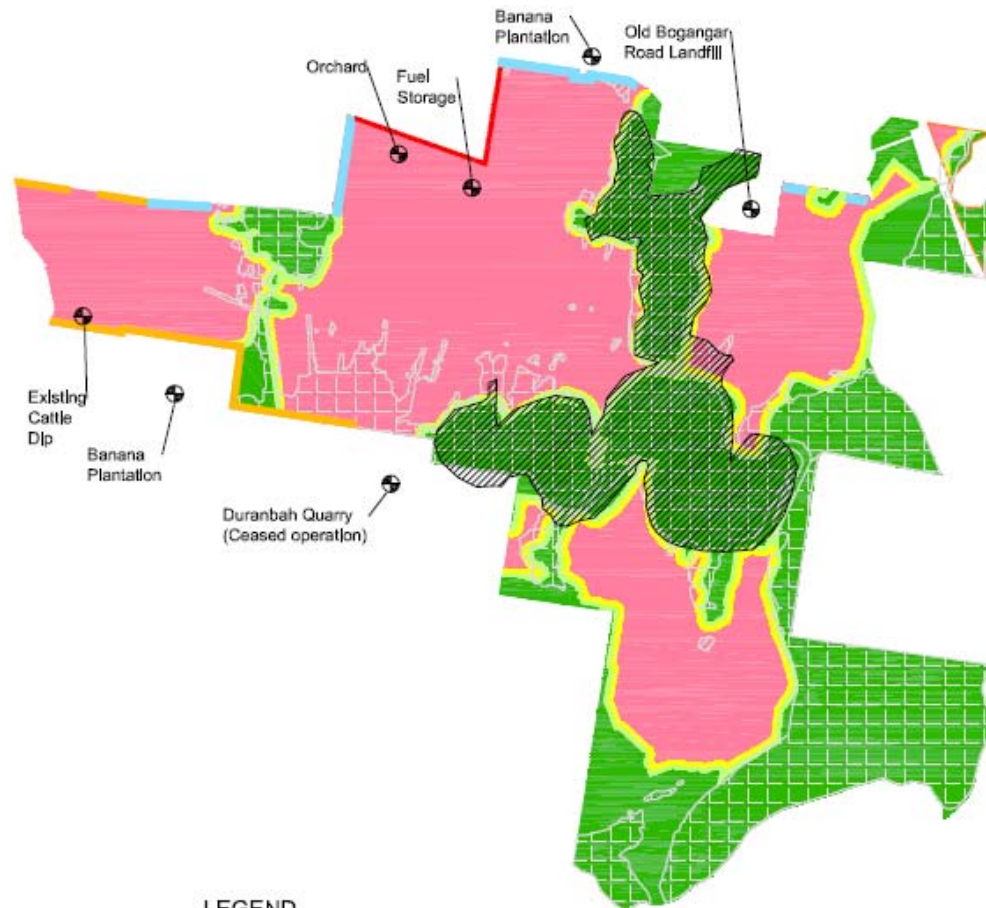
- a mix of lot sizes ranging from 125m² to 1,200m²;
- Community and education precincts including two schools over 7ha of land.
- Open space, lakes and environmental protection areas covering 267ha of land.
- Access network of roads, public transport routes, pedestrian / cyclepaths;
- Landscaping and vegetation management.
- Water management.
- Utility services infrastructure.

The proposal will result in an estimated population of 11,250 after 15 years.

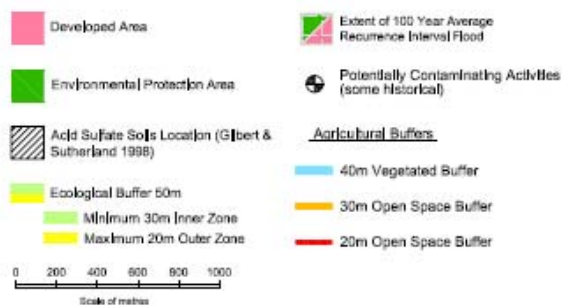
The Concept Plan includes a Precinct Development Matrix (refer below) which outlines "Domains", preferred development in each Domain, residential density in each domain and urban design principles for each domain.

The Concept Plan also includes a Constraints Analysis, Road Network Plan, and Water & Sewer Infrastructure Plans as shown below.

