

TITLE: [PR-CM] Tweed Development Control Plan Section B24 - Area E Urban Release Development Code

ORIGIN:

Planning Reform

FILE NO: GT1/LEP/2000/10 Pt6

SUMMARY OF REPORT:

This report provides an update on the progress of the Tweed Development Control Plan, Section B24 – Area E Urban Release Development Code (“the Code”), prior to it being reported to the July meeting for approval to commence public exhibition.

Area E has been recognised for many years by both Tweed Shire Council and the NSW Department of Planning and Infrastructure as an important strategic site for urban land release to accommodate future housing needs through the planned supply of about 1632 lots, catering for an additional residential population of about 4,000 people.

In accordance with the Local Environmental Plan gazetted for this site in 2007, Council’s planning and engineering staff are preparing a Draft Development Control Plan (DCP) and Section 94 Plan (s. 94 Plan) to facilitate the orderly and economic development of Area E. The DCP has been prepared as a Section of the Tweed DCP 2008, titled *Area E Urban Release Development Code* (“the Code”). The Code represents the most detailed level of the strategic planning framework and seeks to guide the future development of the Area E release area through a variety of strategies and development controls.

As part of the preparation process, Council’s Planning Reform Unit (PRU) staff has worked with the landowners of Area E to undertake extensive landowner consultation, which comprised of three intensive participatory workshops hosted at Tweed Heads.

The Draft Code is now presented in three ‘precincts’ enabling the local community to identify with guidelines and controls customised to the unique features, characteristics and specific contextual issues of these distinct precincts.

In recognition of the intricacies, constraints and ‘uniqueness’ of Area E, and in response to the outcomes of the landowner workshops, a number of controls have been specifically tailored and such vary the generic standard requirements of the Tweed DCP s A1 Residential and Tourist Development Code. These variations will be reported in greater detail in the July report.

The Code has attempted to address landowners and the Council officers concerns through a detailed investigation of the sites opportunities and constraints by utilising various contemporary best practice planning processes that include:

- Constraint and Site Analysis
- Developing steep sites analysis and interpretation
- Built form and design-lead solutions to balance environmental protection, open space and the built environment.

It is envisaged that the key outstanding issue involving the proposed location of the future Broadwater Parkway road will also be concluded by July. As a secondary consideration, this timeline enables the Code to best integrate into the Part 3A Major Project Application before the Department of Planning and Infrastructure, which the Department have advised the applicant to undertake.

RECOMMENDATION:

That the report on Tweed Development Control Plan Section B24 – Area E Urban Release Development Code be received and noted.

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.

