

**TITLE:** [PR-PC] Kings Forest Concept Plan Modification (Council Reference GT1/51 Department's Reference MP06/0318 MOD 7) and Kings Forest Project Application Modification (Council Reference DA11/0565.05 Departments Reference No. MP08/0194 MOD 5) to Accommodate the use of a Private Water Utility Licensed under the Water Industry Competition Act 2006 to Provide Water Supply and Sewerage Services including Recycled Water Reticulation to the Kings Forest Development No. 86 Melaleuca Road, Kings Forest

**SUBMITTED BY:** Development Assessment and Compliance

mhm



### Making decisions with you

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#### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.1 Built Environment
- 2.1.2 Development assessment - To assist people to understand the development process and assess applications lodged with Council to achieve quality development outcomes and land use decisions.

**ROLE:** **Provider**

#### SUMMARY OF REPORT:

Council has received two requests from the NSW Department of Planning to review Modifications associated with both the Concept Plan and Project Applications for Kings Forest that would enable the use of a private water utility licensed under the Water Industry Competition (WIC) Act 2006 to provide water supply and sewerage services including recycled water reticulation to the Kings Forest Development.

The current proposed amendment to the **Project Application** seeks to make changes to the conditions of consent to include the provision for an alternative water and sewerage services and infrastructure so as to allow **either** connection to Council's reticulated water and sewerage services **or** provide a standalone water and sewer services for the development in accordance with the WIC Act 2006.

The current proposed amendment to the **Concept Plan** seeks to nominate a future water & waste water treatment plant site, make changes to the zoning of the site and written provisions under State Significant Precincts SEPP under which this site is zoned. It also seeks to alter conditions of the Concept Plan Approval MP06/0318 to reflect an amended Concept Plan Map and amend the wording of the Kings Forest Development Code to include the provision for an alternative water and sewerage services and infrastructure so as to allow **either** connection to Council's reticulated water and sewerage services or provide a standalone water and sewer services for the development in accordance with the WIC Act 2006.

The proponent has indicated that if the standalone option is utilised a company called Northern Water Solutions Pty Ltd would seek the relevant licences (from the Independent Pricing & Regulatory Tribunal – IPART) and approvals to operate under the WIC Act 2006.

Whilst the formal detailed IPART Application (licence) has not been forwarded for Council's review (as yet) this application does seek to nominate the future site for a new water and waste water treatment facility on a site that was never intended to accommodate a separate treatment plant. Therefore Council needs to critically review the proposed location of the treatment facility.

In reviewing the current applications which seek to set up the legal mechanisms for a private system Council has assumed that a similar scheme will be proposed to the Cobaki development site which detailed the use of a pressure sewerage system (as opposed to Council's preferred gravity sewer system) involving over one thousand pressure sewer pump stations with very limited gravity sewer lines and pressure sewer mains to convey sewage to a treatment plant located within the development area.

Treated effluent to a standard suitable for domestic reuse is likely to be reticulated to residential and commercial properties for suitable uses and offered for irrigation on parks and sports fields. It will most likely be proposed that excess effluent will be disposed of by discharge into Council's Kingscliff Wastewater Treatment System (subject to Council agreement). There is no agreement in place for this at this stage.

The proponent also appears likely to propose to seek bulk or wholesale potable drinking water from Council. There is no agreement in place for this at this stage. The proponent also appears likely to propose the reticulation of drinking water, using low level reservoirs and pressure boosting pumps to provide adequate pressure throughout the development area.

It would appear that the development of this water supply and sewerage system, whilst satisfying environmental objectives for recycled water and probable water usage reduction does so by use of electrical energy to pump sewage, recycled water and drinking water. It is considered particularly unusual in relation to drinking water because Council's water supply to this development will deliver water at an adequate pressure to service the development, and the probable scheme will dissipate that stored energy before using energy to re-pressurise the reticulation system.

Systems with third pipe recycling will be discouraged from collecting rainwater in private rainwater tanks as the properties will already be receiving recycled water. This system also has the inherent danger of unintentional cross connection of non-potable recycled water and potable drinking water supplies.

It is also understood that there are such third pipe recycled water developments where the community resistance to use of recycled water and the lack of consumption of recycled water has led to the schemes being closed down. The most high profile example of this was the flagship scheme for the Coomera Pimpama area in the Gold Coast. In the case of lack of use of recycled water, it is likely that it will be substituted with drinking water as the properties will not have rainwater tanks as proposed with the Council's conventional system.

In addition there is the amenity issue of having small pump stations in close proximity to around half of the dwellings in the development as well as the maintenance and renewal of a large number of pump stations. There are also amenity issues with the location of the proposed Sewerage Treatment Plant within close proximity to existing and future residential properties.

Consequently, it is considered that these schemes (pressure systems) could have inherit problems that should be considered at this early stage of the process for Kings Forest.

Council Officer's provided preliminary comments to the NSW Department of Planning on the amendments to the Project Application generally stating that the changes can be technically accommodated but Council Officers reserved comments on possible wider implications which would be addressed when the Concept Plan modification was lodged.

Council Officers have not yet provided comments to the NSW Department of Planning on the proposed changes to the Concept Plan as this report seeks endorsement of the Officer's Assessment enclosed in this report. More technical advice will be offered when the detailed IPART licence application is submitted by IPART to Council for review.

#### **RECOMMENDATION:**

**That Council endorse that a copy of this report be provided to the NSW Department of Planning as Council's Official position on both Kings Forest Concept Plan Modification (Council Reference GT1/51 Department's Reference MP06/0318 MOD 7) and Kings Forest Project Application Modification (Council Reference DA11/0565.05 Departments Reference Number MP08/0194 MOD 5) to accommodate the use of a private water utility licensed under the Water Industry Competition Act 2006 to provide water supply and sewerage services including recycled water reticulation to the Kings Forest Development, No. 86 Melaleuca Road, Kings Forest.**

**REPORT:****Proponent:** Planit Consulting Pty Ltd**Owner:** Project 28 Pty Ltd/Narui Gold Coast Pty Ltd**Location:** Lot 6 DP 875446 Depot Road, Kings Forest; Lot 2 DP 819015 No. 102 Melaleuca Road, Duranbah; Lot 38A DP 13727 No. 102 Melaleuca Road, Kings Forest; Lot 37A DP 13727 No. 126 Melaleuca Road, Kings Forest; Lot 7 DP 875447 No. 231 Tweed Coast Road, Kings Forest; Lot 1 DP 781633 & Lot 272 DP 755701 & Lot 323 DP 755701 & Lot 326 DP 755701 & Lot 76 DP 755701 & Part Lot 1 DP 129737 & Part Lot 38B DP 13727 & Part Lot 40 DP 7482 No. 86 Duranbah Road, Kings Forest; Part Lot 1 DP 706497 No. 86 Melaleuca Road, Kings Forest**Zoning:** State Environmental Planning Policy (State Significant Precincts) 2005 zones the subject site as follows: 2(c) Urban Expansion, 7(a) Env Prot (Wetlands & Littoral Rainforests and 7(l) Environmental Protection (habitat), Agricultural Buffer (150m) and Ecological Buffer (50m)**Proposal**

Council has received two requests from the NSW Department of Planning to review Modifications associated with both the Concept Plan and Project Applications for Kings Forest that would enable the use of a private water utility licensed under the Water Industry Competition (WIC) Act 2006 to provide water supply and sewerage services including recycled water reticulation to the Kings Forest Development.

- On 15 March 2017 Council received a request from the NSW Department of Planning to comment on MP08/0194 Mod 5 (DA11/0565.05) which is the first project application to have been approved over the Kings Forest site.

The Project Application as modified approved a subdivision to create new lots for future development, bulk earthworks throughout the site, construction of an entrance road, construction of intersection works on Tweed Coast Road, construction of the proposed Kings Forest Parkway, construction of floor space for service station, access to Precinct 1 service station, construction and infrastructure works within the new residential Precinct 5 and maintenance of the existing east-west agricultural drainage channel within existing SEPP14 wetlands.

The current proposed amendment seeks to make changes to the conditions of consent to include the provision for an alternative water and sewerage services and infrastructure so as to allow either connection to Council's reticulated water and sewerage services or provide a standalone water and sewer services for the development in accordance with the WIC Act 2006. The proponent has indicated that if the standalone option is utilised a company called Northern Water Solutions Pty Ltd would seek the relevant licences (from the Independent Pricing & Regulatory Tribunal – IPART) and approvals to operate under the WIC Act 2006.

The conditions requiring amendment are:

- Part 1 – Subdivision of Entire Site Condition 2 – Registration of Easements;
- Condition 30 – Water Supply and Sewerage Strategy
- Condition 31 Water & Sewer
- Condition 118 – Registration of Easements
- Condition 142 Registration of easements
- Condition 154 Developer Contributions

- Condition 157 Water Supply & Sewer
- Condition A2 Other Approvals

Council Officer's provided preliminary comments on this application stating that

- the MOD has only been lodged over the Project Application and has not sought to change the Concept Plan which gives power to the Kings Forest Development Code. The Kings Forest Development Code calls up Council's A5 Subdivision Manual which requires connection to Council's system. Therefore Council requested a second Mod to the Concept Plan and corresponding changes to the Kings Forest Development Code.
- The Mod has not been publically exhibited. Council is of the opinion that a MOD of this nature warrants public exhibition to enable the general public to be alerted that an urban land release area accommodating 10,000 people may want to use a private infrastructure supplier. Whilst the application will be placed on The Department's web site, the general public is unlikely to know to look there without public notification.
- Technical commentary was provided on the merits of the proposed changes to the conditions pending lodgement of a future MOD to the Concept Approval and Development Code. Generally the changes can be accommodated but Council Officers reserved comments on possible wider implications.
- On 30 May 2017 Council received a request from the NSW Department of Planning to comment on MP06/0318 Mod 7 (GT1/51) which is the Concept Plan and associated Development Code approved over the Kings Forest development site.

The Kings Forest development site is listed as a State Significant Site within Schedule 3 of State Environmental Planning Policy (State Significant Precincts) 2005 (State Significant Precincts SEPP). This document contains the sites zoning map.

