

TITLE: [ID] [PE] Master Plan MP04/0001 for a Proposed Subdivision at Lot 1 DP 392245, Lot B DP 368706, Lot 13 DP 793985, Barnby Street, Murwillumbah

ITEM DEFERRED FROM MEETING HELD:

1 December 2004

RESOLVED that Council defers this matter until after the 8 December 2004 Community Access session to allow residents of West Murwillumbah to put forward information for Council's consideration before final decisions are made about revisions to the Barnby Street MasterPlan and before the public is notified of these revisions.

ORIGIN:

Development Assessment

FILE NO: MP04/0001 Pt2

SUMMARY OF REPORT:

Council is in receipt of a master plan for assessment in accordance with Development Control Plan No. 16 Subdivision Manual for a proposed subdivision on land to the west of Barnby Street, Murwillumbah.

The master plan was publicly exhibited for a fortnight and referred to state government agencies for comment. During the public exhibition period a number of submissions were received and issues raised with the proposal. In response to the submissions the application submitted a revised Masterplan.

Council resolved on 19th May 2004 that a public meeting be undertaken in relation to the proposal. The public meeting was held on 16th September 2004 at Council's auditorium where the community had the opportunity to address their concerns to Council staff and review the revised Masterplan.

The opportunity was also provided for further submissions to be received on the matter up until 1st October 2004. A number of residents took this opportunity to raise their concerns or provided follow up on their original submissions.

The following report addresses the issues raised by the Masterplan and recommends that the Masterplan be revised to only include road accesses and land designated for residential development, and for construction access to come off Joshua Street. It is also recommended that a report be brought forward to amend the Tweed Road Contribution Plan to include the West End Street connection.

RECOMMENDATION:

That : -

1. Master Plan MP04/0001 for a proposed subdivision at Lot 1 DP 392245, Lot B DP 368706, Lot 13 DP 793985, Barnby Street, Murwillumbah as submitted not be supported, however, that the Master Plan be revised with construction access off Joshua Street, and to only include the road accesses and land zoned for residential purposes. A revised Master Plan including these changes is supported.
2. Council pursues the feasibility of amending the Tweed Road Contribution Plan No. 4 to include West End Street connection, its access and construction to relieve traffic off Byangum Road.
3. Council advises the community of this resolution via the Tweed Link and highlights that any future development application over the land and for road connections to Joshua Street and West End Street will be publicly advertised at such time and that public submissions may be made as part of the future development application process.

REPORT:

Applicant: Jim Glazebrook and Associates Pty Ltd
Owner: Barnby Developments Pty Ltd
Location: Lot 1 DP 392245, Lot B DP 368706, Lot 13 DP 793985, Barnby Street, Murwillumbah
Zoning: 2(c) Urban Expansion & 1(b2) Agricultural Protection
Cost: Nil stated

BACKGROUND:

The Master Plan is for a proposed subdivision creating 68 lots and new roads in stages 1 and 2 that would be accessed from a temporary road off Barnby Street. A water quality control pond located in the 1(b2) Agricultural Protection land would service this stage of the development.

Stage 3 would create a further 29 lots in the residential zoned land and create roads including a link to West End Street via Council's Sewerage Treatment Works which the applicant has submitted would be designed and constructed by Council. The temporary road off Barnby Street would still be in use.

The applicant submitted an overall layout detailing intentions in relation to the adjoining 1(b2) Agricultural Protection zoned land that would as a completed development result in the Barnby Street connection being a park and creating one lot accessed from within the development. A further 69 lots approximately would be created with new roads and connection through to Joshua Street. Areas of open space adjacent to Rous River with drainage reserves would also be created. The submitted overall layout is not part of the Master Plan being considered for approval rather possible future intentions for the land.

The matter being considered by Council is the Masterplan over land zoned 2(c) Urban Expansion as the subdivision of land as foreshadowed in the Agricultural Protection zone is prohibited.

The public exhibition of the Masterplan generated a lot of interest in the local community and a total of 31 submissions were received (including three state government departments) and a petition with 123 signatures. The following report addresses the issues raised in the submissions.

