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Preliminary Assessment

in support of

*Major Projects Application (Concept Approval) for Subdivision
Lot 356 in DP 751388 Kerry Street Maclean*

on behalf of *Mr Ian Hicks*

18 June 2008

Project Manager, LandPartners



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TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
1. INTRODUCTION.....	2
1.1 INTRODUCTION	2
1.2 BACKGROUND	2
2. SUBJECT SITE.....	4
2.1 OVERVIEW	4
2.2 LAND USE HISTORY	4
2.3 EXISTING LAND USES	4
2.4 EXISTING VEGETATION ON THE SITE	4
2.5 ACCESS TO THE SITE	4
3. SURROUNDING LOCALITY	5
4. PROPOSED DEVELOPMENT	6
4.1 DESCRIPTION AND DEFINED USE	6
5. COMPLIANCE WITH RELEVANT PLANNING PROVISIONS.....	7
5.1 INTRODUCTION.....	7
5.2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979	7
5.2.1 Objectives of the Act.....	7
5.2.2 Sections 5A and 5C – Impact on Threatened Species.....	8
5.2.3 Sections 75F and 75H – Environmental Assessment	10
5.3 STATE ENVIRONMENTAL PLANNING POLICIES	10
5.3.1 SEPP No. 44 – Koala Habitat Protection.....	11
5.3.2 SEPP No. 55 – Remediation of Land	11
5.3.3 SEPP No. 71 – Coastal Protection.....	12
5.3.3 SEPP (Major Projects) 2005.....	13
5.4 NSW COASTAL POLICY	14
5.5 NORTH COAST REGIONAL ENVIRONMENTAL PLAN.....	14
Clause 15 Development control—wetlands or fishery habitats	14
Clause 29A Development control—natural areas and water catchment	15
Clause 32B Development control—coastal lands.....	15
Clause 43 Development control-residential development	16
5.6 FAR NORTH COAST REGIONAL STRATEGY	16
5.7 MACLEAN LOCAL ENVIRONMENTAL PLAN 2001.....	16
5.7.1 Zones	16
5.7.2 Special Provisions	17
59 Subdivision of land within two or more zones	18
5.8 CLARENCE VALLEY DEVELOPMENT CONTROL PLAN.....	19
6. CONSULTATION	21
7. KEY ISSUES TO BE ADDRESSED.....	22
7.1 FAUNA AND FLORA	22
7.2 BUSHFIRE ASSESSMENT	22
7.3 ENVIRONMENTAL PROTECTION	22
7.4 SERVICING	22
7.5 HERITAGE.....	22
7.6 HAZARDS.....	23
7.7 SOCIAL AND ECONOMIC ASSESSMENT.....	23
8.0 CONCLUSION	23
9.0 FIGURES	24
10.0 APPENDICES.....	33

EXECUTIVE SUMMARY

APPLICATION DETAILS

Applicant: Ian Hicks c/- LandPartners Limited
Description of proposal: Subdivision
Type of development: Major Project
Approval sought: Concept Plan Approval

SITE DETAILS

Site address: Kerry Street Maclean
Site description: Lot 356 DP 751388

Total area of site: abt. 8.4 hectares
Zone Part 2(a) Residential (Low Density) and
Part 7(b) Environmental Protection (Conservation/Habitat)
Regd. Owner: Francis Ian Leonard Hicks

REPORT STATUS

Author: Stephen Fletcher
Reviewed by: Ed Munday
Report Status: Final as at 30/7/08

DRAWING INDEX	PAGE
Figure 1: Locality Map	25
Figure 2: Existing Site	26
Figure 3: Aerial Image of Site	27
Figure 4: Concept Layout.....	28
Figure 5: Zoning Map – Maclean LEP 2001.....	29
Figure 6: Concept Layout over Zoning Map.....	30
Figure 7: Concept Layout over Aerial Image.....	31
Figure 8: Constraints Map	32

1. Introduction

1.1 Introduction

LandPartners Limited has been engaged by Mr Ian Hicks to progress a proposed subdivision of Lot 356 in Deposited Plan No. 751388 Kerry Street at Maclean (“the site”).

The site is shown in the context of the locality in Figure 1. The property cadastral boundaries are shown in Figure 2.

The proposed subdivision is affected by the provisions of State Environmental Planning Policy – Major Projects 2005. This specifies that residential subdivisions providing for more than 25 lots on land located within the coastal zone are subject to the provisions of Part 3A of the *Environmental Planning and Assessment Act 1979*.

This Preliminary Assessment accompanies a Major Projects Application (Concept Plan Application) for the residential subdivision of the site pursuant to Part 3A. The proposal provides for the subdivision of the site to create about sixty-six (66) new residential lots within an existing residential zone. The proposal also involves the retention of an environmental reserve area within a current 7(b) Environmental Protection zoned area under the Council’s LEP.

The report addresses the various matters as required in accordance with the Department of Planning’s *Concept Approval Guideline* and the specific advice provided from the Department dated 13th October 2006 (Attachment 1 – Information Required at Lodgement).

1.2 Background

The following summary provides an overview of the background to the project development to date:

- Preliminary assessment and design for the subdivision of the site commenced in 2004. This assessment included consideration of the closure of the road reserve on the eastern boundary of the site. It was later determined to include the opening of the road within the proposed development. An application will however be required to close and purchase part of the road reserve (1/2 width), the closed section to be incorporated within proposed lots as management areas enforced by Restrictions registered on title;
- Initial consultation with Council occurred in November 2004. Key matters to be addressed within any application for the subdivision were identified as

Aboriginal archaeology, protected lands, flora and fauna assessment, compliance with Maclean LEP provisions, stormwater management and traffic management;

- Preliminary investigation works were undertaken including bushfire assessment, consultation with Yaegl Local Aboriginal Lands Council, Consultation with Department of Lands and Council regarding proposed road closure, preliminary road design and preparation of the Master Plan provided as Figure 4 to this report;
- An application of the closure of the road reserve forming the eastern boundary of the site was prepared and lodged with the Department of Lands. The application is yet to be determined;
- On 13th October 2006 the Department of Planning advised of the Minister's authorisation for the submission of a concept plan application for assessment by Clarence Valley Council and provided the relevant specifications (reference MP06-0169 – see Appendix A).

2. Subject Site

2.1 Overview

The site is located within the established residential area of Maclean. The parcel is an irregular shaped lot with an area of about 8.4 hectares. A watercourse traverses the property contained within a defined vegetated gully. The watercourse and gully area comprises the 7(b) zoned lands.

2.2 Land Use History

As identified in Section 2.1 above, the site is located within the established residential area of Maclean, although has remained largely undeveloped. A pine plantation was established upon the site; however only remnant individual species remain. We understand that the property was also previously used for cattle grazing (beef production).

2.3 Existing Land Uses

The site is vacant and is currently not being used for occupation or agricultural activity.

2.4 Existing Vegetation on the Site

Vegetation on the site consists of:

- Remnant introduced pine (radiata)
- Eucalypt regrowth over much of the site comprising opportunistic revegetation following the clearing of the pine plantation;
- Established eucalypt community along the watercourse, generally restricted to the 7(b) zoned land. Residential development is to be excluded from this area.

Vegetation is shown in Figure 3 attached to this report.

2.5 Access to the Site

Constructed access to the site is presently from Kerry Street adjacent to the north-western corner of the site. This access will be retained with a secondary access to be provided over the Crown Road reserve via an extension of Hillcrest Road.

