



TERRANORA AREA E

DRAFT PLAN NO. 31

DARRYL ANDERSON CONSULTING PTY LTD

LEP AREA E - TNSCA
LN. 23457

TOWN PLANNING & DEVELOPMENT CONSULTANTS

21 November 2011

Our Ref: AKB 11/91

General Manager
Tweed Shire Council
P O Box 816
Murwillumbah NSW 2484

TWEED SHIRE COUNCIL
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Dear Sir

Objection to Exhibited Draft Section 94 Plan No. 31 – Terranora Area E

On behalf of AKB Enterprises Pty Ltd (the owners of Lot 7 DP 740104 No. 122 Mahers Lane, Terranora) we object to the following provisions of the exhibited Draft Plan:

1. Broadwater Parkway and Mahers Lane

Appendix E, Schedule 1 of the Draft Plan provides for a total estimated construction cost of Broadwater Parkway of \$19,634,388.00. This includes a contingency amount of \$4,761,011.00 which is approximately 32% of the estimated cost.

Appendix E, Schedule 1 of the Draft Plan provides for a total estimated construction cost of \$1,906,443.00 for Mahers Lane upgrading. This includes a contingency amount of \$485,298.00 which is approximately 34% of the estimated cost.

Normal industry standards for subdivision work provide for a contingency of approximately 15%. 32% to 34% as proposed is unreasonable and will place the larger landowners within Area E in a position where the amount of the contribution will be well in excess of likely actual construction costs. This will result in significant cash flow and opportunity cost implications, particularly where refunds for works in kind may not apply for many years. Council is therefore requested to amend the cost estimate to provide for a maximum contingency of 15%. The adequacy of the original estimates and the contingency can be monitored by regularly reviewing the Contribution Plan on, say, a two yearly basis.

2. Stormwater Drainage

We note that the Local Environmental Study for Area E foreshadowed a holistic approach to Stormwater management, particularly as catchments extend over many properties.

However, the Draft Section 94 Plan provides that:

"Each subdivision and development is required to implement its own stormwater management system, including stormwater quality and quantity controls, in accordance with Council's specification. Each development must establish a lawful point of discharge and accommodate external flows through the site and provide easements to formalise these arrangements. All costs of these arrangements are borne by the developer."

We consider this arrangement will result in inequitable outcomes in terms of cost sharing and also greater capital and operating costs for the stormwater system.

The Draft Development Control Plan (2 February 2008) and Draft Section 94 Contribution Plan (5 February 2009) submitted to Council on behalf of the Terranora Area E Landowners Group proposed a collection, treatment and funding strategy consistent with the Local Environmental Study and equitable planning principles.

We submit that the stormwater management strategy and funding arrangements proposed on behalf of the landowners is more equitable and provides for better outcomes than that proposed in the exhibited Draft Section 94 Plan No. 31.

Council is therefore requested to amend the Draft Plan to achieve consistency with the Local Environmental Study and the broad principles contained within the Landowners' Contribution Plan.

3. Structured Open Space (Sports Fields)

Based on siting the structured open space areas within Area E on land zoned 2(c) Urban Expansion, the contribution rate per lot is \$14,096.00.

Draft Section 94 Plan No. 27 prepared on behalf of the Terranora Area E Landowners and forwarded to Council on 5 February 2009 proposed that the required structured open space areas be located on relatively flat land zoned Rural 1(a) adjacent to the existing Terranora Village sports fields. This site resulted in a contribution rate of \$2584.00 per lot.

Given the steep slopes within Area E and the need for significant earthworks it is submitted that the Terranora Village option is more appropriate and affordable. Council is therefore requested to amend the Draft Plan (and Draft Development Control Plan) to provide for structured open space adjacent to the existing Terranora Village playing fields. This approach would also be consistent with the Draft Development Control Plan prepared on behalf of the Terranora Area E Landowners Group and submitted to Council on 21 February 2008.

