



2A Carrington Street  
PO Box 1134  
LISMORE NSW 2480

Tel (02) 6627 5600  
Fax (02) 6621 7664

email: [info@landpartners.com.au](mailto:info@landpartners.com.au)  
[www.landpartners.com.au](http://www.landpartners.com.au)

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## Local Environmental Study

**Draft Tweed Local Environmental Plan 2000  
(Amendment No. 35)**

**Lot 14 DP 733411, Lot 1 DP 9042  
& Part Lot 6 DP 9042  
Dry Dock Road, Tweed Heads South**

**5 November 2008**

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Lisa King  
Project Manager, LandPartners



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## Executive Summary

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*This LES has been prepared to evaluate the Tweed Shire Council's decision to prepare an enabling clause for a prohibited use (caravan park) in a 2(a) Low Density Residential zone. The subject site is Lot 6 in DP 9042, Lot 1 in DP 9042 and Lot 14 in DP733411, Dry Dock Road, Tweed Heads South.*

*The LES considers a number of environmental and planning issues including;*

- Environmental constraints;*
- The NSW Coastal Policy 1997;*
- Flooding;*
- Aircraft noise;*
- Aboriginal cultural heritage values; and*
- Bushfire.*

*The proposed development encompasses extensions to the adjoining park including retail shops, parking, community buildings, reception, caravan sites, and tourist cabin accommodation. These principal and ancillary uses are collectively defined as a "caravan park".*

*Council resolved to consider the amendment at its ordinary meeting of 6 November 2002 and notified the following NSW authorities:*

- PlanningNSW*
- Department of Land & Water Conservation*
- Department of Mineral Resources*
- National Parks and Wildlife Service*
- Roads and Traffic Authority*
- Environmental Protection Authority*
- NSW Agriculture*

*The subject site has an area of approximately 1.6 hectares, is largely clear of significant vegetation (apart from a clump of trees directly adjacent to Dry Dock Road in the northwestern corner of the site) and is flood liable. The site adjoins a bushfire hazard and is affected by the Coolangatta Airport flight path.*

*Land to the east of the site is developed with residential flats and little vegetation. Land to the north fronts Dry Dock Road and then the Tweed River. Land to the south contains the existing Tweed Billabong Holiday Park.*

*The land to the west is bordered by a tidal drain and, after the tidal drain, is vegetated for a distance of 100 metres until it reaches the Pacific Motorway. The land to the west is undeveloped and contains vegetation classified as "Coastal Forest Red Gum Open Forest to Woodland" in the Tweed Vegetation Management Strategy 2004.*

The main findings of the LES are:

- The proposed development for the tourist accommodation, shops and caravan park is consistent with the primary and secondary objectives of the 2(a) zone within the Tweed LEP 2000, the North Coast Regional Environmental Plan and relevant Section 117 Directions.
- The site is zoned for residential development (low density) and the site will need to be filled to raise floor levels above flood heights.
- The Tweed Billabong Holiday Park is commercially viable and has imposed a high standard of management recognised by industry awards.
- Future caravan sites, shops and tourist accommodation are compatible with the existing adjoining development in terms of landuse, size and scale.
- There is now no high conservation value vegetation on the site.
- An appropriate buffer (and other bushfire protection measures) between the site and adjoining bushfire hazard to the west must be incorporated into site design.
- The site can be filled without causing a detrimental impact on flood levels in the vicinity of the site.
- Tourism is a recognised boost to the Shire's economic development, employment generation and retention of the Tweed as a holiday destination.
- Traffic generation caused by the proposal will have an inconsequential impact upon the traffic carrying capacity of Dry Dock Road, while creating an opportunity to better manage traffic in nearby Holden Street.
- Appropriate stormwater management and erosion & sedimentation controls will prevent detrimental effects on nearby waterways.
- Aircraft noise controls will be required to combat potential nuisance due to proximity of the Coolangatta Airport flight path in accordance with AS 2021.
- There is little likelihood of the site containing contaminated or acid sulfate soils.

It is recommended that the proposed amendment to the LEP be made. Any future application for development consent should consider the following environmental issues;

- Contaminated Land;
- Bushfire Protection;
- Stormwater Management;
- Landscaping – use of natives and weed removal;
- Urban Design;
- Fill – source and effects on adjacent land;
- Erosion and Sedimentation Control;
- Effects on threatened flora and fauna;
- Acid Sulphate Soils; and
- Compliance with AS 2021.

It is also recommended that Council obtain written advice from the RFS as per paragraph (4) of Section 117 Direction No. 19 “to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the draft local environmental plan.”

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## **1. Introduction and Background**

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### **1.1 Purpose of the Study**

The *NSW Environmental Planning and Assessment Act 1979* (EP&A Act) sets out the process to amend Local Environmental Plans (LEPs). This process incorporates the preparation of a Local Environmental Study (LES).

The LES is a bringing together of information in order to set a future direction for land use control.

The specific purpose of this LES is to evaluate the Tweed Shire Council's decision to prepare an enabling clause for a prohibited use (caravan park extensions) in a 2(a) Low Density Residential zone.

### **1.2 Proposed Development**

The proposed development encompasses extensions to the adjoining park including retail shops, parking, community buildings, reception, caravan sites, and tourist cabin accommodation.

The application requests an amendment to Schedule 3 of the LEP to permit the above uses rather than a zoning change.

A conceptual layout is shown at Figure 1 in Appendix 1. It includes:

- Retail shops (approx 300m<sup>2</sup> gross floor area)
- Parking area (approx 22 spaces)
- Community building
- Reception/ Admin building
- Visitor parking (approx 16 spaces)
- Car/ caravan standing area
- 47 cabins
- 10 caravan sites

These principal and ancillary uses are collectively defined as a "caravan park".

### **1.3 Study Area**

This LES is focused on Lot 14 DP 733441 and Lots 1 & 6 DP 9042, Dry Dock Road, Tweed Heads South.

The location of the site is shown on Figure 2 (Appendix 1).

The subject site has an area of approximately 1.6 hectares and a street frontage to Dry Dock Road of 66 metres. The site is located on the southern side of Dry Dock Road and opposite Terranora Creek.

The land to the east of the site is residential land (cluster housing) and the Tweed Billabong Holiday Park is located on adjoining land to the south. The land to the west is vacant.

The site is generally cleared of trees apart from a cluster of native and exotic species (predominantly large trees) in the northwestern corner of the site adjoining Dry Dock Road. A single storey dwelling house is also located to the east of the vegetation (within Lot 1 DP 9042).

The site is privately owned vacant land, apart from the one residence mentioned above that is rental accommodation. The existing land owners have owned the site for many years.

The site is bounded to the north by Dry Dock Road and Terranora Creek, the south by the Tweed Billabong Holiday Park (which has the same landowners), the east by medium density development (Lot 12 DP 733411) and a single private dwelling (Lot 13 DP 733411), and the west by an undeveloped vegetated lot (Lot 719 DP 820030).

Vehicular access to the site is directly from Dry Dock Road.

All utility services – water, sewerage, electricity, telephone are available to the site.

The existing lot layout is shown on Figure 3 (in Appendix 1).

## **1.4 Background to this Study**

### **1.4.1 Planning Instrument**

The subject site is zoned 2(a) Low Density Residential under the Tweed LEP 2000.

The 2(a) zone does not permit development for the purpose of caravan parks, camping grounds, shops and tourist accommodation.



## 1.4.2 Draft LEP Amendment No. 35

In June 2002 Council received an application from the owners of the subject site seeking an amendment to the Tweed LEP 2000 to facilitate development of the subject site for the purposes of tourist accommodation, shops, a caravan park, and camping ground.

The application did not seek to rezone the site in order to permit the development. No change to the current zoning is being sought, rather an enabling clause is proposed for the inclusion in Schedule 3 of Tweed LEP 2000 to facilitate the proposed development.