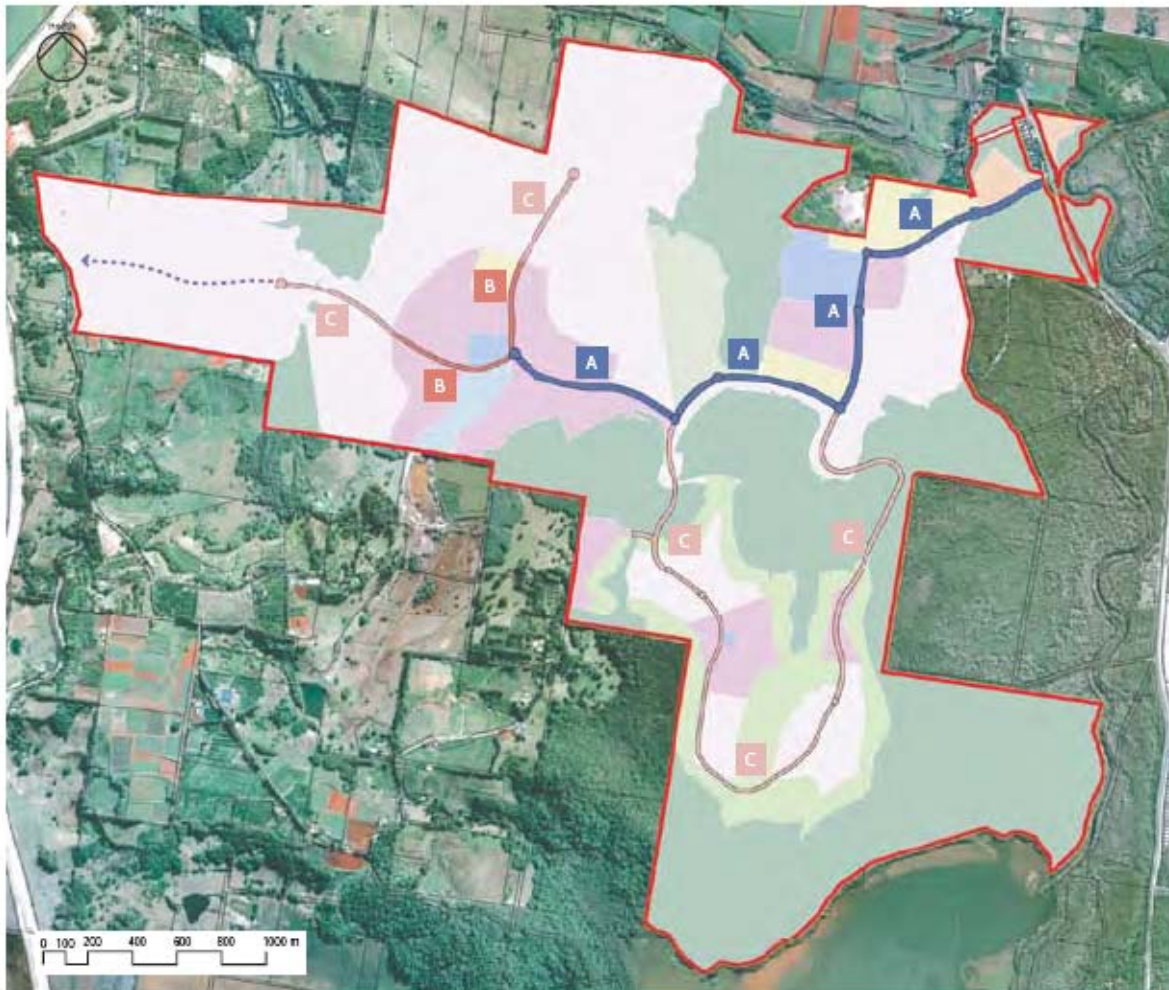
CONSTRAINTS ANALYSIS



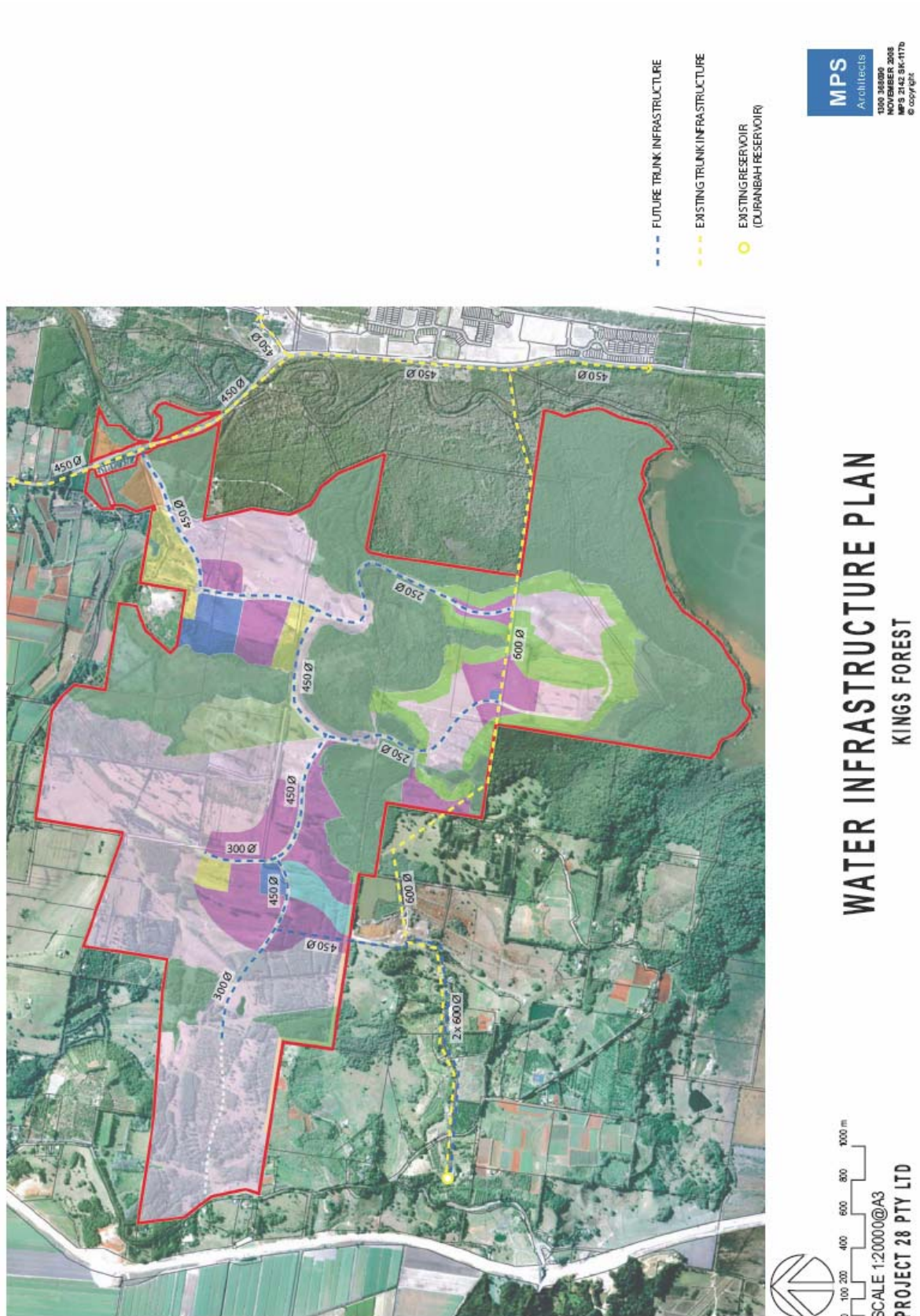
LEGEND



ROAD NETWORK PLAN



WATER INFRASTRUCTURE PLAN



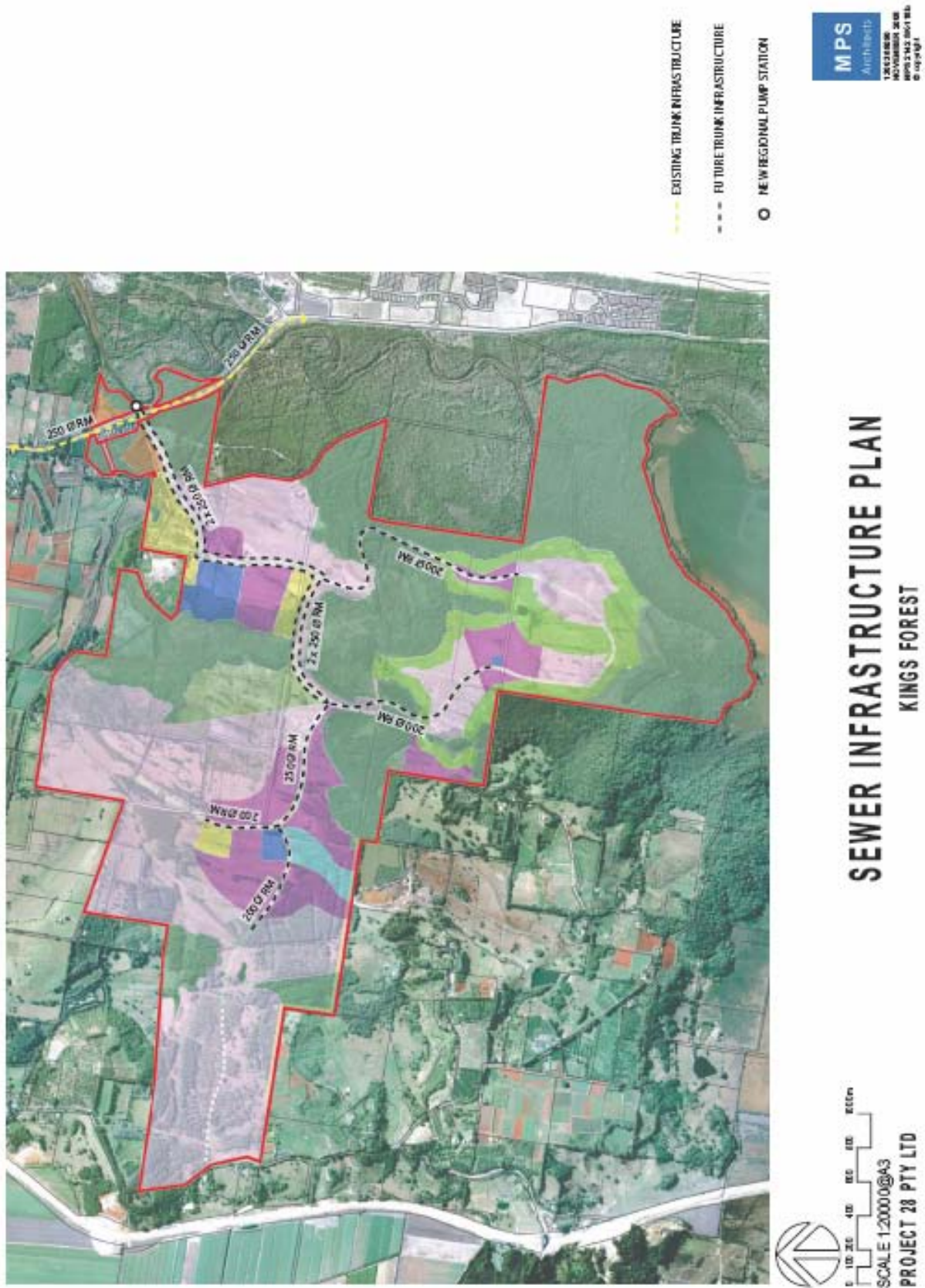
- FUTURE TRUNK INFRASTRUCTURE
- EXISTING TRUNK INFRASTRUCTURE
- EXISTING RESERVOIR (DURANBAH RESERVOIR)

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WATER INFRASTRUCTURE PLAN KINGS FOREST

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PROJECT 28 PTY LTD

SEWER INFRASTRUCTURE PLAN



It is proposed that design guidelines and codes for subdivision and housing are prepared at a later stage and incorporated into the Concept Plan.

Lot Sizes

The Tweed LEP currently specifies a minimum lot size of 450m² in the 2 (c) zone. The provisions applying to Kings Forest in accordance with the Major Project SEPP have no minimum allotment size for dwellings and subdivisions within the 2(c) zone.

The Concept Plan seeks to provide lot sizes ranging from 120m² to 1,200m² which is line with the Major Project SEPP.

Additional controls are required for small lot developments as current Council controls only cater for a minimum allotment size of 450m².

Re-zoning

The Concept Plan includes proposed amendments to zone boundaries.

The applicant has provided that:

"The proposed refinements to the zone boundaries are intended to align with the physical attributes of the site (natural and built), thus resulting in land use zones commensurate with the natural attributes of the land, in better environmental outcomes and in a more logical and efficient urban structure.

Moreover, without the proposed changes, some small areas of the concept plan proposed for development would be prohibited.