The Concept Plan as modified approved the broad allocation of the site for the following uses:

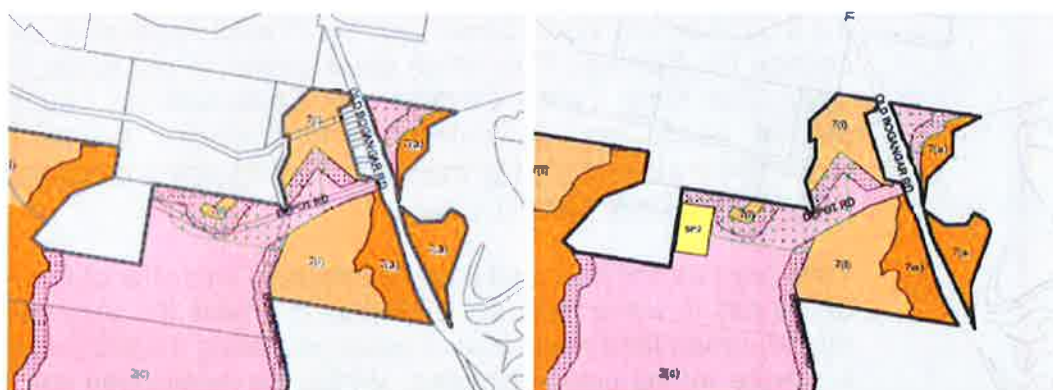
- residential development for approximately 4,500 dwellings across 24 development precincts;
- the creation of a town and neighbourhood centre with associated employment land, and
- community and education facilities;
- a golf course, open space, wildlife corridors, protection and rehabilitation of environmentally sensitive land;
- water management areas and a lake;
- a conceptual road, bicycle and pedestrian network; and
- conceptual plans for servicing infrastructure.

The Concept Plan also approved the Kings Forest Development Code which will act as the sites Development Control Plan.

The current proposed amendment seeks to make changes to:

- The zoning of the site and written provisions under State Significant Precincts SEPP. The amendments seeks to nominate a piece of land within the previously

zoned 2(c) Urban Expansion Zone (Tweed LEP 2000) with Agricultural Buffer (150m) and Ecological Buffer (50m) near the Depot Road Sports field as an SP2 Infrastructure zone (under Tweed LEP 2014) within land that the Concept Plan previously approved Community and Education facility services.



**Existing & Proposed Zoning Map**

The wording contained within the State Significant Precincts SEPP will need to be amended to reflect the new SP2 zone.

The new SP2 site is proposed to accommodate a new waste water treatment facility on a site which was never intended to accommodate its own waste water treatment facility. The proposed location of this plant needs to be critically reviewed now otherwise the SEPP will be amended and allow this site to be used for such a use subject to the IPART licence approval process.



- Conditions of the Concept Plan Approval MP06/0318 to reflect an amended Concept Plan Map.





Existing & Proposed Concept Plan (note grey 50m ecological buffer no longer showing up on the Concept Plan, purple dot proposed zone substation no longer showing up on the Concept Plan)

- Provisions within the Kings Forest Development Code are needed to accommodate an alternative water and sewerage services and infrastructure so as to allow either connection to Council's reticulated water and sewerage services or provide a standalone water and sewer services for the development in accordance with the WIC Act 2006. The proponent has indicated that if the standalone option is utilised a company called Northern Water Solutions Pty Ltd would seek the relevant licences (from the Independent Pricing & Regulatory Tribunal – IPART) and approvals to operate under the WIC Act 2006. .

The sections of the Code that require amendment are:

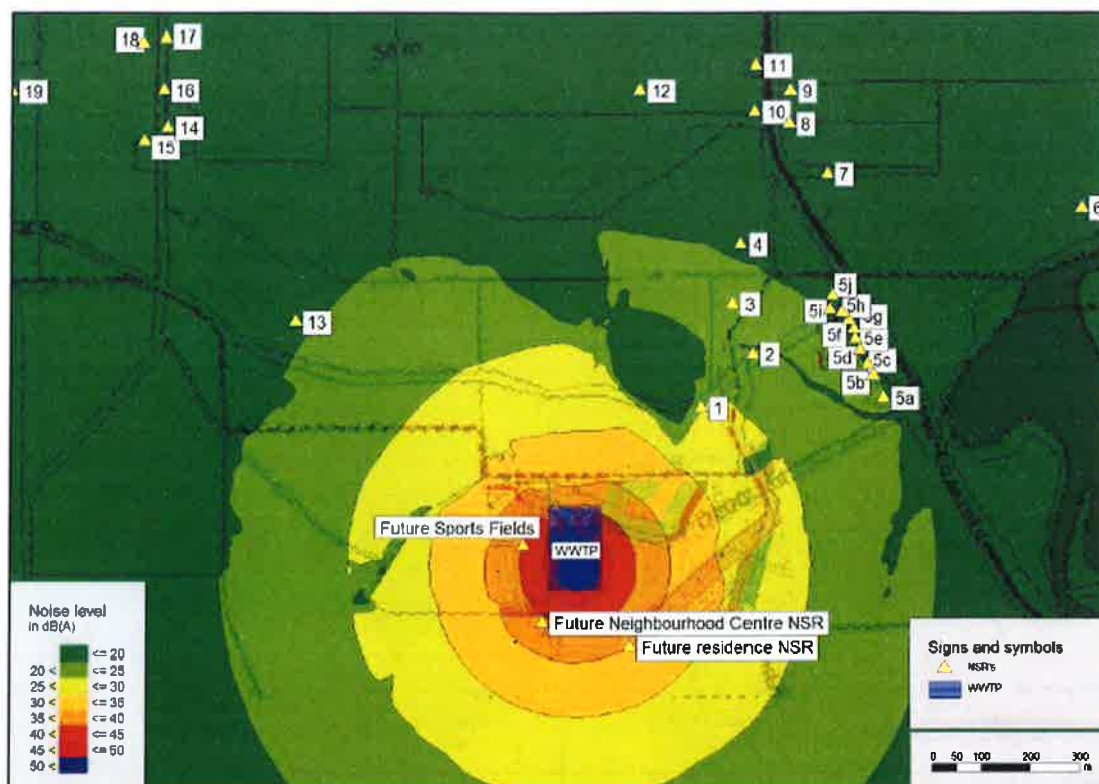
- Part A Section 2 Exempt and Complying Development (various points) – add reference to the “relevant water and sewer authority” as it may not be Council and could be a standalone privately run system.
- Part 5.1 Precinct Plan
- Part 5.2 Relationship to Tweed DCP Section A5 Subdivision Manual
- Add new Part 5.9 – Private Services Infrastructure

The formal IPART Application (licences and Part 5 Approval process) has not yet been forwarded to Council to review, and therefore these applications are just designed to set up the legal mechanism for the relevant consents to accommodate either connection to Council's reticulated water and sewerage services or provide a standalone water and sewer services for the development in accordance with the WIC Act 2006.

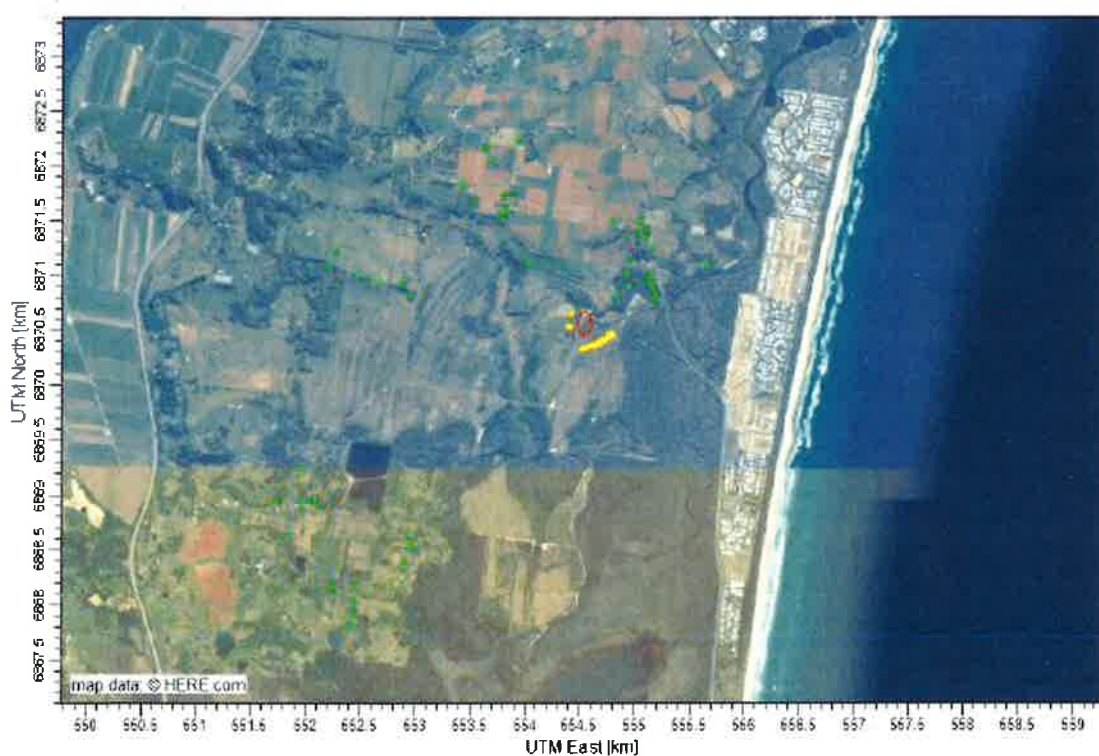
The application has however been accompanied by an Odour Assessment and Noise Assessment reviewing the potential impact of the proposed Waste Water Treatment Plant (WWTP). These documents have the following diagrams to support the proposal:



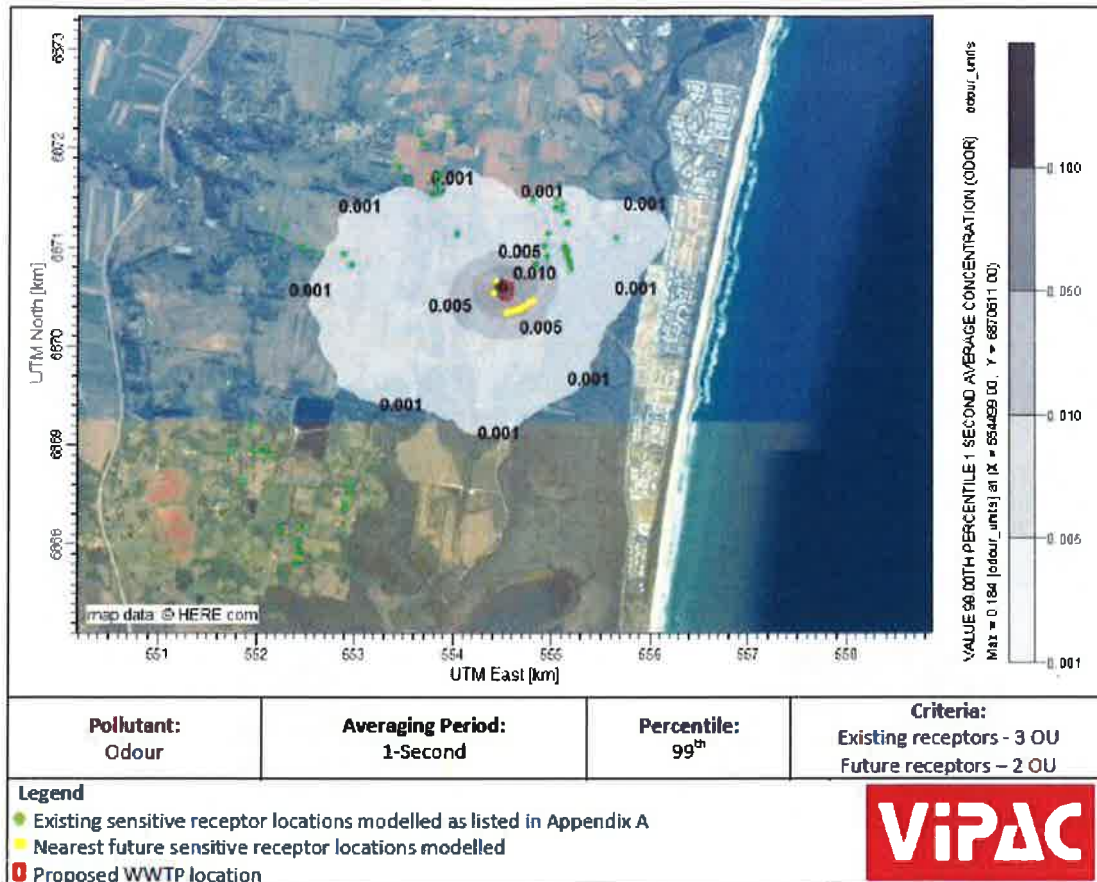




**Noise Map for Evening & Night Time Operational Phase**



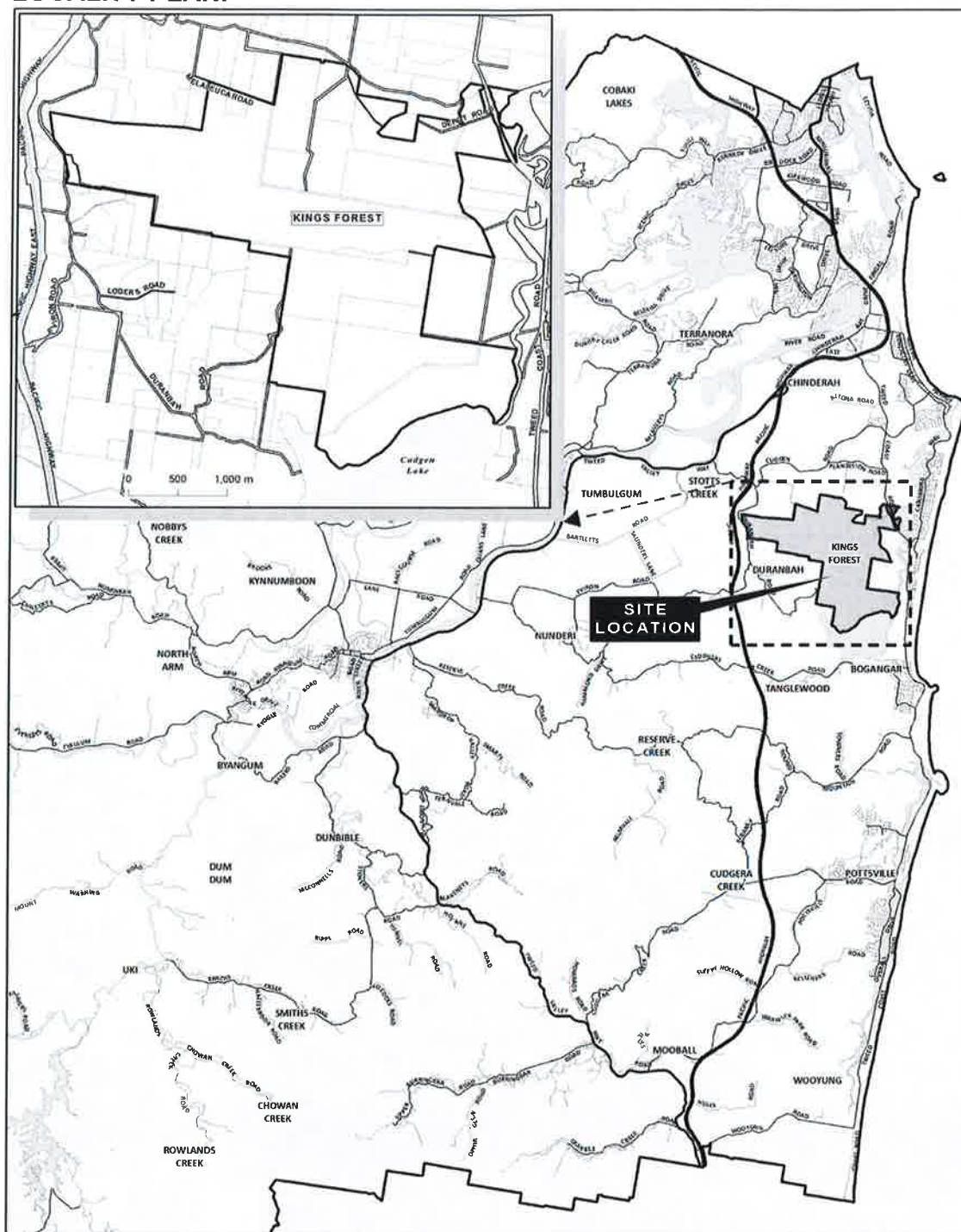
**Sensitive Receptor Locations and the WWTP Boundary (Green existing receptor locations and yellow future receptor locations modelled)**



#### 99<sup>th</sup> Percentile Predicted 1 Second Average Odour Considerations from the WWTP.

As discussed in the summary section of this report, integrated water schemes that rely on the use of treated wastewater have often not been successful due to the lower than estimated usage of recycled water resulting in higher than predicted demand for water and sewerage services. This could be a concern for Council given the anticipated population of 10,000 people within Kings Forest and the likely impact that scheme closure could have on Council as the local Water Authority.

The following report deals with the technical changes to the two consents and concludes that if the Department of Planning wants to approve the proposed Modifications they should have regard to the commentary contained in this report.

**LOCALITY PLAN:**

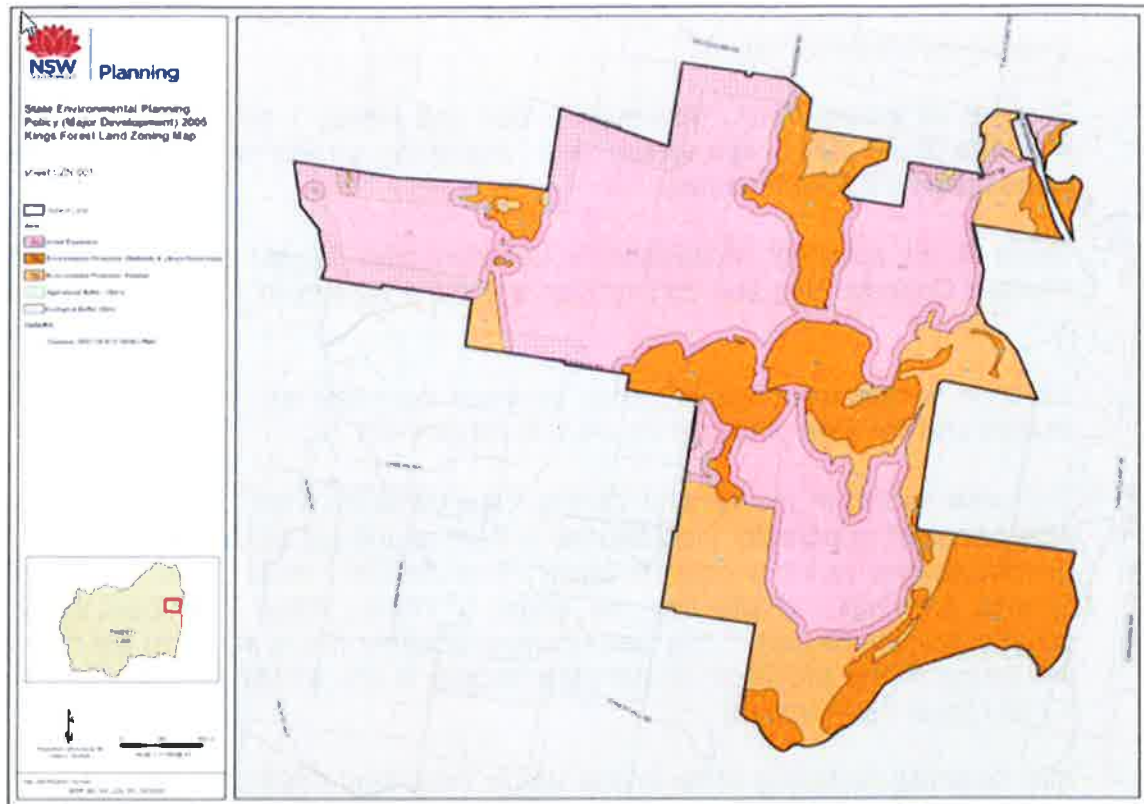
**Locality Plan**  
KINGS FOREST

|   |   |   |   |                                       |
|---|---|---|---|---------------------------------------|
| <p><small>Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about the accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including interest or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and approximate only. It should not be used for statutory or regulatory purposes and for safety reasons a "Call before You Dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 28 days only from the date of supply.</small></p> | <p><small>Cadastral: 28 October 2015<br/>© Land and Property Information (LPI)<br/>&amp; Tweed Shire Council.<br/>Boundaries shown should be considered approximate only.</small></p> | <p>0 1 2 3 Km<br/>1:150,000 @ A4 Portrait<br/>DO NOT SCALE<br/>ESPP ONLY - NOT CERTIFIED<br/>Map Projection: Unadjusted Transverse Mercator<br/>Horizontal Datum: Geocentric Datum of Australia 2004<br/>GRID: Map Grid of Australia, Zone 56</p> | <p> Civic and Cultural Centre<br/>3 Tumbulgum Road<br/>Murrumbidgee NSW 2484<br/>PO Box 816<br/>Murrumbidgee NSW 2484<br/>T (02) 6675 2400   1300 292 872<br/>F (02) 6670 2429<br/>W   www.tweed.nsw.gov.au<br/>E   planning@tweed.nsw.gov.au</p> | <p><b>TWEED</b><br/>SHIRE COUNCIL</p> |
|---|---|---|---|---------------------------------------|