Council considered the 2002 application at its ordinary meeting held 6 November 2002 and, pursuant to Section 54 of the EP&A Act, resolved the following:

*“Subject to the proponents submitting to Council a satisfactory Traffic Impact Assessment, advises there are no adverse traffic impacts arising from the proposed development, Council informs the Regional Director of Planning NSW that, in accordance with Section 54 of the Environmental Planning and Assessment Act, 1979, it intends to prepare a draft Local Environmental Plan to amend Tweed Local Environmental Plan 2000 to include an enabling clause in Schedule 3 Development for the purposes of tourist accommodation, caravan park, camping ground and shops at Lot 14 DP 733411, Lot 1 DP 9042 and part Lot 6 DP 9042, Dry Dock Road, Tweed Heads South.”*

Consultation in accordance with Section 62 of the EP&A Act was undertaken and it was determined by the Director-General that a LES was required.

A Development Application (DA) was lodged for the clearing and filling of the land in October 2003. The DA was forwarded to several government agencies that expressed concern, requested further information or recommended refusal. The DA was subsequently withdrawn.

The applicant withdrew the application for an amendment to the Tweed LEP 2000 in June 2004.

The site was cleared of all vegetation in or around October 2005 on advice from the Rural Fires Service and Council that bushfire protection measures did not require approval.

In February 2006 the application for amendment of the Tweed LEP 2000, via an enabling clause in Schedule 3, to facilitate development of the subject site for the purposes of tourist accommodation, shops, a caravan park, and camping ground was relodged. The Traffic Impact Assessment as requested in Council’s resolution of 6 November 2002 was lodged on 30 March 2006.

Council consulted with the Department of Planning in February 2007 and confirmed that an LES was still relevant and required. The LES was commissioned by Council and funded by the applicant.

## **1.5 Consultation with Public Authorities**

Following Council's decision to support the preparation of an enabling clause, Council notified the following NSW authorities:

- PlanningNSW
- Department of Land & Water Conservation
- Mineral Resources NSW
- National Parks and Wildlife Service
- Roads and Traffic Authority
- Environmental Protection Authority
- NSW Agriculture

A summary of each authority's response is as follows:

### **1.5.1 PlanningNSW**

PlanningNSW (now the Department of Planning) advised Council on 16 December 2002 that an environmental study is required and that regard should be had to the NSW Government Coastal Policy, the North Coast Regional Environmental Plan and in particular flooding, acid sulphate soils, airport noise and the protection of natural vegetation and wildlife.

The LES should be prepared in accordance with the following specifications:

- *"To identify areas on the subject land that contain stands of Coastal Forest Red Gum and ensure that these areas are designated an appropriate environmental protection zone;*
- *To identify areas on the subject land that form part of the subregional corridor and which contain the Koala food tree species as listed on Schedule 2 of SEPP 44 and ensure that these areas are designated an appropriate environmental protection zone;*
- *To identify possible flooding levels on the subject land and provide justification for the proposed intensification of development on the land that is known to be flood liable. Any amelioration measures, including filling, should be assessed for their effect on surrounding land that is presently flood free;*
- *To provide justification for the proposed intensification of development on the subject land that is known to be affected by high airport noise levels and to provide amelioration measures to minimise the adverse impact of this noise; and*
- *To make an assessment of the NSW Government Coastal Policy (on the) proposal."*

## 1.5.2 Department of Land and Water Conservation (DLWC)

DLWC (now incorporated into the Department of Environment and Climate Change) noted on 9 December 2002 that the site is flood liable and filling to 2.65m AHD would be required to comply with Council's Development Control Plan No. 5 (DCP 5, now Section A3 of the Tweed Consolidated DCP).

The Terranora / Tweed Heads Flooding Investigation 1980 found that large scale filling of the floodplains between Banora Point and South Tweed Heads could increase the 1:100 year flood levels upstream of Barneys Point Bridge by 5cm. On the basis of this investigation, DLWC *"would consider the proposed fill to have negligible impact on mainstream flooding"*.

DLWC also stated that future residents should be aware of suitable evacuation routes from the subject site and local area in the event of an extreme flood event, in particular from a cyclone storm surge.

DLWC required that development on the floodplain should be in accordance with the NSW Government's Flood Prone Land Policy.

Council was put on notice that any development within 40 metres of a riverbank requires a 3A Permit under the *NSW Rivers and Foreshores Improvements Act 1948*.

In addition, the DLWC advised Council that the proposed development should be subject to the following conditions:

- *"Provision of adequate sediment and erosion control measures during construction;*
- *Disturbed areas of the site shall be stabilised by grassing or revegetation on completion of construction activities;*
- *Provision and implementation of an adequate stormwater management plan;*
- *Landscaping shall utilise local native plant species;*
- *Existing planted invasive exotic species on the site should be removed and appropriately disposed of."*

## 1.5.3 Department of Mineral Resources

The Department was satisfied with the amendment as per correspondence dated 29 November 2002.

## 1.5.4 National Parks and Wildlife Services (NPWS)

NPWS (now the Department of Environment and Climate Change) reminded Council on 25 November 2002 that consultation between Council and themselves should be undertaken in accordance with Section 34A of the EP&A Act if, *"in the*

*opinion of Council, critical habitat or threatened species, populations or ecological communities, or other habitats will or may be affected by the draft LEP”.*

NPWS advised that the subject land supports remnant Coastal Forest Red Gum and this vegetation has been identified as having high ecological status.

In addition, the site forms part of a subregional corridor containing Koala food trees (Forest Red Gum) listed in Schedule 2 of SEPP 44 – Koala Habitat Protection.

Pursuant to Clause 29(c) of the North Coast Regional Environmental Plan 1988, areas of “*significant natural vegetation and/or habitat*” should be in an appropriate environmental protection zone.

### **1.5.5 Roads and Traffic Authority (RTA)**

The RTA had no objections on 25 November 2002 to the proposal subject to a “*Traffic Study’ being undertaken that justifies proceeding with the proposed development*”.

### **1.5.6 Environment Protection Authority (EPA)**

The EPA (now Department of Environment and Climate Change) raised concerns on 21 November 2002 about flooding and the need for compliance with the Section 117 Direction on Flood Liable Land. The EPA required information on the importation of fill, likelihood of importing contamination or potential acid sulphate soils; flood heights and flood flows.

In addition, the EPA seeks information on increased stormwater runoff, stormwater treatment, impacts upon the aquatic environment, water pollution, the impact of a population density increase upon adjoining residential areas by increased noise, traffic flows and litter. They wish to know what will be the cumulative impact of these issues.

### **1.5.7 NSW Agriculture**

NSW Agriculture (now the Department of Primary Industries) had no objections or comments as expressed in correspondence dated 21 November 2002.

## **2. Existing Environment**

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### **2.1 General Description**

The subject site has an area of approximately 1.6 hectares, is largely clear of significant vegetation (apart from a clump of trees directly adjacent to Dry Dock Road in the northwestern corner of the site) and is flood liable requiring the site to be filled prior to any further development.

There are three allotments that comprise the site; Lot 6 in DP 9042, Lot 1 in DP 9042 and Lot 14 in DP 733411.

Lot 6 in DP 9042 is a narrow strip of land that contains a drain along the southern and western boundaries of the site.

Lot 1 in DP 9042 has an area of approximately 7200 square metres. This allotment contains an existing dwelling, garage and all remaining trees.

Lot 14 in DP 33411 has an area of approximately 7100 square metres and is vacant.

At the rear of the site is an easement for sewer pipeline.

The site has a concrete block retaining wall along both the eastern and southern boundaries.

The land generally grades from Dry Dock Road frontage to an open drain at the rear of the lots. The drain empties into Terranora Creek.

The existing residence and outbuildings are to be demolished. Existing ground levels range from 1.00m AHD to 1.5m AHD across the site.

The lots that comprise the subject site are shown on Figure 3 in Appendix 1.

### **2.2 Surrounding Land Uses**

Land to the east of the site is developed with residential flats and little vegetation.

Land to the north fronts Dry Dock Road and then the Tweed River.

Land to the south contains the existing Tweed Billabong Holiday Park.

The land to the west is bordered by a tidal drain that extends for the length of the site. The land to the west, after the tidal drain, is vegetated for a distance of 100 metres until it reaches the Pacific Motorway. The land to the west is undeveloped and contains vegetation classified as “Coastal Forest Red Gum Open Forest to Woodland” in the Tweed Vegetation Management Strategy 2004.