The changes fall into the following three categories:

- *Transfer of land from Zone 7(l) Environmental Protection - Habitat to Zone 2(c) Urban Expansion – involving Areas 1 to 7.*
- *Transfer of land from Zone 2(c) Urban Expansion to Zone 7(a) Environmental Protection - Wetlands and Littoral Forests and Zone 7(l) Environmental Protection – Habitat, involving Areas 8-16.*
- *Inserting an ecological buffer omitted from the 2006 zoning map in Area 17."*

Map Reference & Area	Current Zone *	Proposed Zone *	Explanatory summary of changes
1 0.37 ha	7(l) EP-H	2(c) UE	Line shown on map does not reflect the vegetation edge. Proposed boundary reflects the results of ground truthing undertaken by LandPartners Ltd.
2 1.28 ha	7(l) EP-H	2(c) UE	Change facilitates and reflects the realignment of the proposed entry road and provides a 50m buffer including the width of the road. While the zone boundary reflects the off-set recommended by the zone boundary determination for the original zoning of the land (G. Sainty & Assocs), the impact of a 50m buffer on the 2(c) zoned land on the opposite side of Depot Road was not considered.

Map Reference & Area	Current Zone	Proposed Zone *	Explanatory summary of changes
3 0.25 ha	7(l) EP-H	2(c) UE	The shape of this wedge plus a 50m buffer has a detrimental impact on the adjacent urban development area. The loss of a small area of habitat is not considered significant (considering the extent of habitat to be retained elsewhere).
4 0.66 ha	7(l) EP-H	2(c) UE	<p>The zone line was fixed to locate a number of trees within the 7(l) Environmental Protection zone. Elsewhere in this area the zone line is located generally along the edge of native vegetation on the eastern side of a dirt road. It is proposed to locate the zone line in a similar manner here resulting in the trees being located in what would become part of the 2(c) zone. All these trees are to be retained within the proposed golf course area (but outside the designed area of play).</p> <p>DECC, when consulted on this matter, raised no objection, and the management plan for the golf course will mitigate impacts on the loss of Bush Stone curlew habitat.</p>
5 0.42 ha	7(l) EP-H	2(c) UE	<p>The proposal to construct a golf course in the Cudgen Paddock was central to resolving Kings Forest's zonings, and led to the layout of the golf course being amended to create a larger area of land to the south available for environmental protection. This layout resolved the location of the boundary between the 2(c) zone and 7(l) zone in that area. The gazetted layout, however, resulted in the golf tees serving two holes being located just within the Environmental Protection area. It is now necessary for the area required for these tees to be zoned Urban Expansion.</p> <p>DECC raised no objection and the management plan for the golf course will mitigate impacts on the loss of Bush Stone curlew habitat.</p> <p>The loss of a small area of Wallum frog habitat is not considered significant</p>
6 0.43 ha	7(l) EP-H	2(c) UE	
7 0.05 ha	7(l) EP-H	2(c) UE	This very small piece of land should have been amongst a number of parcels identified as off-sets in the zone boundary determination for the original zoning of the land (undertaken by G. Sainty & Assocs) but was inadvertently left out.
8 0.47 ha	2(c) UE	7(a) EP-W&LR	<p>These areas represent infill habitat to the irregular edge of the present zoning which follows the mapped line of existing high value vegetation.</p> <p>The addition of these areas to the Environmental Protection Zone consolidates the area and smoothes the edge thus providing benefits by facilitating buffer and management arrangements.</p>
9 0.26 ha	2(c) UE	7(a) EP-W&LR	
10 3.16 ha	2(c) UE	7(l) EP-H	

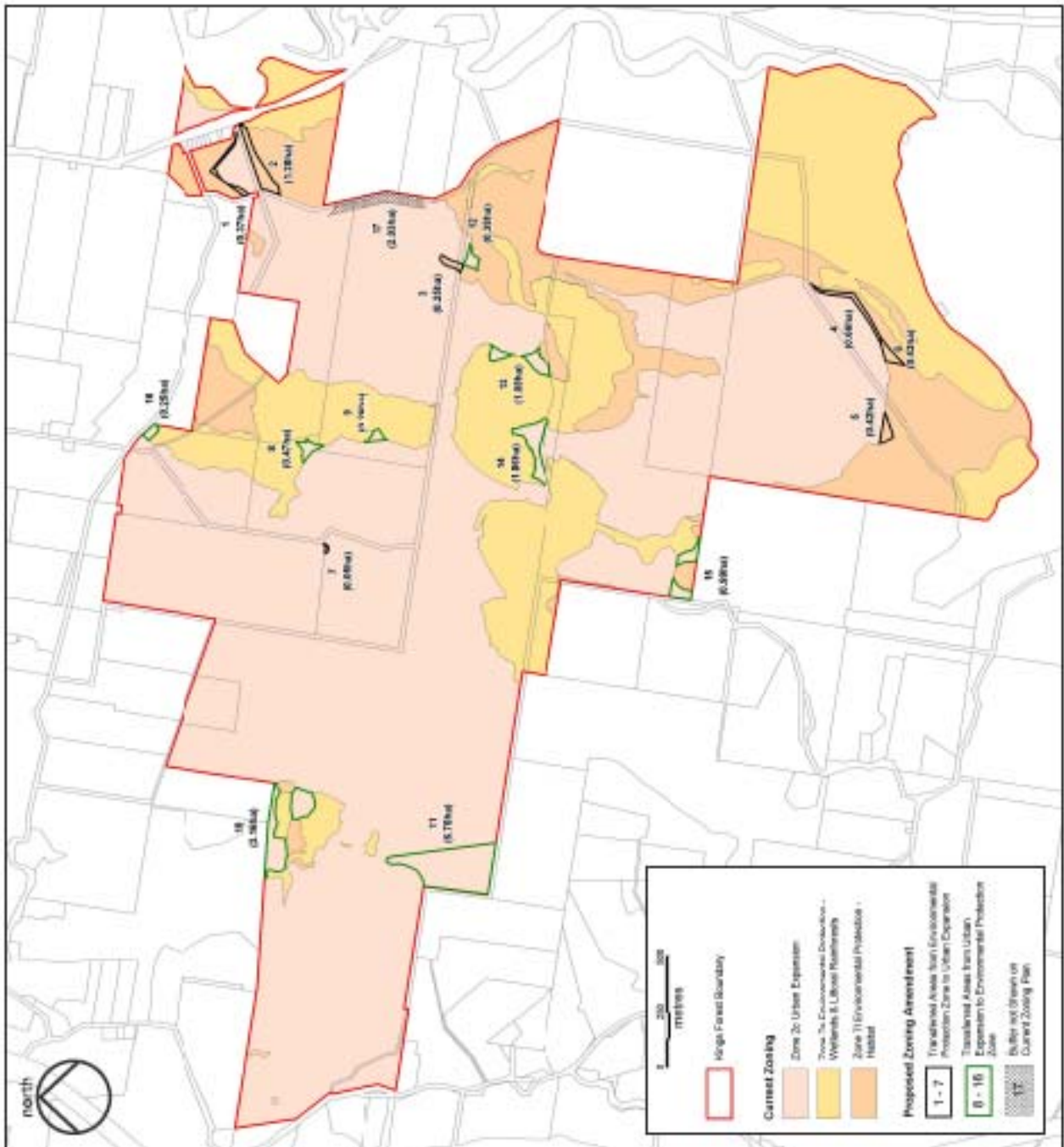
Map Reference & Area	Current Zone	Proposed Zone *	Explanatory summary of changes
11 6.78 ha	2(c) UE	7(l) EP-H	This area satisfies the recommendation contained in the Koala Plan of Management (Carrick 2008) that a north-south koala movement linkage be established to connect with Area 10 and the smaller areas of Environmental Protection to its south. This will yield a continuous linkage between the southern and northern boundaries of Kings Forest.
12 0.38 ha	2(c) UE	7(a) EP-W&LR	These three small areas provide infill habitat to the irregular edge of the present zoning which follows the mapped line of existing high value vegetation. The addition of these areas to the Environmental Protection Zone consolidates the area, smoothes the edge, and provided benefits through better buffer and management arrangements.
13 1.08 ha	2(c) UE	7(a) EP-W&LR and 7(l) EP-H	
14 1.86 ha	2(c) UE	7(a) EP-W&LR	
15 0.99 ha	2(c) UE	7(l) EP-H	
16 0.25 ha	2(c) UE	7(a) EP-W&LR	Adding this land to the 7(a) zone facilitates edge management and provides the opportunity for regeneration of what would otherwise be left-over land.
17	n/a	Buffer	Drafting error. Buffer omitted from zoning map and needs to be shown.