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

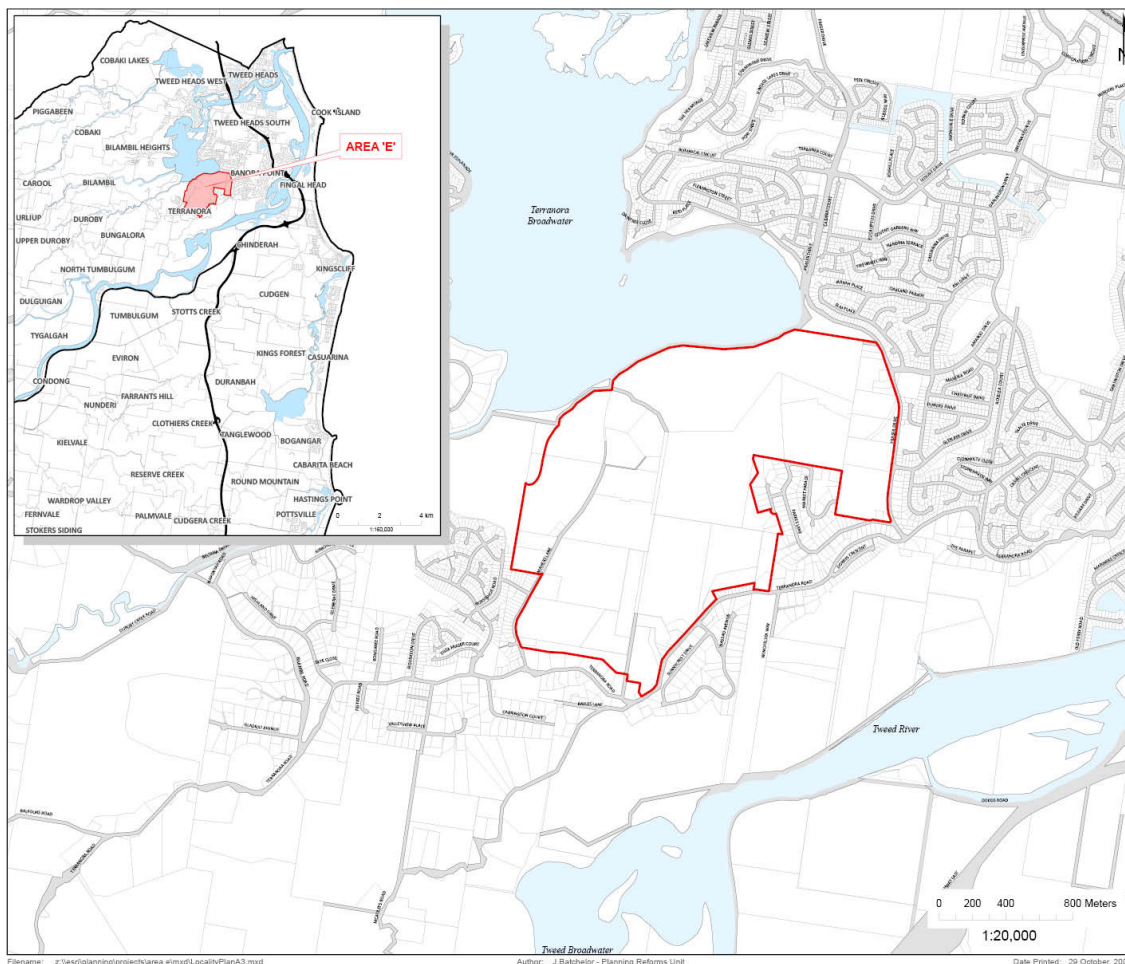
- 5(a) Special Uses (School);
- 2(c) Urban Expansion;
- 7(a) Environmental Protection (Wetlands and Littoral Rainforests); and
- 7(d) Environmental Project/Scenic Escarpment.

As part of the LEP Amendment, Clause 53D 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 officers have undertaken the preparation of a new locality based DCP, Draft Area E Urban Release Code (“the Code”), to facilitate the orderly and economic development of the Area E release area.

The Code is at an advanced stage and key strategies and a draft structure plan have already been presented to landowners as part of the landowner consultation engagement strategy. Following the current refinements and reaching a concluded position on the location of the future Broadwater Parkway by July, the Draft Code would have reached a stage where general public consultation and input is required. This is a critical stage of the plan preparation process as it will enable the broader community to evaluate and express their level of acceptance or otherwise to the proposed development strategies.



KEY COMPONENT OF THE CODE

Broadwater Parkway

As reported within the 19 April 2011 Council meeting (report can be found within Attachment 1), Area E is a complex site, with fragmented ownership of land and the intertwined relationship of onsite constraints. Principally, 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.

Through the landowner workshops hosted, several landowners whom own land on, or immediately adjoining the proposed alignment, have raised strong objection. The area of discussion is identified within Figure 1 below as 'Section 3'.

