

**TWEED SHIRE COUNCIL
MEETING TASK SHEET**

User Instructions

If necessary to view the original Report, double-click on the 'Agenda Report' blue hyperlink above.

Action Item - COUNCIL MEETING Tuesday, 13 December 2011

Action is required for Item **15** as per the Council Resolution outlined below.

TITLE: [PR-CM] Area E Urban Release Development Code

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Council:

1. Receives and notes the amendments to the publicly exhibited Draft Development Control Plan Section B24 – Area E Urban Release Development Code, arising from the review of public consultation submissions;
2. Endorses the Development Control Plan Section B24 – Area E Urban Release Development Code, as amended, and provided as an attachment to this report,
3. Endorses that when an appropriate framework of Developer Contributions is achieved and in place, give public notice of the Code's adoption in accordance with Clause 21(2) of the Environmental Planning and Assessment Regulation 2000, satisfying the provision of Clauses 53D(2)(a) and 53D(3)(a) of the Tweed Local Environmental Plan 2000 – Specific Provisions for Terranora Urban Release Area E; and
4. Requests the General Manager forwards a copy of Development Control Plan Section B24 – Area E Urban Release Development Code to the Director-General of the NSW Department of Planning and Infrastructure in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000.

AMENDMENT

**Cr K Milne
Cr J van Lieshout**

PROPOSED that Council:

1. Receives and notes the amendments to the publicly exhibited Draft Development Control Plan Section B24 – Area E Urban Release Development Code, arising from the review of public consultation submissions;
2. Endorses the Development Control Plan Section B24 – Area E Urban Release Development Code, as amended, and provided as an attachment to this report,
3. Endorses that when an appropriate framework of Developer Contributions is achieved and in place, give public notice of the Code's adoption in accordance with Clause 21(2) of the Environmental Planning and Assessment Regulation 2000, satisfying the provision of Clauses 53D(2)(a) and 53D(3)(a) of the Tweed Local Environmental Plan 2000 – Specific Provisions for Terranora Urban Release Area E; and
4. Requests the General Manager forwards a copy of Development Control Plan Section B24 – Area E Urban Release Development Code to the Director-General of the NSW Department of Planning and Infrastructure in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000.
5. Council reviews the design and yield targets to ensure that 'no reduction of water quality from this development' is achieved for the Terranora Broadwater, and that a net positive impact is achieved for environmental and sustainability outcomes.

The Amendment was **Lost**

FOR VOTE - Cr K Milne, Cr J van Lieshout

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr D Holdom, Cr K Skinner, Cr B Longland

PROCEDURAL MOTION

**Cr D Holdom
Cr J van Lieshout**

RESOLVED that the Motion be put.

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr D Holdom, Cr K Skinner, Cr J van Lieshout, Cr B Longland

AGAINST VOTE - Cr K Milne

The Motion was **Carried**

The Motion was **Carried (Minute No 745 refers)**

**FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr D Holdom, Cr K Skinner, Cr J van
Lieshout, Cr B Longland**
AGAINST VOTE - Cr K Milne

[Agenda Report](#)

TITLE: [PR-CM] Area E Urban Release Development Code

ORIGIN:

Planning Reforms

FILE NO: GT1/DCP/B24

SUMMARY OF REPORT:

In accordance with the Local Environmental Plan gazetted for this site in 2007, Council's Planning Reform Unit have prepared a draft Area E Urban Release Development Code (draft Code), to form Section B24 of the Tweed Development Control Plan 2008.

Area E has been recognised in recent decades by both Tweed Shire Council and the NSW Department of Planning and Infrastructure (DoPI) as an important strategic site for urban land release and housing supply, catering for a potential, additional residential population of about 4,000 people. In parallel to Council's process, DoPI is currently considering, as the consent authority, a 321-lot community title (Torrens) subdivision within the eastern portion of Area E, under the savings provisions of Part 3A of the Environmental Planning and Assessment Act 1979.