**EXISTING ZONING MAP:****EXISTING CONCEPT PLAN:**

|  |                       |      |   |           |  |   |                    |                  |
|--|-----------------------|------|---|-----------|--|---|--------------------|------------------|
|  | CLIENT                | PLAN | <b>KINGS FOREST</b><br>STAGE 1 PROJECT APPLICATION<br><b>REVISED CONCEPT PLAN</b> | REVISIONS | <p>RPS Australia Pty Ltd<br/>ACN 110 230 726<br/>ABN 44 140 792 757<br/>Level 10, 100 Market Street, Sydney NSW 1500<br/>T: 61 2 920 9900<br/>P: 61 2 960 9600<br/>W: rps.com.au</p> | Local Authority: <b>10001-10001</b><br>Project ID: <b>113001-PSR-4IN-CONCEPT PLAN</b> | <b>PLAN No. 01</b> |                  |
|  | PROJECT 28 Pty Ltd    |      |   | NO.1      |  |   |                    | DATE: 11/11/2016 |
|  | Date: 5 DECEMBER 2015 |      |   | NO.2      |  |   |                    | DATE: 11/11/2016 |
|  | Drawn: [blank]        |      |   | NO.3      |  |   |                    | DATE: 11/11/2016 |
|  | Sheet: 001            |      |   |           |  |   |                    |                  |
|  | Project: CUDGEN       |      |   |           |  |   |                    |                  |
|  | Client: TROUS         |      |   |           |  |   |                    |                  |
|  |                       |      |   |           |  |   |                    |                  |



## Assessment Considerations

### 1. *Inconsistent documentation*

There is an inconsistency between the text and Figure 1 concerning the dimensions and area of the "landscape screen" and "vegetation screen" which are presumably the same thing by different names.

There is an apparent inconsistency between area shown on the Attachment 2 - Revised Concept Plan and Zoning Plan and the area shown in Figure 1 of Attachment 1.

There is an apparent inconsistency between the plant site in the Noise and Odour studies and the area shown in Figure 1 of Attachment 1.

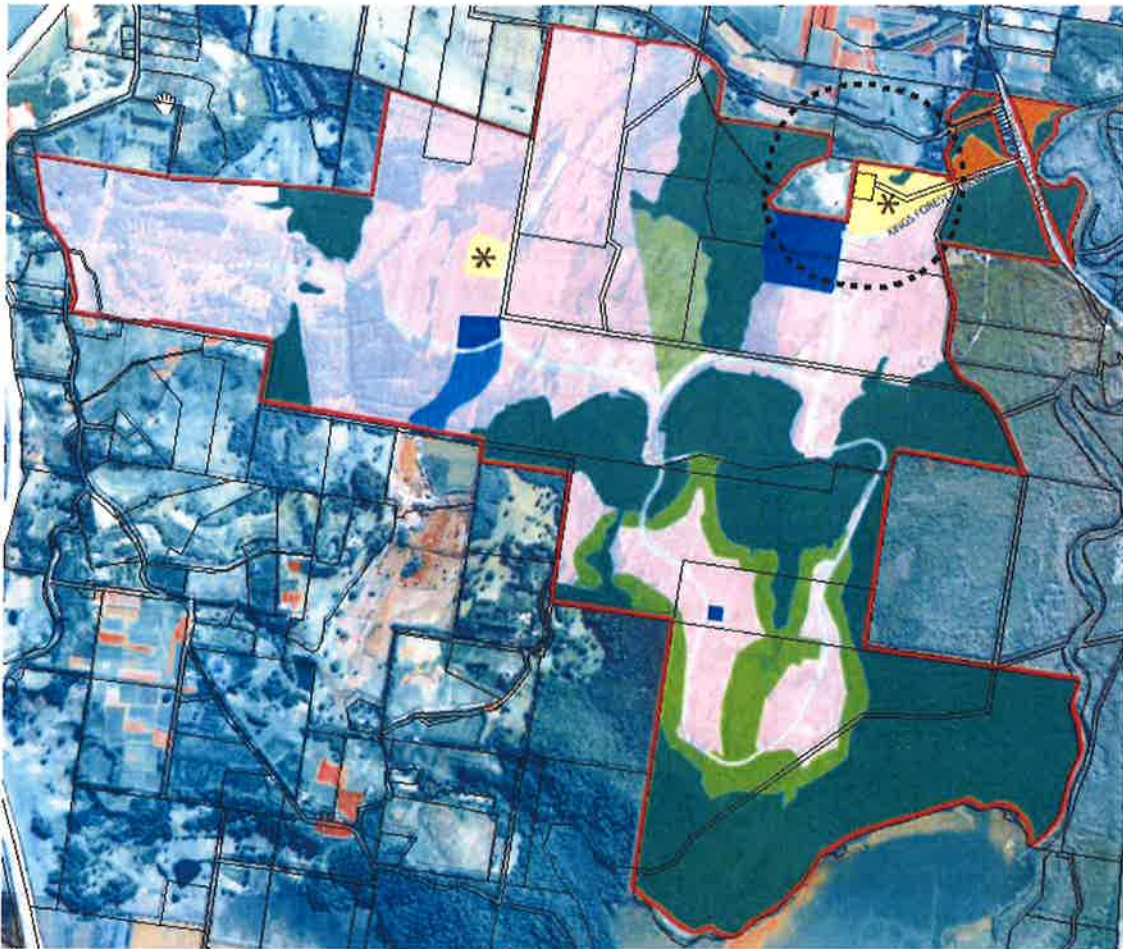
The area shown in the revised Zoning Plan (Drawing Title: Land Zoning Map 2005 Amendments) apparently includes the current alignment of Depot Road which is the current access to the proposed Depot Road Sports Fields. The Odour and Noise Studies drawings indicate that the Water & Waste Water Treatment Plant will be constructed across part of the road reserve. Whether this is an issue will depend upon the timing of the provision of alternate access to the sports field site as part of the Kings Forest development.

### 2. *Site Suitability & Zoning of the Waste Water Treatment Plant (WWTP)*

The allocation of a specific SP2 Infrastructure Zone to the Concept Plan approved plans would set the future location of a brand new water & waste water facility on a site that has not been assessed for its suitability.

Council's normal practice in accordance with Tweed DCP Section A5 Subdivision Manual is to ensure there is a 400m buffer from any treatment facility site to any existing or future sensitive receivers to noise or odour (see specific buffer comments below).

If a 400m buffer was applied to the proposed treatment facility site the zone of influence would affect existing houses (and their future amenity), the nominated Community Land on the Concept Plan, the nominated Town Centre Site (which would hopefully contain shop top housing), the future employment land, the already approved Precinct 5 residential allotments, and Council's proposed Depot Road sports fields (see below diagram showing a 400m buffer).



**400m buffer to proposed SP2 Land**

Therefore the suitability of the subject site is seriously questioned and needs to be justified by the proponent or amended if sufficient justification cannot be provided.

The proposed SP2 zoning also needs to be reviewed in the context of the SEPP (State Significant Precincts) 2005 as the Kings Forest provisions under this SEPP default back to LEP 2000 which do not have an SP2 zoning. Therefore significant amendments are required to the SEPP to detail how the SP2 LEP 2014 (standard instrument zone) can be applied under the SEPP.

Furthermore, the request to zone an area of land as SP2 Infrastructure (Sewerage System) may be problematic as the proposed location of Water Supply Infrastructure (reservoirs and pressure boosting pump stations) is not available to WIC Act licensees under ISEPP in the same way that Sewerage Infrastructure is (ISEPP 106). Water Supply works would require consent and unless the particular works are deemed incidental or ancillary to the Sewerage works, they would be prohibited in the zone.

### 3. *Location of proposed Waste Water Treatment Plant (WWTP)*

The proposed Concept Plan amendment proposes to locate the WWTP within the previously identified "community facilities / education" precinct in the north eastern part of the estate. There are conflicting plans which make it difficult to determine the proposed location in relation to Depot Road. Plans submitted with the noise and odour assessment reports show the facility located over the road reserve. This would conflict with Condition 29 of the Project Approval (MP08\_0194) which prevents closure of Depot Road until an alternate road access to the adjacent sports fields is provided.

However if the Modification Request Report is correct and the WWTP is located wholly within Lot 1 DP 781633, this conflict is resolved, although the noise and odour assessments may need to be reviewed with the correct location.

#### 4. *Buffers to WWTP*

Buffers of 200-400m to WWTP components are recommended in DCP-A5 Subdivision Manual. There are likely to be buffer impacts given the proposed location in a constrained part of the site, adjacent to public uses such as playing fields and community facilities, as well as being close to the Town Centre and residential precincts. This needs to be reviewed in detail to determine the appropriate buffer for the design of the WWTP, and the town planning impacts of such a facility at this location taken into account. This will potentially include amendments to the approval for the residential subdivision (DA11/0565) if noise and odour cannot be adequately mitigated to reduce buffers.

While A5 is under review, buffer requirements for WWTPs are unlikely to change significantly. The proponent should address the buffer clauses in A5 in support of the modification.