At the Council Meeting of 19 May 2004 it was resolved by way of a Notice of Motion the following:

"That:-

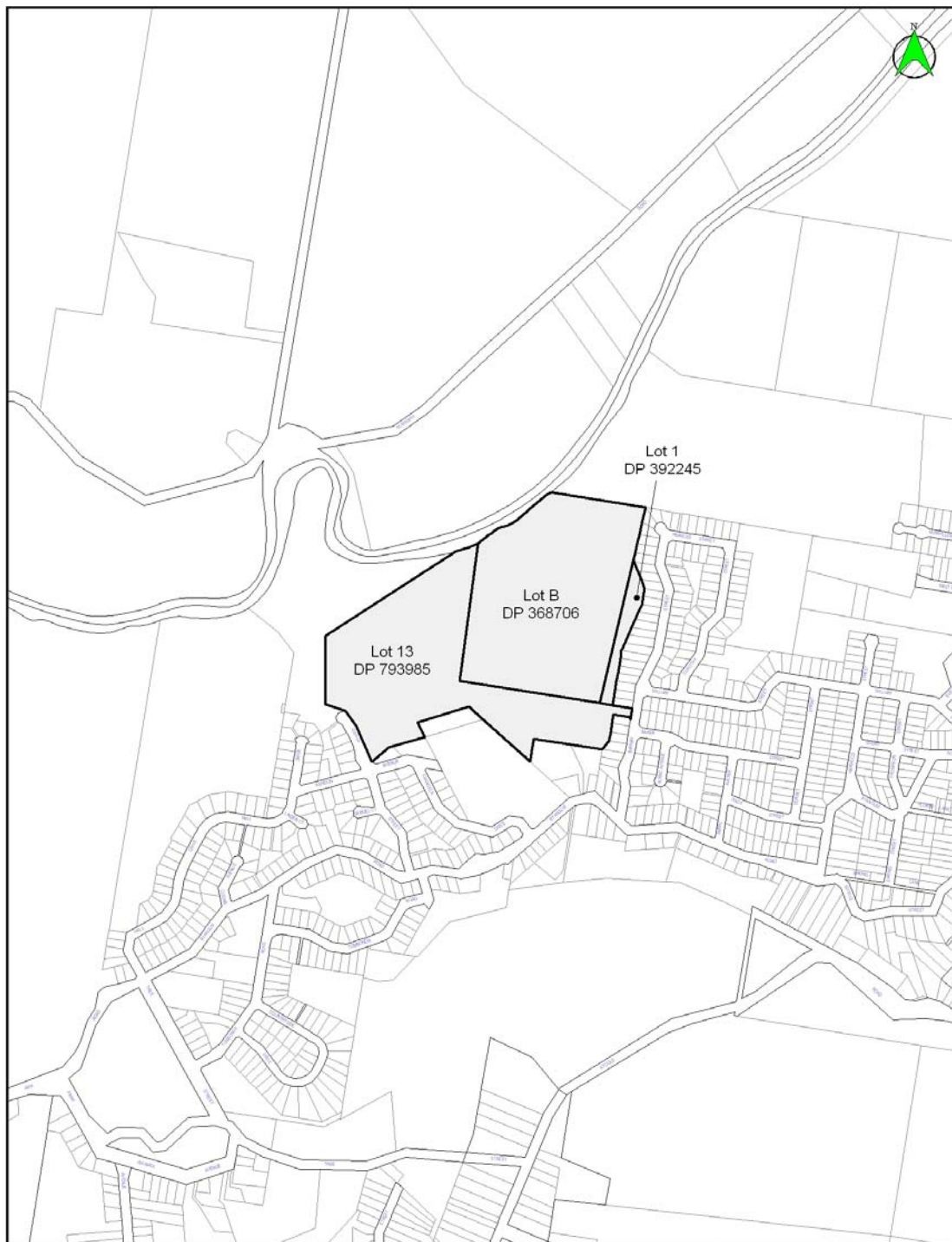
1. *Council facilitates a public meeting in the Murwillumbah Civic Centre Auditorium at which the applicant for the development of the Stainlay land off Barnby Street be given the opportunity to make a presentation on all the relevant issues associated with the development.*
2. *A letter box drop advising people of this meeting be carried out in those areas most affected by this development.*


3. *Those people attending be given the opportunity to raise their concerns and opinions on this development."*

The public meeting was held on 16th September 2004 and the issues raised by the community were noted. Also the opportunity for further submissions was provided in the event that individuals wished to provide further submission to any original concerns raised.

The process of a Masterplan provides Council with the opportunity to adopt a Masterplan and require further development applications to be made in accordance with an adopted Masterplan, or alternatively to raise issues with the plan for the applicant to revise. The applicant receives advice from Council that the Master Plan is supported rather than a notice of determination as would arise when considering a development application.