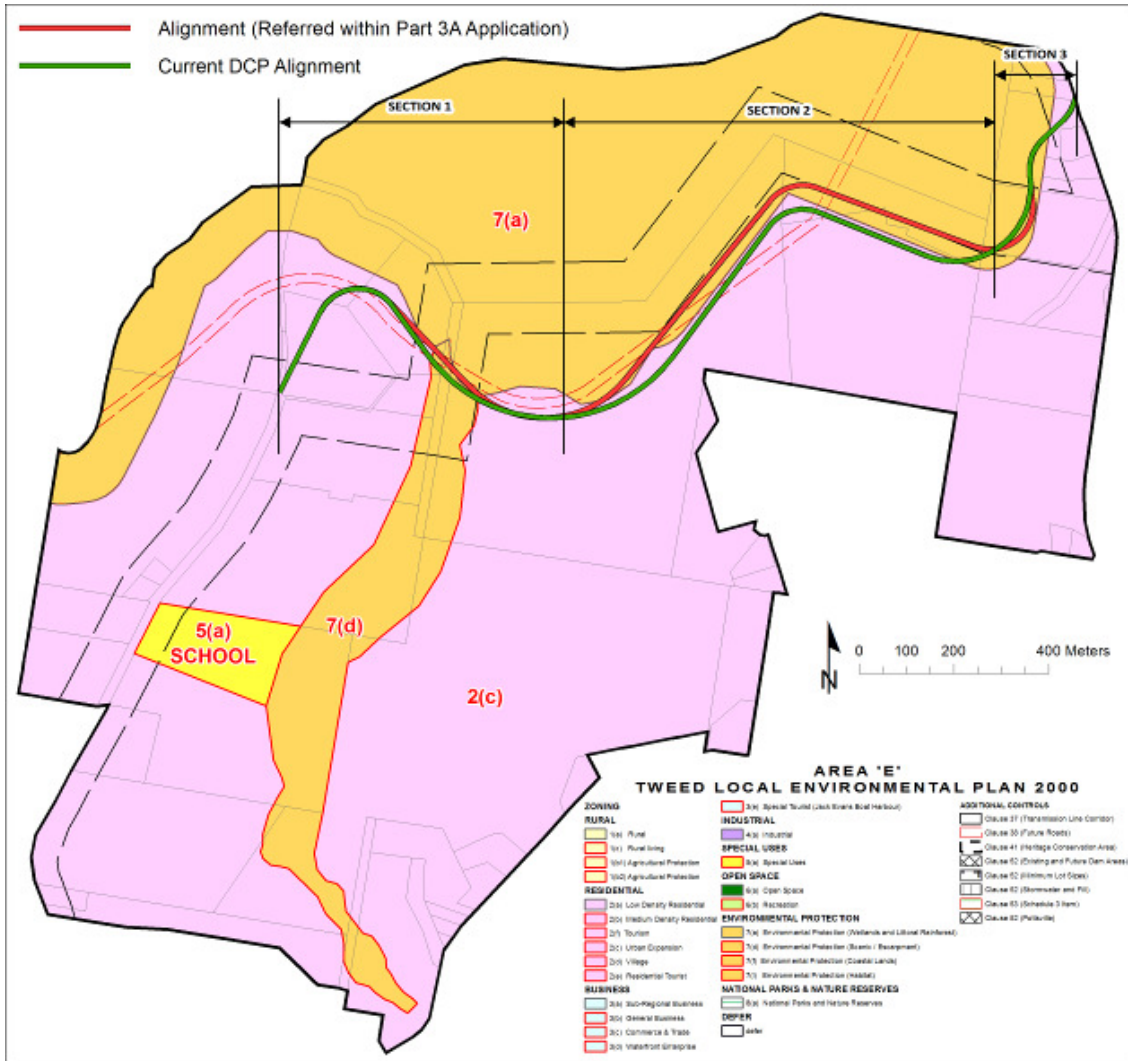


Figure 1 – Broadwater Parkway – Section 3

The alignment of Section 3 is highly constrained by way of slope, the presence of existing dwellings and the need to achieve satisfactory intersection separation. Desktop analysis suggests that this alignment intercepts Endangered Ecological Communities (EECs) at two separate points, though predominately the periphery of these areas. It is acknowledged that further ground truthing would need to be undertaken to confirm the status of the EEC and the ultimate alignment of the road.

To progress Broadwater Parkway Council will need to exercise its land acquisition powers to obtain the land necessary. Accordingly, Council officers have scheduled meetings to discuss the matter with these landowners prior to the July Council meeting.

Alternative Opportunities

Within the landowner meetings, alternative alignments have been suggested by a variety of landowners, several of those a briefly detailed below.

- Wetland Options

As part of the landowners consultation, a landowner cited that the alignment of Broadwater Parkway be adjusted to intersect the SEPP 14 Wetland, or 'hug' it's extent and join further to the North. These options are displayed below in Figures 2 and 3