There is a conflict between DCP A5 Appendix E A5.E.8 Sewerage Treatment Works Recommended Buffer and the Odour Modelling and undertaking that odour emission would be less than 2 Odour Units at the boundary.

DCP A5 recommends a 400m buffer, but does not permit any use within 200m of any current or proposed primary and secondary process units.

Between 200m and 400m there is provision for building associated with industrial, commerce or trade with a "must be designed with" requirement and air conditioning requirement.

There is also a requirement for restriction as to use stipulating the above. The requirements do not indicate any variation should the primary and secondary process units be located within a building and/or have effective odour mitigation facilities in place.

Having the "Town Centre" within the 200 – 400m portion of buffer would require special design and provision of air conditioning leading to potential additional cost for construction and operation of the Neighbourhood Centre.

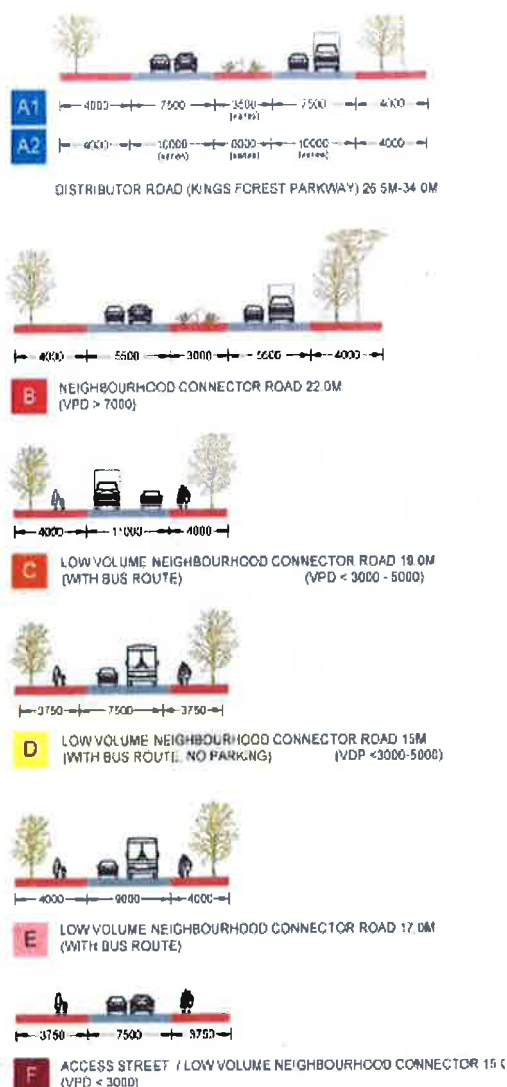
Furthermore the Town Centre will have shop top housing which would be within the 200-400m portion which would be unacceptable.

#### 5. *Service Allocation in Subdivision Design*

Subdivision approval is in place for the initial residential stages of Kings Forest, based on compliance with Council's Subdivision Manual and referenced specifications. Assuming that the proposed private water and waste water scheme will be similar in nature to that being currently discussed at Cobaki, it will provide for private water, sewerage and recycled effluent services (3<sup>rd</sup> pipe), to be located in the road reserve. As per the advice provided to the Department for Cobaki, the "3<sup>rd</sup> pipe" proposal cannot fit suitably within the minimum 3.75m wide road verge. If the private system is pursued, wider road reserves will mean modification of the subdivision DA







Council's previous advice to the Department of Planning & Environment for recent modifications to incorporate reticulated water in the Concept Plan for the Cobaki subdivision is detailed below in *italics* (extract from Council's recommendation letter to Planning & Environment dated 8 June 2017' for Cobaki - Section 5.9 Location of easements for services):

*"Flow on effects on lot configuration and yield will result and further modifications to the road widths as approved under the Concept will likely be required."*

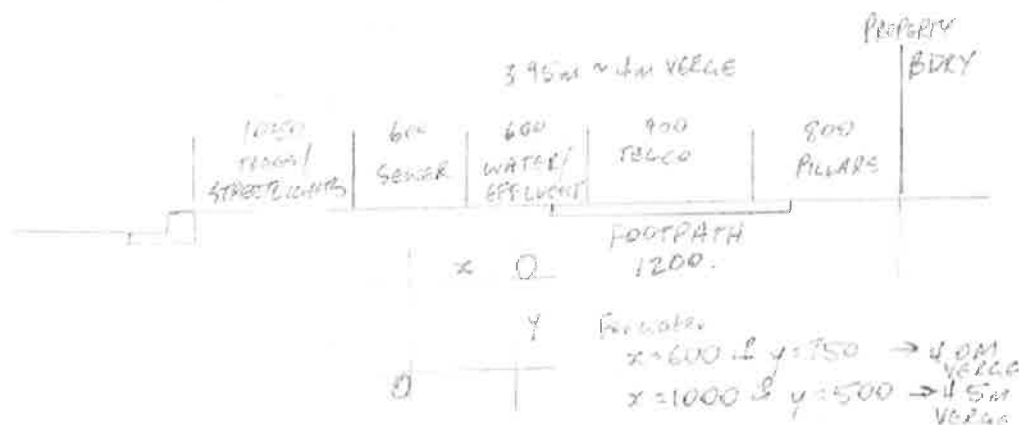
*It is considered that the minimum width for road verges depend on how well coordinated the other services are to minimise conflicts.*

*It would seem that under the three pipe proposal, there would be sewer on both sides of the road, water on one, and effluent on one. Wherever possible, effluent and water supply should be on opposite sides of the road to avoid potential cross connections / contamination, which also helps to minimise verge width.*

*There is no provision under WSA Codes or Council standards to share water / sewer / effluent trenches. The sketch below is based on the assumption that there are only two of the three pipes within the verge, that the water is 200mm dia or less and the sewer is 300mm or less. Larger services require greater separation distances under WSA Code. Where water and sewer is on the same*



side, the trench spacing shown requires at least a 750mm vertical clearance between these services. This would only be 300mm if we are dealing with effluent and sewer adjacent.



The above sketch indicates that a 4m wide verge could generally accommodate the proposed system with a 750mm vertical clearance. The required verge width would need to increase to 4.5m if the 750mm vertical clearance between water and sewer cannot be achieved, or if the third pipe is inserted on the same side.

As previously noted, Council will not support a reduction of any minimum road pavement widths to accommodate any increase in road verges widths."

#### 6. Irrigation on residential areas resulting in high nutrient run-off

Any future IPART application should include analysis as to whether recycled water runoff has been considered a nutrient source in the stormwater quality management plan for the site. Given the high sensitivity of the receiving environment to excess nitrogen it would be important for the MUSIC model developed for the stormwater management plan be checked to make sure it takes account of potential additional load of total Nitrogen and total Phosphorous in runoff from residential irrigation.

#### 7. Irrigation on Council land (parks, sports fields, verges etc)

The proponent may request that as a result of the 3<sup>rd</sup> pipe system they would like to discharge recycled water onto Council land.

It is Council's policy to manage water carefully to conserve the shire's water supply and to reduce water costs, while also ensuring our sports fields are kept in good, safe condition. Under current service levels Council will irrigate sports fields but does not irrigate parks beyond the establishment period (maximum 12 month period and to a level that is 'fit for purpose'). This is a policy currently applied across the shire to ensure equity in the management of open space.

Irrigation volume is dependent on many factors e.g. rainfall and evaporation rates, soil type and a well-designed irrigation system.

Council is under no obligation to provide bulk water to NWS or to receive treated wastewater into Council's sewerage system or receive treated wastewater for irrigation purposes.

Council will be providing advice to any private company to the effect that whilst Council is willing to undertake the ownership and maintenance of an irrigation system in the sports fields, it will only accept treated wastewater for irrigation purposes when needed. Council will likely only accept a hardstand area within parks. Council will not accept any irrigation within the road verges.

It should be noted that there are no formal agreements in place between Council and NWS. In this regard, if it remains intended that the Kings Forest Estate be serviced by NWS, it is considered to be in NWS' best interest to work with Council to negotiate such agreements sooner, rather than later.

## 8. Noise & Odour

A Noise Assessment for Kings Forest WWTP prepared by Vipac Engineers and Scientists Limited dated 13 April 2017 (Document No: 70Q-17-0005-TRP-541306-0) has been submitted. The following is noted:

- The newly proposed water & waste water facility site is primarily agricultural area with some forested areas, residential and farm buildings.
- Existing and future noise sensitive receivers (NSRs) have been considered.
- Noise readings were taken in the areas of those residences closer to Tweed Coast Road and those further west.
- Use of NSW EPA Industrial Noise Policy.
- Noise management levels have been provided for each of the areas for day, evening and night.
- Two modelling scenarios – neutral weather and worst case for both day and evening/night.
  - Construction – all equipment running simultaneously
  - Operational – all equipment running simultaneously for 24 hours/7 days except for trucks limited to 4 movements per day.
- Noise levels calculated on levels from similar operations, guidelines, and manufacture's specifications.
- Majority of pumps located within the building. Sound transmission loss of the building (0.42mm thick Colorbond) has been applied.
- Construction phase
  - Standard construction hours proposed.
  - Compliance for existing dwellings but not for future community facility land, neighbourhood centre and future residences at Kings Forest (12 db(A) over). Note daytime operation only (as per standard hours). Where future uses are constructed prior to the construction of this facility, a Site Management Plan would be required.
  - Where future sites are constructed prior to completion of this development (note that the WWTP is staged), a Construction Noise Management Plan would be required.
  - Noise levels are exceeded at the sports field. Consultant considers that this will not impact its use for sporting purposes - 61dB(A).
- Operational phase
  - 24 hours/7 day
  - Compliance for existing and future noise sensitive receivers. Consultant has advised that NSR Neighbourhood Centre is not applicable as it would not be occupied during the night time. Sports centre predicted at 40 dB(A) which has been advised would not impact sporting fields.