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2004 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 Murwillumbah, NSW., 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i></p> <p>Lot 13 DP 793985, Lot 1 DP 392245 and Lot B DP 368706 Barnby Street, Murwillumbah</p>		<p>STRATEGIC PLANNING UNIT</p> <p>Site Plan</p>		
	File: N:\MapInfo 7...A4P Site Plan.Wor	Author: J.Batchelor	Date: 13/Oct/2004	Scale: 1:7,500	Sheet: 1 of 1

CONSIDERATION OF THE MASTERPLAN UNDER DEVELOPMENT CONTROL PLAN NO.16-SUBDIVISION MANUAL AND ISSUES RAISED IN SUBMISSIONS AND INTERNAL REVIEW:

Development Control Plan No.16 - Subdivision Manual

DCP 16 states that a Master Plan is required for subdivisions of more than 25 lots where the urban pattern is not determined by an existing development pattern or existing development control plan. As the subject land does not have a site specific development control plan and the existing development pattern does not predetermine the subdivision of the land and its layout the proponent lodged a Master Plan.

The proposed Master Plan is accompanied with the required information under DCP 16 at the depth that is expected for Master Plans.

Issues Raised in Submissions and Internal Review of Master Plan

Zoning and Permissibility

The proposed Master Plan relates to land that is zoned 2(c) Urban Expansion. The applicant is seeking support for the Master Plan over the land zoned 2(c) Urban Expansion and to assist in the assessment of the Master Plan, has provided potential further subdivision layout, external road connections and total development concept over the 1(b2) Agricultural Protection zone.

The proposed residential subdivision requires the provision of a water quality pond and open space. The applicant has proposed that these be provided on land in the 1(b2) Agricultural Protection zone. As the use is ancillary to and a requirement for the subdivision of the residential zoned land and may be considered with the use of the variable zone boundary for development near zone boundaries this is considered to be an acceptable solution.

Urban stormwater water quality management facilities technically are permissible with consent in the 1(b2) zone providing the facility is considered to be consistent with the zone objectives. The zone primary objective aims at protecting prime agricultural land from fragmentation and the economic pressure of competing land uses.

There is an argument that the 1(b2) Agricultural Protection zone land is already fragmented and highly impacted on by the urban development in the area. With Rous River limiting the extent of the agricultural protection land there is minimal opportunity for the area to be fully utilised as part of a larger agricultural holding. It may be argued that an urban stormwater quality management facility is permissible with consent in the 1(b2) agricultural protection zone.

The provision of the drainage reserve and open space in the proposed location is considered to have merit when associated with other riparian open space and drainage reserve proposed over the entire future development. The potential to provide a significant buffer to Rous River and enhancement of this space is considered to be appropriate.

Local Road Network

The main issue raised in the public submissions and internal review of the application was the road layout and connections and staging of different accesses. Council's Traffic and Transport Engineer raised a number of issues in relation to the first Master Plan submitted, including:

- Public transport /bus routes not addressed
- The western connection through to Joshua Street should be connected
- William St/Byangum Rd intersection not adequately addressed, it has a major crash history and is barely adequate now without the 22% increase in traffic expected from this development
- Barnby St/Byangum Rd intersection unsafe and unable to accept more traffic
- Insufficient attention to cycleway/pedestrian pathway connectivity
- Long cul de sac road No1 does not comply with maximum lengths for cul de sacs
- Arterial road issues not addressed in master plan

The following comments were also provided by Council's Traffic Engineer.

"It is considered that the subdivision should have three road accesses being the proposed access onto Barnby Street (between William and Baker Street), another onto the Frances St/Barnby St corner at the north east of the site and a third onto Joshua Street at the west of the site.

Council has a long term plan, designated by a special use road zone in the Tweed LEP 2000 to provide a road link between Frances Street and West End Street. This combination of this link with the proposed internal subdivision roads and links to Joshua St and Frances St would in effect provide a northern collector road link (as an alternative to Byangum Road) between the golf course and West End Street. This northern collector road would enable both future subdivision traffic and existing traffic to be diverted from Byangum Road and improve traffic flow in the area. The diversion of existing traffic from Byangum Road would improve the safety of Byangum road and associated intersections.

At present there is no funding for the Frances St/West End St link. It is proposed that the Tweed Road Contribution Plan (TRCP) be amended to include this link in the works schedule and constructed from TRCP funds.