Lot 13 in DP 733411 adjoins the north-eastern corner of the site. This site contains an existing dwelling and the impact of filling the subject land needs to ensure this neighbour is not flooded.

Figure 4 depicts the locality in the vicinity of the site.

## **2.3 Flooding**

A Flooding Assessment has been undertaken by Cardno and is appended (Appendix 2). The report prescribes design requirements for different uses at the site, with reference to Council’s DCP 5 (Section A3 of the Consolidated DCP), and states that the proposed cabins would require the land to be filled to 2.65m AHD, however caravan (and camping) sites could remain at the current level providing caravans could be relocated on short notice in the event of flooding and a suitable evacuation plan was prepared for the site.

Section A3 of the Consolidated DCP also recommends that commercial development make adequate provision for flood free storage areas for stock and equipment susceptible to water damage and that areas below Council's adopted minimum flood level not be enclosed and that the free flow of floodwaters be permitted at all times. These provisions will apply to the proposed shop.

The report concludes that the proposed development of the subject site will *“have minimal effect on flooding in the area.”*

The primary objective of the NSW Government’s Flood Prone land Policy (from the Floodplain Development Manual 2005) is to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods, utilising ecologically positive methods wherever possible. Implementation of the design requirements in the Flooding Assessment (Appendix 2) enables compliance with the aforementioned objective.

## 2.4 Flora and Fauna

The existing vegetation is described by Darryl Anderson Consultancy Pty Ltd (Statement of Environmental Effects (October 2003) for proposed filling of the site) as closed grassland to closed forest. The owners regularly slash the site.

No threatened flora (as listed under the *NSW Threatened Species Conservation Act 1995*) or Rare or Threatened Australian Plants (ROTAP) have been recorded on site (Flora and Fauna Assessment, ASPECT *north* July 2003).

A search of the NPWS Atlas of NSW Wildlife in July 2003 identified twenty three (23) threatened fauna species (as listed under the *NSW Threatened Species Conservation Act 1995*) recorded within a five kilometre radius of the site. None of these were recorded at the site.

The site is mapped as “Coastal Forest Red Gum Open Forest to Woodland” in the Tweed Vegetation Management Strategy 2004.

The site is also identified as part of a subregional corridor in the Key Habitats and Corridors mapping by the NPWS.

The site is now cleared of the majority of significant vegetation (undertaken in approximately October 2005) except a small stand of both exotic and native vegetation around the dwelling in the northwestern corner of the site. Photographs of the remaining vegetation on the site are included in Appendix 1.

A list of remaining vegetation is given in Table 1.

Table 1. Vegetation on the Site April 2007

Scientific Name	Common Name	Exotic/ Non-endemic or Native
<i>Macaranga tanarius</i>	Macaranga	Native
<i>Ficus elastica</i>	Rubber Tree	Non-endemic
<i>Mangifera indica</i>	Mango	Exotic
<i>Schefflera actinophylla</i>	Umbrella Tree	Exotic
<i>Syagrus romanzoffiana</i>	Cocos Palm	Exotic
<i>Lophostemon suaveolens</i>	Swamp Mahogany/ Turpentine	Native
<i>Ficus obliqua</i>	Small-leaved Fig	Native
<i>Cryptocarya triplinervis</i>	Three-veined Cryptocarya	Native
<i>Cupaniopsis anacardioides</i>	Tuckeroo	Native

As the majority of vegetation has been removed from the site, the site has little habitat or corridor value. There is some potential for regeneration of the site from the native vegetation on the adjoining site to the west. However any natural recruitment from the adjoining site is likely to be seriously impacted upon by the current land management practise i.e. slashing. Subsequently it is unlikely native vegetation will regenerate on the site while the existing use of the land continues by the current land owners.

If slashing of the site was to cease and natural recruitment was supplemented through some planting of suitable endemic species, it is possible, over time, to recreate the vegetation community that previously existed on the site and in the surrounding area. However it is likely that any vegetation re-established on this site would be negatively impacted upon by the surrounding urban landscape and, as the site is relatively isolated from other significant areas of native vegetation, it would, even if restored, provide mainly stepping stone habitat with little long term or corridor value.

#### **2.4.1 State Environmental Planning Policy No. 44 – Koala Habitat Protection**

State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44) prevents Councils from approving developments in areas affected by the Policy without an investigation of the core Koala Habitat. Tweed Local Government Area is identified in SEPP 44 as an area to which the Policy applies.

The ASPECT *north* Flora and Fauna Assessment 2003 identified the presence of *Eucalyptus tereticornis* (Forest Red Gum), a SEPP 44 Schedule 2 Koala feed tree, at the site. It also noted that Koalas have not been observed in the area since the Pacific Highway bypass was constructed and there was no sign of Koala habitation at the site. The likelihood of Koalas inhabiting the site at the time of this assessment is further reduced since all eucalypts on the site have been removed.

#### **2.4.2 NSW Threatened Species Conservation Act 1995**

An “eight part test” was completed by ASPECT *north* in July 2003 to determine if a Species Impact Statement would be necessary for the proposed filling of the site.

None of the threatened flora found in the locality were considered likely to be found on the site. However, six threatened fauna species were considered possible. They are:

- Barred Cuckoo-shrike      The site does not provide ideal foraging habitat due to the lack of fruiting rainforest trees. The site is also unlikely to be



used for nesting nor is it likely that development of the site would place a local population at risk of extinction.

- **Beccari's Freetail Bat**      The site is not considered suitable nesting habitat. The site area is small and unlikely to be an important foraging resource.
- **Koala**      There have been no Koala recordings since the early 1990s.
- **Mangrove Honeyeater**      The site has only marginal foraging habitat that is not in close proximity to preferred habitat, i.e. mangroves.
- **Black Flying Fox**      The low density of suitable habitat and foraging vegetation means this site (and the adjacent site) is unlikely to be an area sought out by the flying fox.
- **Grey-headed Flying Fox**      The low density of suitable habitat and foraging vegetation means this site (and the adjacent site) is unlikely to be an area sought out by the flying fox.

The proposed filling of the site above flood levels and possible future development as a caravan park is not likely to have a significant effect on threatened species of flora and/or fauna.

The likelihood of threatened flora or fauna utilising the site is further reduced since the removal of all (or the majority) of native vegetation on the site. Nevertheless, as the adjacent site is vegetated, the impacts of development of the site, on both the site and surrounds, should be investigated as part of any future application for development consent.

### **2.4.3 NSW Fisheries Management Act 1994**

None of the threatened aquatic and marine species listed under the Act or marine vegetation are considered possible or likely to be found at or on the subject site. Therefore it is unlikely the proposed development will impact upon any aquatic or marine species.

However management of stormwater and erosion & sedimentation control will be important to control potential adverse impacts to adjacent waterways from pollutants.

#### **2.4.4 Commonwealth Environment Protection and Biodiversity Conservation Act 1999**

The site is not a World Heritage property. The site is not a RAMSAR Wetland, nor does it provide high conservation value for migratory species. The proposed development will not negatively impact on any Matter of National Environmental Significance as listed under the Act.

### **2.5 Visual Analysis**

The subject land does not have major prominence when reviewed from Dry Dock Road.

The site is cleared of trees and vegetation on the land does not soften the impact between the built environment to the south and east and the natural environment to the west.

The site has a low visual quality ranking however use of appropriate landscaping and urban design principles will ensure the proposed development does not detract from existing and improves future visual amenity. Consideration of these issues should be included in any future application for development consent.

### **2.6 Utility Services**

#### **2.6.1 Water**

Water infrastructure is available in the locality and is adequate for the proposal.

#### **2.6.2 Sewer**

Sewer infrastructure is available in the locality and is adequate for the proposal.

#### **2.6.3 Telecommunications & Electricity**

Telecommunications & electricity infrastructure is available in the locality and is adequate for the proposal.

## **2.7 Traffic**

TTM (Consulting) G C Pty Ltd completed a traffic impact assessment dated 29 March 2006.