### Concerns:

- Table 3-3: Project Specific Operational Noise Levels at NSR's identifies amenity criteria levels that do not appear consistent with NSW EPA's Industrial Noise Policy Table 2.2 Modification to acceptable noise level (ANL) to account for existing level of industrial noise. The background is relatively low in these areas and evening and night criteria for both locations would be lower than the project specific noise levels provided. It is noted however that based on Table 6-2 Operational Phase Predicted Noise Impact, criteria would still be met (based on their assumptions in the report).
- The Kings Forest Development Code outlines development applicable to each zone. Predicted noise levels for the Community Facilities/Education zoned land have not been considered which are in immediate proximity to the proposed WWTP. The future Neighbourhood Centre may also include residential development (shop top) and retail premises would likely be open during the evening/night and compliance with operational noise levels would be required.
- Modelled sound power levels do not appear to have taken into consideration the need for possible generators within the WWTP site in the event that there is a power failure.
- The consultant has advised that the majority of pumps are to be located within a building and the sound transmission loss of the building has been determined based on typical single panel Colorbond construction of 0.42mm thickness steel. This proponent has applied this to the noise model. It is unclear from the detail provided how this has been applied in modelling as there will be external pumps and possibly generators.
- The report considers likely noise impacts that have been predicted for both construction and operational phases using assumptions based on sound power levels calculated by manufacturers of the proposed system and a level of attenuation provided by the proposed building. Re-assessment would be required when final designs are provided of the WWTP and building proposed to house equipment to ensure adequate noise attenuation is achieved, including any recommendations.
- Assessment post construction (or after each stage is completed) would be required to confirm that noise criteria has been met.
- Proposed ongoing monitoring would be required to ensure criteria is being met.
- Complaint handling – Note Council is not the Appropriate Regulatory Authority (ARA). The WIC Act allows for the Minister to appoint Inspectors and Authorised Officers with respect to compliance.
- Proposed Maintenance and Site Management Plan for construction and operational phases.
- Possible land parcels closer than the nearest noise sensitive receivers that have a dwelling entitlement.

An Odour Assessment for Kings Forest WWTP prepared by Vipac Engineers and Scientists Limited dated 13 April 2017 (Document No: 70Q-17-0005-TRP-541352-0) has been provided. The following is noted:

- Potential odour impacts associated with the proposed WWTP on Depot Road in the Kings Forest development.
- Use of Approved Methods for the Modelling and Assessment of Air Pollutants in NSW (EPA 2005).
- Compiled using data supplied by Planit and information derived from published maximum specific odour emission rates (SOERs) from Sydney Water for

individual activities. Assumes the plant is operating continuously with carbon filtration mitigation – 3 stages of membrane bio reactor (MBR) with UV disinfection, a 2ML permeate storage tank (storage of excess permeates during wet weather events) for Class A treated effluent to provide feed water to an advanced water treatment plan (AWTP). The AWTP includes an ultra-filtration membrane system, UV disinfection, and chlorine tank with transfer pumps to transfer the treated effluent to the storage reservoirs. There are also three 2ML tanks for drinking water (4 day supply).

- Coolangatta data used including the meteorological component of The Air Pollution Model (TAPM) to provide wind fields over the local area.
- Estimation of odour emissions from the proposed WWTP were developed for an emissions scenario with all stages of the WWTP completed (representing a worst case scenario) using maximum values and conservative constant emission for all odour sources for the duration of the year.
- CALPUFF model used to predict impacts from one hour to years. As the human nose can respond in the one second range, peak to mean ratios (scaling factors for one hour odour emission rates to one second values) were determined as per EPA guideline.
- WWTP will be located within a passively ventilated shed. Building ventilation modelling has been made with construction assumptions (carbon filters, passive ventilation, stack dimensions).
- Area sources are the highest odour sources - redundancy tank, truck loading, and specifically the activated sludge (highest and not covered).
- Operational phase
  - Model predicts that the odour impact from the proposed WWTP is well below the 2 OU 99th percentile criterion for all existing and future sensitive receptors (max 0.184.OU), with the nearest existing residence experiencing 0.014 OU and future sporting field 0.05 OU.
  - Results indicate the proposed WWTP would meet the odour performance criteria at the modelled existing and future sensitive receptors.

#### Concerns:

- The consultant has used a repealed version of the NSW EPA's Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales. The latest version should be used.
- The consultant may consider the draft NSW Best Practice Odour Guideline (NSW Department of Planning, April 2010).
- Confirmation that odour management includes aerosols or potentially toxic air pollutants.
- Predicted odour levels for the Community Facilities/Education zoned land have not been considered which are in immediate proximity to the proposed WWTP.
- Location of the WWTP appears to be closer to the existing receivers in Secret Lane (250m) as shown within the Odour Report compared to the Supporting Document by Planit.
- The entire WWTP will not be located within the proposed shed. It is unclear whether this has been considered in the modelling.
- The system relies on ongoing maintenance and replacement of filters as per manufacturer's recommendations.
- Proposed Maintenance and Site Management Plan for construction and operational phases. The consultant should provide recommendations on options to reduce or eliminate odour impacts.

- Re-assessment would be required when final designs are provided of the WWTP and building proposed to house equipment to ensure adequate noise attenuation is achieved, including any recommendations.
- Assessment post construction (or after each stage is completed) would be required to confirm that odour criteria has been met.
- Proposed ongoing monitoring would be required to ensure criteria is being met.
- Complaint handling – Note Council is not the Appropriate Regulatory Authority (ARA). The WIC Act allows for the Minister to appoint Inspectors and Authorised Officers with respect to compliance.
- Possible land parcels closer than the nearest noise sensitive receivers that have a dwelling entitlement.
- Consideration of relevant buffers with respect to EIS Guideline – Sewerage Systems (Department of Urban Affairs and Planning, Sept 1996) to be made by Council's Water and Wastewater Unit.
- Depot Road has been labelled Pine Ridge Road (previous documents mentioned Kings Forest Parkway).

#### General Concerns Noise & Odour

There is a lack of detail provided by the proponent to consider the implications of the proposal. The following matters are raised:

- Location of the WWTP in the Planit document does not appear consistent with the noise and odour reports which show the following approximate distances:
  - Future Community Facilities/Education – 0m east and south.
  - Future open space – 70m west (with proposed 20m tree buffer)
  - Future Neighbourhood Centre – 115m southwest
  - Future residential development – 150m south
  - Nearest existing dwelling – 330m northeast
- Within the proponent's letter dated 9 March 2017 (Ref: J5193), the proposed SP2 zone is a different size on the Concept Plan and the Land Zoning Map 2005 Amendments. Details of the size of the proposed WWTP and the SP2 zone have not been supplied.
- Pressure sewer proposed. This may result in a proliferation of private sewage pump stations throughout the Kings Forest development which may raise additional odour and noise concerns that have not been addressed.
- The proponent has stated that "The WWTP will be designed and sited to ensure there is no impact upon any current nor future nearby sensitive receptors". This cannot be guaranteed.
- Is reuse of wastewater proposed? If so:
  - Will the proposed standard of the final treated wastewater be acceptable for reuse within dwellings and commercial sites (toilets, washing machines etc.) and do they meet NSW requirements?
  - How will possible cross connection of potable and recycled water systems to end users be managed?
  - Council is not obligated to accept waste water and treated water. If recycled water is proposed to be discharged to Council's parks and recreational facilities, where the recycled water does not meet Council's requirements (excess volume, suitability etc.) for open space irrigation, Council may refuse acceptance of the wastewater. Would refusal create problems with



disposal to Council's reticulated sewerage system? Alternative disposal options would need to be explored.

- Will the system include filtration membrane devices that remove salt and virus pathogens from the effluent? If so, how and where will the super-saline backwash residue liquid be removed and treated/disposed?
- It is noted that not all of the WWTP will be located within the proposed Colorbond structure. Raises potential pollution issues from uncovered and/or unbunded areas.
- Possible overflow of contaminated waters into local waterways, particularly during prolonged rainfall events.
- Possible contamination of potable water supply by wastewater.
- Possible impacts to groundwater by the release of wastewater from the WWTP.
- Who looks after the system if/when it fails? Is an alternative private water utility required to step in? Will Council be required to take on this infrastructure?
- Noise and Odour reports have been provided that will require detailed review and comment by NSW EPA and IPART.
- The WWTP appears to be encroaching into Agricultural Buffer.

#### 9. *Acid Sulfate Soils*

An acid sulfate soil investigation would be required for this proposal. No detail has been provided.

#### 10. *Contaminated Land*

A contaminated land investigation would be required for this proposal. No details have been provided.

#### 11. *Electricity*

Two rows of power lines are located across the proposed development site. Discussion with Essential Energy would be required.

#### 12. *Groundwater Vulnerability*

A groundwater management plan may be required for this proposal. No details regarding depth and potential interception of groundwater/dewatering requirements have been provided.

#### 13. *Lighting*

Potential lighting impacts from operational and security lighting would need to be considered.

#### 13. *Detailed analysis of the proposed amendments to the statutory changes to the SEPP, Consents, and Code*

##### Changes to MP06\_0318 Concept Plan Conditions of Consent

- The proponent proposes to amend the "approved plan list" by replacing the approved Concept Plan with a new Concept Plan showing the new SP2 Infrastructure site for the proposed water & waste water facility.

Concept Approval MP06\_0318  
Schedule 2, item A2

The project will be undertaken generally in accordance with the following drawings:

| Design, Landscape and Survey Drawings |            |                            |   |
|---------------------------------------|------------|----------------------------|---|
| Drawing No.                           | Revision   | Name of Plan               | Date  |
| 1056-RD19                             | <b>A</b>   | Kings Forest Cadastre Plan | 4 March 2008                                    |
| <b>01</b>                             | <b>B C</b> | Revised Concept Plan       | <del>5 December 2013</del><br><u>March 2017</u> |

However, as can be seen from the below diagram the modification to the Concept Plan does more than just nominate the new SP2 site. The new plan removes other reference points such as the 50m ecology buffer (grey) and removes the nomination of the purple dot which represented the zone substation.

Before any new Concept Plan is endorsed it needs to be critically reviewed for any other inconsistencies



Existing & Proposed Concept Plan (note grey 50m ecological buffer no longer showing up on the Concept Plan, purple dot proposed zone substation no longer showing up on the Concept Plan)

### Changes to MP06\_0318 Development Code

- The proponent proposes to amend the "Exempt & Complying Development Provisions" by replacing the words "local water & sewer authority" with "relevant water and sewer authority" as shown below:

## 2.1 Exempt Development

### Objectives

To specify minor development with minor environmental impacts that can proceed without any planning approval.