A future DA should address public transport links and pedestrian/cycleway connectivity with adjoining urban areas."

In response to the road network issues raised by Council's Traffic Engineer and public submissions the applicant submitted a revised Master Plan. The revised Master Plan proposed the following external road connections:

- Stages 1 and 2 (68 lots) Barnby Street connection only
- Stage 3 (+29 lots) Barnby Street plus connection to West End Street
- Further Phase on land zoned Agricultural Protection (+ 69 lots) West End St and Joshua St connection, Close Barnby St connection

Council's Traffic Engineer reviewed the revised Master Plan and advised that the Stage 1 and 2 access from Barnby Street would be acceptable providing the following occurred:

- obtain owners consent and planning approval for connection to West End Street and Joshua Street connection and
- upgrade William Street/Byangum Road intersection to provide protected right hand turn and
- improve surface of steep section of William Street

Council's Traffic Engineer advised that the proposed external road connections for Stage 3 was acceptable and in relation to the further phase on the agricultural land the road connections were acceptable providing the connection to Barnby Street be retained.

The solutions to the external road connections are acceptable to Council's Traffic Engineer providing the above issues are addressed. Further meetings and discussions with the applicant resolved the issue of construction vehicles and the unsuitable nature of access from Barnby Street. The applicant has provided the solution of all construction traffic to use access via Joshua Street, Council's Traffic Engineer supports this solution.

Residents from Joshua Street and West End Street were not notified of the Master Plan original submission as the applicant was not proposing these access connections. Council's Traffic Engineer has supported the road connections to Joshua Street and West End Street as a solution to traffic issues and accordingly the applicant has adopted these road connections. Residents in these streets will be notified with future development applications.

One of the concerns raised by the public submissions was the timing of the various stages and the likelihood of the proponent completing Stages 1 and 2 and then deferring other stages and the rezoning of adjoining agricultural lands for an unreasonable length of time. The applicant has expressed their intention to proceed to the amending LEP process in the future.

Earthworks and Associated Impacts

The Master Plan proposes earthworks over the site with the elevated areas being cut to provide the fill in the lower sections of the site. Council's Planning and Infrastructure Engineer has assessed the two options contained in the Master Plan and provided the following comments.

"Option A (preferred by the applicant) provides for balanced cut/fill of 240,000m² and provides allotments that are generally within acceptable slope limits (except on eastern side of the envelope abutting Barnby Street lots where some slopes of up to 1 in 4 are unavoidable). This option however exceeds the Specification D6 requirement that requires cut/fill not to exceed 5m over any more than 10% of the site.

Option B conforms with the numerical requirements of specification D6, but, requires the import of 270,000m³ of material from off the site, the majority of lots would have excessive steep slope and lots in the western part of the site would drain to adjoining land (rather than to a public road). Option B would generally comply with the publicly exhibited version of Specification D6 which had the numerical requirement of cut/fill not exceeding 8m over any more than 20% of the site.

The draft master plan argues that the visual impact of either option will be similar as both would require the lowering of the isolated hill containing the existing residence. It is further argued that both options are similar when viewed from the east as they finish generally on the same level along the western boundary and that when viewed from the west, Option A would have less visual impact as future residences along the western boundary would generally not be as visible.

Given the advantages of better finished lot slope, better drainage, a significant reduction in imported off site fill and arguably no worsening of visual impact, it is considered that Option A is acceptable at this location."

The revised Master Plan did not modify the proposed earthworks and accordingly Council's Planning and Infrastructure Engineer provides no further comment on this aspect of the Master Plan.

The public submissions raise objection to the proposed earthworks, their non compliance with the D6 requirements and the nuisance that earthworks of the scale proposed will have on the amenity of the area during construction.

Potential for Conflicting Land Uses and the Need for Buffers

A number of buffer issues are raised by the proposed Master Plan and subdivision of lands.

- **Buffers to Council's Sewerage Treatment Plant**

The Murwillumbah Sewerage Treatment Plant (STP) is located to the north of the Development and Council infrastructure is approximately 230 metres from the nearest residential allotment. Existing dwellings in Frances Street are located approximately 170 metres from the STP. The North Coast Regional Environmental Plan 1988 references the need for a 400 metre buffer between residential development and STP's when preparing Local Environmental Plans unless Council has assessed the extent of the hazard and included provisions in the plan to minimise adverse impacts from odour.