Council is therefore requested to amend the Draft Plan to provide for structure open space adjacent to Terranora Village.

Please do not hesitate to contact Darryl Anderson should you require any further information in relation to this matter.

Yours faithfully
Darryl Anderson Consulting Pty Ltd



Darryl Anderson
Director

cc. ABK Enterprises Pty Ltd



23 November 2011

General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

Via email: planningreforms@tweed.nsw.gov.au

Draft Section 94 Plan No 31 – Terranora Area E

Dear Sir,

I refer to the above and advise that we have been engaged by Creeksound Pty Ltd to make formal written representations to Tweed Shire Council in respect of the exhibited Draft Section 94 Plan No 31.

The exhibited Section 94 Plan is deficient for the following reasons:

- The issue of Broadwater Parkway has not been satisfactorily addressed. It is crucial that a coherent method of delivery is established for this vital piece of infrastructure. The plan must provide more certainty with respect to timing of construction.

The Broadwater Parkway benefits other areas and as such should not be funded 100% by CP31.

- The contribution amount of \$34,777 is excessive. When this amount is added to existing contributions plans a total contribution of over \$56,000 will be payable. This equates to what is effectively double the amount of the NSW Government's cap of \$30,000.
- The contribution amounts are based on flawed methodology. For example, the proposed contingency allowance of 58% for the Broadwater Parkway is staggering and without substantiation. It is understood that this is the first time that Council has proposed the application of such a high contingency.

The contingency is apparently in accordance with RTA guidelines for potential projects on the long term horizon when many factors are not known including alignments, ecological, and gradings. This is not the case for Broadwater Parkway as Council is stipulating the design and alignment.

There should be no contingency amount. The Plan could be updated every 2 years with rates revised.

- The plan has not been prepared in accordance with the relevant NSW planning Guidelines. It is understood that the plan should have been referred to NSW Planning prior to exhibition. It would appear that the plan has been put together rather hastily and this has resulted in inferior outcomes. Surely, no reasonable Council can believe that a contribution of in excess of \$56,000 (excluding water and sewer) is sustainable.


The proposed charge clearly does not meet the test of reasonableness. The charge is so high that it will not be feasible to develop the land as the market will not accept the consequential flow on effects of increased land prices. Council must ensure that land is affordable to ensure population targets are achieved.

- The open space provisions are fundamentally flawed. The proposed location of the open space is clearly inappropriate and inferior to previous agreed locations. The "predetermined" locations of open space require significant greater earthworks and associated embellishment work when compared to more suitable locations previously put to Council by the landowners group. In addition, the proposed distribution is inequitable and on this issue alone the legality of the plan is brought into question.
- There approach in relation to storm water is confusing. It would appear that Council is requiring each site to deal with storm water independently however is still seeking contributions. In addition, the assumption that existing development should not meet some of the costs is questionable as it assumes existing discharge points are authorised without any basis for doing so.

In summary CP31 has many shortcomings as identified above and it will clearly not achieve the timely and equitable provision of infrastructure.

If you have any questions regarding this submission call me on 07 55 26 1500.

Yours sincerely



Bede Emmett
Director
Planit Consulting



23 November 2011

General Manger
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

Via email: planningreforms@tweed.nsw.gov.au

Draft Section 94 Plan No 31 – Terranora Area E

Dear Sir,

I refer to the above and advise that we have been engaged by Neumann Developments to make formal written representations to Tweed Shire Council in respect of the exhibited Draft Section 94 Plan No 31.

The exhibited Section 94 Plan is deficient for the following reasons:

- The Broadwater Parkway benefits other areas and as such should not be funded 100% by CP31.
- The contribution amount of \$34,777 is extremely high and clearly unreasonable. When this amount is added to existing contributions plans a total contribution of over \$56,000 will be payable. This equates to what is effectively double the amount of the NSW Governments cap of \$30,000.
- The contribution amounts are based on flawed methodology. For example, the proposed contingency allowance of 58% for the Broadwater Parkway is staggering and without substantiation. It is understood that this is the first time that Council has proposed the application of such a high contingency.