In the context of the *Roads Act 1993*, neither Kerry Street nor Hillcrest Road are identified as a “classified road”.

3. Surrounding Locality

The site in the context of its locality is shown in Figure 1.

Established residential development (low density) adjoins the site to the north, west and south. The Crown Road reserve adjoins Lot 356, and is utilised for emergency access purposes as a link between Hillcrest Road and Wharf Street (via Highland Ridge Drive) to the north. As identified above this Crown Road reserve is to be included within the subdivision proposal. To the east of this land is a section of vacant land under the ownership of the NSW Roads and Traffic Authority and thence the Pacific Highway road corridor.

The site is situated within the eastern section of Maclean, well removed from the Clarence River. The site is however located within the defined coastal zone.

4. Proposed Development

4.1 Description and Defined Use

The proposal involves the subdivision of the land to create about sixty-six (66) residential lots and a central open space reserve incorporating the creek system and the 7(b) zoned land. About twenty (20) Lots are to be created within the western section of the property accessed from a proposed road off Kerry Street.

The remaining lots (about 46) will be created in the eastern and southern section of the property. Principal access for these lots will be via a road link to the western section constructed across the watercourse. A secondary access will also be constructed along the existing Crown Road reserve extending from Hillcrest Road.

The concept plan for the proposal is provided as Figure 5 to this report.

5. Compliance with Relevant Planning Provisions

5.1 Introduction

The following environmental planning instruments and planning strategies/ studies are relevant to this application:

- Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy No. 44 – Koala Habitat Protection
- State Environmental Planning Policy No. 55 – Contaminated Lands Assessment
- State Environmental Planning Policy No. 71 – Coastal Protection
- NSW Coastal Policy
- North Coast Regional Environmental Plan
- Far North Coast Regional Strategy
- Maclean Local Environmental Plan 2001
- Clarence Valley DCP

5.2 Environmental Planning and Assessment Act 1979

5.2.1 Objectives of the Act

The proposal will meet the objectives of the Act; in particular:

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment – The proposal will incorporate appropriate design and management considerations to ensure the protection of the 7(b) & 7(a) environmental protection lands. The subdivision will occur within the environmental capabilities of the site and will not affect those of adjoining and surrounding lands.

(ii) the promotion and co-ordination of the orderly and economic use and development of land – The subdivision represents an appropriate level of development for the site maximising the development capabilities of the site whilst providing for the protection of environmental assets. The proposal is considered to be the most suitable economic development option.

(vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats – The proposal retains the 7(b) zoned environmental protection lands and restricts residential development within this area. A single access road is proposed over the 7(b) zoned land adjacent to the western side boundary. The environmental quality of the land at this location is diminished.

(vii) *ecologically sustainable development* – Subdivision design and future dwelling construction will utilise ESD principles including environmental protection, erosion and sediment control, pedestrian and cycle access, energy efficiency and site impact minimisation.

5.2.2 Sections 5A and 5C – Impact on Threatened Species

Preliminary assessment identifies that the proposed subdivision will not have any significant impact upon threatened species. However, the NP&WS Atlas of NSW Wildlife and the Australian Government Department of the Environment, Water, Heritage and the Arts Environmental Database records that a number of threatened fauna and flora are known to occur, have occurred or may occur within 10km of the site (see Table 1).

Table 1: Threatened Species recorded within 10km of Site

Sources: NP&WS Wildlife Atlas (30/7/08) and EPBC Act Environmental Database (30/7/08)

CLASS OF SPECIES	Scientific Name	Common Name	Status	
			NP&WS Atlas	EPBC Act
ANIMALS				
Birds				
Acciptridae	<i>Lophoictinia isura</i>	Square-tailed Kite	Vulnerable	
	<i>Pandion haliaetus</i>	Osprey	Vulnerable	
Cacatuidae	<i>Calyptorhynchus banksii</i>	Red-tailed Black-Cockatoo	Vulnerable	
	<i>Calyptorhynchus lathami</i>	Glossy Black-Cockatoo	Vulnerable	
Campephagidae	<i>Coracina lineata</i>	Barred Cuckoo-shrike	Vulnerable	
Casuariidae	<i>Dromaius novaehollandiae</i>	Emu population in the NSW North Coast Bioregion and Port Stephens LGA	Endangered	
Ciconiidae	<i>Ephippiorhynchus asiaticus</i>	Black-necked Stork	Endangered	
Columbidae	<i>Ptilinopus magnificus</i>	Wompoo Fruit-Dove	Vulnerable	
Gruidae	<i>Grus rubicunda</i>	Brolga	Vulnerable	
Haematopodidae	<i>Xanthomyza pyrygia</i>	Regent Honeyeater		Endangered
Laridae	<i>Sterna albifrons</i>	Little Tern	Endangered	
Pomatostomidae	<i>Pomatostomidae temporalis temporalis</i>	Grey-crowned Babbler (eastern subspecies)	Vulnerable	
Psittacidae	<i>Lathamus discolor</i>	Swift Parrot		Endangered

CLASS OF SPECIES	Scientific Name	Common Name	Status	
			NP&WS Atlas	EPBC Act
<i>Rostratulidae</i>	<i>Rostratula australis</i>	Australian Painted Snipe		Vulnerable
<i>Tytonidae</i>	<i>Tyto capensis</i>	Grass Owl	Vulnerable	
	<i>Tyto novaehollandiae</i>	Masked Owl	Vulnerable	
Frogs				
<i>Myobatrachidae</i>	<i>Mixophyes balbus</i>	Stuttering Frog		Vulnerable
Mammals				
<i>Dasyuridae</i>	<i>Dasyurus maculatus</i>	Spotted-tailed Quoll	Vulnerable	Endangered
	<i>Phascogale tapoatafa</i>	Brush-tailed Phascogale	Vulnerable	
<i>Petauridae</i>	<i>Petaurus norfolcensis</i>	Squirrel Glider	Vulnerable	
<i>Phascolarctidae</i>	<i>Phascolarctos cinereus</i>	Koala	Vulnerable	
<i>Potoroidae</i>	<i>Aepyprymnus rufescens</i>	Rufous Bettong	Vulnerable	
	<i>Potorous tridactylus tridactylus</i>	Long-nosed Potoroo (SE mainland)		Vulnerable
<i>Pteropodidae</i>	<i>Pteropus alecto</i>	Black Flying-fox	Vulnerable	
	<i>Pteropus poliocephalus</i>	Grey-headed Flying-fox	Vulnerable	Vulnerable
<i>Vespertilionidae</i>	<i>Chalinolobus dwyeri</i>	Large-eared Pied Bat, Large Pied Bat		Vulnerable
	<i>Chalinolobus nigroriseus</i>	Hoary Wattled Bat	Vulnerable	
	<i>Miniopterus australis</i>	Little Bentwing-bat	Vulnerable	
	<i>Myotis adversus</i>	Large-footed Myotis	Vulnerable	
Reptiles				
<i>Scincidae</i>	<i>Coeranoscincus reticulatus</i>	Three-toed Snake-tooth Skink		Vulnerable
PLANTS				
<i>Apocynaceae</i>	<i>Marsdenia longiloba</i>	Clear Milkvine		Vulnerable
<i>Delleniaceae</i>	<i>Hibbertia marginate</i>			Vulnerable
<i>Lauraceae</i>	<i>Cryptocarya foetida</i>	Stinking Cryptocarya, Stinking Laurel		Vulnerable
	<i>Endiandra muelleri subsp. bracteate</i>	Green-leaved Rose Walnut	Endangered	

CLASS OF SPECIES	Scientific Name	Common Name	Status	
			NP&WS Atlas	EPBC Act
Myrtaceae	<i>Gossia fragrantissima</i>	Sweet Myrtle, Small-leaved Myrtle		Endangered
Orchidaceae	<i>Cryptostylis hunteriana</i>	Leafless Tongue-orchid		Vulnerable
Polypodiaceae	<i>Drynaria rigidula</i>	Basket Fern	Endangered	
Proteaceae	<i>Macadamia tetraphylla</i>	Rough-shelled Bush Nut	Vulnerable	

A detailed fauna and flora assessment will be undertaken and submitted at Concept Plan Application stage.