Council has undertaken augmentation work on the STP which resulted in the odour sources from the inlet works and extended aeration treatment units being covered and relocating the treatment units further to the north. These works were deemed to be satisfactory by the Public Works for the existing residents. As such it is considered the buffer of 230 metres to the nearest residential allotment as provided in the Master Plan is satisfactory.

- **Buffers to Agricultural Lands**

The potential for conflicts between the future residential area and the agricultural activities would need to be addressed and considered for development over the site. There may be an intention to no longer farm the remaining paddocks and thereby remove the conflicts or alternatively the activities and their management in relation to conflicts will need to be addressed.

It is noted that the agricultural land in this location is an isolated portion of agricultural land and with the Rous River and urban development limiting the potential for agricultural production and expansion of this site.

- **Buffers to Rous River**

The Visual Assessment prepared by EDAW Gillespies makes reference to the Riparian Flora and Fauna Assessment Prepared by James Warren and Associates. James Warren and associates highlight the need for a Soil and Water Management Plan due to the potential for hydrological and water quality impacts during constructional and operational phases of the development.

A vegetative buffer to Rous River is advised with formal walking trails established to prevent the formation of informal tracks and subsequent impacts to the river. Vegetative buffers should include plant species that will provide compensatory habitat for native fauna as well as within the water treatment area and landscaping plants. The plantings should be at the three to every one Tallowood tree removed.

There may be the opportunity to provide for connections along the Rous River and then onto a more extensive cycleway/footpath system into town.

Flooding

The land has been identified as being partly flood prone. The applicant has adopted a level of 6.0 metres AHD as the 1:100 year level flood event and has proposed to fill as a minimum to this level. A full flood impact statement in accordance with Development Control Plan No. 5 – Development of Flood Liable Land will be required with the development application to demonstrate filling of this area does not have an adverse impact upon the surrounding properties and the floodplain.

Stormwater Quality

The proposed subdivision would drain by gravity in a northerly direction to the north east of the site. Site runoff now discharges from the site in an artificial “cane” drain that exits in a northerly direction from the site onto the Murwillumbah Sewerage Treatment Works Site and then continues around the north of Murwillumbah to junction with Mayal Creek.

The “cane” drain that carries runoff from the site is not a natural watercourse and is not contained in a drainage easement. It appears therefore that the site does not have a “lawful point of discharge” as required by section 4.2.3 of DCP16. A requirement of master plan approval would be that a future subdivision provide a “lawful point of discharge”. This may require the acquisition of a drainage easement over downstream flow paths from the subject site and details to be provided with future subdivision.

Internal drainage is a matter of detailed design for the Development Application and Construction Certificate stages and is adequately regulated by DCP16 and associated specifications.

The master plan proposes treatment of subdivision stormwater runoff in wetlands at the north east of the site. Provided they are designed and sized in accordance with Council’s specifications and the Tweed Urban Stormwater Quality Management Plan, this would be satisfactory. The area proposed for wetlands could be used as part of an interconnected open space network and also connected into the riparian zone and pedestrian network.

The public submissions raised concern with the water quality ponds and refer to Knox Park pond as an example of what is envisaged will occur on the site.

The proposed stormwater quality treatment ponds are to treat stormwater runoff from the subdivision, prior to discharge off the site. This is a mandatory requirement for subdivisions over 50 lots since Council adopted the Tweed Urban Stormwater Quality Management Plan in April 2000. Council's Design Specification D7 requires designs for ponds that eliminate mosquito and health hazards. The Knox Park pond was never designed for this purpose and its configuration is not in accordance with current best practice and design criteria for water quality wetlands contained in Council's Design Specification D7.

It is also noted that some of the public submissions requested that the urban stormwater quality management facility be located away from existing residents to reduce amenity impact. The revised Master Plan relocated this facility further away from existing residents.

Essential Services

Water

Submissions have raised concern about the impacts of the development on water pressure for existing dwellings in the area. Council's Water Supply and Sewerage Design Engineer advises this can more appropriately be addressed at the DA stage when modelling of the impacts of the subdivision on the water supply network would be required. If this exposes problems then the developer will be required to carry out appropriate augmentation works which could involve interconnecting the area to existing mains in West End Street and in Joshua Street.

Sewer

Capacity exists in the Council's infrastructure to cater for this development with the sewerage treatment plant located to the north of the development.