The Code preparation process involved three landowner workshops during 2011, a number of Council reports, workshops and a formal public exhibition processes. Public exhibition was conducted in July/August 2011 for a period of 30 days. A detailed summary of submissions is addressed in this report, identifying key issues raised in the 67 public submissions received and a response upon which the final draft Code has proceeded.

This report concludes that the Code will advance the Council's broader strategic planning framework and will provide the necessary planning guidelines to regulate and guide the development of the Area E Urban Release Area.

The draft Code, having been widely consulted on, and prepared having regard to the principles of ecologically, socially and economically sustainable development, is now considered suitable, and recommended, for adoption.

RECOMMENDATION:

That Council:

- 1. Receives and notes the amendments to the publicly exhibited Draft Development Control Plan Section B24 – Area E Urban Release Development Code, arising from the review of public consultation submissions;**
- 2. Endorses the Development Control Plan Section B24 – Area E Urban Release Development Code, as amended, and provided as an attachment to this report,**

- 3. Endorses that when an appropriate framework of Developer Contributions is achieved and in place, give public notice of the Code's adoption in accordance with Clause 21(2) of the Environmental Planning and Assessment Regulation 2000, satisfying the provision of Clauses 53D(2)(a) and 53D(3)(a) of the Tweed Local Environmental Plan 2000 – Specific Provisions for Terranora Urban Release Area E; and**
- 4. Requests the General Manager forwards a copy of Development Control Plan Section B24 – Area E Urban Release Development Code to the Director-General of the NSW Department of Planning and Infrastructure in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000.**

REPORT:

Area E is a greenfield development area located in Terranora, bounded generally by Mahers Lane, Terranora Road, Fraser Drive and the Terranora Broadwater to the north. Area E was identified in for urban release in the Tweed Urban Land Release Strategy 1991.

Within Tweed Local Environmental Plan 2000 – Amendment No. 10 (LEP Amendment), the site was rezoned in October 2007 to:

- 5(a) Special Uses (School);
- 2(c) Urban Expansion;
- 7(a) Environmental Protection (Wetlands and Littoral Rainforests); and
- 7(d) Environmental Project/Scenic Escarpment.

As part of the LEP Amendment a new Clause 53D was inserted that requires the following:

- (2) *The object of this clause is:*
 - (a) *to ensure a development control plan has been developed for the land to which this clause applies to avoid ad hoc development....*
- (3) *The consent authority must not consent to development on land to which this clause applies unless it is satisfied that:*
 - (a) *a development control plan has been prepared for the land, and*
 - (b) *any contaminated land has been identified to the extent necessary to allow for the appropriate location of sensitive land uses, and*
 - (c) *any wetland on the land will be restored and managed to the consent authority's satisfaction to restore freshwater wetland values and minimise breeding habitat for saltwater mosquitoes and biting midges, and*
 - (d) *the development will generally comply with the Tweed Urban Stormwater Quality Management Plan as adopted by the Council on 19 April 2000.*

In accordance with the above, Council's planning have undertaken the preparation of a Draft Development Control Plan 2008, Section B24 – Area E Urban Release Development Code (the Code) to facilitate the orderly and economic development of Area E.

At its meeting of 19 July 2011, Council resolved to publically exhibit the draft Code for a minimum period of 30 days. Public exhibition took place between 27 July 2011 and 26 August 2011, including one-on-one meetings for interested parties. A total of 67 submissions were received during exhibition, the details of which are addressed within Attachment 1 to this report.

Key Features of the Proposed Code

The draft Code is an urban release area based planning document aimed at guiding the development of Area E. It is the culmination of an extensive strategic planning body of work developed through the Area E Local Environmental Study 2004, Tweed Local Environmental Plan Amendment No. 10 and the Tweed 4/24 Strategic Plan (2004).

The draft Plan's area of application is identified in Figure 1.