The contingency is apparently in accordance with RTA guidelines for potential projects on the long term horizon when many factors are not known including alignments, ecological, and gradings. This is not the case for Broadwater Parkway as Council is stipulating the design and alignment.

- There should be no contingency amount. The Plan could be updated every 2 years with rates revised.
- The plan has not been prepared in accordance with the relevant NSW planning Guidelines. It is understood that the plan should have been referred to NSW Planning prior to exhibition. It would appear that the plan has been put together rather hastily and this has resulted in inferior outcomes. Surely, no reasonable

Council can believe that a contribution of in excess of \$56,000 (excluding water and sewer) is sustainable.

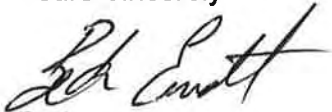
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- The approach in relation to storm water is confusing. It would appear that Council is requiring each site to deal with storm water independently however is still seeking contributions. In addition, the assumption that existing development should not meet some of the costs is questionable as it assumes existing discharge points are authorised without any basis for doing so.

In summary CP31 has many shortcomings as identified above and it will clearly not achieve the timely and equitable provision of infrastructure.

If you have any questions regarding this submission please call me on 07 55 26 1500.

Yours Sincerely



Bede Emmett
Director
Planit Consulting

CREEKSOUND PTY LTD

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21st November 2011
The General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

**RE: DRAFT SECTION 94 PLAN No. 31
TERRANORA AREA E (VERSION 1.0)
COMMENTS ON & OBJECTIONS TO THE EXHIBITED DRAFT**

Dear Sir,

Pursuant to the provisions of the EP&A Act and Regulation we herewith submit our comments on, and objections, to sections of the Draft Section 94 Plan No. 31 for Terranora Area E (Version 1.0).

1. GENERAL COMMENTS

Item	Draft CP31 Reference Clause	Description of Clause	Comments
1.	2.0 Part 3 - Administrator 2.2 Land to which this plan applies	Applies to Draft Tweed Development Control Plan Draft Section B24 (DCP-B24)	Draft DCP-B24 has been on exhibition however the outcome of submission made in the exhibition period are unknown. It is considered to be unreasonable & unproductive to make Section 94 Draft Plan submission on the basis of a document that may change. It appears that TSC have prepared the Draft Section 94 Plan in response to a section Part 3A application being considered by the Minister of Planning over a portion of land within Terranora Area E. It appears that the Draft Section 94 Plan exhibited is lacking in detailed consideration resulting in inclusion of excessive contingencies in the plan & is non compliant with existing TSC development requirements.
2.	Cl 2.3(b)	Purpose of Plan is to <i>"provide an administrative framework under which specific public facilities strategies may be implemented & co-ordinated"</i> .	Unfortunately the Draft Section 94 Plan does not appear to contain provisions that allow for the specific public facilities to be implemented & co-ordinated. The Draft Section 94 Plan appears to repeat the failed implementation strategies that have occurred elsewhere with TSC area i.e. Bilambil Heights / Cobaki Lakes release areas where development has been stymied because land required for critical infrastructure has not been acquired & is subject to the development programme of one or