The assessment examined existing traffic conditions, proposed future traffic and traffic generated by the proposed caravan park versus the expected traffic under the residential 2(a) zoning.

The traffic assessment concluded that the proposed development will generate approximately 215 vehicles per day and 21 vehicles per peak hour onto Dry Dock Road. The traffic generation is expected to be similar to that if the site was developed in accordance with the zoning (which could potentially yield 19 dwellings).

The development will have *“an inconsequential impact upon the traffic carrying capacity of Dry Dock Road”* and *“will provide the opportunity to improve the amenity of Holden Street which is significantly impacted upon by the Tweed Billabong Holiday Park”*.

The proposal is for all or the majority of existing traffic to and from the Tweed Billabong Holiday Park to Holden Street to be redirected to Dry Dock Road. This would significantly improve the amenity of Holden Street.

## **2.8 Bushfire**

A Bushfire Threat Assessment was undertaken by ASPECT *north* in July 2003. The Assessment was undertaken to accompany the DA for clearing and filling of the site. It recommended an Asset Protection Zone (APZ) of 20m on the western side of the site i.e. adjacent to the hazard.

Peter Parker (August 2004) contended that a 20m APZ was not sufficient as the hazard vegetation was Open Forest/ Woodland rather than Closed Forest (as stated by ASPECT *north*).

With reference to the new bushfire policy, Planning for Bushfire Protection 2006 (PfbFP), the proposed development of the site (as a Special Fire Protection Purpose) would need to incorporate:

- An adequate APZ on the hazard (i.e. western) side of the development;
- an APZ monitoring and fuel management program (APZ Management Plan);
- adequate management of other vegetation on site (eg landscaping);
- adequate access for fire fighting personnel and vehicles;

- adequate access to reticulated water for fire fighting and the safe location of electricity and gas; and
- an Emergency and Evacuation Plan.

The detailed provisions for the above are described in PfBFP. Any non-compliance or departure from the acceptable solutions given in PfBFP (some of which are listed above) must be justified and compliance with the performance criteria given in PfBFP achieved. The proposed development (refer Fig. 1 in Appendix 1) may need to be redesigned to incorporate the requirements of PfBFP.

Section 117 Direction No. 19 – Planning for Bushfire Protection states that a draft LEP “shall, where development is proposed, comply with the following provisions, as appropriate:

- (3) (a) provide an Asset Protection Zone (APZ) incorporating at a minimum:
- (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and
  - (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,
- (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the draft local environmental plan permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,
- (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,
  - (d) contain provisions for adequate water supply for firefighting purposes,
  - (e) minimise the perimeter of the area of land interfacing the hazard which may be developed,
  - (f) introduce controls on the placement of combustible materials in the Inner Protection Area, and

(4) If the draft local plan does not comply with the provisions listed in paragraphs 2 and 3, the Council must obtain written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the draft local environmental plan.”

The development proposed (refer Fig. 1) does not comply with the above provisions in paragraph (3). Liaison, negotiation and subsequent amendment of the site plans will have to be undertaken by the proponent in consultation with Council and the NSW Rural Fire Service (RFS). This can be undertaken at the approval stages in accordance with Planning for Bushfire Protection 2006. It is recommended that Council obtain written advice from the RFS as per paragraph

(4) *“to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the draft local environmental plan.”*

## **2.9 Cultural Heritage**

An archaeological assessment (Jenna Lamb – archaeologist) was undertaken of the site in September 2004. No Aboriginal sites or artefacts were found during the assessment. The assessment recommended that the following actions be undertaken if, during the course of any development of the site, Aboriginal cultural heritage materials were discovered or disturbed.

- *“It is recommended that contractors undertaking the proposed development works for the Drydock Road site be made aware that the National Parks and Wildlife Act (1974) asserts it is an offence for any person to knowingly deface, destroy or damage, or permit the defacement, destruction or damage of, an Aboriginal place or relic without first having the written consent of the Director General of the NPWS.*
- *It is recommended that if any Aboriginal cultural heritage material is detected during the proposed development, the works must cease in the area, and the Tweed Byron LALC and Regional Archaeologist NPWS must be informed so that they may advise on the most appropriate course of action in this event. Works must not continue without the written consent of the Tweed Byron LALC and the NSW NPWS.”*

These matters do not hinder the LEP amendment and should be further considered at the DA stage.

## **2.10 Aircraft Noise**

The Tweed Shire Council Australian Noise Exposure Forecast (ANEF) 2020 plan locates the subject site between the 20 and 25 ANEF contours (refer Figure 5 in Appendix 1). Clause 32 of the Tweed LEP 2000 requires that Council must consider Australian Standard AS 2021-1994 (Acoustics-Aircraft noise intrusion-Building siting and construction) when deciding whether to grant consent to a caravan park between the 20 and 25 ANEF contours. AS 2021-2000 (1994 has been superseded) provides that the following building types are conditionally acceptable in the 20-25 ANEF contour range:

- Dwelling houses;
- Home units;
- Flats; and
- Caravan parks.

AS 2021-2000 lists the following elements that can be incorporated to provide protection against aircraft noise:

- Pitched roofs provide greater noise attenuation than other roof types.
- Fibrous insulation can be used as long as it is fire retardant, stable, insect and vermin resistant, non-toxic and non-corrosive. Adequate acoustic performance depends on insulation factors such as thickness, mass per unit volume, fibre diameter, and fibre disposition.
- Flexible acoustic membranes can be used as an alternative to other types of insulation.
- Acoustic windows can be utilised and should comply with the requirements of AS 2047.
- Doors can be strengthened by acoustic membrane and/ or fixing laminated glass behind existing glazing.
- Ventilation should be utilised so that structures can be maintained as air tight.

## **2.11 Acid Sulphate Soils**

The DLWC Acid Sulfate Soil Risk Mapping 1994 identifies the site as disturbed soil. Therefore there is minimal risk to the environment from exposure of acid sulphate soils. The level of risk and appropriate management should be further assessed and determined at the DA stage.

## **2.12 Stormwater Management**

Appropriate management of stormwater will be an integral component of any future development. A detailed Stormwater Management Plan should accompany any future application for development. Sufficient arrangements exist via the existing drainage network to support the proposed LEP amendment.

## **2.13 Contaminated Land**

There is little likelihood of contamination at the site. However a preliminary investigation for contamination should be undertaken, with respect to SEPP 55, if any excavation of the site is proposed.

## **2.14 Filling**

Filling of the site would be required to enable any use permitted under the current 2(a) zoning. The proposed use may be relevant in a reduced need for site filling as the retail development, car parks and caravan sites do not require fill. Therefore the proposed use could result in a saving of scarce fill resource and a reduced impact on flood movement in the locale. The availability of the fill resource and the potential for impacts on the floodplain due to filling on the site should be further assessed and determined at the DA stage.

## **2.15 Noise**

There is the potential for noise from this site to be increased due to the proposed tourist development. However it is unclear whether this noise would exceed that generated by the permitted residential use of the site (which could include up to 19 dwellings). This issue should be further assessed and determined at the DA stage.

## **2.16 Waste**

Waste should be dealt with appropriately at all stages of development i.e. during construction and operation. Kerbside waste management services, including recycling, are available to the site.

## **2.17 Cumulative Impacts**

The proposed development will add to the cumulative impact felt by the Tweed region as a result of ongoing tourism and urban expansion. However it is unlikely that these impacts would exceed those that would result from the development that would be permissible on the site under the existing 2(a) zone. Rather, the site seems a logical location for expansion of the adjoining caravan park and is in keeping with the urban and other tourist development in the locale. The proposed tourist development of this site will enable consolidation of growth in an area already impacted upon by existing residential and tourist development.

### 3. Statutory Planning Legislation

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#### 3.1 Tweed LEP 2000

The subject land is zoned 2(a) Low Density Residential. The primary objective of this zone is:

*“To provide for and maintain a low density residential environment with a predominately detached housing character and amenity”.*

The secondary objectives are:

- *“To allow some diversity of housing types provided it achieves good urban design outcomes and the density, scale and height is compatible with the primary objectives ; and*
- *To allow for non-residential development that is domestically based or services the local needs of the community, and does not detract from the primary objectives of the zone.”*

To achieve these objectives, Council permits a dwelling house on allotments of 450 square metres or greater.