* 7(l) EP - H = Zone 7(l) Environmental Protection - Habitat

7(a) EP - W&LR = Zone 7(a) Environmental Protection - Wetlands and Littoral Rainforests

2(c) UE = Zone 2(c) Urban Expansion

PROPOSED ZONING CHANGES



ENDANGERED ECOLOGICAL COMMUNITIES AND THREATENED FLORA

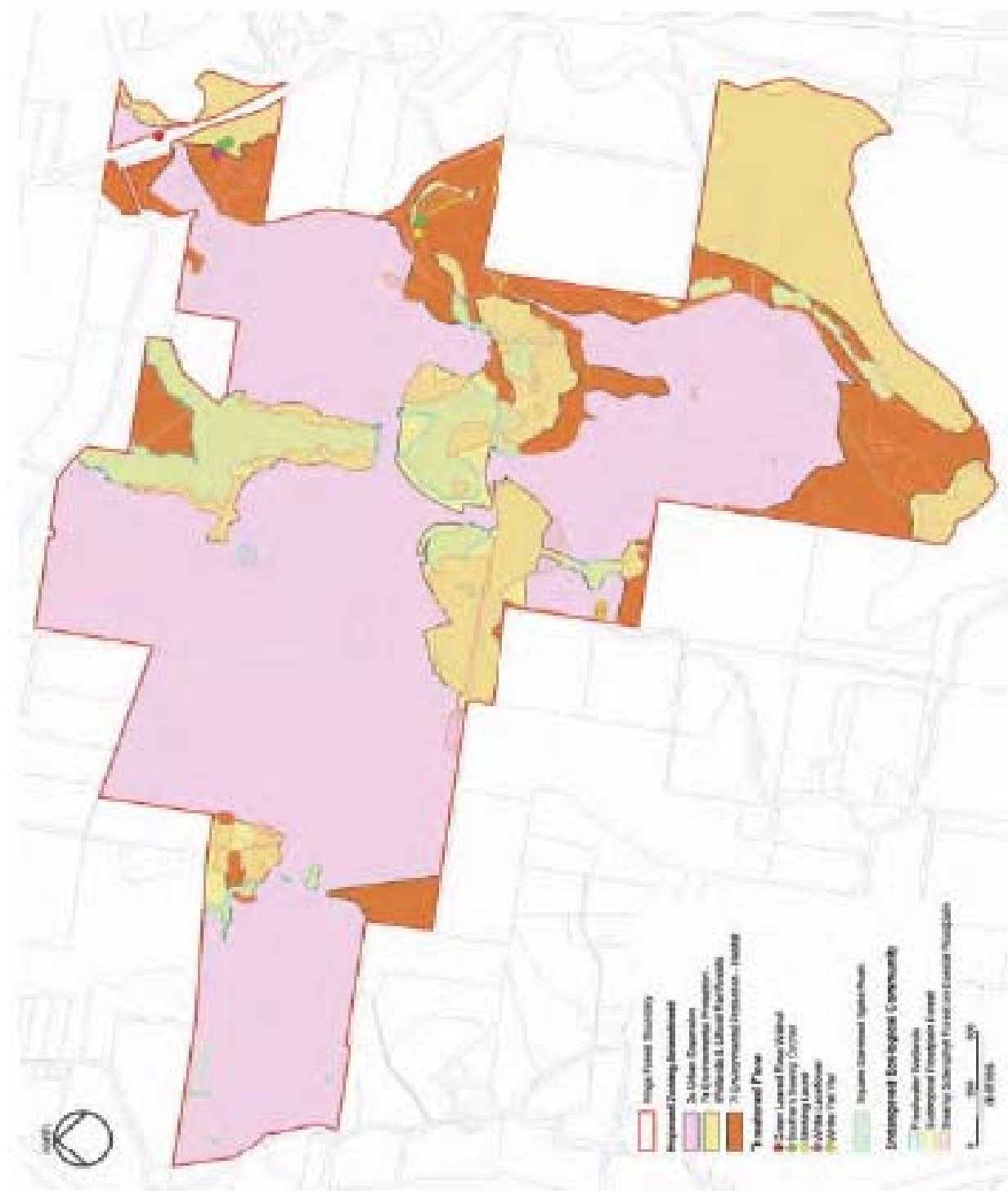


Figure 23 - Endangered Ecological Communities and Threatened Flora (Source: LandPatrensia)

Draft Submission

The EAR and Concept Plan were circulated to Council Officers with expertise in the following fields:

- Ecologist
- Strategic Planning
- Infrastructure Engineering (Flooding)
- Subdivision Engineering
- Building Surveyor
- Environmental Health
- Traffic
- Social Planning
- Entomology
- Water Services
- Natural Resource Management

Comments from Council Officers have been collated into the attached draft submission.

Major issues raised include the following:

Proposed Re-Zonings

- The proposed re-zonings are not supported on ecological grounds. Further negotiations should be undertaken to consider other potential offset areas.

Koala Issues

- A revised Koala Plan of Management is required (prior to approval of the concept plan) to ensure the long term protection of the Koala is maintained within and around the subject site.

Landforming

- The Concept Plan does not include a coherent landforming or stormwater management plan, it is not considered that the Concept Plan can proceed without a conceptual earthworks plan.

Stormwater

- Insufficient detail is provided in the Concept Plan to demonstrate that adequate drainage infrastructure can cater for external (minimal) and internal runoff catchments

Sewer

- Council presently does not have capacity within its treatment plants and trunk conveyancing systems to cater for the overall proposed development, however the adopted 30 year capital works plan allows for these

augmentations. Approvals to permit such augmentations can not be guaranteed and if not gained or are delayed, will impact on the granting of future approvals for this development.

Water Strategy

- Comments on the Water Demand Strategy are dependent on the endorsement of the preferred approach recommended in the strategy.
- Council presently does not have capacity within its current bulk water supply system to cater for the proposed overall development, however the adopted 30 year capital works plan allows for its augmentation. Approvals to permit such augmentations can not be guaranteed and if not gained or are delayed, will impact on the granting of future approvals for this development.

Proposed Lake

- Public ownership of the lake is not supported. The ongoing management of the lake needs to be in private ownership. A concept design for the lake should be submitted with the concept plan

Proposed Golf Course

- Significant urban areas will be discharging stormwater runoff to the golf course. The concept plan needs to include a stormwater drainage catchment plan for the golf course area.
- The golf course management plan addresses many potentially conflicting issues with regard to habitat enhancement, asset protection zones, stormwater treatment and a functioning golf course. A plan is required demonstrating how all of these differing functions are capable of working while maintaining an initial 30m buffer densely vegetated where it abuts natural areas.

Roads, Footpaths & Cycleways

- A new intersection is required at Tweed Coast Road and the proposed Kings Forest Parkway before completion of works in relation to the first stage subdivision.
- The applicant needs to commit to compliance with Council's minimum standards for road design incorporating footpaths and cycleways in accordance with Tweed DCP Section A5.
- The proposed business park is not supported based on the submitted single lane or double lane round-a-bout proposals.
- The alignment of Kings Forest Parkway needs amending.
- A public transport strategy is required as part of the concept plan.

Section 94 Plans

- The EA states that s64 and s94 plans will be "negotiated" with Council. It is considered that these plans are adopted and remain applicable unless new planning agreements developed.

Open space

- Further break down of open space uses is required. For example, areas proposed for structured, casual parks, local parks, environmental and restoration areas should be distinguished.
- Further detail on the proposed long-term maintenance of open space areas proposed to be dedicated and costs associated with maintenance.
- The concept plans needs amending to delete reference to the Depot Road Waste Management Site as Council is utilising this land for its own purposes.

Buffers

- Buffers to adjoining agricultural land should be established in accordance with the SEPP Major project (150m).
- The ecological buffer treatment is inadequately defined. A consistent approach is required across the site

Bushfire

- Asset Protection Zone locations unclear. The Bushfire plan indicates they may be in private land, in roads, batters or within nature strips. The future management of APZs is therefore unclear.
- APZs should remain in private land unless Council is provided with funding to undertake maintenance and (easements), where maintenance is reasonable.

Planning

- The proposed development on the eastern side of Tweed Coast Road is uncharacteristic with the local area.
- The employment land should be designed specifically to meet local and regional employment objectives.
- Definitions in the development matrix should align with Standard LEP template definition or provide clear definitions.
- The proposed Development Codes (or design codes) are required up-front with the Concept Plan for proper assessment.
- Inconsistencies with standards indicated in indicative building plans need to be justified where inconsistent with Section A1.
- Further detail should be included in the Concept Plan residential domain, including high, medium and low residential density areas.
- The concept plan needs to have greater regard to the ultimate built form of the site with a view to preventing monotony in the built landscape.
- The concept plans needs to be justified and proven to be the best utilisation of the site;
- Indicative buildings plans need to conform with Council's DCP Section A1 dwelling type definitions (or specify A1 where being over-ridden).

- Walkable neighbourhoods should be provided to the majority of lots, through provision of public transport routes that extend throughout the site.
- Housing affordability is not addressed.
- Provide a public transport plan.