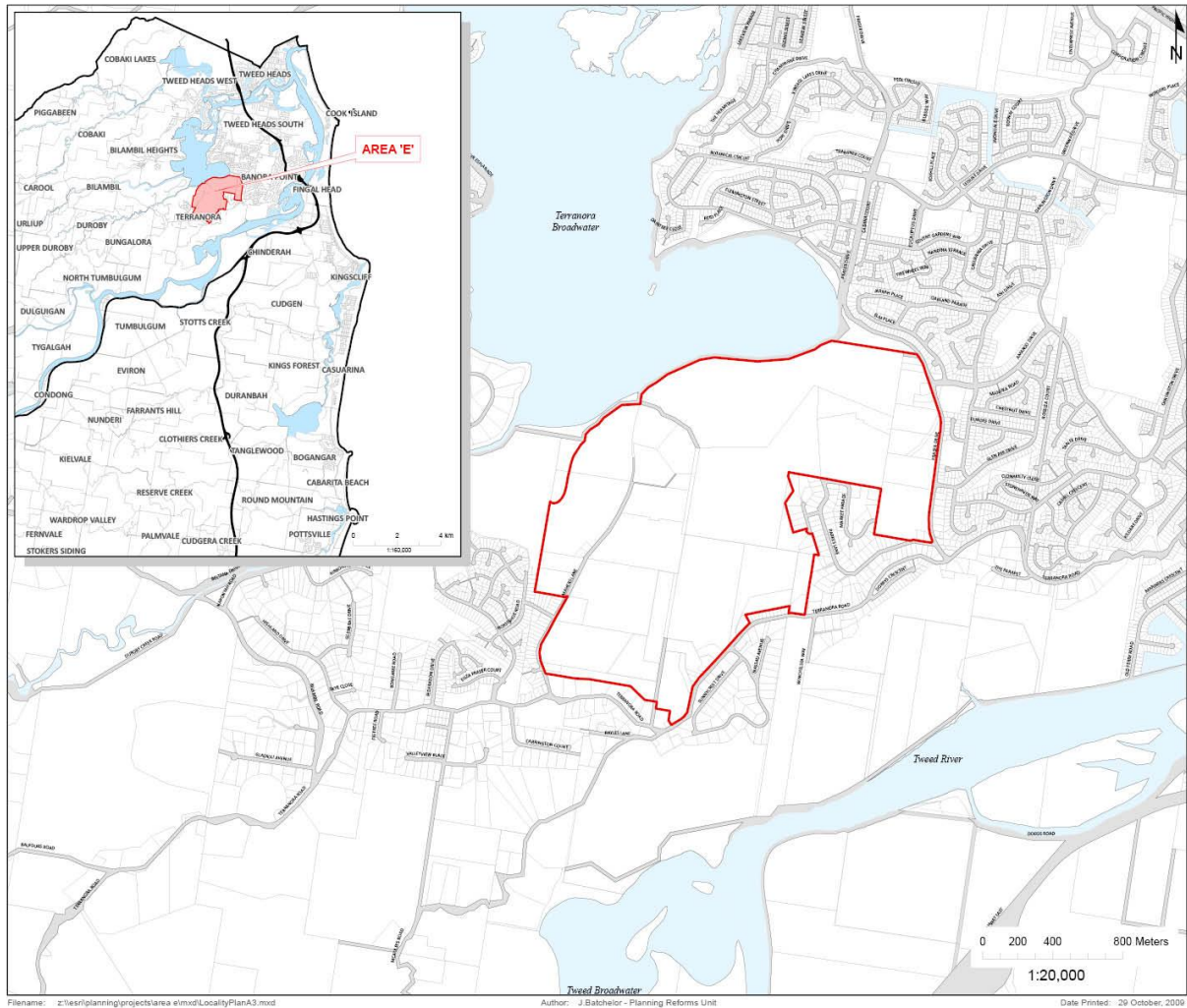


Figure 1 – Application of the Area E Urban Release Development Code

The Code is structured to address the anticipated staged development growth of Area E, being subdivision, the creation of a village centre and individual residential development.

The Code seeks to embody regulatory and urban design controls within the broader strategic visioning component, assisting the interrelationships between the site and phases of its development. This format is advantageous to most DCP formats where the controls and developments of individual sites are often looked at in isolation or a vacuum of other competing factors. It recognises the importance of the interrelationship between subdivision design (including roads, bulk earthworks, infrastructure provision), to individual lots and dwellings, as well as the immediate area and locality.