The proposed density, scale and height of the development is in keeping with the surrounding development and building character and amenity. It achieves urban design diversity and allows for the needs of the local tourist community without detracting from residential environment.

The 2(a) Low Density Residential Zone permits the following developments, with the consent of Council:

- Boarding houses;
- Clubs;
- Hotels; and
- Recreation facilities.

However caravan parks, shops (other than general stores), camping grounds and tourist accommodation are a prohibited use, therefore the proposed development does not comply, hence the request for an enabling clause in Schedule 3 of the Tweed LEP 2000.



### 3.1.1 Specific Relevant Clauses in Tweed LEP 2000

#### **Clause 15 – Availability of Essential Services**

The existing infrastructure for water, sewer, communications and power is available to the subject site.

#### **Clause 32 – Aircraft Noise**

The subject site is within the flight path to Coolangatta airport and the Tweed Shire ANEF 2020 plan locates the subject site between the 20 and 25 ANEF contours (refer Figure 5 in Appendix 1).

This clause requires Council, when deciding whether to grant consent to development for the purpose of a caravan park, child care centre, hospital or educational establishment or for residential development between the 20 and 25 ANEF contours, to consider Australian Standard AS 2021-1994 (Acoustics– Aircraft noise intrusion – Building siting and construction).

AS 2021-2000 (1994 has been superseded) provides that the following building types are conditionally acceptable in the 20-25 ANEF contour range:

- Dwelling houses;
- Home units;
- Flats; and
- Caravan parks.

AS 2021-2000 lists the following elements that can be incorporated to provide protection against aircraft noise:

- Pitched roofs provide greater noise attenuation than other roof types.
- Fibrous insulation can be used as long as it is fire retardant, stable, insect and vermin resistant, non-toxic and non-corrosive. Adequate acoustic performance depends on insulation factors such as thickness, mass per unit volume, fibre diameter, and fibre disposition.
- Flexible acoustic membranes can be used as an alternative to other types of insulation.
- Acoustic windows can be utilised and should comply with the requirements of AS 2047.
- Doors can be strengthened by acoustic membrane and/ or fixing laminated glass behind existing glazing.
- Ventilation should be utilised so that structures can be maintained as air tight.

### **Clause 34 - Flooding**

The site is subject to flooding and will need to be partially filled to comply with and Section A3 of the Council's Consolidated DCP.

The objectives of Clause 34 - Flooding are:

- *"To minimise future potential flood damage by ensuring that only appropriate compatible development occurs on flood liable land ; and*
- *To minimise the adverse effect of flooding on the community".*

A Flooding Assessment Report by Cardno is annexed to this LES (Appendix 2). The report addresses:

- a) The provisions of Section A3 of the Consolidated DCP - Development of Flood Liable Land;
- b) Existing drainage at the site;
- c) The proposed works at the site; and
- d) Design requirements, with regard to Section A3 of the Consolidated DCP.

The Flooding Assessment Report concludes *"that the proposed development would have minimal effect on flooding in the area"*.

The Report also states that the subject land will require fill to RL2.65m AHD for the proposed tourist cabins or for any traditional residential housing. Camping sites and retail development will not require fill.

### **Clause 35 - Acid Sulphate Soil**

The DLWC Acid Sulfate Soil Risk Mapping 1994 identifies the site as disturbed soil. Therefore there is minimal risk to the environment from exposure of acid sulphate soils.

### **Clause 39 - Remediation of Contaminated Land**

This Clause requires that the provisions of SEPP 55 be applied to development on contaminated land. A Preliminary Contaminated Land Investigation may be required if excavation is proposed at the DA stage.

### **Clause 39A - Bushfire Protection**

This Clause requires that the proposed development implement the required bushfire protection measures as prescribed in Planning for Bushfire Protection.

### 3.1.2 Comparison Use of this Site under Zone 2(a)

The subject site is zoned 2(a) Low Density Residential. If the site were to be developed for residential development, as allowed under the zone, the whole site would have to be filled above the 1:100 year flood event to potentially accommodate up to 19 dwellings.

This may not be necessary for the proposed development as the retail development, car parks and caravan sites do not require fill. Therefore the proposed use could result in a saving of scarce fill resource and a reduced impact on flood movement in the locale.

## 3.2 North Coast Regional Environmental Plan

### **Clause 32A – Plan preparation-coastal lands**

*A draft local environmental plan which applies to any such land should:*

*(a) include provisions that give effect to and are consistent with the NSW Coastal Policy 1997, and*

#### **Comment:**

The NSW Coastal Policy 1997 does not specifically refer to caravan park development in the coastal zone; rather it recommends that tourism development in general comply with the NSW Tourism Masterplan. The proposed development is not inconsistent with the broad goals, objectives and strategic actions outlined in the Policy and helps to achieve one of the key outcomes of the Towards 2020 NSW Tourism Masterplan in that it strengthens regional tourism.

The Tourism Masterplan makes only one specific reference to caravan parks and camping grounds; namely Strategy/ Action 2.1.6 which states:

*“Review controls and regulations relating to caravan parks and camping grounds to achieve improved urban design and landscaping outcomes, and reinforce the traditional role of caravan parks as supplying short-term visitor accommodation.”*

The proposed development can provide improved urban design and landscaping outcomes.

*(b) not remove from existing controls applying to any such land any requirement for the concurrence of the Director for consent to development in coastal protection zones, and*

#### **Comment:**

The LEP amendment proposed does not remove any requirements for concurrence.

*(c) prohibit development of buildings or other structures, except those required for erosion control works or beach management, on dunes, beaches or headlands not occupied by buildings or other structures, and*

**Comment:**

Not applicable.

*(d) when development applications are being determined, require consideration of the possibility of higher sea levels caused by climatic change, and*

**Comment:**

The LEP amendment proposed does not remove any requirements for consideration of sea level rise.

*(e) include provisions to the effect that the council must not consent to the carrying out of development on a headland on which buildings are already situated, except where:*

- (i) the height and scale of any buildings that will result from carrying out the development will be no greater than those of the buildings already on the headland, and*
- (ii) an environmental assessment has been carried out including an assessment of the visual impact of the proposed buildings from other headlands within sight of the headland on which the development is proposed to be carried out, and*
- (iii) the proposed development is considered by the council to have a low environmental impact.*

**Comment:**

Not applicable.

**Clause 39 – Plan preparation-retail, commercial or business activities**

Clause 39 states *“a draft local environmental plan should not provide for the establishment of significant retail, commercial or business development unless:*

- (a) the expansion is adjacent to or adjoins the existing commercial centre, or*
- (b) if the expansion is not adjacent to or adjoining the existing centre, that development is in accordance with a commercial/retail expansion strategy prepared by the council, published for public discussion and:
  - (i) be available, without charge, for public inspection and comment at the office of the council during normal office hours, and*
  - (ii) be forwarded by the council for their information to such public authorities as, in the opinion of the council, have responsibilities reasonably requiring them to be aware of the strategy.”**

The proposal retail development is not adjacent to an existing commercial centre or in accordance with a commercial/ retail strategy however, the retail/commercial facilities proposed are only to service the needs of the existing Tweed Billabong Holiday Park and the additional tourist numbers generated by the

proposed expansion. It does not constitute a significant retail, commercial or business development.

It is anticipated that the future retail area will incorporate a general store with a small eat-in or take-away food facility catering to the needs of the development and local residents.

**Clause 70 - Plan preparation – principles for location of tourism development**

A draft local environmental plan that will facilitate tourism development should:

*(a) contain provisions which identify and protect important natural features and ecosystems of the region, and*

**Comment:**

There are no important natural features or ecosystems on the site. Protection of important natural features of the adjacent site (Lot 719 DP 820030) and other surrounding areas must be considered in any future application for consent to develop the site. Adjoining waterways can be protected via appropriate stormwater, erosion and sedimentation controls. This can also be further addressed at the DA stage.