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			more parties, not the release area in general. This impasse needs to be overcome by more appropriate strategies.
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Item	Draft CP31 Reference Clause	Description of Clause	Comments
3.	CI 2.3 & CI 2.5 CI 2.4	Both are Titled " <i>Commencement of Plan</i> ". Key objectives of the Plan to include the timely & equitable provision of certain infrastructure	Apparent typo In our view the Draft Section 94 Plan does not meet the key objectives of timely & equitable provision of infrastructure. The Draft Section 94 Plan has no specific times attached or means by which any timing can be calculated. There is no equitable cost impacts on various landowners where land is acquired for infrastructure purposes because of the land value proposed. Some landowners contribute no land for infrastructure purposes & can obtain maximum development opportunities whilst others are burdened with loss of development opportunity over disproportionate areas of their land without reasonable offsetting compensation. The proposal has allocated open space land use to areas where those areas would not normally be in compliance with Tweed Development Control Plan Section A5 – Subdivision Manual. The outcome of this is increased cost incorporated in the Draft Section 94 Plan. Alternate cost reduction option was provided by the Landowners Group but ignored by TSC in the preparation of the Draft Section 94 Plan.
4.	CI 2.7	Definitions & Standards • IPD Index & TSC Land • Index	No justification for the use of these Indices have been provided. EP&A Act refers to other Indices.
5.	CI 2.8	Timing of Payment of Contributions	The listed details are not comprehensive, e.g. do not refer to Community Title estates where there may be Development lots which are further titled when buildings are constructed.

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			Suggest further refinement.
6.	CI 2.11	In-kind settlement or material public benefit	To facilitate the development of multiple sites & overcome the problems that exist in other urban release areas TSC should consider a mechanism where land dedication can be achieved without necessarily requiring construction of a particular section of critical infrastructure that would allow “ <i>upstream</i> ” development to proceed should the upstream developers be able to raise sufficient funds to construct the necessary critical infrastructure. This may involve TSC exercising its powers of compulsory acquisition for the overall benefit of the community with compensation only paid for in credits if the particular landowner is reluctant to co-operate at that time.

Item	Draft CP31 Reference Clause	Description of Clause	Comments
7.	CI 2.12	Adjustment of Contribution Rates	Refer comments Item 4 on Clause 2.7. This relates to justification of Indices used.
8.	Sect. 3.0 Part C – Strategy Plan & Nexus CI 3.1 Introduction	Sets out 5 key considerations of development contributions under Part 116D of the EP&A Act. (a) Will infrastructure funded by Contribution be provided in a reasonable time? (b) What will be the impact of proposed development Contribution on affordability of proposed development?	There are a number of the 5 key considerations which we believe have not been met, notwithstanding the Summary of Report provided to the Council meeting which recommended that the Draft Section 94 Plan be exhibited & states that the Draft Section 94 Plan meets the objective. (a) The Draft Section 94 Plan does not address timing & there is no certainty as to timing of provision of infrastructure. (b) The Draft Section 94 Plan appears to have been prepared in haste without consideration of various cost implications & alternatives resulting in an increase in the overall cost of infrastructure. This haste in plan preparation makes the

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		<p>(c) Is there a reasonable apportionment of costs between existing & new demand?</p> <p>(d) is the plan based on reasonable Estimate of Development Costs?</p> <p>(e) Are estimates for demand to which proposed development relates reasonable?</p>	<p>overall Section 94 Plan costs greater than they need to be.</p> <p>(c) We believe that further consideration should be given to sharing the roadworks costs because of the existing major school attractor of traffic. Whilst TSC states that there is sufficient capacity on Terranora Road, & by inference Mahers Lane south of school for the school generated traffic. The Draft Plan seeks to have the full cost of Mahers Lane upgrade attributed to the future Area E Development. This position does not appear to be reasonable. No specific traffic modeling details have been provided to support TSC claims & therefore the claims are difficult to justify.</p> <p>(d) We do not consider that the estimates prepared for inclusion in the Draft Section 94 Plan represent a reasonable basis for the Plan because of limited investigation & design together with relatively high contingency amounts that have been included.</p> <p>(e) Refer to comments in (c) above in respect of Road Contributions.</p>
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Item	Draft CP31 Reference Clause	Description of Clause	Comments
9.	Cl 3.4.1	Roadworks – Broadwater Parkway & Mahers Lane	Refer to comments Item 8 Clause 3.1 Considerations (c) Table is uncertain. Potential conflict or over estimating Column 2 Construction Costs* including comments under Table & Column 4 where Geotechnical & Environment cost appear to be duplicated. We question the validity of using the