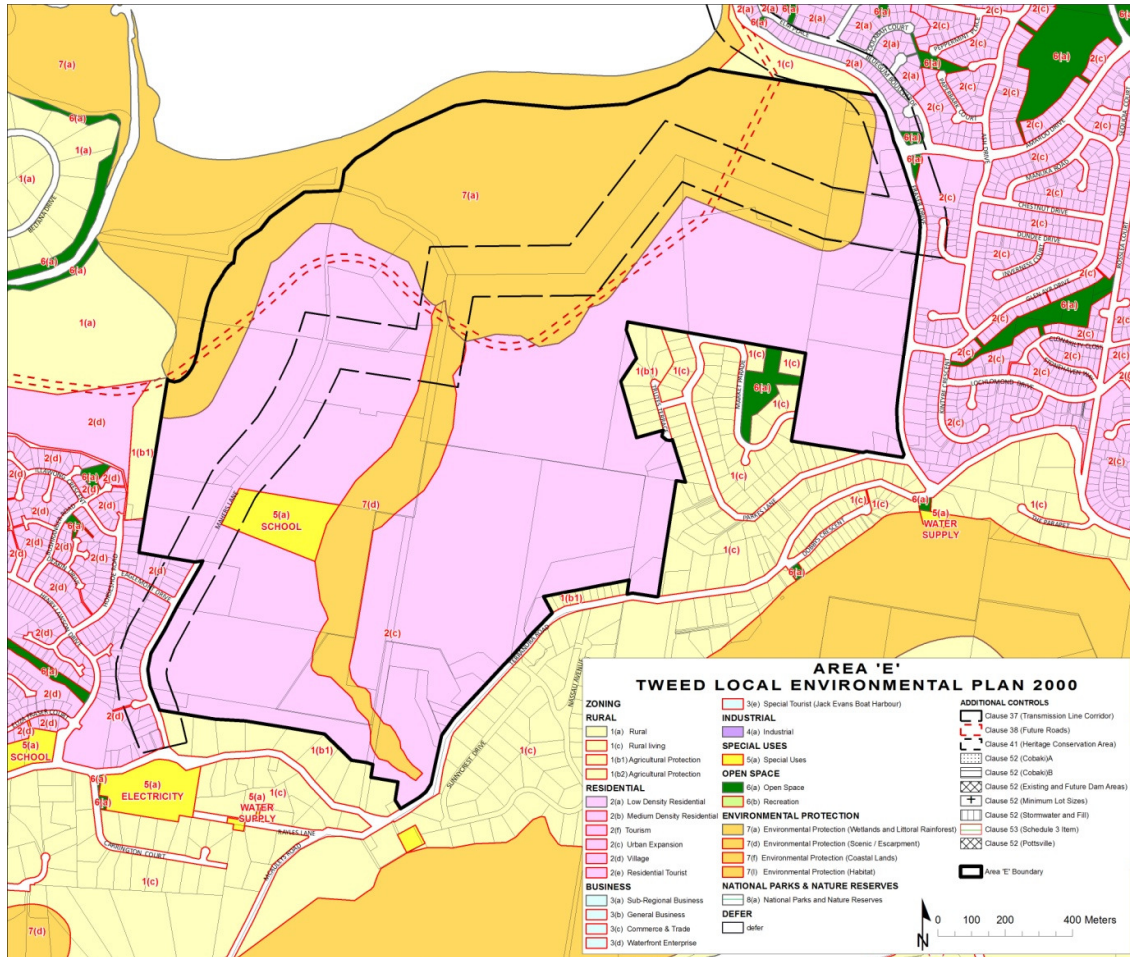


Figure 2 – Current Tweed LEP 2000 Road Corridor Annotation



Figure 3 – Further Alternate Alignments

The two routes displayed in Figure 3 were reviewed by James Warren and Associates in January 2008, concluding that both alignments will require the removal of relatively significant areas of native vegetation as follows:

Road alignment Option 1 will result in the loss of 2.7 hectares (ha) of vegetation, including:

- 0.58 ha of the EEC Swamp sclerophyll forest;
- 1.4 ha of vegetation which is considered to represent the EEC Lowland rainforest;
- 0.36 ha of the EEC Freshwater wetlands on the coastal floodplain;
- No threatened species will be lost; and
- Only minor indirect impacts are expected on the SEPP 14 wetland.

Road alignment Option 2 will result in the loss of 1.4 hectares (ha) of vegetation, including:

- 0.08 ha of the EEC Swamp sclerophyll forest;
- 0.65 ha of the EEC Freshwater wetlands on the coastal floodplain;
- No threatened species will be lost; and
- Loss of approximately 0.7 hectares of native vegetation from within the mapped SEPP 14 boundary.

Based on the assessments undertaken, the landowners prepared DCP that was previously submitted to Council concluded:

"it is most unlikely that development consent under Part 4 of the Environmental Planning and Assessment Act or Major Project approval under Part 3A of the Environmental Planning and Assessment Act would be issued for the route through the wetland (Option 2) or the alignment on the eastern side of the wetland (Option 1) given the potential impacts on endangered ecological communities, wetland vegetation and potential changes which would arise to the hydrological regime within the wetland."

The above findings are still considered valid within current planning frameworks and it is therefore concluded that these alignments should not be pursued further by Council. Should the landowners group now be of a different opinion to that previously stated, it is open to them to investigate this opportunity further.