*(b) permit large scale resort development with permanent residential accommodation only in, or immediately adjacent to, prime tourism development areas, and*

**Comment:**

Not applicable.

*(c) permit in rural or environment protection zones small scale or low key tourism development only, and*

**Comment:**

Not applicable.

*(d) have regard to the North Coast Region Tourism Development Strategy and the Tourism Development Along the New South Wales Coast: Guidelines.*

**Comment:**

The North Coast Region Tourism Development Strategy was prepared by the Tourism Commission of NSW in 1987. The Strategy provides a framework to encourage orderly development of tourism in an environmentally sensitive way. The proposed development is not inconsistent with the broad objectives of the Strategy, however it does not specifically refer to caravan parks or camping grounds. The planning and development strategy for the Tweed Heads – Kingscliff area is the development of additional resorts, hotels, clubs and apartments.

Tourism Development Along the New South Wales Coast: Guidelines 1992 have been superseded by the Coastal Design Guidelines for NSW (2003). The Coastal Design Guidelines do not specifically refer to caravan park development; however the general principles outlined for the coastal city of Tweed Heads can be incorporated into the development design.

### **3.3 State Planning Policies**

State Environmental Planning Policies (SEPPs) that apply to the study area are listed below:-

- SEPP 11 – Traffic Generating Developments
- SEPP 21 – Moveable Dwellings
- SEPP 44 – Koala Habitat Protection
- SEPP 55 – Remediation of Land
- SEPP 71 – Coastal Protection
- SEPP (Major Projects) 2005

#### **SEPP 11 – Traffic Generating Developments**

SEPP 11 rationalises consultation required in relation to traffic-generating developments. The policy establishes the RTA as the sole traffic management authority to be consulted before a local council approves a traffic generating development.

The proposed development is a traffic generating development as described under Schedule 2 of the SEPP, being:

*“h) tourist facilities, recreation facilities, showgrounds or sportsgrounds, in each case having accommodation for 50 or more motor vehicles or the enlargement or extension of any existing tourist facilities, recreation facilities, showgrounds or sportsgrounds where that enlargement or extension includes accommodation for 50 or more motor vehicles,”*

therefore consultation with the RTA will be required.

#### **SEPP 21 – Moveable Dwellings**

The aim of SEPP 21 is, in part, to encourage:

*“The orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominately for short-term residents (such as tourists) or for long-term residents, or catering for both.”*

A council may grant a development consent for a caravan park only after it has considered the following:-

a) *“Whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists as for long-term residences.”*

**Comment:**

The location has demonstrated its sustainability for tourists by its continuation as a successful park.

b) *“Whether there is adequate provision for tourist accommodation in the locality of the land, and whether existing or potential tourist accommodation will be displaced by the use of the sites for long-term residence.”*

**Comment:**

The subject site is located in an area that is dominated by residential development. The area has a lack of tourist accommodation, particularly caravan parks, as most parks in the vicinity appear to cater for long-term occupants.

c) *“Whether there is adequate low-cost housing or land available for low cost housing, in that locality.”*

**Comment:**

There is no known land in the locality specifically reserved for low cost housing.

d) *“Whether necessary community facilities and services are available within the caravan park to which the development applications relates, or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park.”*

**Comment:**

The Tweed Billabong Holiday Park has been owned and operated by the one family for over 30 years. The Park has won the Caravan Industry Award for the “Best Park in NSW” on a number of occasions and is regarded in the industry as one of the best parks in Australia.

In 2005, the Park won the “Tweed Business Excellence Award” in the Tourism, Hospitality and Recreation category (ten plus employees). To achieve such recognition demonstrates excellent management and the provision of community facilities and services to its patrons.

The proposed development provides the opportunity for the Tweed Billabong Holiday Park to supply more facilities and services to its residents and the surrounding area including additional parking, community buildings, retail shops and van standing areas.

**SEPP 44 - Koala Habitat Protection**

SEPP 44 seeks to conserve areas of core Koala habitat.

Previous flora and fauna studies (ASPECT *north* 2003 & Parker 2004) at the site identified the presence of Koala habitat and Koala feed tree species, however these trees have since all been removed. There is now no core or potential Koala habitat on the site.

#### **SEPP 55 – Remediation of Land**

SEPP 55 states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.

Under Clause 7 of the SEPP Council must consider contamination and remediation before giving consent to any development. A preliminary investigation will need to be undertaken as part of any future DA.

#### **SEPP 71 – Coastal Protection**

The subject site falls within land to which the policy applies i.e. a sensitive coastal location. The aims of SEPP 71 are:

- (a) To protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- (b) To protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (c) To ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (d) To protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) To ensure that the visual amenity of the coast is protected, and*
- (f) To protect and preserve beach environments and beach amenity, and*
- (g) To protect and preserve native coastal vegetation, and*
- (h) To protect and preserve the marine environment of New South Wales, and*
- (i) To protect and preserve rock platforms, and*
- (j) To manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*
- (k) To ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
- (l) To encourage a strategic approach to coastal management.*



The matters for consideration are the following:

(a) *the aims of this Policy set out in clause 2,*

**Comment:**

The proposed development is broadly consistent with the above aims.

(b) *existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*

**Comment:**

The proposal will not effect public access to the coastal foreshore.

(c) *opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*

**Comment:**

The proposal is not able to provide new public access to the coastal foreshore.

(d) *the suitability of development given its type, location and design and its relationship with the surrounding area,*

**Comment:**

The site is suitable for the development in particular when assessed with the size and scale of the adjoining residential / tourist units.

(e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*

**Comment:**

The proposed development will not overshadow the coastal foreshore. The development will not reduce the views from a public place to the coastal foreshore.

(f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*

**Comment:**

There will be no loss of scenic qualities on the coast as a result of this development.

(g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*

**Comment:**

There are no threatened species, populations or communities on the site.

- (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats*

**Comment:**

There are no threatened aquatic or marine species, populations or communities on or adjacent to the site.

- (i) *existing wildlife corridors and the impact of development on these corridors,*

**Comment:**

The site does not contain a wildlife corridor.

- (j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*

**Comment:**

Impacts from flooding will be addressed by filling the site as prescribed in Council's DCP.

- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities,*

**Comment**

The proposal will not impact on land or water based coastal activities.

- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*

**Comment**

There are no culturally significant places on the site.

- (m) *likely impacts of development on the water quality of coastal waterbodies,*

**Comment:**

The impact of the development on coastal water quality will be managed by implementing appropriate stormwater, erosion and sedimentation controls at the DA stage.

- (n) *the conservation and preservation of items of heritage, archaeological or historic significance,*

**Comment:**

There are no items of heritage significance on the site.

- (o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns*

*and cities,*

**Comment:**

Not applicable.

*(p) only in cases in which a development application in relation to proposed development is determined:*

*(i) the cumulative impacts of the proposed development on the environment, and*

*(ii) measures to ensure that water and energy usage by the proposed development is efficient.*

**Comment:**

Not applicable.

**SEPP (Major Projects) 2005**

The subject site is a “Specified Site” under Schedule 2 of the SEPP as it is; *“recreational or tourist facilities (other than internal refits of, or minor alterations or minor additions to, existing facilities):*

*(i) in the case of facilities wholly or partly in a sensitive coastal location outside the metropolitan coastal zone – that provide accommodation (or additional accommodation) for any number of persons, “*

Accordingly the proposed development will be subject to the development assessment and approval process under Part 3A of the EP&A Act.