Flora and Fauna

The site has been substantially altered from its natural state from past grazing and cane farming activities. Areas surrounding the existing dwelling contain remnant eucalypt species identified by the applicant as tall open Woodland, while a swampy low lying area is identified as a Low Lying Ephemeral Wetland. The applicant has provided Council with a Copy of the Flora and Fauna Assessment which has been prepared for a future development application. The report found that no threatened flora or fauna species were identified on the site, however the old – growth tallwood trees found in the tall open woodland may provide hollows suitable for a range of fauna species. No evidence of Koalas were found on the site.

As these trees are likely to be removed during earthworks on the site, it is considered appropriate a more detailed survey of these trees be carried out to ensure any hollows found do not provide habitat for threatened fauna such as the Black Cockatoo, and if so an appropriate measures be put in place to protect any threatened species.

Acid Sulphate Soils

The land is identified under Clause 35 of Tweed Local Environmental Plan 2000 as containing Class 3 Acid Sulphate Soils in the low lying area to be filled and Class 4 Acid Sulphate Soils in the area adjacent to the Rous River. The proposal is unlikely to intercept these soils and the applicant will be required to fully address the provisions of Clause 35 at the time of lodgement of the Development Application, and provide an Acid Sulphate Soils Management Plan prepared in accordance with the ASSMAC guidelines if required.

Bushfire

The subject land is in part identified as bushfire prone and accordingly a development application to subdivide the land would require a Bushfire Safety Authority from the NSW Rural Fire Services. The development application would need to address the integrated development provisions of the Environmental Planning and Assessment Act 1979 and the Planning for Bushfire requirements for the development application to subdivide.

Submissions by the Public

In addition to the 31 submissions and petition containing 123 signatures from the original public exhibition of the Master Plan, a further 24 written submissions were received. These were provided following the public meeting as follow up submissions and in addition to submissions already received. The community representation at the public meeting was significant with approximately 125 people in attendance.

In addition to the issues identified above the public submissions raised concern to the general change in residential amenity through the provision of further residential housing in an area currently open agricultural land. The changes in amenity are generated by the outlook from property, more vehicles in the local area and associated noise, changes to privacy and the local area generally. Also it is noted that the residents of West End Street have raised objection in relation to the potential connection to their street and additional vehicles in the area. Other issues raised include:

- Inappropriate residential densities
- Lack of Buffers to Agricultural land
- Poor public access to the Rouse River
- Impacts from Dust and noise during construction
- Unknown hazards from the proposed water quality control ponds
- Lack of information in relation to flora and fauna
- No Environmental Impact Study
- No Socio Economic Assessment
- Poor water pressure
- Inadequate Open Space Areas.

Submissions by State Government Agencies

Council received written advice from Department of Infrastructure Planning and Natural Resources, Environment Protection Authority and Department of Agriculture. The state government agencies raised many of the issues identified in this report in their comments.

OPTIONS:

1. Advise the applicant in accordance with the recommendation.
2. Adopt the Master Plan as submitted.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

As the Master Plan is not a development application the applicant does not have any rights of Appeal under the Environmental Planning and Assessment Act 1979.

This report does not support the Master Plan as submitted, however details necessary changes to enable the Master Plan to be adopted. Upon receipt of a revised Master Plan detailing the changes contained in the recommendation final endorsement of the Master Plan may occur and subsequent development application may be lodged with all the information required for assessment.

POLICY IMPLICATIONS:

The proposed Master Plan raises a policy implication for the Tweed Local Environmental Plan 2000 in that it highlights the need for the adjoining land and submission in relation to the suitability of its zoning. The proposed Master Plan includes uses in the Agricultural Protection zone that are an ancillary requirement from the residential subdivision and may be supported using the variable zone boundary clause.

Consequently the need to have the adjoining land considered and assessed in relation to rezoning is raised by the Master Plan. The applicant has submitted their intention to proceed in the future to rezoning investigations over the Agricultural Protection zoned land.

Council will need to proceed to amend the Tweed Road Contribution Plan to include the West End Street connection and accordingly it is recommended that a report be brought forward addressing this.

CONCLUSION:

It is considered from the assessment of the Master Plan that it should not be supported in its current layout and that a revised Master Plan providing construction access off Joshua Street and to only detail the subdivision layout over the land zoned for residential purposes would be supported. Upon receipt of a Master Plan detailing the recommended changes the applicant may be advised that such is supported and commence towards the lodgement of a development application.

UNDER SEPARATE COVER:

Nil.