OPTIONS:

1. That Council endorse the key themes in the attached draft submission to the Department of Planning on the Concept Plan for Kings Forest.
2. That the Council proposes an alternative draft submission to the Department of Planning on the Concept Plan for Kings Forest.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Council has the opportunity to make a submission to the Department of Planning on the proposed Major Project Kings Forest Concept Plan.

Various internal experts have assessed the Environmental Assessment Report and Concept Plan currently on public exhibition. These comments have been collated into the attached draft submission.

The purpose of this report is to seek Council endorsement of the key themes provided in the attached draft submission.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Director General Requirements (ECM 1980663)
 2. Draft Letter to Department of Planning (ECM 1981901)
-

P10 [PR-PC] Cobaki Lakes Concept Plan - Residential Community Development - Council Submission to the Department of Planning

ORIGIN:

Development Assessment

FILE NO: GT1/52 Pt8

SUMMARY OF REPORT:

The purpose of this report is to seek Council's endorsement of the proposed submission to the Department of Planning on the Major Project Concept Plan application for the Cobaki Lakes Residential Community Development (MP06_0316).

RECOMMENDATION:

That Council endorses the attached draft submission on the Cobaki Lakes Residential Community Development and be submitted to the Department of Planning.

REPORT:

Applicant: Leda Manorstead Pty Ltd
Owner: Leda Manorstead Pty Ltd
Location: Lot 1 DP570076, Lot 2 DP566529, Lot 1 DP562222, Lot 1 DP570077, Lot 1 DP823679, Lot 46, 54, 55, 199, 200, 201, 202, 205, 206, 209, 228 & 305 DP755740 at Cobaki lakes Estate, Tweed Heads
Zoning: 2 (c) Urban Expansion, 2 (e) Residential Tourist, 6 (b) Recreation, 7 (d) Environmental Protection (Scenic Escarpments) and 7 (l) Environmental Protection (Habitat)
Cost: N/A

BACKGROUND:

Existing Development Consents

Cobaki Lakes has received several Development Consents between 1993 and 2002 for bulk earthworks and residential subdivision.

A summary of existing consents is outlined in the table below. The majority of the bulk earthwork consents have commenced and works are currently underway.

Consents		
Reference	Description	Date of Consent
92/315	Boyd Street Extensions	5 January 1993
94/438	Bulk Earthworks	27 January 1995
S94/194	730 Lot Urban Subdivision Parcels 1 to 5 and 13 Englobo Parcels (The Entrance, The Sand Ridge)	19 September 1995
96/271	Bridge over Cobaki Creek	8 April 1997
S97/54	430 lot residential subdivision – parcel 7 to 10 (The Knoll, Piggabeen)	21 October 1997
K99/1124	560 Lot Urban Subdivision (The Foothills, The Plateau, Valley East, Valley West, East Ridge)	21 July 2000
1162/2001DA	8 Management Lots and Bulk Earthworks (town centre)	8 October 2002

A number of Construction Certificates have also been issued for bulk earthworks and other civil engineering works and progress of these works continues. The majority of works are for filling of flood prone land within the 2 (c) Urban Expansion zone and cutting of steep slopes.

The extract from the Environmental Assessment (EA) below outline the areas of approved works that have been completed to date or have commenced. The applicant intends to continue with and complete these works.

It is proposed to preserve existing subdivision consents until future subdivision consents are issued. It is also proposed to preserve the existing consents for Precincts 1 and 2 in the Concept Plan in perpetuity.