## **3.4 Section 117 Directions & Planning Circulars**

### **Section 117 Directions**

Directions G1 to G21, and G23, G25, G26, G27 and S25 have been revoked for the North Coast Region, and are replaced by the North Coast Regional Environmental Plan REP 1988 (as amended in 1994). Applicable Directions that have been considered in this LES are:

- 1 - Acid Sulfate Soils
- 2 - Approval, Concurrence and Consultation
- 6 - Coastal Protection
- 21 - Residential Zones
- 15 - Flood Liable Land
- 19 - Planning for Bushfire Protection
- 30 - Implementation of Regional Strategies

### **Planning Circulars**

The following Planning Circulars have relevance to the site and the proposal and have been considered in the preparation of this LES:

- Planning Circular PS07-003, issued 31 January 2007. This circular provides an overview of a new guideline to the Floodplain Development Manual and changes to the Environmental Planning and Assessment Regulation 2000 and Section 117 Direction on flood prone land.
- Planning Circular PS06-013, issued 2 May 2006. This circular explains the processes that are used to identify when as LES is required for an amendment to a LEP and the information that is expected from a development proponent to support a rezoning request.
- Planning Circular PS05 - 007, issued 14 September 2005. This circular identifies commencement of updated regulations for caravan parks and acknowledges that caravan parks and camping grounds *“are important providers of affordable tourist and residential accommodation.”*

### **3.5 Far North Coast Regional Strategy**

The Far North Coast Regional Strategy (2006) guides the region’s land use for the next 25 years. The Strategy broadly identifies important natural resources, biodiversity, natural hazards, housing and employment land as well as areas for town and village growth. The Strategy also lists major regional infrastructure projects.

The Tweed is recognized as one of the two major regional centres (the other being Lismore).

The subject site is identified within the existing urban footprint of the Tweed.

### **3.6 NSW Coastal Policy 1997**

The 1997 Coastal Policy is the Government’s policy for the co-ordinated planning and management of the NSW coastal zone. The coastal zone is defined within the Policy as:

- three nautical miles seaward of the mainland and offshore islands;
- one kilometre landward of the open coast high water mark;
- a distance of one kilometre around:
  - all bays, estuaries, coastal lakes, lagoons and islands;
  - tidal waters of coastal rivers to the limit of mangroves, as defined by NSW Fisheries’(1985) maps or the tidal limit whichever is closer to the sea.

According to the above definition, the subject site is within the coastal zone.

The Coastal Policy has nine goals:

- Protecting, rehabilitating and improving the natural environment of the coastal zone.
- Recognising and accommodating the natural processes of the coastal zone.
- Protecting and enhancing the aesthetic qualities of the coastal zone.
- Protecting and conserving the cultural heritage of the coastal zone.
- Providing for ecologically sustainable development and use of resources.
- Providing for ecologically sustainable human settlement in the coastal zone.
- Providing for appropriate public access and use.
- Providing information to enable effective management of the coastal zone.
- Providing for integrated planning and management of the coastal zone.

The proposed development is not inconsistent with the above goals, their associated objectives and the listed strategic actions. Specifically, development of the site can be undertaken while:

- Not negatively impacting on water quality;
- Considering natural processes and hazards;
- Recognising climate change;
- Providing development that is complementary to the surrounding development;
- Facilitating sustainable use of resources;
- Enabling containment of existing urban development; and
- Allowing greater lifestyle and housing choice.

## 4. Impact of Proposed Enabling Clause

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This LES assesses the environmental impact of the amendment of the Tweed LEP 2000 to include an enabling clause that will allow the Tweed Billabong Holiday Park to lodge an application for approval to expand their caravan park onto their adjoining land.

Clubs, hotels, boarding houses, recreation facilities and residential development are permissible landuses in the 2(a) Low Density Residential zone. These uses would require major modification of the site when compared to the proposed development.

It is unlikely that the proposed development would have a greater effect on surrounding residents and the environment than any of the uses permitted under the current zoning. Any effects can be mitigated by utilising contemporary urban design and landscaping principles and appropriate environmental protection measures.

Environmental issues can be assessed and addressed if required in detail at the DA stage.

The expansion of the Holiday Park will permit an integrated and cohesive development of a tourist complex.

The park owners and operators have managed the Tweed Billabong Holiday Park for over thirty (30) years and have been recognised through their industry and the tourism industry as setting standards of tourism excellence.

## 5. Conclusion

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This LES has considered a number of environmental and planning issues particular to Lot 14 DP 733441 and Lots 1 & 6 DP 9042, Dry Dock Road, Tweed Heads South, including;

- Environmental constraints;
- The NSW Coastal Policy 1997
- Flooding;
- Aircraft noise;
- Aboriginal cultural heritage values; and
- Bushfire.

The proposed development of the site represents an extension to an existing adjoining land use. It is compatible with other land uses, i.e. medium density residential and tourist, in the immediate locality.

The proposed development will provide an additional and needed tourism resource for the Tweed region. The current land owners have planned for the proposed extension of their existing development for many years and are not interested in undertaking residential development of the site. The proposed use can incorporate all required environmental management requirements as effectively as a currently allowable development under the 2(a) zone.

The type and scale of the development should have little impact on surrounding residences and infrastructure.

### 5.1 Findings

The main findings of the LES are:

- The proposed development for the tourist accommodation, shops and caravan park is consistent with the primary and secondary objectives of the 2(a) zone within the Tweed LEP 2000, the North Coast Regional Environmental Plan and relevant Section 117 Directions.
- The site is zoned for residential development (low density) and the site will need to be filled to raise floor levels above flood heights.
- The Tweed Billabong Holiday Park is commercially viable and has imposed a high standard of management recognised by industry awards.

- Future caravans, shops, tourist accommodation and camping grounds are compatible with the existing adjoining development in terms of landuse, size and scale.
- There is now no high conservation value vegetation on the site.
- An appropriate buffer (and other bushfire protection measures) between the site and adjoining bushfire hazard to the west must be incorporated into site design.
- The site can be filled without causing a detrimental impact on flood levels in the vicinity of the site.
- Tourism is a recognised boost to the Shire’s economic development, employment generation and retention of the Tweed as a holiday destination.
- Traffic generation caused by the proposal will have an inconsequential impact upon the traffic carrying capacity of Dry Dock Road, while creating an opportunity to better manage traffic in nearby Holden Street.
- Appropriate stormwater management and erosion & sedimentation controls will prevent detrimental effects on nearby waterways. This can be addressed in detail at the DA stage.
- Aircraft noise controls will be required to combat potential nuisance due to proximity of the Coolangatta Airport flight path in accordance with AS 2021 at the DA stage.
- There is little likelihood of the site containing contaminated or acid sulfate soils.



## 5.2 Recommendations

It is recommended that the proposed amendment to the LEP be made.

Any future application for development consent should consider the following environmental issues;

- Contaminated Land;
- Bushfire Protection;
- Stormwater Management;
- Landscaping – use of natives and weed removal;
- Urban Design;
- Fill – source and effects on adjacent land;
- Erosion and Sedimentation Control;
- Effects on threatened flora and fauna;
- Acid Sulphate Soils; and
- Compliance with AS 2021.

It is also recommended that Council obtain written advice from the RFS as per paragraph (4) of Section 117 Direction No. 19 *“to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the draft local environmental plan.”*

## Appendices

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## Appendix 1 - Figures & Plates