5.2.3 Sections 75F and 75H – Environmental Assessment

Section 75F requires the Director-General to prepare environmental assessment requirements (EARs) which have particular regard to the proposal, and will cover a range of issues determined from this Preliminary Assessment and from consultation with public authorities and others. The EARs will be the basis from which the Concept Plan Application is assessed and determined. The EARs will require an Environmental Assessment to be prepared, that includes documented consideration of the proposal against the various environmental planning instruments and documented consideration of the environmental impacts associated with the proposal.

The current section of this report addresses the various environmental planning instruments. Section 7 provides comment on key environmental issues.

The Environmental Assessment will comprise a report that entirely addresses the EARs issued to the Applicant by the Director-General.

5.3 State Environmental Planning Policies

The following SEPPs apply to the subject site:

- State Environmental Planning Policy No 1 – Development Standards
- State Environmental Planning Policy No 4 – Development Without Consent and Miscellaneous Exempt and Complying Development
- State Environmental Planning Policy No 6 – Number of Storeys in a Building
- State Environmental Planning Policy No 9 – Group Homes
- State Environmental Planning Policy No 10 – Retention of Low-Cost Rental Accommodation
- State Environmental Planning Policy No 11 – Traffic Generating Developments
- State Environmental Planning Policy No 14 – Coastal Wetlands
- State Environmental Planning Policy No 15 – Rural Landsharing Communities
- State Environmental Planning Policy No 16 – Tertiary Institutions

State Environmental Planning Policy No 21 – Caravan Parks
State Environmental Planning Policy No 22 – Shops and Commercial Premises
State Environmental Planning Policy No 32 – Urban Consolidation (Redevelopment of Urban Land)
State Environmental Planning Policy No 33 – Hazardous and Offensive Development
State Environmental Planning Policy No 35 – Maintenance Dredging of Tidal Waterways
State Environmental Planning Policy No 36 – Manufactured Home Estates
State Environmental Planning Policy No 44 – Koala Habitat Protection
State Environmental Planning Policy No 50 – Canal Estate Development
State Environmental Planning Policy No 55 – Remediation of Land
State Environmental Planning Policy No 60 – Exempt and Complying Development
State Environmental Planning Policy No 62 – Sustainable Aquaculture
State Environmental Planning Policy No 64 – Advertising and Signage
State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development

State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes)
State Environmental Planning Policy No 71 – Coastal Protection
State Environmental Planning Policy No 72 – Linear Telecommunications Development – Broadband
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
State Environmental Planning Policy (Major Projects) 2005
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007
State Environmental Planning Policy (Seniors Living) 2004

Of these, only 4 are relevant to the proposal with comment provided below.

5.3.1 SEPP No. 44 – Koala Habitat Protection

State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44) aims to encourage the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations are maintained over their present range. The policy provides the state-wide approach needed to enable appropriate development to continue, while ensuring there is ongoing protection of koalas and their habitat.

Preliminary assessment has indicated that the site is unlikely to constitute core Koala Habitat. A SEPP 44 assessment will be included as part of the detailed flora and fauna assessment to be submitted with the Concept Plan Application.

5.3.2 SEPP No. 55 – Remediation of Land

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) provides a Statewide planning approach to the identification and remediation of contaminated land.

Clause 7 of SEPP 55 requires Council to consider the likelihood of contamination when determining a Concept Plan Application.

The site has a history of agricultural and forestry use and is located adjacent to an established residential area.

An assessment under SEPP 55 will be submitted with the Concept Plan Application

5.3.3 SEPP No. 71 – Coastal Protection

SEPP 71 contains the following aims:

- (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.*

Comment: The proposed development is consistent with the aims of SEPP 71. The development will not have any appreciable adverse effects on:

- Public access to the foreshore and beach
- Marine environments
- View from public places
- Items of known cultural heritage
- Water quality
- Significant vegetation communities or scheduled threatened species.

The matters for consideration are found in clause 8 of SEPP 71. Of relevance to the subject proposal are the following:

- (a) the aims of this Policy set out in clause 2*
- (d) the suitability of development given its type, location and design and its relationship with the surrounding area,*
- (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*
- (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,*
- (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*
- (i) existing wildlife corridors and the impact of development on these corridors,*
- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*
- (m) likely impacts of development on the water quality of coastal waterbodies,*
- (p) only in cases in which a Concept Plan Application in relation to proposed development is determined:*
- (i) the cumulative impacts of the proposed development on the environment.*

Comment: The proposal is consistent with the above matters for consideration. There will be no significant impact upon the scenic quality of the locality. A detailed flora and fauna assessment will be undertaken and any appropriate protection and management provisions incorporated within the proposal as may be necessary.

The proposal will not affect any coastal processes nor have any impact upon coastal waterbodies. There will be no cumulative impact.

5.3.3 SEPP (Major Projects) 2005

The proposal affects a site located within the Coastal Zone. Furthermore, the proposal facilitates the subdivision of the site into more than twenty five (25) allotments.

Schedule 2 Clause 1(i) of SEPP (Major Projects) 2005 states “*subdivision for residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location):*”

- (i) into more than 25 lots”*

Since the land can be subdivided into more than 25 lots, the proposal is affected by SEPP (Major Projects) 2005.

Pursuant to Clause 6 of SEPP (Major Projects) 2005, the Minister has formed the opinion that the proposal is a Major Project, and has declared the proposal to be a project to

which Part 3A of the *Environmental Planning and Assessment Act 1979* applies (see Appendix A).

5.4 NSW Coastal Policy

The proposal is considered compliant with relevant provisions of the NSW Coastal Policy. The site is well removed from the Clarence River and any coastal lakes or waterbodies. The development will not affect access to any foreshore areas and the site is within a defined valley make it visually unobtrusive. Appropriate environmental controls will be incorporated within the design and construction of the proposal.

5.5 North Coast Regional Environmental Plan

The site is affected by the provisions of the North Coast Regional Environmental Plan. The following provisions of the NCREP apply:

Clause 15 Development control – wetlands or fishery habitats

“The council shall not consent to an application to carry out development for any purpose within, adjoining or upstream of a river or stream, coastal or inland wetland or fishery habitat area or within the drainage catchment of a river or stream, coastal or inland wetland or fishery habitat area unless it has considered the following matters:

- (a) the need to maintain or improve the quality or quantity of flows of water to the wetland or habitat,*
- (b) the need to conserve the existing amateur and commercial fisheries,*
- (c) any loss of habitat which will or is likely to be caused by the carrying out of the development,*
- (d) whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve,*
- (e) whether the development would result in pollution of the wetland or estuary and any measures to eliminate pollution,*
- (f) the proximity of aquatic reserves dedicated under the Fisheries Management Act 1994 and the effect the development will have on these reserves,*
- (g) whether the watercourse is an area of protected land as defined in section 21AB of the Soil Conservation Act 1938 and any measures to prevent soil erosion, and*
- (h) the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved, and*
- (i) the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the river, stream, wetland, area or catchment”.*

Comment: The proposal will have no impact upon the existing aquatic habitat or ecosystem. The site is not in proximity to a wetland. The proposal does not affect any

public reserve or foreshore area. The proposal will not result in any increase in pollutants entering the natural system.