The most notable urban design principles include:

- Establishing a vision of best practice design and sustainability, health and wellbeing and creating a sense of place;
- Establishing an urban footprint to confine urban development to appropriate locations;
- Preservation and rehabilitation of environmental zones, establishment of further wildlife corridors within the future urban form;
- Establishing parameters for future landscape and visual character;

- Promote subdivision, building design and structural systems that respect and responds to the natural topographic features of Area E;
- Facilitate the village centre as the primary activity hub with a mix of retail, commercial, community facilities and residential accommodation;
- Provision of structured and casual open space;
- Requiring management of Class 6 soils to enable potential future use;
- Strong mix of dwelling types, sizes and densities, from transitional lots (minimum lot size of 1,200m²) to small lot/multi dwelling housing;
- Public domain and streetscape consideration; and
- Identifying infrastructure requirements.

The overarching principle of the draft Code is to foster development which reaffirms the qualities and characteristics of Area E through a framework that encourages active consideration of environmental, landscape and visual value. The village centre is to be consolidated as the primary activity hub for the Area E community by encouraging a mix of business and community uses, high quality public domain and containing a larger building form.

Public Exhibition and Submission Review

A summary of issues raised by way of public submissions are addressed within Attachment 1 – Public Consultation Submission Review. However, the most critical amendments as a result of public exhibition are discussed below:

Density of Development

A number of objections were received regarding the proposed density of residential development within Area E. The objections stemmed from concern regarding the flow-on effect of the density onto the road network, interface and integration issues with adjoining residential development, the ability to achieve the density within a topographically constrained site and the visual impact within a hinterland setting. As a result, the provisions guiding the residential composition were reviewed.

Area E is positioned between the suburban Banora Point with lot sizes predominately 600-850m² in size, Terranora Village, where lot sizes are typically 850m² and the rural residential area of Terranora, where lots are predominately over 2,000m². As a result, Area E plays a role in balancing the existing residential context, whilst providing for key growth targets that are established through the Far North Coast Regional Strategy, Tweed Futures (now enshrined in the Tweed Community Strategic Plan 2011/2021) and Council's Urban Release Strategy 2009.

Through the LES process, members of the Terranora community sought to ensure any rezoning of Area E include a minimum lot size of 800m². The LES however was ultimately adopted with an average lot size for residential dwellings of 800m², resulting in an intended residential yield of 1793 dwellings (1,550 lots for dwellings, 243 medium density units). The publically exhibited Code contained provision for 1799 dwellings, however with a stronger emphasis on small lot and medium density housing to enable greater areas of land to be retained for environmental, open space and visual quality purposes.

Post exhibition, in accordance with the submissions received, a band of 'Transitional Lots' has been included, along the Parkes Lane, Market Parade interface.

Transitional Lots are to have a minimum lot size of 1,200m², assisting in the transition from the existing 2,000m² lots, to the <800m² suburban lots within Area E. In addition, the extent of small lot and medium density housing within Area E has been reduced following concerns that the extent of medium density could potentially adversely impact upon the visual and desired character, and also because there is a risk that the site constraints and associated building costs would cause the orderly and economic use of the land to become uneconomical.

This analysis resulted in amended targets within the Code, which details the following residential targets and mix:

	Mahers Lane Precinct	Central Precinct	Fraser Drive Precinct	Total
Transitional and Large Lot Residential (Lots >800m ²)	8	60	47	115
Suburban Lot Residential (Lots between 450 – 800m ² and provided at a rate of 1 dwelling per 650m ² of site area)	428	265	229	922
Small Lot and Medium Density (Lots between 250 – 450m ² and medium density development at a general rate of 1 unit per 333m ² of site area)	174	58	55	287
Neighbourhood Plan Housing	0	114	32	146
Shop-Top & Village Centre Residential	0	120	0	120
Total	610	617	363	1590

Table 1 – Dwelling Density and Typology Targets

As detailed in the above table, the Code has been amended to reduce the number of dwellings within Area E by approximately 200 lots and provide a higher proportion of dwelling house development compared to multi-dwelling housing.