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			RTA Matrix for Strategic Road Projects. This matrix is very subjective & results in excessive contingency allowances in respect of Broadwater Parkway & Mahers Lane upgrade.
10.	CI 3.4.2 & 3	Open Space	<p>The preparation of the Draft Section 94 Plan has not taken into consideration active open space sports other than making provision for maximum size football fields which are not necessarily appropriate for the sites chosen by TSC. The primary concerns relate to high development costs on the sites chosen by TSC & not having proper regard to the squeezing effect of available land for development, particularly in the region of the Town Centre.</p> <p>The proposed active sports areas should take into consideration alternate active sports which require lesser dimensioned flat footprints so that the open space areas better suit the topography rather than being imposed on the topography with consequential effects on land use & Section 94 costs. Consideration should be given to adopting the proposal submitted by the Landowners Group to acquire & expand the existing Terranora Village open space area.</p> <p>The approach of the exhibited Draft Section 94 Plan results in an unfair burden on Creeksound Pty Ltd where a suitable alternate option is available. The aim of the Draft Section 94 Plan of equitable provision of infrastructure is not met.</p>
11.	CI 3.4.5	Stormwater & Flooding Facilities	<p>We are of the view that it is likely that land owned by Creeksound does not flow onto Lot 227 but is captured by a swale on its land and conveyed in westerly direction.</p> <p>We are of the view that this matter should be confirmed by survey.</p> <p>We submit that the legal point of discharge will be the road reserve dedicated for Broadwater Parkway.</p>

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Item	Draft CP31 Reference Clause	Description of Clause	Comments
12.	Appendix C	Tables A5-8.3 Extract from TSC Development Control Plan 2008 Section A5 Subdivision Manual	It is our view that modification to Table A5-8.3 should be made to reflect particular circumstances that exist in Tweed Development Control Plan Draft Section B24 Area E Urban Release Development Code. This particularly relates to size & access caused by topography & this increases Section 94 costs.
13.	Appendix D	Table A5-8.2.1 Extract from TSC Development Control Plan 2008 Section A5 Subdivision Manual	Comments as for Item 12 above. Contributes to increased Section 94 Plan costs.
14.	Schedules 1, 2 & 3	Estimates of Costs for various components of infrastructure	These estimates demonstrate the lack of detail used when deriving the Draft Section 94 charges proposed for Terranora Area E. The consequence of lack of detail results in an elevated cost structure to which TSC has then imposed significant contingencies. The effect of this approach is to have contingencies on contingencies. The nett outcome is proposed Section 94 contribution levels which will not reflect actual costs & make the development of Area E uncommercial. It is our view that the basis of Estimate of Costs should be more rigorous & not be rushed to satisfy Part 3A Application required by Department of Planning prior to determination of the Application before them.

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2. OBJECTIONS TO THE DRAFT SECTION 94 PLAN FOR TERRANORA AREA E

Creeksound Pty Ltd make the following specific objections to the Draft Section 94 Plan on exhibition for Terranora Area E.

Objections

1. The Draft Section 94 Plan contribution levels have not been assessed with appropriate level of investigation and preliminary design.

Inadequate justification of unit rates and quantities used in the Draft Section 94 Plan have been provided which prevents proper analysis of the proposed contribution rates.

2. The Draft Section 94 Plan, in respect of open space configuration, has not adequately addressed the impact of topography on costs, adjoining land uses, alternate types of active open space uses but merely assumed large football field size configurations imposed on landforms that do not comply with DCP A5 provisions.

There is no evidence available that TSC has actively considered an alternate offsite option for active open space which would extend an existing active open space area at Terranora Village, as proposed by the Area E Landowners Group.