Clause 29A Development control – natural areas and water catchment

“The council must not grant consent for the clearing of natural vegetation in environmental protection, scenic protection or escarpment preservation zones unless it is satisfied that:

- (a) the wildlife habitat will not be significantly disturbed by the proposed development, and*
- (b) the scenery will not be adversely affected by the proposed development, and*
- (c) an erosion and sediment control plan will be implemented which will successfully contain on the site any erosion or sediment caused by the proposed development.*

(2) In this clause, "clearing of natural vegetation" means:

- (a) the removal of the majority of the vegetation, ground cover, topsoil or flora (other than noxious weeds, or trees which are dead, dangerous, exotic or propagated for horticultural purposes) within an area in excess of 1 hectare, or*
 - (b) the reduction of the canopy or the population of any one tree species in excess of 20 per cent within an area in excess of 1 hectare,*
- but does not include such removal or reduction:*
- (c) within 3 metres of the boundary of land in different ownership or occupation for constructing or maintaining a fence, or*
 - (d) within 0.5 metre of the common boundary of land in different ownership or occupation to allow a registered surveyor to survey the boundary”.*

Comment: The vegetation and habitat within the 7(b) zoned section of the land will be protected by:

- Exclusion of residential building development
- Incorporation of erosion and sediment controls during construction phases;
- Marketing and promotion of the watercourse and riparian vegetation as an asset for the proposed residential community (community awareness and education).

Clause 32B Development control – coastal lands

“(1) This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.

(2) In determining an application for consent to carry out development on such land, the council must take into account:

- (a) the NSW Coastal Policy 1997,*
- (b) the Coastline Management Manual, and*
- (c) the North Coast: Design Guidelines.*

(3) The council must not consent to the carrying out of development which would impede public access to the foreshore.

(4) The council must not consent to the carrying out of development:

- (a) on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time), or*

(b) elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time)".

Comment: The site is affected by the NSW Coastal Policy. The proposal is considered to be compliant with relevant provisions of the NSW Coastal Policy, the Coastline Management Manual and the North Coast Design Guidelines.

Clause 43 Development control-residential development

"(1) The council shall not grant consent to development for residential purposes unless:
(a) it is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land,
(b) it is satisfied that the proposed road widths are not excessive for the function of the road,
(c) it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of land have been met,
(d) it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles, and
(e) it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans".

Comment: The proposed subdivision will provide for about sixty-six (66) new residential lots with access to existing services and facilities on a valley site adjacent to the existing developed area of Maclean. The density of lots (and hence future dwellings) is appropriate having regard to the desire to maximise the development and use of the site within the identified environmental constraints (7 (b) zoned land). The existing and proposed road network is suitable for the traffic to be generated by the development. Appropriate erosion and sedimentation control measures will be incorporated within the subdivision design.

5.6 Far North Coast Regional Strategy

The site is within the existing residential zoned area of Maclean. The Far North Coast Regional Strategy supports the appropriate residential subdivision and development of residential land within the town.

5.7 Maclean Local Environmental Plan 2001

5.7.1 Zones

A zoning plan of the site is contained in Figure 5.

The site is zoned part 2(a) Residential (Low Density) and Part 7(b) Environmental Protection (Conservation/Habitat) under the Maclean Local Environmental Plan 2001 (Maclean LEP).

Residential subdivision and development is permissible with development consent in the 2(a) zone in accordance with Clause 47 of the Maclean LEP.

The objectives of the 2(a) Zone are:

- (a) the provision of low density housing, and*
- (b) a residential environment free from any adverse impact from commercial and industrial uses, and*
- (c) the provision of community uses, such as child care centres, of a compatible scale, bulk, height and design, which do not detract from the amenity and character of the residential area, and*
- (d) adequate provision for water and effluent disposal.*

Comment: The proposed development is consistent with the zone objectives. The re-subdivision will provide for the retention of the existing low density nature of the locality. The site is removed from any adverse impacts from commercial and industrial uses. Community facilities and uses exist within Maclean. The site benefits from existing reticulated water and sewer provision.

The objectives of the 7(b) zone are:

- a) to prohibit development within the zone which would adversely affect the habitat and conservation value of the land, and*
- (b) to enable the development of land within this zone which would not have an adverse effect on the wildlife habitat.*

Comment: The proposal will meet the objectives of the zone. Development within the 7(b) zoned land is restricted so as to provide for the environmental protection and management of the watercourse and associated riparian vegetation.

Residential development is prohibited with the 7(b) zone; none is sought with this proposal. The LEP does however provide for residential lots to incorporate 7(b) zoned land subject to restricting building to within the residential zoned section. The proposed internal link road through the 7(b) land is permissible under the LEP.

5.7.2 Special Provisions

Clauses 13 and 59 of the Maclean LEP applies:

13 Development within the coastal zone

Before granting consent for any development in the coastal zone as defined in the NSW Coastal Policy 1997, the consent authority must take into consideration the design and location principles as set out in Table 3 entitled "Design and Location Principles for Consideration in LEPs, DCPs and Development Control" in the NSW Coastal Policy 1997.

Comment: The proposed re-subdivision is consistent with the design and location principles of the NSW Coastal Policy 1997. It will have no impact upon the ecology or amenity of the river and foreshore areas.

59 Subdivision of land within two or more zones

Clause 59 Subclause (3) states that *“if an allotment of land is partly within an environmental protection zone and partly within a residential zone, consent may be granted to a subdivision of the allotment only if:*

- (a) the requirements for subdivision in the residential zone are met for the land within that zone, and*
- (b) any building to be erected on the land is located within the residential zone, or on an allotment of not less than 100 hectares in an environmental protection zone”.*

Comment: The Concept Plan provides for a section of five (5) proposed lots on the western portion to each contain a small section of 7(b) land at the rear of the respective lots. No building works will be proposed within the 7(b) zoned land within these lots.

Similarly, the Concept Plan provides for a section of nineteen (19) proposed lots to each contain a small section of 7(a) land at the front of the respective lots upon closure of the ½ road width of Crown Road reserve. Again, no building lots will be proposed within the 7(a) zoned land which is proposed to be managed to minimise fire hazard.

5.8 Clarence Valley Development Control Plan

The following table identifies the compliance of the proposal with the relevant provisions of the DCP.