This outcome is considered to strike an appropriate balance between providing for the highest and best use of residential land to achieve long established density targets and maintaining the high quality visual and landscape characteristics of the region.

Sustainability and Environmental Concerns

During the submission period, sustainability and environmental concerns were raised. Whilst many of the concerns raised have not generated specific amendment, (i.e. concerns regarding water quality are already addressed within Shirewide policies) the Code has been amended to include an 'Urban Footprint' map, clearly identifying land that is consider suitable for urban development, land that is not suitable, and land that will require additional topographically sensitive development in order to satisfy Council about its development suitability.

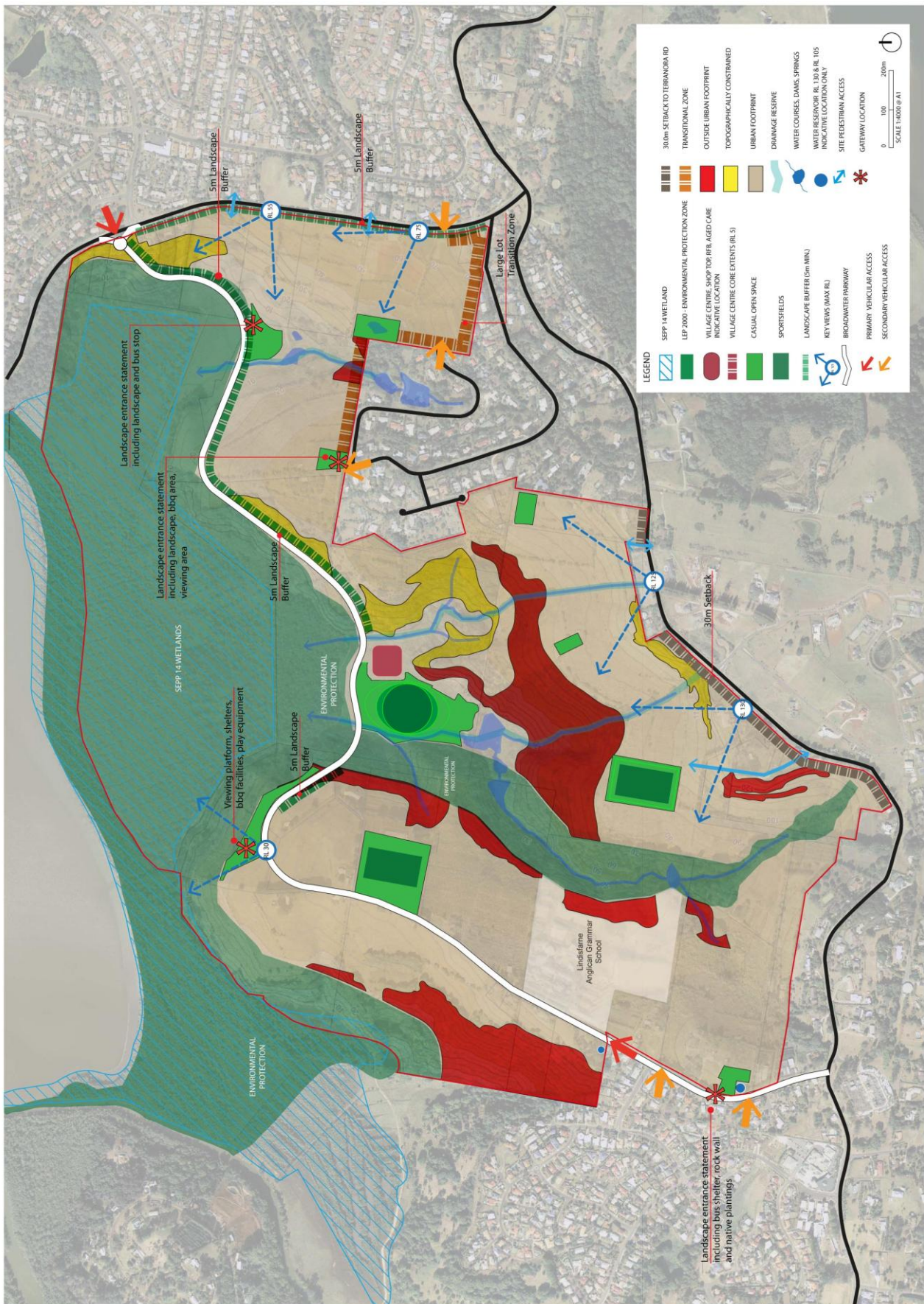


Figure 2 – Urban Footprint

The Urban Footprint for Area E is derived from a methodology of retaining land identified for environmental protection for that purpose, identifying land possessing a combination

of greater than 18 degrees slope and mapped as 'Bushland' and acknowledging that these tracts of land comprise a significant portion of the site's landscape and visual character, and identifying bushland and natural systems that have the capacity to integrate with wider wildlife corridors.

The inclusion of an Urban Footprint plan provides additional guidance and clarity to the community as well as Area E landowners on what land is considered broadly suitable and unsuitable for development, therefore protecting land of environmental quality and assisting in meeting sustainable development objectives.

Designing Regulatory Controls and Guiding Principles

Post public exhibition it was identified that whilst a number of the objectives and controls were supported by the general public, there was concern that the intent could be lost in application of the Code. As such, the Code has been modified to clearly establish additional plans, studies, analysis that will be required for the development of Area E. Similarly, where controls could be further qualified or quantified, the opportunity has been taken to embody this information within the Code. In this respect, the intent of the Code is not considered to have changed; rather the controls have evolved through an iterative process that has included the additional information provided through public and industry consultation and feedback.

Legibility of the Code

A number of concerns were raised through the public submission period regarding the legibility or 'clarity' of the Code in distinguishing its relationship to existing Council policies (particularly Sections A1 and A5 of the Tweed DCP) and between Development Controls and indicative, or diagrammatic illustrations (examples). The further review has led to further refinement to ensure that the controls and their relationship with others plans is clear, concise and minimised ambiguity or misunderstanding.