Cobaki Lakes Estate, Tweed Heads Part 3A Concept Plan | December 2008

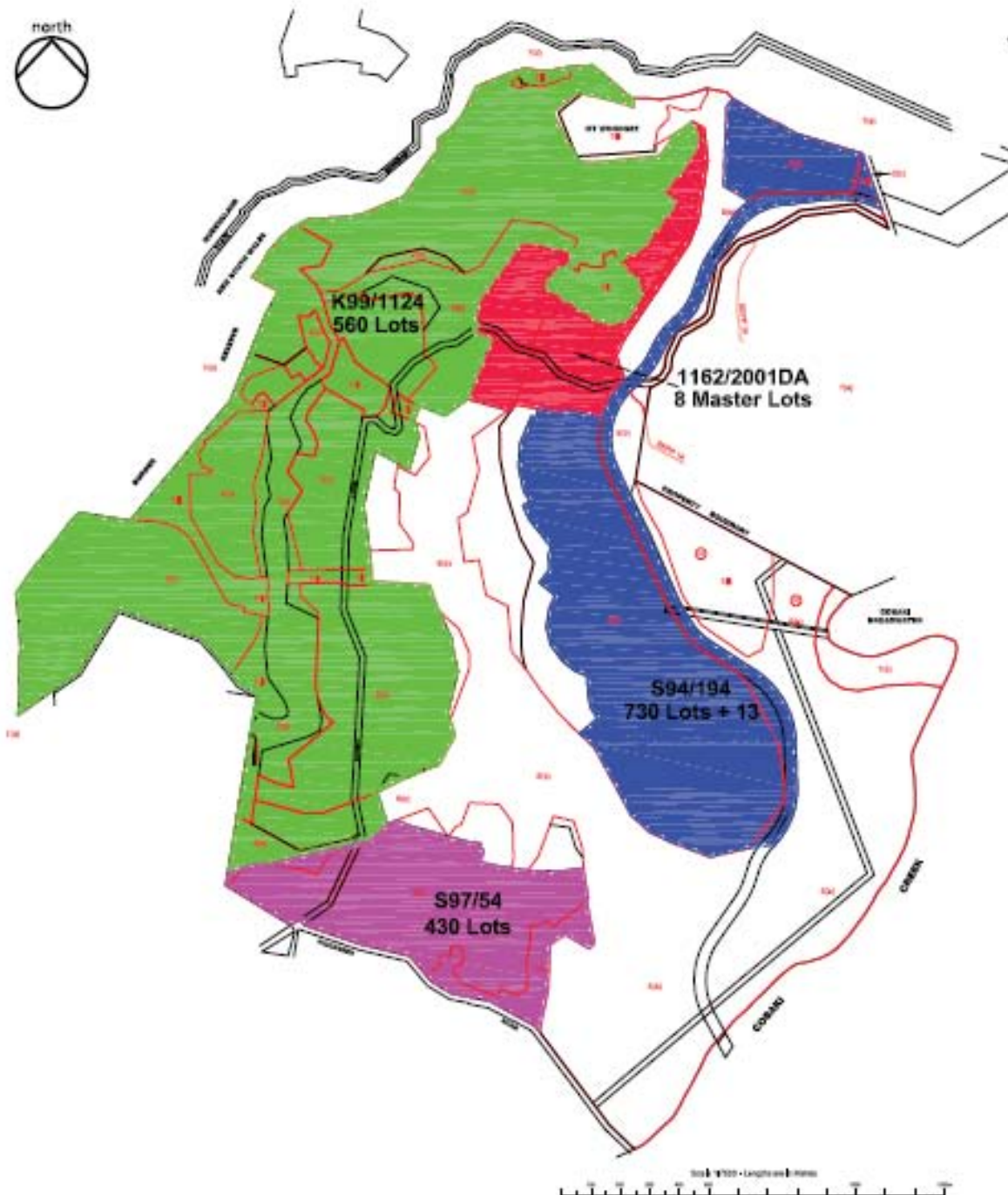


Figure 6 – Existing Subdivision and Development Consents

Cobaki Lakes Estate, Tweed Heads Part 3A Concept Plan | December 2008

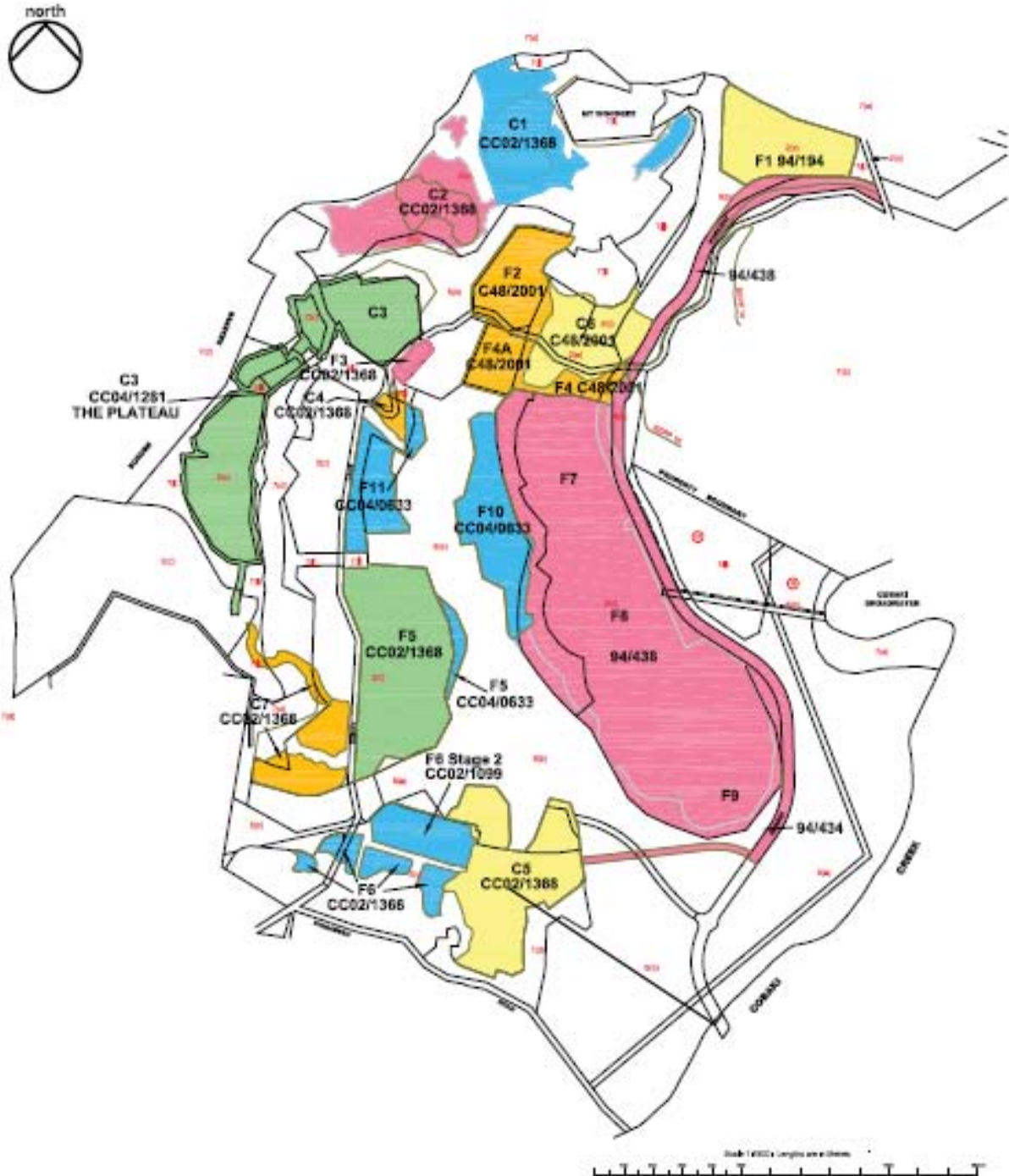


Figure 7 -Existing Earthworks Approvals¹

Additional Applications

In addition to the Major Project Application for a Concept Plan discussed herein, the Department of Planning has also received a Project Application (stage one works) for the proposed construction, rehabilitation and subdivision of the proposed central open space lake area in the Cobaki Lakes Residential Development (MP08_0200).

The Director General Requirement's (DGRs) for the Project Application were issued to the developer on 5 November 2009 and the Department is awaiting lodgement of an Environmental Assessment (EA) addressing the DGRs.

THE SITE

The site is known as Cobaki Lakes and comprises of 17 allotments. It has a total area of 593.5ha.

The site is situated approximately 6km west of Tweed Heads.

Existing on-site vegetation includes dry sclerophyll forest, rainforest, woodland, heathland, mangrove forest, grassland and rushland/sedgeland.

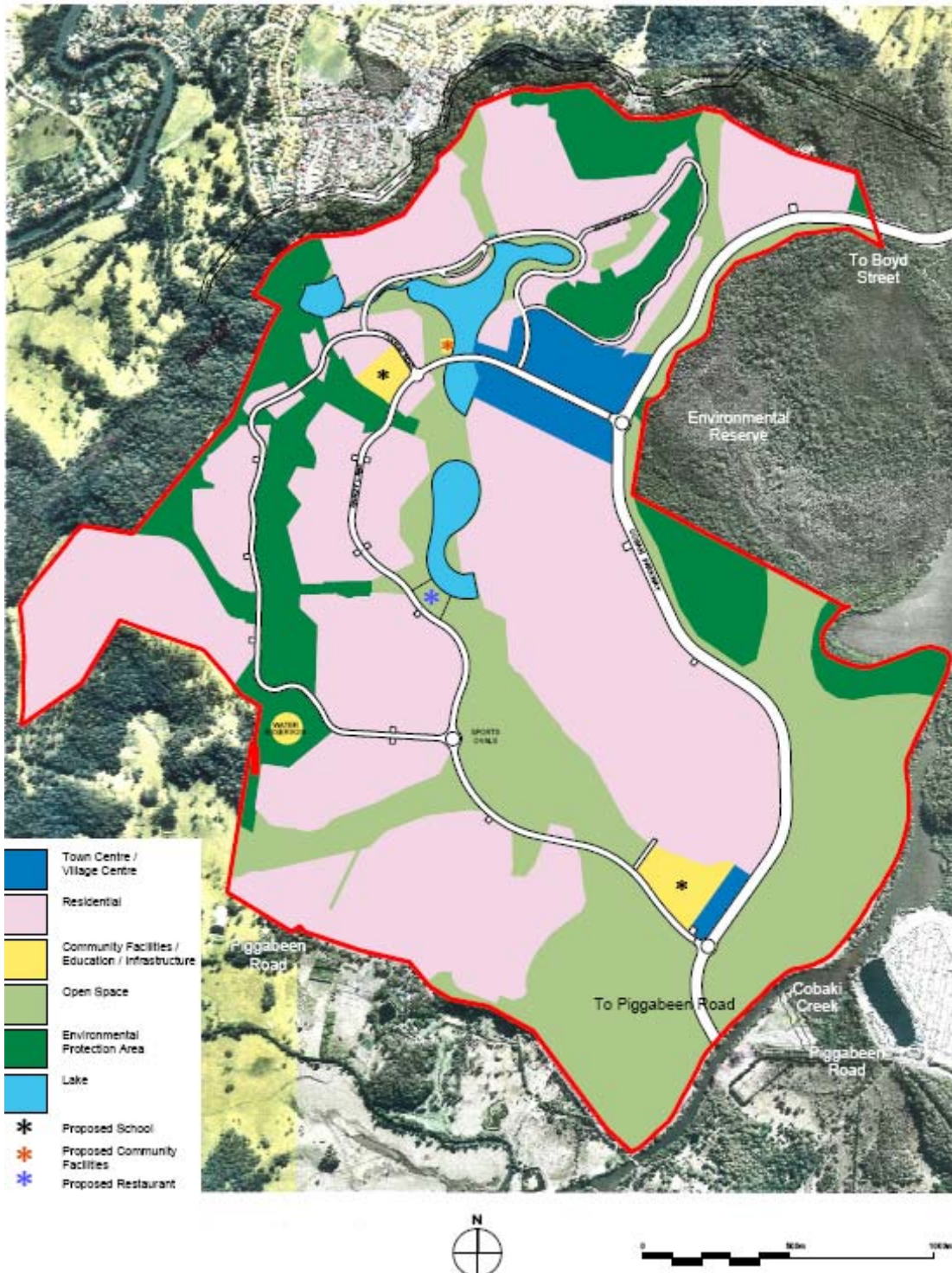
Topography on the site varies significantly including relatively steep slopes and ridges to the north and west and low lying flood plains in the centre of the site.

Site Constraints

The site is subject to the following constraints:

- Part of the site is sensitive coastal location and part coastal location under SEPP 71;
- Wetlands occurs over part of the site (SEPP 14 is applicable);
- Koala habitat is identified on the site (SEPP 44 is applicable);
- On-site and adjoining waterbodies are known breeding areas for mosquitoes and midges;
- Tree Protection Orders 1990 and 2004 apply to the majority of the site;
- Acid Sulfate Soils class 1 to 3 are applicable over most of the site;
- The land is flood prone;
- A transmission line corridor runs through part of the site;
- The site is identified as bushfire prone;
- Regionally significant farmland is located to the north east and south of the site;
- An old cattle dip is located on the site;
- The site is contained in Council's Aboriginal Cultural Heritage landscape mapping; and
- Previous land uses undertaken on-site may have resulted in contaminated land (SEPP 55 remediation of land is applicable).

SITE DIAGRAM:



Concept Plan for LEDA MANORSTEAD PTY LTD

of COBAKI LAKES, NSW

Scale: 1:12000 @ A3

LED008 / SK 01.01

Friday, 16 August 2008

Issue U

PROPOSED CONCEPT PLAN:

Process

The Department of Planning received an application for a Major Project lodged by Leda Manostead Pty Ltd on 21 November 2006.