DCP Section	Relevant Provision	Compliance
H4 Site Analysis	Application must contain appropriate site analysis plan	Detailed site analysis plans will be submitted with the DA
H6 Road Network /Street Pattern H6.1	Subdivision layout and road design must consider the particular site constraints of the land, the proposed use of the land and integrate the subdivision and road network with the surrounding road and development pattern	Proposed new lots have been designed having regard to the characteristics of the site.
H6.3 Coastal Design Guidelines	Coastal settlements must consider the NSW Coastal Design Guidelines in the designing new subdivisions	The proposal is in accordance with the design guidelines. The proposal: a) does not affect any significant views or vistas; b) allows for future development within the capacity of the road network for the locality; c) provides for utilisation of the current pedestrian accesses
H7 Lot Layout H 7.1 Lot Shape	A variety of lot sizes should be provided to meet market demand. Lots should be regular and rectangular in shape. Battle axe blocks generally should be avoided.	Subdivision design will comply with this provision. Lots range in size from abt. 600m ² to abt. 2000m ²
H7.2 Lot Orientation	Subdivisions must be designed to maximise solar access. Lot design should allow for houses to be built with north facing windows which receive maximum	Lot orientation is constrained by existing lot shape and the 7(b) zoned area. Future dwelling compliant with BASIX requirements.

	winter sun	
H7.3 Minimum Lot Size	A minimum lot size of 400m ² applies in all residential zones. Within this area it must be possible to fit a rectangle suitable for building measuring 10 metres by 15 metres behind the building line	Proposal meets minimum lot size and building area requirements
H7.4 Lot Dimensions	Lot dimensions must be able to provide sufficient area and dimensions to enable the construction of dwellings and convenient on-site parking, etc	All lots will have appropriate dimensions to provide for residential development
H8 Site Access	Vehicular access driveways from a public road must be not closer than 6 metres to an intersecting road or break in a traffic island, and located so that sight distance is adequate	Proposed access to the site will comply with the DCP provision. Roads will be designed in accordance with Council's standards
H9 Stormwater Management	Stormwater management and drainage systems should be an integral part of the subdivision design	The DA will include stormwater management principles. The site is suitable for conventional stormwater retention and treatment in accordance with Council's requirements.
H11 Provision of Services	Subdivisions of land in residential zones are required to provide services and infrastructure to all lots	All required services are existing or available

6. Consultation

Aside from the Department of Planning, State agencies have not been consulted specifically over the Concept Application. The following consultation has occurred in respect of the proposal.

Agency	Comments	Response
Department of Planning	Department advised that Concept Application could be lodged. Clarence Council to be delegated assessment powers. Lodgement requirements for Concept Application supplied.	Application prepared in accordance with lodgement requirements
Department of Lands	Application for road closure received. Department advised of objection from RTA	RTA objection related to a proposal to close the entire eastern road reserve. The proposal now involves opening the road reserve and applying for a half width closure. The reserve is in excess of 30 metres wide.
Roads and Traffic Authority	Advised site is within vicinity of announced preferred route for Wells Crossing to Iluka Road upgrade but is not directly affected by it. There is no current proposal for acquisition.	Advice noted
Clarence Council	Advised of basic DA requirements	Noted. All application requirements of Council will be met.

7. Key Issues to be Addressed

We have identified that the following key issues will need to be addressed within the Concept Plan Application:

7.1 Fauna and Flora

As identified within Section 5 above a detailed flora and fauna assessment will be undertaken. Preliminary assessment supports the suitability of the proposed subdivision. The assessment will include 'tests for significance' under Section 5A and 5C, SEPP 44 assessment, and consideration of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

7.2 Bushfire Assessment

A bushfire assessment in accordance with the requirements of the *Planning for Bushfire Protection Guidelines 2006* will be submitted with the Concept Plan Application.

7.3 Environmental Protection

The subdivision has been designed to provide for the on-going protection and management of the 7(b) and adjacent 7(a) zoned Environmental Protection lands. The proposal will incorporate stormwater management and erosion and sedimentation controls in accordance with Councils requirements. Further detail will be submitted with the Concept Plan Application with final design to be approved at Subdivision Certificate stage.

7.4 Servicing

All required essential services (power, phone, water and sewerage) are available for the development. Services will be provided to each lot in accordance with the requirements of the respective service authorities.

Access and road design has been discussed previously within this report.

7.5 Heritage

Preparation of the Concept Plan Application will include appropriate consultation with the Yaegl Local Aboriginal Land Council as per the Department of Planning guideline *Interim Community Consultation Requirements for Applicants*.

It is noted that preliminary discussions have already been held with the Land Council.

There are no identified items of environmental heritage on the site.

7.6 Hazards

Potential bushfire hazard has been commented upon in Section 7.2 above. A contaminated lands assessment as required pursuant to State Environmental Planning Policy No. 55 will be submitted with the Concept Plan Application.

Aside from potential bush fire hazard the land is not subjected to any other identified natural hazards including flooding and landslip.

7.7 Social and Economic Assessment

We have identified a number of positive social and economic impacts associated with the proposed subdivision including:

- Provision of additional desirable residential land stock
- Economic impact associated with the development and building industry
- Economic benefits to retail and commercial sector associated with increased population
- Additional support for community facilities and services (schools etc)

8.0 Conclusion

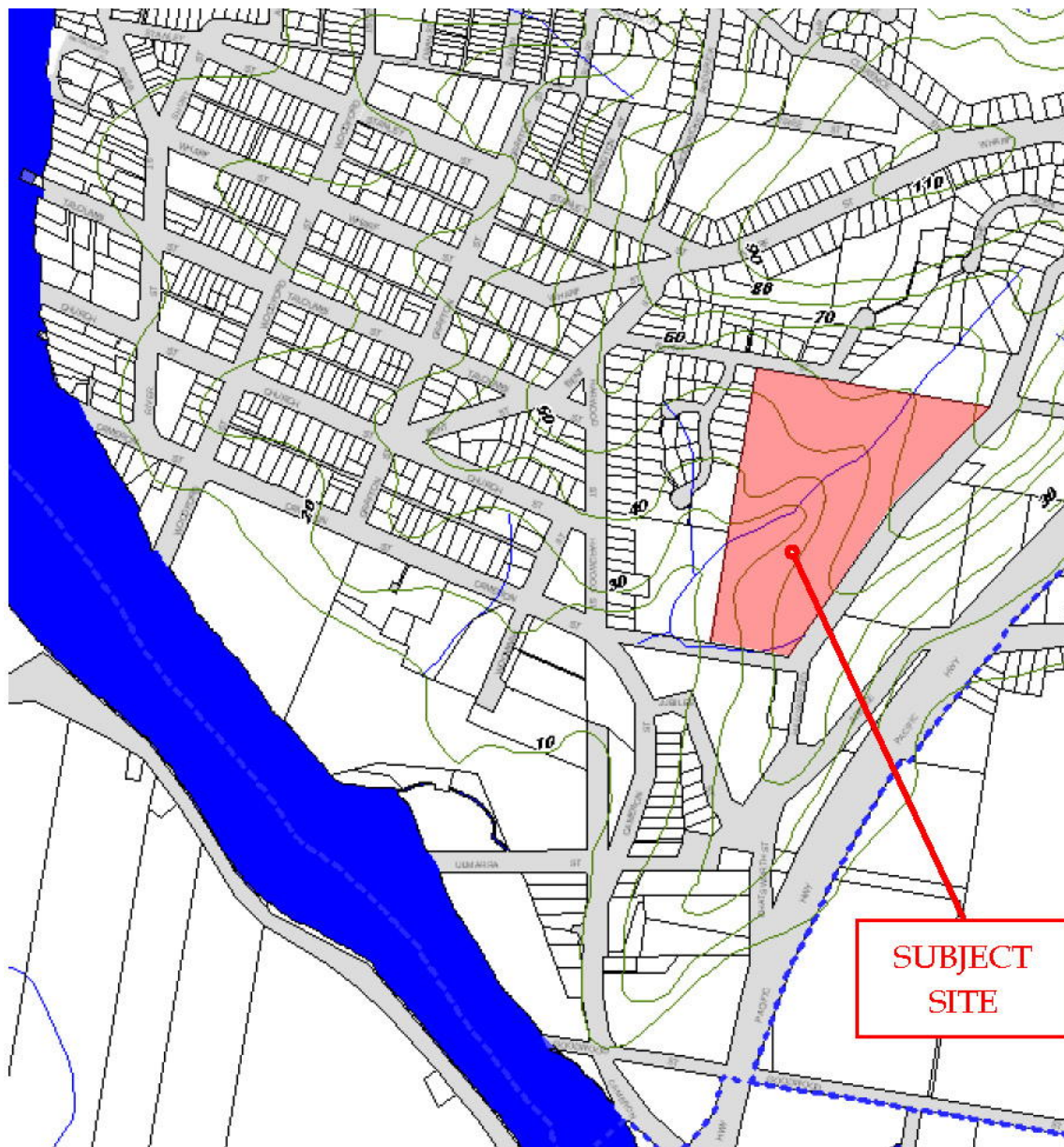
This report is in support of a Concept Plan Application lodged pursuant to Section 75E of the *Environmental Planning and Assessment Act 1979*. The proposal involves the subdivision of land into about sixty-six (66) residential lots in compliance with all relevant State and Local environmental planning instruments.