- Further north

Opportunities to provide an alignment further to the north of Amaroo Drive may be present; however they have not been extensively investigated internally by Council officers. Any such alignment would result in significant tree clearing and the alignment being imposed over an additional number of properties, further fragmenting land.

- Further South

Further opportunities for the Broadwater Parkway alignment to be varied to the south have not been extensively investigated internally by Council officers. Whilst the topography of the land immediately limits any alignment further to the south, Council's engineers have also advised that it is highly desirable to discourage traffic 'rat-running' via Glen Ayr Drive or Amaroo Drive, necessitating network connection to be provided to the North of these streets. Should Council wish to explore alignments without these constraints, further design analysis could be undertaken.

Summary

The alignment, funding and construction of Broadwater Parkway is possibly the greatest challenge to the development of Area E. The road is viewed as a necessity to Area E and provides very limited public benefit to the wider traffic network, resulting in it thus far not being included within the general works program contained within Council's Tweed Road Contributions Plan. A variety of alignments have been discussed throughout the LES, LEP and Code preparation processes.

In light of all the constraints the Code has progressed on the basis of the alignment displayed in Figure 1, as it was viewed as the best option considering triple bottom line sustainable development principles. To this point, no alternative alignment with corresponding engineering and environmental detail has been submitted to Council for consideration displaying an improved outcome.

MAJOR PROJECT UPDATE

As reported within the 19 April 2011 Council report, NSW Department of Planning and Infrastructure (DoPI) is currently considering, as the consent authority a 321-lot community title subdivision within the eastern portion of Area E, under Part 3A of the Environmental Planning and Assessment Act 1979. This arrangement has been maintained under the savings and transitional arrangements included within recent Part 3A legislative changes.

The application seeks project approval for a 321-lot community title subdivision comprising 317 Residential lots, one community association lot (Lot 711), public reserves (Lots 436 and 710) and one drainage reserve lot (Lot 630) and the provision of all usual urban infrastructure including reticulated water, sewer, stormwater, power and telephone. Bulk earthworks across the site will also be required to create the proposed final landform. The application includes a temporary road access to Fraser Drive to service the first stages of the subdivision. Approval is also sought for the construction of a temporary site sales office on proposed Lot 1103.

The submission period has now closed and the submission lodged made available to the applicant for their consideration. In addition, DoPI raised the following issues that are relevant to the contents of this report:

Area E Planning – the current proposal has limited regard to the development of plan for the whole Area E. The Department sees the major project application as being the first stage of a coordinated development of land across Area E. While the Department recognises that at the time of the EA being lodged limited progress had been made on the development of a DCP for the Area E site, it is understood this process is now sufficiently advanced for more integration to occur. However the Department currently understands the relevant planning documents for this area (Development Control Plan, Section 94 contributions plan and supporting documents) are expected to be on public display by June 2011. As such the DCP and supporting documents submitted to Council in 2008 (and prepared by Darryl Anderson) are now out of date.

- *Failure to have sufficient regard to the current DCP process is inconsistent with the stated objects of the Act that clearly promote coordinated, orderly, and economic use and development of land. The Department requests the proponent more closely align their development with the current DCP process for Area E or clearly identify and justify departures from this process. The proponent should endeavour to undertake workshops/consultation with Council to ensure coordinated development outcomes are met.*
- *In this regard the Department generally supports the nature and content of Council's submission on the proposal – except where variations are proposed below.*

Relevant Council officers have held a preliminary meeting with the applicant, whom presented a revised subdivision layout for the site. Upon the receipt of detailed information, further review will be undertaken to ensure a positive outcome for the site.

CONCLUSION:

The draft Code has been prepared on the basis of extensive landowner consultation and having regard to the site conditions. The project has reached a stage where the principles, ideas, and controls within the code need to be 'tested' for their level of acceptance within the broader community, once the Broadwater Parkway issue is resolved. The provision of Broadwater Parkway is a key component of the Area E Urban Release Area and any alignment considered has a number of sensitivities. Council's internal working group for the Area E Urban Release Development Code consider that an appropriate alignment has generally been identified, however it is recognised that further options could be investigated or proposed for an alternative alignment. This would best be achieved through the future public exhibition of the Code.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

To progress Broadwater Parkway Council will need to exercise its land acquisition powers to obtain the land necessary. This action will have legal, resource and potentially financial implications.

POLICY IMPLICATIONS:

Nil.

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. Council report of 19 April 2011 (ECM 33945212)
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