### Controls

- (1) Comply with the standards in Schedule 1 for the relevant development type and the controls (2)-(3) below.
- (2) To be exempt development, the development must:
  - (a) Meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, or if those provisions do not apply, shall be structurally adequate, and
  - (b) be more than 1 metre from any easement or public sewer main, stormwater main, water main or related fixture and comply with the requirements of the local relevant sewer and water authority, and
  - (c) If it relates to an existing building, not cause the building to contravene the *Building Code of Australia*, and
  - (d) Not be designated development, and
  - (e) Be installed in accordance with the manufacturer's specifications, if applicable, and
  - (f) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent, and
  - (g) Not be in conflict with any existing services, and
  - (h) If work involves any plumbing or drainage works, approval for such work under the *Local Government Act* must be obtained from the local relevant water and sewer authority.
  - (i) not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*.

In regard to b) above this may be satisfactory in relation to water and sewer facilities but this clause also includes stormwater main which remains the domain of the local authority or more specifically Tweed Shire Council.

In regard to h) above this is in relation to "approval of such work under the "Local Government Act". No other authority has power to approve things under the Local Government Act and certainly not a WIC Act Licensee. If such plumbing and drainage work requires approval under the Local Government Act, then Council is the only authority to give this approval.

Therefore these proposed changes need to be critically reviewed and amended.

The proponent proposes to change 2.1.64 which relates to above ground rain water tanks as follows:

#### 2.1.64 Development standards

- (1) The standards specified for that development are that the development must:
  - (a) have a capacity of:
    - (i) if for an educational establishment—not more than 25,000 litres, and
    - (ii) in any other case—not more than 10,000 litres, and
  - (b) be located at least 0.45m from each lot boundary if the tank has a height of more than 1.8m above ground level (existing), and
  - (c) be located no less than 0.9m behind the frontage building line of any road or public land frontage, and
  - (d) be screened with fencing of 1.8m height located between the development and the road or public land frontage and/or any other lot, and
  - (e) not rest on the footings of an existing building for support, and
  - (f) not require cut and fill of more than 1m below or above ground level (existing) or that is within 0.9m of any lot boundary, and
  - (g) be fitted with a first-flush device that causes initial run-off rainwater to bypass the tank which is of a colour matching the colour of the tank, and
  - (h) have a sign affixed to it stating the water in it is rainwater, and
  - (i) be constructed or installed to prevent mosquitoes breeding in it, and
  - (j) have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property or cause a nuisance to adjoining owners, and
  - (k) be constructed in low-reflective, factory pre-coloured materials.
- (2) Pumps attached to the development must be housed in a soundproof enclosure.
- (3) If reticulated water is provided to the lot, the development must not be connected to reticulated water without the prior approval of the local relevant water authority.
- (4) In this clause:

**educational establishment** means a building or place used for education (including teaching), being:

- (a) a school, or
- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

Whilst there is no objection to this, it would appear that this would be the only way to control the use of water tanks in the development. In the event that it is a WIC Act licensed scheme with recycled water for toilet flushing, cold water laundry and outdoor uses, it would probably not be in the proponent interests to permit rainwater tanks other than very small ones where somebody might very specifically want it.

The proponent proposes to change 2.1.66 which relates to below ground rainwater tanks as follows:

#### 2.1.66 Development standards

- (1) The standards specified for that development are that the development must:
  - (a) be fitted with a first-flush device that causes initial run-off rainwater to bypass the tank, and
  - (b) have a sign affixed to it stating the water in it is rainwater, and
  - (c) be constructed or installed to prevent mosquitoes breeding in it, and
  - (d) have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners, and
  - (e) be located no less than 0.9m behind the frontage building line of a road or public land frontage unless completely submerged below ground with the exception of a cover that either is screened within a garden with planting or is exposed in a paved area and treated with the same paving finish as the surrounding area.
- (2) Pumps attached to the development must be housed in a soundproof enclosure.
- (3) If reticulated water is provided to the lot, the development must not be connected to reticulated water without the prior approval of the local relevant water authority.

Whilst there is no objection to this, it would appear that this would be the only way to control the use of water tanks in the development. In the event that it is a WIC Act licensed scheme with recycled water for toilet flushing, cold water laundry and outdoor uses, it would probably not be in the proponent interests to permit rainwater tanks other than very small ones where somebody might very specifically want it.

The proponent proposes to change 2.1.80 which relates to temporary builders structure as follows:



- (a) Be located on the lot in relation to which a current development consent has been granted, and
- (b) If it contains plumbing fixtures, have those fixtures connected to an approved waste water treatment device or an approved connection to the sewer, and
- (c) Not be used for residential purposes, and
- (d) Be removed from the lot immediately after completion of the works for which the development consent was granted.
- (e) Not be connected to a reticulated water supply or sewer without the prior approval of the local relevant water and sewerage authority.

No objection to this change.

The proponent proposes to change 5.1 (4) which relates to the need for precinct plans as follows:

#### 5.1 Precinct Plan

##### Objectives

- (1) To ensure the orderly development of the land and assist in the co-ordinated programming and provision of necessary infrastructure and casual open space.
- (2) To identify the position of Casual Open Space within the subdivision design of the Precinct.
- (3) Provide a planning framework for subsequent plans of development and nominated lots.
- (4) To provide for infrastructure within the SP2 zone and related uses consistent with the intended use of surrounding lands where required.

##### Controls

- (1) Submit a precinct plan with the first development application for subdivision of each precinct (location illustrated in Figure 5.1.1).
- (2) Provide a permeable, hierarchical street pattern that relates to the original topography, and facilitates 'way' finding.
- (3) Provide a main street, focal point and identifiable public domain.
- (4) Provide lot sizes and configurations to support a range of housing types that integrate into the street pattern.
- (5) Identify an open space network.
- (6) Connect parks, public spaces, main streets, services, infrastructure and natural features.
- (7) Use streets and footpaths to define the edges to public open spaces.
- (8) Provide water sensitive urban design within appropriate open spaces.
- (9) Identify the proposed staging of subdivision within each precinct.
- (10) Identify an estimated development yield.
- (11) Prevent development that is not compatible with or that may detract from the provision of infrastructure relevant to SP2 zoned services.

In regards to the new proposed objective (4) it is unclear why this is necessary. There are no specific objectives in relation to other zones in the plan, so why is a specific objective required for the SP2 section?

In regards to the new proposed control (11) the wording of this is peculiar as it talks about "SP2 zoned services". Zoning refers to land not services. The SP2 zone is to set land aside for specific services.

This wording could possibly be changed to "Prevent development that is not compatible with or may detract from the provision of infrastructure for which the area is zoned SP2 Infrastructure (Sewerage Systems)." However, the proposed location of the SP2 land and the possible future water and waste water facility is within 400m of land nominated for future uses such as community facilities, town centre land, shop top housing and residentially zoned land. This provision may sterilise land within 400m of the new facility.

The purpose and intent of this Clause needs to be seriously reconsidered.

The proponent proposes to add a new 5.2 which relates to the link to Council's Tweed DCP Section A5 Subdivision Manual as follows:



## 5.2 Relationship to Tweed Shire Council Development Control Plan 2008 Section A5 - Subdivision Manual

### Objectives

- (1) To clarify the relationship of the subdivision controls of the Code with the subdivision controls of Council Development Control Plan 2008 Section A5 - Subdivision Manual.
- (2) Where water and sewer provision is provided under a WIC Act License, that Authority is not bound by any council standard in relation to the provision.

### Controls

- (1) This Code adopts the following provisions of Tweed Development Control Plan 2008 Section A5 – Subdivision Manual
  - Part A5.4 Urban Subdivision Design Guidelines & Development Standards, except where varied by this Code
  - Part A5.6 The Assessment & Decision Making Process

There is no objection to this principle, but it should be noted that the high level standards contained within A5 should be complied with. For example it is a Council standard that every lot be provided with water supply and sewerage services.

The proponent proposes to add a new 5.9 (but deletes the existing 5.9) which relates to the Location and Easement Services as follows:

## 5.9 Location and Easements for Services

### Objectives

- (1) To ensure appropriate easements are provided for adequate servicing of land where services cannot be located on public land.

Amended Development Code compiled by DAC Planning Pty Ltd in September 2015 for use by Project 28 Pty Ltd and the Company's Consulting Team only. Due care has been taken in compiling the amended Development Code but for abundant caution reference should be made to individual Modification Instruments rather than relying on this amended Development Code.

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Kings Forest Development Code

PART B

### Controls

- (1) Where possible, all services must be located in footpaths in accordance with Figure 5.9.1.
- (2) Where services are located within a residential lot an easement is to be provided over that infrastructure that has at least one connection to a public road or reserve.

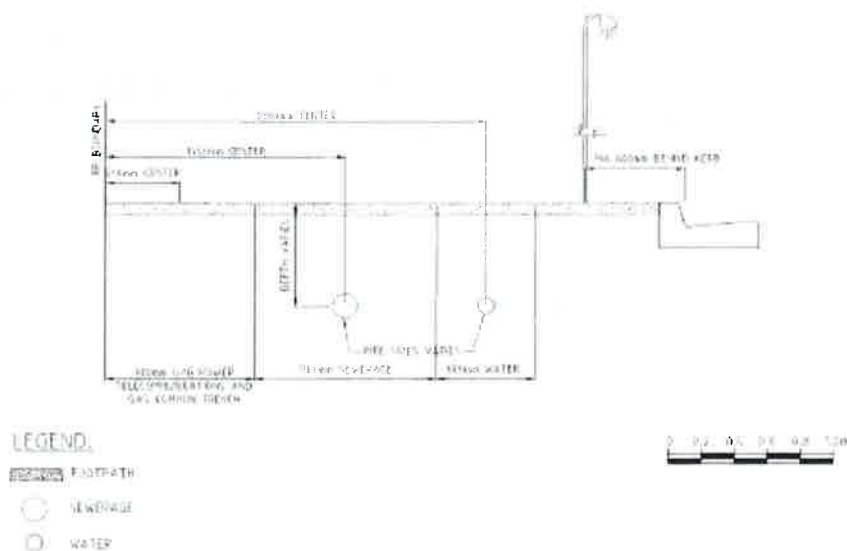


Figure 5.9.1: Typical services section

The deletion of the existing 5.9 is unacceptable as the above wording is an important inclusion within the Code as these sections ensure adequate protection of, and access to infrastructure whether they be Council or private assets.