Appropriate studies will be prepared to accompany a Concept Plan Application to address the various matters identified in Section 7 of this report and such other matters as Council may require.

9.0 Figures

Figure 1: Locality Map	25
Figure 2: Existing Site	26
Figure 3: Aerial Image of Site	27
Figure 4: Concept Layout.....	28
Figure 5: Zoning Map – Maclean LEP 2001.....	29
Figure 6: Concept Layout over Zoning Map.....	30
Figure 7: Concept Layout over Aerial Image.....	31
Figure 8: Constraints Map	32

Figure 1: Locality Map



Source: <http://mapping.clarence.nsw.gov.au> 18/6/08

Figure 2: Existing Site

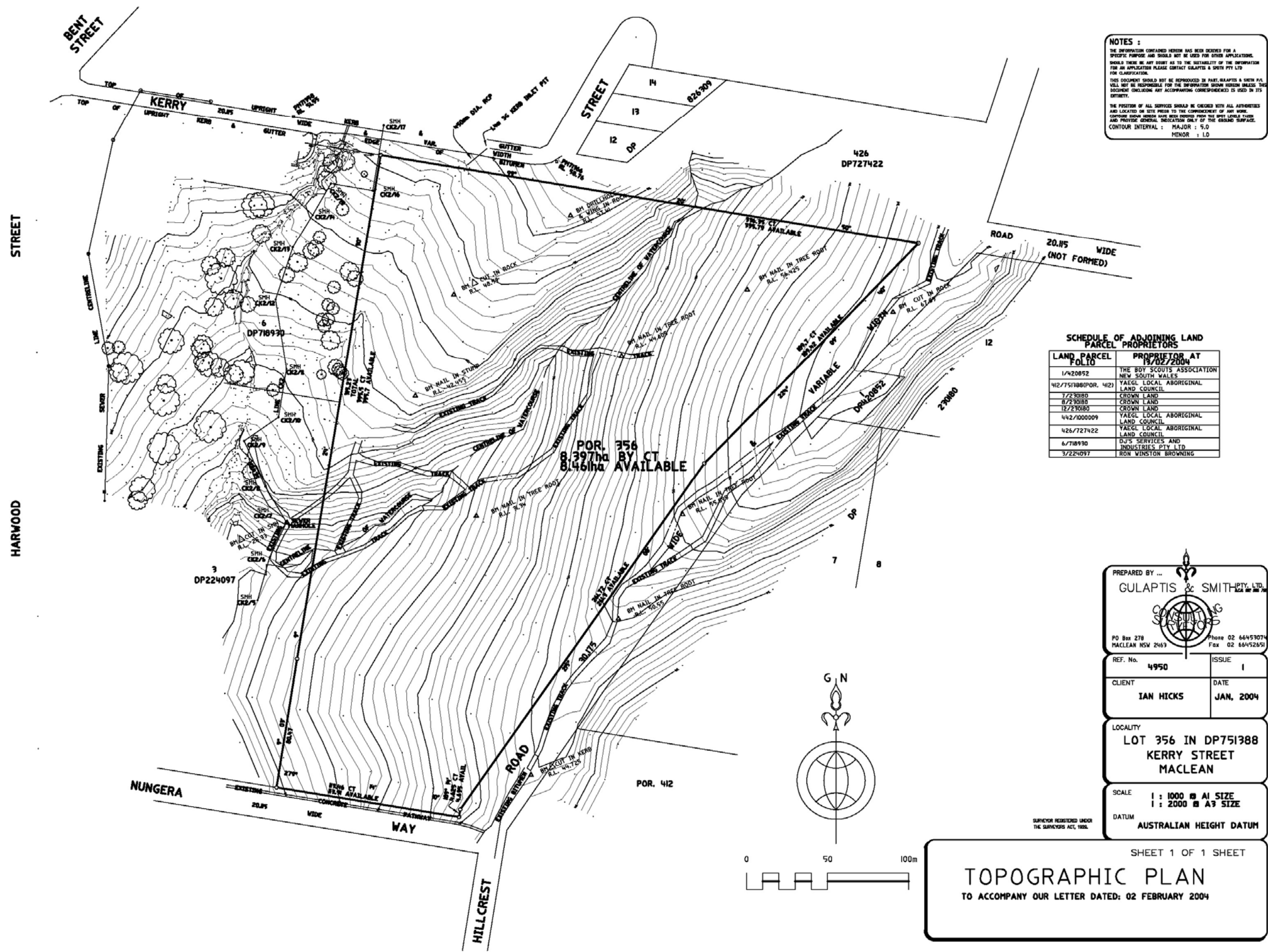
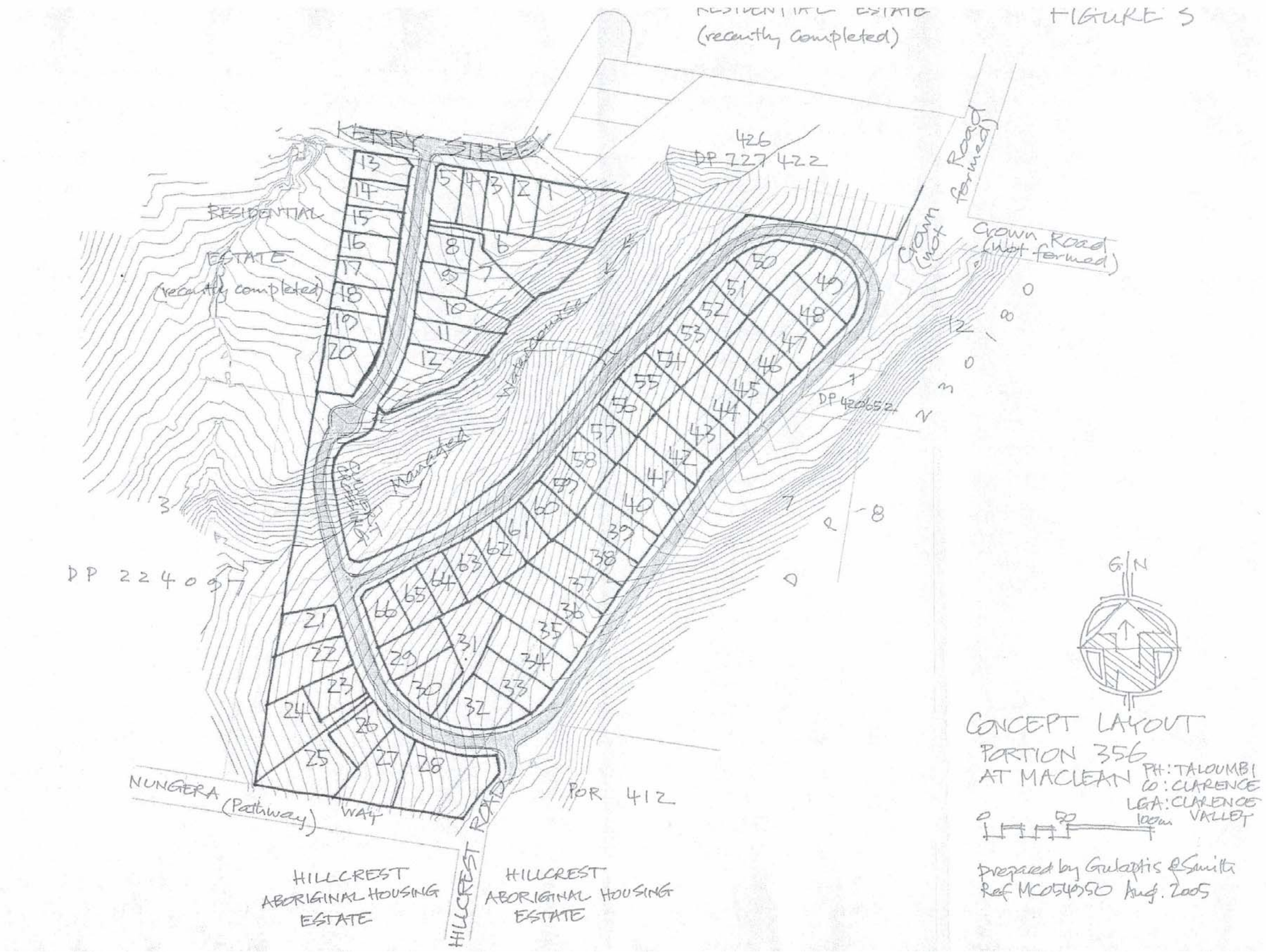