Figure 1 -  
 Conceptual  
 Layout

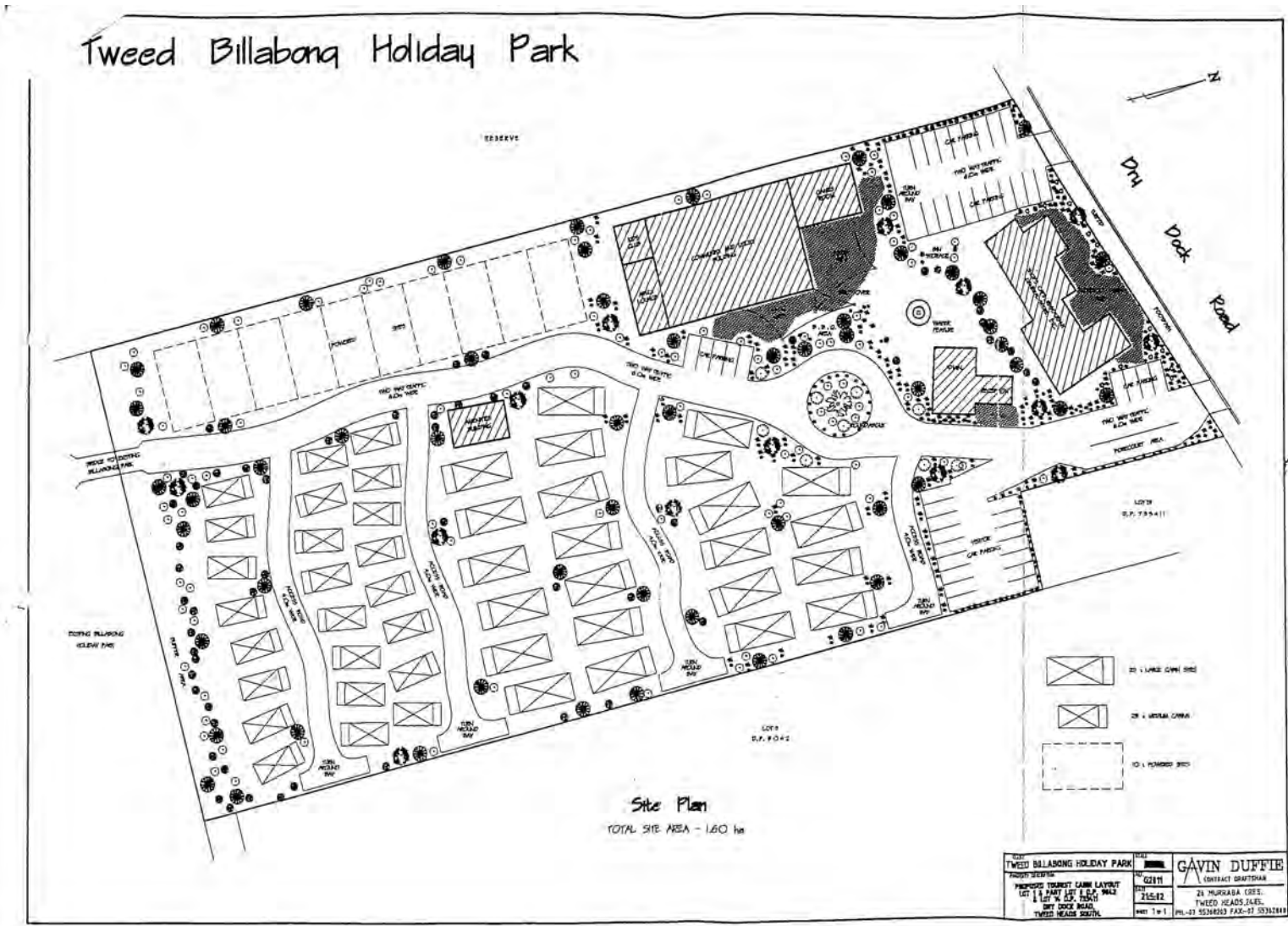




Figure 2 - Locality Plan




 <p><b>LandPartners Limited</b>                  71 Terner St, PO Box 292                  Ballina NSW 2478 Australia                  Ph (02) 6666 7744, Fax (02) 6666 7864                  www.landpartners.com.au</p>	<p><small>© COPYRIGHT The concepts and information contained in this document are the Copyright of LandPartners Limited. Use or duplication of this document in part or in full without written permission of LandPartners Limited constitutes infringement of copyright.</small></p>	Project: BA060204	Date: 26.04.2007	Scale 1:2000@A4
		<p><b>EXISTING LOT LAYOUT</b>                  Source: Lands Dept (Cadastral 2000)</p>		
		Approved: LK	Drawn: PHIL	
		Dwg No: BA060204-EV2A		

Figure 3 - Lot Layout



**LandPartners Limited**  
 71 Tamar St, PO Box 292  
 Ballina NSW 2478 Australia  
 Ph (02) 6686 7744, Fax (02) 6686 7864  
 www.landpartners.com.au

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**SUBJECT SITE IN LOCAL CONTEXT**

Source: Lands Dept (Cadastral & Aerial 2000)

Approved: LK

Drawn: PHIL

Dwg No: BA060204-EV3A

Figure 4 - Surrounding Locality

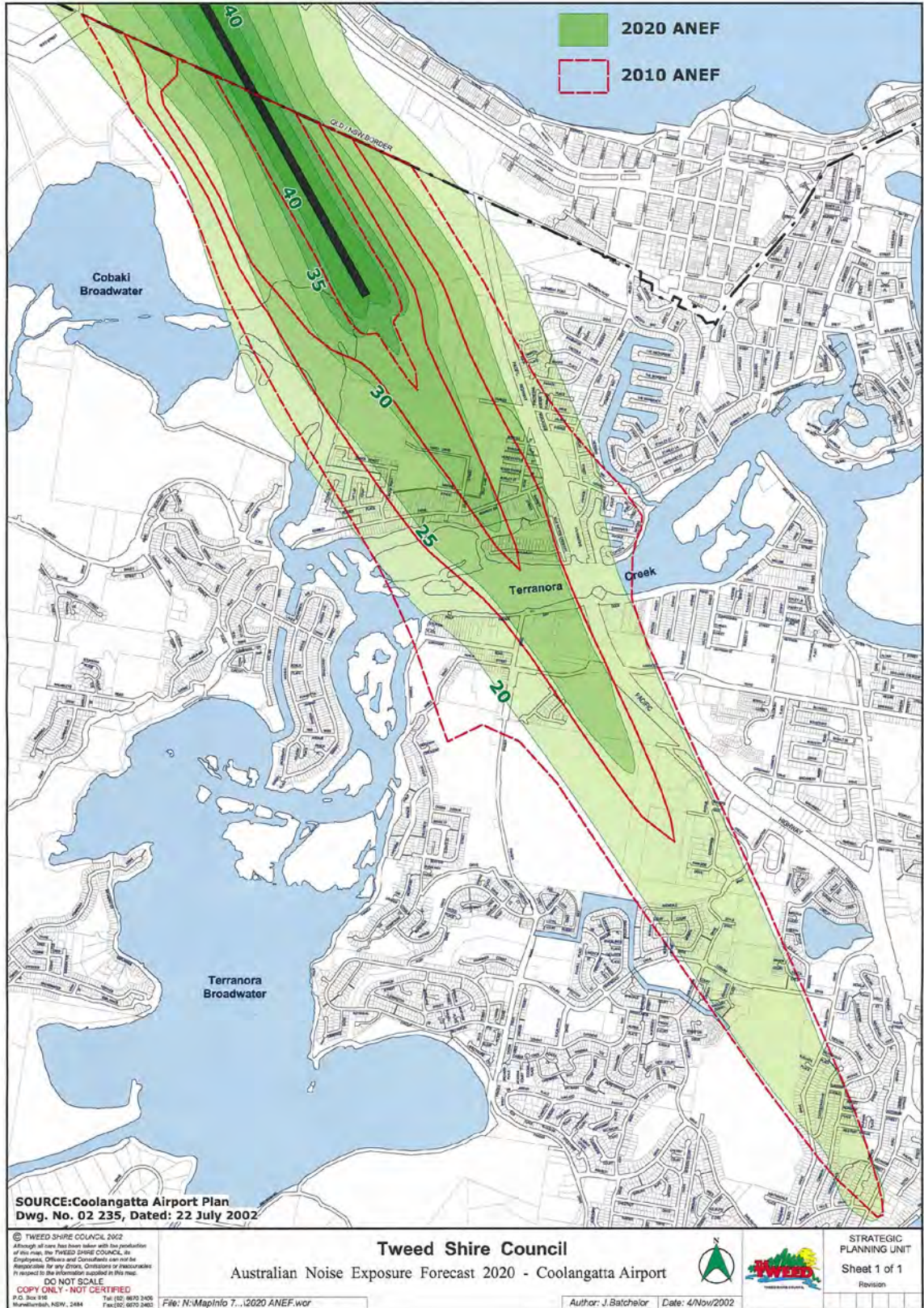


Figure 5 - ANEF Plan





Plates 1 - 5

(Clockwise from top: Looking north from site to Terranora Creek, cleared southern half of the site, remaining vegetation in the northwestern corner of the site, another view of remaining vegetation, another view of remaining vegetation and residence from Dry Dock Road)

## Appendix 2 - Flooding Assessment