The application was lodged pursuant to Part 3A of the Environmental Planning and Assessment Act 1979 and the Minister authorised the submission of a Concept Plan for the proposed Development in accordance with s75M of the Act on 24 January 2007.

On 5 March 2007, the Department of Planning issued the Director General's Environmental Assessment Requirements (DGR's) to Leda (refer attached).

The Department of Planning accepted the Environmental Assessment (EA) prepared for the Concept Plan and placed the EA on exhibition from 17 December 2008 until 19 February 2009. Council has been invited to provide comments on the Concept Plan, to the Department of Planning during the exhibition period.

The Department of Planning has extended the submission period for Council to 23 February 2009 and the submission will be required by that date. This is to allow for endorsement at the Planning Committee meeting of 17 February 2009.

The purpose of this report is to seek Council endorsement of the draft submission attached.

The Concept Plan allows only for approval of the concept and additional development applications will be required to undertake the subdivision.

Future Applications for Development Approval

The subdivision, rehabilitation and construction of the central open space and lake system is proposed to be the subject of a future Major Project Application for approval by the Minister (as discussed above). This will essentially form stage 1 of the development.

Subject to the Ministers determination, the further subdivision, design and construction of all other areas in the Concept Plan area are proposed to be subject of future development assessment by Tweed Shire Council under Part 4 of the EP&A Act.

Development

The EA identifies the proposal is comprised of the following components:

- A town centre precinct, mixed retail, commercial with up to 9,500m² of retail space and 200 multi-unit dwellings covering 18 ha.
- Residential precincts with a mix of housing types including detached houses, town houses and multi-unit housing up to 3 storeys with up to 5,300 dwellings covering approximately 283ha of land excluding roads.
- Mix of lot sizes ranging from 120m² to 1,200m².

- Community and education precincts including two schools over 7ha of land.
- Open space, lakes and environmental protection areas covering 267ha of land.
- Access network of roads, public transport routes, pedestrian / cyclepaths.
- Landscaping and vegetation management.
- Water management.
- Utility services infrastructure.

The proposal will result in an estimated population of 12,000 after 15 years.

The Concept Plan includes a Precinct Development Matrix (refer below) which outlines “Domains”, preferred development in each Domain, residential density in each domain and urban design principles for each domain.

Concept Plan Domain	Preferred Development	Residential Density	Non-Residential Density	Urban Design Principles
Town Centre/ Neighbourhood Centre	<ul style="list-style-type: none"> ▪ Shop ▪ Retail premises ▪ Business premises ▪ Office premises ▪ Medical Centre ▪ Community facility ▪ Restaurant ▪ Takeaway food and drink premises ▪ Entertainment facility ▪ Recreational facility(indoor) ▪ Car Park ▪ Child Care Centre ▪ Pub ▪ Information and education facility ▪ Residential types in Development Code ▪ Telecommunications facility ▪ Service station 	200 multi-units Approx area: 17.4 Ha	Shop, pub, takeaway food, restaurant Max 5000 sq m GFA Office, commercial & medical Max 2500 sq m GFA Supermarket Max 4000 sq m GFA Community use Max 1000 sq m GFA	<ul style="list-style-type: none"> ▪ Retail and commercial resident friendly ▪ Urban form controlled by Development Code ▪ Building height controlled by Development Code ▪ Incorporate urban art and public amenity ▪ Public transport interchange ▪ Town square focus ▪ Public car parking concealed from view ▪ Non-residential use at street level ▪ Reduced setbacks ▪ Pedestrian friendly streetscape with awnings ▪ Designs must optimise residential amenity, privacy and solar access ▪ Must demonstrate sensitive interface with surrounding development ▪ Screen or conceal passive facades and service areas ▪ Incorporate passive surveillance and public safety principles
Residential	<ul style="list-style-type: none"> ▪ Residential types in Development Code ▪ Exhibition village ▪ Community facility ▪ Child care centre ▪ Residential care facility ▪ Seniors housing ▪ Recreation area ▪ Environmental facility ▪ Recreation facility(indoor) 	10 - 40 dw/Ha Approx area: 282.7 Ha 5300 dw (2500 detached 2400 small lot integrated housing, 400 multi-units)		<ul style="list-style-type: none"> ▪ Urban form controlled by lot layout and Development Code ▪ Create diversity of housing choice ▪ Designs must optimise residential amenity, privacy and solar access ▪ Strong streetscape character with articulated setbacks ▪ Garage doors must not dominate streetscape ▪ Incorporate passive surveillance and public safety principles ▪ Incorporate public open space within walkable radius of each dwelling
Education/Community Facilities/Utilities	<ul style="list-style-type: none"> ▪ School ▪ Community facility ▪ Place of worship ▪ Child Care centre ▪ Public utility undertaking ▪ Recreation area ▪ Recreation facility (outdoor) ▪ Recreation facility (indoor) ▪ Environmental facility ▪ Carpark 	Approx area: 7.2 Ha	N/A	<ul style="list-style-type: none"> ▪ Locate school buildings with integrated parking and shared facilities ▪ Provide adequate safe setback areas ▪ Sporting facilities may be shared between schools and community ▪ Must demonstrate sensitive interface with surrounding development ▪ Enhance community education on surrounding environment ▪ Neighbourhood scale ▪ Utilities landscaped to minimise visual impact
Open Space	<ul style="list-style-type: none"> ▪ Community facility ▪ Environmental facility ▪ Recreation area ▪ Recreation facility (outdoor) ▪ Recreation facility (indoor) ▪ Restaurant(max 300 sqm) ▪ Carpark 	Approx area: 166.7 Ha	N/A	<ul style="list-style-type: none"> ▪ Include range of active and passive uses ▪ Incorporate community facilities appropriate to uses ovals / buildings / carparking ▪ Sporting facilities to be shared between schools and community ▪ Incorporate community facilities appropriate to uses ▪ Located on community spine ▪ Incorporate stormwater paths and treatment areas
Environmental Protection Areas	<ul style="list-style-type: none"> ▪ Environmental facility 	Approx area: 84.3 Ha	N/A	<ul style="list-style-type: none"> ▪ Incorporate low impact community trails ▪ Provide linkages to open space areas for wildlife corridors ▪ Managed by Council or the State government
Lake	<ul style="list-style-type: none"> ▪ Recreation area ▪ Recreation facility(outdoor) ▪ Water recreation structure ▪ Jetty ▪ Environmental facility 	Approx area: 15.6 Ha	N/A	<ul style="list-style-type: none"> ▪ Provide low impact public access ▪ Provide linkages around the lake to pedestrian walkway
Residential Density Totals	N/A	5500 dwellings	N/A	

The Concept Plan also includes a Precinct Plan, Circulation, Access and Transport Plan, Water Management Concept, Utility Services Strategy and an indicative staging plan (refer attached).

It is proposed that design guidelines and codes (or development codes) for subdivision and housing are prepared at a later stage and incorporated into the Concept Plan.

Lot Sizes

A key component of the Concept Plan is to allow for reduced lot size. The Tweed LEP currently specifies a minimum lot size of 450m² in the 2 (c) and 2 (e) zones. The Concept Plan seeks to provide lot sizes ranging from 120m² to 1,200m². The applicant has requested the Minister amend the Tweed LEP to allow for minimum lot sizes proposed.

Re-zoning

The Concept Plan includes proposed amendments to zone boundaries to align with existing approvals, cadastral boundaries and physical attributes of the land. Proposed zone boundary changes are proposed under the following categories:

1. Tweed LEP Clause 52 – Determination of Zone boundaries;
2. Alignment of zone boundaries with Existing Development Consents and completed earthworks; and
3. General rationalisation of zone boundaries.

The following figures depict the areas of rezoning proposed.