The Code was amended in several ways in order to achieve this aim:

- *Removal of background information* - As this information does not provide a development control measure, rather, describes the background and context of the site, it was determined that this information was not required to be in the Code. This information is to be retained within a background site analysis document, which is called-up by the Code.
- *Amend the document structure* – Previously the Code contained 4 parts comprising; an "Introduction", "Area E in Context", "Whole of Release Area Strategies" and "Precinct Specific Strategies." The amendments have shifted from the 'precinct' based to 'development' based parts, thus following a more intuitive and representative sequence of the land development process.

The Code now comprises four parts: "Introduction," "Subdivision," "Village Centre" and "Residential Controls." This structure clearly delineates what form of development the controls apply too and therefore when the controls need to be considered and addressed.

- The role the diagrams take within the Code has been clarified to ensure that those provided for illustrative purposes only are not inadvertently used as a

development control or incorrectly applied to justify an otherwise inappropriate departure from a stated development control.

BROADWATER PARKWAY

As reported to Council's April, June and July 2011 meetings, the location, design, connection and construction of the trunk road, known as Broadwater Parkway, linking Mahers Lane to Fraser Drive, is critical and essential infrastructure to the development of Area E.

As part of the DCP preparation, a number of potential alignments to Broadwater Parkway have been identified and considered at a desktop level. Generally, the constraints that impact upon the ultimate alignment of Broadwater Parkway include:

- Topography;
- Existing dwelling houses
- Areas of environmental protection; and
- Integration into the wider road network.

The alignment, funding and construction of Broadwater Parkway is possibly the greatest challenge to the development of Area E.

Whilst a number of submissions were received in relation to Broadwater Parkway, for the most part, the alignment within the Code has not been changed. An amended alignment has been pursued through the western portion to reduce landforming required, and the alignment rationalised in front of the Village Centre in keeping the stormwater solutions proposed, the eastern end has not been amended. The preferred alignment of Broadwater Parkway is displayed below.