Figure 3: Aerial Image of Site



Figure 4: Concept Layout



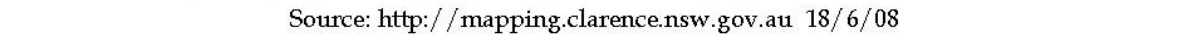


Figure 6: Concept Layout over Zoning Map

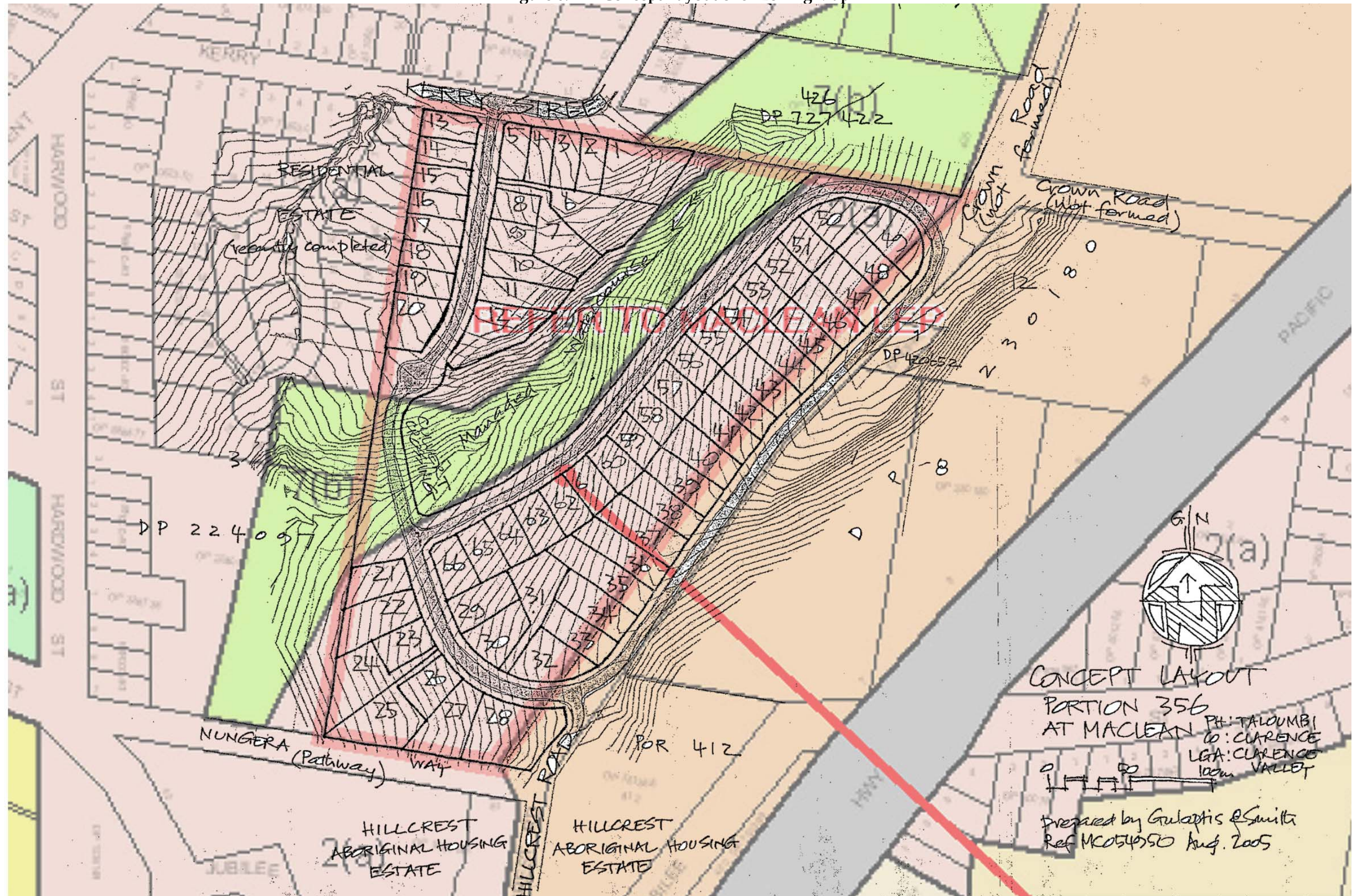
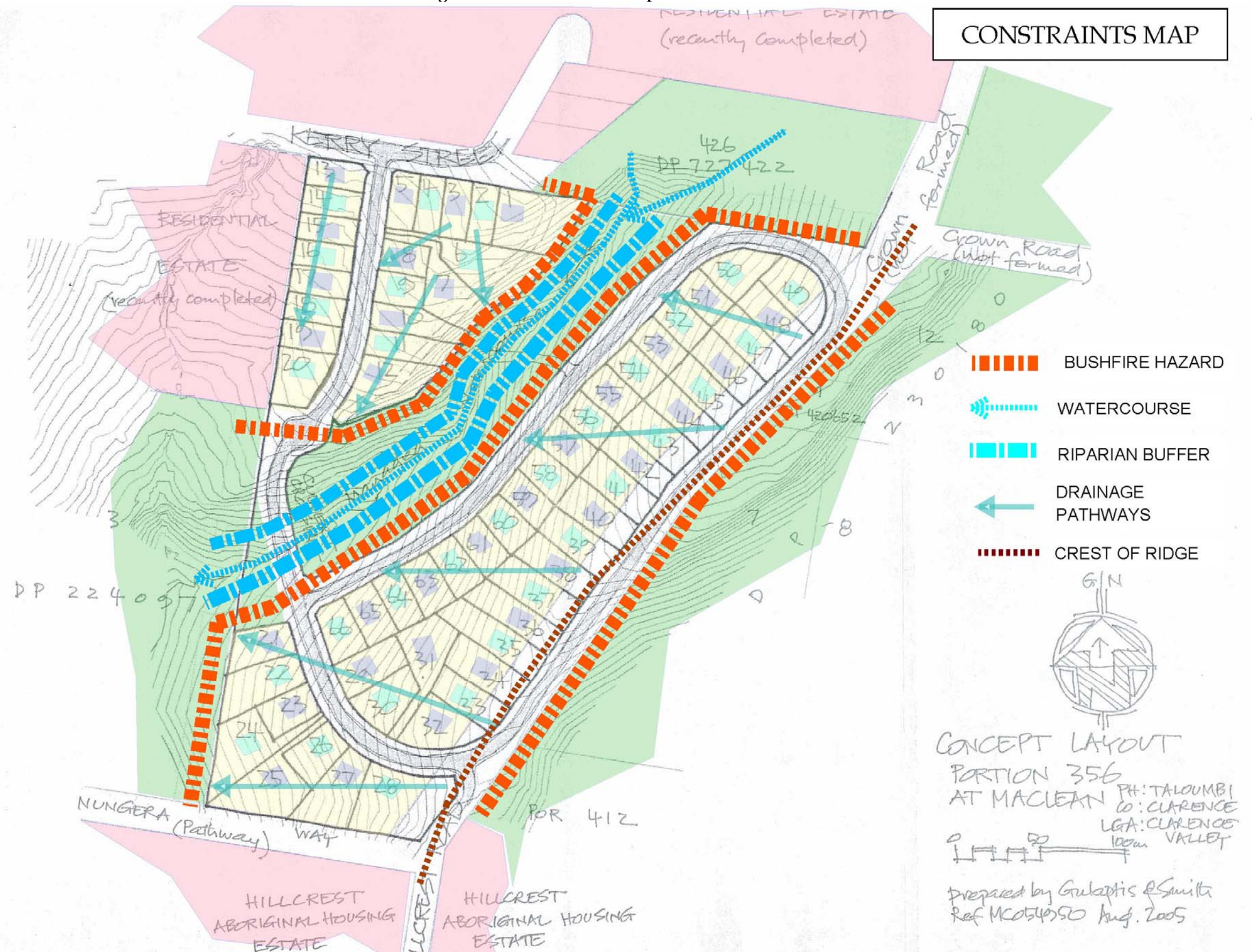