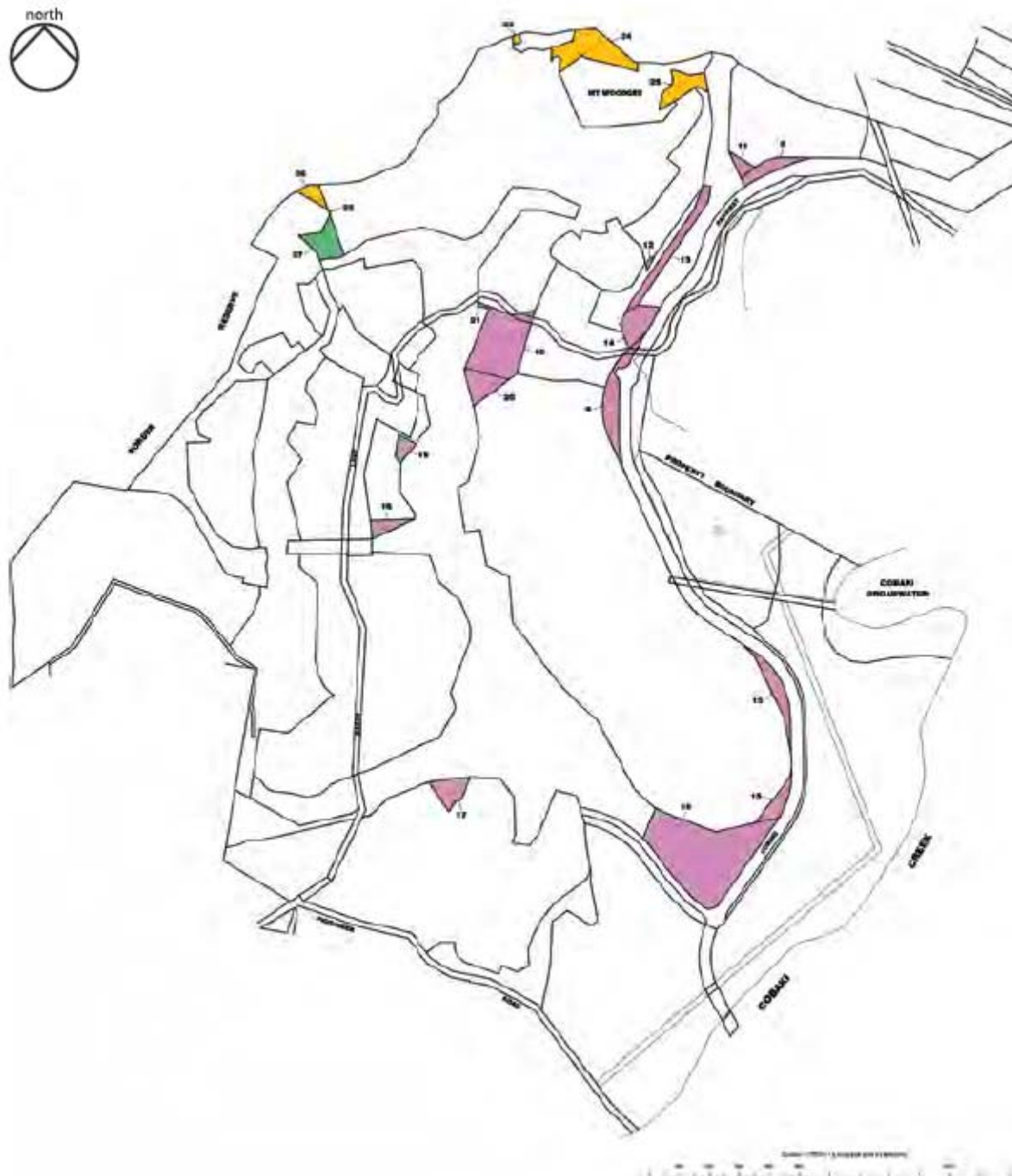


Figure 12 – Proposed Amendments to Zoning Map additional to Clause 52

Draft Submission

The EA and Concept Plan were circulated to Council Officers with expertise in the following fields:

- Ecologist
- Strategic and Social Planning
- Infrastructure Engineering (Flooding)
- Subdivision Engineering

- Building Surveyor
- Environmental Health
- Traffic
- Entomology
- Water Services
- Natural Resource Management

Comments from Council Officers have been collated into the attached draft submission.

The key issues raised in the submission are summarised below:

Water Strategy

- Comments on the preferred water cycle management strategy based on the Water Demand Management Strategy, however this is dependent on the endorsement of the preferred approach by Council.
- Council presently does not have capacity within its current bulk water supply system to cater for the proposed overall development, however the adopted 30 year capital works plan allows for its augmentation. Approvals to permit such augmentations can not be guaranteed and if not gained or are delayed, will impact on the granting of future approvals for this development.

Sewer

- Council presently does not have capacity within its treatment plants and trunk conveyancing systems to cater for the overall proposed development, however the adopted 30 year capital works plan allows for these augmentations. Approvals to permit such augmentations can not be guaranteed and if not gained or are delayed, will impact on the granting of future approvals for this development.

On-site Saltmarsh

- The Saltmarsh is currently zoned 6b – Recreation. This should be rezoned to 7a Environment Protection and dedicated to Council after an agreed rehabilitation and maintenance program.
- Further information is required in relation to potential impacts from stormwater management (particularly release of freshwater) on the saltmarsh.
- The developer should commit to manage erosion restoration on Cobaki Creek bank adjacent to saltmarsh as part of the saltmarsh restoration.
- Rehabilitation, restoration and maintenance performance criteria should be agreed along with an extended developer maintenance period (up to 10 years), prior to dedication to Council.
- Costs of on-going Council management of the saltmarsh should be articulated and source/s of funds identified for Council maintenance in perpetuity.

ASS and Water quality of lake

- Inconsistent information is proposed in relation to the proposed construction method of the central lake system.
- In order for Council to agree to take on management of the central lake system as public open space, further detail is required in relation to Acid Sulfate Soil (ASS) management, dewatering management and water quality due to the potential maintenance burden on Council. This issue is to be further discussed with the developer in the up-coming weeks.

Scribbly gum

- The scribbly gum area should be maintained in a reserve.
- Rehabilitation, restoration and maintenance performance criteria should be agreed along with an extended developer maintenance period (up to 10 years), prior to dedication to Council.
- Costs of on-going Council maintenance of the Scribbly gum reserve should be articulated and source/s of funds identified for Council maintenance in perpetuity.

Rezoning

- Some of the proposed rezoning is not supported due to ecological impacts. Previously suggested compensatory off-sets have are not proposed to be implemented in the EA.

Landforming

- Given that the Concept Plan does not include a single coherent landforming or stormwater management plan, it is not considered that preservation of existing earthwork DAs (until new DAs are approved) is acceptable. This issue is to be further discussed with the developer in up-coming weeks.

Stormwater

- Insufficient detail is provided in the Concept Plan to demonstrate that adequate drainage infrastructure can cater for external and internal runoff catchments
- The role of the central lake system is not identified in the stormwater management plan. As discussed above, the future management of the lake will be discussed further with the developer over the next few weeks. Given current lack of detail in relation to the lakes and potential maintenance risks / costs, dedication to Council is not currently supported.

Section 94 Plans

- The EA states that s94 plans will be “negotiated” with Council. It is considered that these plans are adopted and remain applicable unless new planning agreements are developed.

Bushfire

- Asset Protection Zone locations are unclear. The Bushfire plan indicates they may be in private land, in roads, batters or within nature strips. The future management responsibility of APZs is therefore unclear.
- APZs should remain in private land unless Council is provided with funding to undertake maintenance, where maintenance levels are reasonable.

Open space

- Further break down of open space uses is required. For example, areas proposed for structured, casual parks, local parks, environmental and restoration areas should be distinguished on the Concept Plan.
- As above, further detail is required on the proposed long-term maintenance of open space areas proposed to be dedicated and costs associated with maintenance.

Traffic

- A second access connection is required to Piggabeen Road.
- Reference to TSC and Leda agreement in the Statement of Commitments is to be updated to reflect the latest agreements.

Adjoining Agricultural Land

- Buffers to adjoining agricultural land should be increased from 30 metres to 250 meters.

Planning

- Employment land should be provided within the site.
- Walkable neighbourhoods should be provided to the majority of lots, through provision of public transport routes that extend throughout the site.
- Housing affordability is not addressed.
- Further detail should be included in the Concept Plan residential domain, including high, medium and low residential density areas.
- The proposed Development Codes (or design codes) are required up-front with the Concept Plan for proper assessment of small lot housing.
- Indicative buildings plans need to conform with Council's DCP Section A1 dwelling type definitions (or specify A1 where be over-riden)
- Inconsistencies with standards indicated in indicative building plans need to be justified where inconsistent with Section A1
- Definitions in the development matrix should align with Standard LEP template definition or provide clear definitions.
- A public transport plan should be provided including evidence of consultation with Queensland Rail / Queensland Transport.

OPTIONS:

1. That Council endorse the key themes in the attached draft submission to the Department of Planning on the Concept Plan for Cobaki Lakes.
2. That the Council proposes an alternative draft submission to the Department of Planning on the Concept Plan for Cobaki Lakes.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Council has the opportunity to make a submission to the Department of Planning on the proposed Major Project Cobaki Lakes Concept Plan.

Various internal experts have assessed the Environmental Assessment and Concept Plan currently on public exhibition. These comments have been collated into the attached draft submission.

The purpose of this report is to seek Council endorsement of the key themes provided in the attached draft submission.

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1. Director General Requirements (ECM 1978434)
 2. Concept Plan Maps (ECM 1978677)
 3. Draft Letter to Department of Planning (ECM 1982031)
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