Figure 3 – Broadwater Parkway within the Area E Council Report

In light of all the site constraints, the Code has progressed on the basis of the alignment displayed in Figure 2, as it is viewed as the best option considering triple bottom line sustainable development principles.

This preferred alignment will require the compulsory acquisition of at least one property and result in amenity impacts to nearby existing residences. While these impacts are considered undesirable they are seen to be unavoidable given that Broadwater Parkway is a critical infrastructure component to Area E, would provide additional connectivity and efficiency to the local traffic network, and cannot be avoided without endorsement for a completely different road alignment, for example through the adjacent highly vegetated and sensitive lands.

To date, no feasible alternative has been identified that are considered to meet triple bottom line sustainable development principles and as such, framework should be put in place to secure this alignment, through adoption of the Code and corresponding developer contribution plans or similar funding arrangement.

Developer Contributions

At its October meeting, Council resolved to publically exhibit draft Section 94 Contribution Plan No. 31 – Terranora Area E (draft CP). Within the public exhibition period Council initiated discussions with NSW DoPI to assist in obtaining the Minister for Planning's approval for the plan, which is required given the levy exceeds the State Government enforced \$30,000 per lot cap.

To date discussions with DoPI have indicated a need for the applicable plans to be referred to the Independent Pricing and Regulatory Tribunal (IPART) for assessment. IPART's role is to review applicable contribution plans and will give advice and make recommendations to the minister for Planning and Council regarding the Plan. Initial indications are that this process could take up to 8 months and may draw in the review of other Council s 94 plans.

In light of the above and the timeframes involved, Council staff are currently reviewing an alternative option, which may be available in order to equitably facilitate the infrastructure provision required by the development of Area E. Preliminary investigations indicate that a Voluntary Planning Agreement (VPA) may be the best framework available, however until such time that the Code is adopted, which details the infrastructure required, investigations remain in the early stages.

Adoption of the Code Council will enable staff to work with the Area E landowners to establish the most effective framework for collecting and distributing the cost of developer contributions.

PART 3A UPDATE

Post the update contained with the July council meeting report, relevant Council officers have held additional meetings with the applicant and DoPI staff, to discuss components of the Part 3A Major Project Application. Despite repealing the previous provisions of Part 3A of the Environmental Planning and Assessment Act 1979, the savings provisions included result in DoPI being retained as the consent authority for the application.

Whilst both Council staff and the developer are working to create a positive outcome for the site, no other items of significance have occurred since the July update, though it is understood that the applicant is currently preparing the next level of documentation required, being the Preferred Project Report.

CONCLUSION:

The Code provides another key component of planning framework for the Area E Urban Release Area, stemming from a contemporary LEP amendment which identified Area E for urban expansion.

The draft Code has been drafted taking account of the many valuable and relevant elements of the earlier Local Environmental Study, LEP amendment, extensive landowner consultation, as well as seeking to take the best of current best practice urban planning and community input.

Area E is a unique and constrained release area and has many challenges to face as new development occurs. Among those challenges is the delivery of infrastructure, maintaining an appropriate landscape and visual character, providing housing types that respond to the strong topography of the site, retention and improvement of the environmental assets of the site and integrating appropriately within the wider residential fabric.

The draft Code since exhibited has been amended to take in to account the matters raised in this report relating to the receipt of public submissions and feedback.

The draft Code is premised on best practice, it is highly relevant and geared to managing development and growth into the future.

It is recommended that the Code be adopted and that further investigation of options for funding the necessary infrastructure be pursued and negotiated with the landowners.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The adoption of the draft Code will necessitate amendments to several Council documents, including the Tweed LEP and amendments to the Developer Contributions framework as it relates to Area E.

POLICY IMPLICATIONS:

The adoption of the Area E Urban Release Development Code seeks to provide a clear direction and prioritisation of Council's strategic planning and infrastructure provision as it relates to Area E.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Public Consultation Submission Review (ECM 42803479)

2. Copy of Tweed DCP Section B24 – Area Urban Release Development Code for endorsement. (ECM 42748359, ECM 42748361, ECM 42748364, ECM 42799369)
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