Figure 7: Concept Layout over Aerial Image



Figure 8: Constraints Map



10.0 Appendices

Appendix A: Minister's Opinion (Dept. of Planning 13/10/06)	34
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Appendix A: Minister's Opinion (Dept. of Planning 13/10/06)



NSW GOVERNMENT
Department of Planning

Contact: Sally Laing
Phone: 02 9228 6498
Fax: 02 9228 6366
E-mail: sally.laing@planning.nsw.gov.au

Our ref: MP06_0169
File: SO6/00003-1

Edmund Munday
Town Planner
Aspect North Limited
Unit 5, 243 River Street
MACLEAN NSW 2463

Dear Mr Munday

66 Lot Residential Subdivision, Kerry Street, Maclean (Lot 365 in DP 751388) MP06_0169

I refer to your letter dated 18 May 2006 regarding the above Major Project and your request for the Minister's authorisation for the submission of a concept plan application.

As the delegate of the Minister for Planning, the Director-General recently formed the opinion that the proposal is a Major Project and Part 3A of the *Environmental Planning and Assessment Act, 1979* (the Act) applies. The Minister subsequently authorised submission of a Concept Plan for the proposed residential development.

The Director-General also agreed that Clarence Valley Council be delegated all assessment powers and functions in relation to the assessment of the proposal. The delegation allows Council to formulate the Director-General's Environmental Assessment Requirements and undertake exhibition and assessment of the proposal. The Minister remains as the consent authority.

You will now need to make the necessary arrangements to lodge a Part 3A concept plan application with Clarence Valley Council. We suggest that you discuss the proposal with Council prior to lodgement. The concept plan application must include a completed application form (enclosed), details of the proposed development and the correct fee. **Attachment 1** outlines the information required at lodgement and the fees to be paid.

Should you have any further inquiries about this matter, please contact Sally Laing, Environmental Planner, Coastal Assessments, on 9228 6498 or by email at sally.laing@planning.nsw.gov.au.

Yours sincerely

Michael Woodland
Acting Director
Urban and Coastal Assessments

13/10/06

Attachment 1 – Information Required at Lodgement

Major Projects Application Form	You must complete in full the application form enclosed.
Concept Application – Purpose	The purpose of the concept plan application is to assist the preparation of the Director General's Environmental Assessment Requirements. The purpose of the concept plan application is to culminate in a summary of the "Key Issues". Key Issues are those matters that if not addressed satisfactorily may lead to refusal of the project.
Concept Application – Identifying Key Issues	"Key Issues" will emerge from: (a) the proponent's consultation with all relevant agencies and groups, and (b) the proponent's assessment of the proposed project against applicable environmental planning instruments, policies, guidelines and other relevant planning documents. "Key issues" could include, but may not be limited to: (a) non-compliances with known relevant planning controls; (b) known community concerns about the development proposed; (c) potential environmental impacts associated with construction, operation, or occupation of a project; (d) likely environmental risks; (e) constraints arising from the peculiarities of a project site. "Key Issues" should not include those aspects of a proposed project that comply with known planning controls, where there are no community concerns or where there are no other contentious matters.
Concept Application – Information to be addressed	The concept plan application should include: (a) a written and graphical description of the project and any ancillary components, including relevant preliminary plans; (b) the location(s) and a map identifying the site(s)/alignment/corridor; (c) the planning provisions applying to the site and whether the project is permitted under the prevailing EPIs, DCPs, policies, etc, and if the project is inconsistent with such instruments/plans/policies; (d) the views of the other agencies, local council and/or the community if known; and, (e) an identification of any study or investigations undertaken for the preparation of the Metro Strategy or other regional or local strategies that may affect the Project.
Application Fee	\$1000.00, based on set fee for lodgement of a Major Project application. Outstanding fee's (to be determined) are to be paid at the lodgement of the Environmental Assessment.
Copies of Documentation	10 copies of all documentation lodged (including plans)
Electronic Version of Documents	1 CD in Rich Text Format of all documentation lodged, and 1 CD in PDF format of all documentation lodged, and All plans should be in PDF format. Note: In the event that the documentation exceeds 5 Megabytes, you should contact the liaison officer prior to lodgement. Please be aware that you may be required to prepare a website for your Project.
Acceptance of Application	Clarence Valley Council will not accept your application until such time as you complete all the information required by this schedule, the accompanying fee, and a completed application form

Major Projects Assessment 23-33 Bridge Street Sydney NSW 2000 GPO Box 39 Sydney 2001
Phone 02 9228 6111 Fax 9228 6366 Website www.planning.nsw.gov.au