3. The Draft Section 94 Plan does not adequately address the reasonableness of imposing community infrastructure on Creeksound Pty Ltd land, which results in an inequitable burden on the company and the availability of land to develop.

The Draft Section 94 Plan does not provide for adequate compensation for disproportionate acquisition of land under the Section 94 Plan resulting in inequitable treatment of some landowners.

4. The proposed levels of Broadwater Parkway will result in Creeksound Pty Ltd expending additional costs in reclamation of its land to ensure a secondary overland stormwater drainage flow path as the proposed construction of Broadwater Parkway to the levels shown on the draft plans will create a dyke. Constructing to the levels proposed will significantly increase Section 94 contribution cost which can be avoided. The draft design shows a minimum pavement level of RL7.0 which is well above the planning Q100 flood level and PMF.
5. The Draft Section 94 Plan does not satisfy the 5 key considerations required under Part 116D of the EP&A Act to be used in preparing a Section 94 Plan.
6. The Draft Section 94 Plan does not address a mechanism of implementation of the plan in regard to critical infrastructure required to permit various landowners to advance development of their land.

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7. The Draft Section 94 Plan repeats deficiencies identified in other Tweed Shire Urban Release areas.
8. The unit rates for construction of infrastructure and contingencies applied to formulate the proposed contribution rates have not been substantiated and are excessive with the consequence of high proposed Section 94 contribution rates in the Draft Section 94 Plan.
9. Advertising of this Draft Section 94 Plan does not appear to follow procedures set out in DOP Planning Circular No. PS10-025 dated 23 November 2010.

Yours Faithfully



Kimberley Burton
Director



DARRYL ANDERSON CONSULTING PTY LTD

TOWN PLANNING & DEVELOPMENT CONSULTANTS

23 November 2011

Our Ref: MET 07/133 Pt 5

General Manager
Tweed Shire Council
P O Box 816
Murwillumbah NSW 2484

Dear Sir

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Normal industry standards for subdivision work provide for a contingency of approximately 15%. 32% as proposed is unreasonable and will place the larger landowners within Area E in a position where the amount of the contribution will be well in excess of likely actual construction costs. This will result in significant cash flow and opportunity cost implications, particularly where refunds for works in kind may not apply for many years. Council is therefore requested to amend the cost estimate to provide for a maximum contingency of 15%. The adequacy of the original estimates and the contingency can be monitored by regularly reviewing the Contribution Plan on, say, a two yearly basis.

In addition, if the section of Broadwater Parkway within Altitude Aspire were to be located in the 7(a) zoned land (as requested by Newland in their objection to the Draft DCP) rather than in the 2(c) zoned land, the contribution would be further reduced on the basis that 2(c) land is valued at \$850,000.00 per ha whereas the 7(a) land is valued at approximately \$17500.00 per ha.

2. Stormwater Drainage

We note that the Local Environmental Study for Area E foreshadowed a holistic approach to Stormwater management, particularly as catchments extend over many properties.

However, the Draft Section 94 Plan provides that:

"Each subdivision and development is required to implement its own stormwater management system, including stormwater quality and quantity controls, in accordance with Council's specification. Each development must establish a lawful point of discharge and accommodate external flows through the site and provide easements to formalise these arrangements. All costs of these arrangements are borne by the developer."

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Given the steep slopes within Area E and the need for significant earthworks it is submitted that the Terranora Village option is more appropriate and affordable. Council is therefore requested to amend the Draft Plan (and Draft Development Control Plan) to provide for structured open space adjacent to the existing Terranora Village playing fields. This approach would also be consistent with the Draft Development Control Plan prepared on behalf of the Terranora Area E Landowners Group and submitted to Council on 21 February 2008.

Council is therefore requested to amend the Draft Plan to provide for structured open space adjacent to Terranora Village.

Yours faithfully
Darryl Anderson Consulting Pty Ltd



Darryl Anderson
Director

cc. Newland Developers Pty Ltd