By replacing 5.9, the controls for the case where the water supply and sewerage by Council in relation to footpath services allocation and provision of easements in private property are eliminated. This would mean that this would revert to Council's standard DCP A5 and Development Design and Construction Specifications would apply to this development unless the mooted Private Water Supply and Sewerage scheme was licensed under the Water Industry Competition Act 2006.

Therefore the existing 5.9 should remain and the proponents proposed 5.9 (as shown below) should be re-numbered to 5.10.

Further, since Section 5.9 does not address the alignment of recycled water mains within road reserves, further modification of the section may be necessary and may result in the need for a wider road cross section. (See 5. *Service Allocation in Subdivision Design* earlier in report with the sketch proposing new cross section)

#### 5.9 Private Services Infrastructure

##### Objectives

- (1) To facilitate alternate services provision in accord with the Water Industry Competition Act 2006 and to ensure that the approvals process is structured so as to achieve the intent of that legislation.
- (2) to minimise infrastructure works and potential environmental impacts associated with High Water Table, Acid Sulfate Soils and discharges to the natural environment.
- (3) To facilitate alternate means of sewer and water infrastructure provision.

##### Controls

- (1) In the event that the proponent seeks to pursue Water and or Sewerage connections in accord with the Water Industry Competition Act, 2006, then a licence must be sought and issued by IPART for such works, with the exception of those works that are exempted from approval under the Water Industry Competition Act 2006.
- (2) Both conventional gravity sewerage (connection to Tweed Shire Council) and or an alternate Pressure Sewer System pursued under the Water Industry Competition Act 2006, must be designed in a manner consistent with the provisions of Tweed Shire Council Development Design Specification D12.
- (3) Before undertaking any works requiring approval under Section 68 of the Local Government M, the proponent must ensure that these works are consistent with the conventional sewerage or pressure sewer system requirements of Control No.2 above.
- (4) Should the proponent seek to carry out works in respect of the exemption listed in 1 above and any subsequent Section 68 approval, then in the event that the proponent does not receive a WICA licence and the infrastructure has been constructed on land to be dedicated to Council in the future, then such infrastructure must be removed entirely from the site before Council will accept dedication of the land. Such removal must be done at the cost of the proponent
- (5) Where a dual reticulation water supply for recycled water is provided throughout the development, this must be designed and constructed generally in accordance with WSA Dual Water Supply Systems and Tweed Shire Council Water Supply Specifications.
- (6) The developer must incorporate on the title for all allotments created, relevant Restrictions as to the User which enforce the need for all dwellings and buildings with plumbing (including commercial buildings and the like) to make provision for recycled water service facilities to the approval of the relevant water and sewerage authority

##### Objectives

- (2) *to minimise infrastructure works and potential environmental impacts associated with High Water Table, Acid Sulfate Soils and discharges to the natural environment.*

This does not seem to be a valid objective in the scope of "Private Infrastructure Services". This consideration would be part of any infrastructure project and not specific to private infrastructure.

- (3) *To facilitate alternate means of sewer and water infrastructure provision.*

This appears to be a restating of (1) without the use of reference to the WIC Act and seems unnecessary.

##### Controls

- (1) *In the event that a proponent seeks to pursue Water and or Sewerage connections in accord with the Water Industry Competition Act, 2006, then a license must be sought and issued by IPART for such works, with the exception of those works that are exempted from approval under the Water Industry Competition Act 2006.*

This control is confusing and appears to misunderstand the process and the issuer of licenses. IPART handles and assesses applications under the WIC Act 2006 and recommends to the Minister approval to grant licenses, but the license is from the Minister.

The addition of the exception of those works that are exempted from approval under the WIC Act 2006 is also confusing. All works that are to be used by a private utility for its licensed activities once the license is issued should be part of that license application or they could not be used by the license holder. Use of this exemption may be outside the intent of the Act and Regulations and pre-empts the decision of the Minister.

This Control should simply state *"In the event that the proponent seeks to have Water Supply and Sewerage services provided in accordance with the Water Industry Competition Act 2006, then a license under the Water Industry Competition Act 2006 must be obtained through the due processes prescribed by the Act and Regulations."*

- (2) *Both conventional gravity sewerage (connection to Tweed Shire Council) and or an alternate Pressure Sewer System pursued under the Water Industry Competition Act 2006, must be designed in a manner consistent with the provisions of Tweed Shire Council Development Design Specification D12.*

This makes reference to "conventional gravity sewerage (connection to Tweed Shire Council)" in a section that is supposed to be dedicated to the option of Private Services Infrastructure. It is considered that this reference is unnecessary here as anything in this section should not relate to systems that are to become Council assets.

Control (2) should therefore be amended to only reference private services infrastructure. The use of TSC Specifications to guide the design of infrastructure is accepted but note the inconsistency with 5.2 Objective (2).

- (3) *Before undertaking any works requiring approval under s68 of the Local Government Act, the proponent must ensure that these works are consistent with the conventional sewerage or pressure sewerage system requirements of Control No. 2 above.*

This control is based on an assumption that was inherent in the section of Control (1) referring to works that are exempted from approval under the WIC Act 2006.

Any works that are to be carried out either need to be pursuant to development consent in accordance with Council's requirements or in accordance with a WIC Act License. Council's requirements do not normally include pressure sewerage for normal residential development unless specifically approved by Council for clearly demonstrated servicing needs.

It would be unusual and possibly unlawful for Council to provide approvals for works intended to become part of a private utility. Accordingly Control (3) is considered unnecessary and may oblige Council to do something contrary to the intent of the WIC Act and Regulations and pre-empting a decision of the Minister and due process.

- (4) *Should the proponent seek to carry out works in respect of the exemption listed in 1 above and any subsequent Section 68 approval, then in the event that the proponent does not receive a WICA licence and the infrastructure has been constructed on land to be dedicated to Council in the future, then such infrastructure must be removed entirely from the site before Council will accept dedication of the land. Such removal must be done at the cost of the proponent.*

This refers to carrying out “works in respect to the exemption listed in 1 above”. It is considered that this control is unnecessary as the approval of this Development Code modification should not include approval of anything which seeks to subvert or otherwise get around the due process involved in the WIC Act license application process. As stated above, the use of this exemption to the licensing requirement to enable an early start to construction must surely be outside the intent of the Act and Regulations, pre-empting the decision of the Minister.

If the above proposed change to Control (1) is not accepted, then Controls (3) and (4) may still be necessary.

- (5) *Where a dual reticulation water supply for recycled water is provided throughout the development, this must be designed and constructed generally in accordance with WSA Dual Water Supply Systems and Tweed Shire Council Water Supply Specifications.*

This is inconsistent with proposed 5.2 Objective (2) but is acceptable.

- There are additional changes to the Code required that have not been identified by the proponent as follows:

The following figures in the Development Code need to be updated to show the SP2 Infrastructure zone area:

Figure 1.2.1 Revised Concept Plan  
 Figure 5.4.1 Street Network Plan and Sections  
 Figure 5.5.1 Kings Forest Precinct Areas

Figure 1.2.2 Precinct Development Matrix also may need to be updated to include the SP2 area for Sewerage System Infrastructure.

### 1.7 Statutory Context of the Code

An amendment may be needed to provide exemption to specific sections of Development Design Specifications and Development Construction Specifications where water supply and sewerage works are under a WIC Act License.

### 2.2 Complying Development

- (5) *Rainwater harvesting is to be provided in accordance with Appendix C*

In the event that the water supply and sewerage services are provided under a WIC Act license, it is probable that the private utility would require that rain water tanks for connection to toilet flushing, laundry cold water and outdoors use not be

permitted. Appendix C was previously included at the request of Council as a means to reduce potable drinking water consumption by substituting rainwater. A private utility is likely to provide recycled water specifically for these uses obviating the need for the rainwater harvesting.

Accordingly, this control should be amended to exclude it if a private utility is providing recycled water to the lot as proposed below:

- (5) *Rainwater harvesting is to be provided in accordance with Appendix C, **unless the subject land has a reticulated recycled water supply.***

### 3.1.8 Flooding and Water Cycle Management

- (4) *Rainwater harvesting is to be provided in accordance with Appendix C*

In the event that the water supply and sewerage services are provide under a WIC Act license, it is probable that the private utility would require that rain water tanks for connection to toilet flushing, laundry cold water and outdoors use not be permitted. Appendix C was previously included at the request of Council as a means to reduce potable drinking water consumption by substituting rainwater. A private utility is likely to provide recycled water specifically for these uses obviating the need for the rainwater harvesting.

Accordingly, this control should be amended to exclude it if a private utility is providing recycled water to the lot, as proposed below:

- (4) *Rainwater harvesting is to be provided in accordance with Appendix C, **unless the subject land has a reticulated recycled water supply.***

## **Schedule 2**

### **DIVISION 1 RESIDENTIAL COMPLYING DEVELOPMENT CODE**

#### **Subdivision 1 Site requirements**

##### 2.2.1 Lot requirements

- (1)(b) has a direct connection to Council's reticulated water supply and sewer  
Delete the word "Council's" – no replacement word is considered necessary.

#### **Glossary**

It is suggested that a definition of "**public sewer**" that says a public sewer is a sewer provided either by the local water utility or by a private utility under a WIC Act license/approved scheme be included in the Glossary.

It should be considered whether the same is required for water mains, reticulated water or reticulated town water used elsewhere in the Development Code.

### Changes to SEPP (State Significant Precincts) 2005 Part 6 Schedule 3

- The proponent proposes to add a new zone reference SP2 Infrastructure as follows:



## Part 6 Kings Forest site

### 1 Definitions

In this Part:

**agricultural buffer** means an area within the Kings Forest site indicated by distinctive marking as "Agricultural Buffer—150m" on the Land Zoning Map.

**ecological buffer** means an area within the Kings Forest site indicated by distinctive marking as "Ecological Buffer—50m" on the Land Zoning Map.

**Kings Forest site** means the land identified on the Land Application Map.

**Land Application Map** means the *State Environmental Planning Policy (Major Development) 2005 Kings Forest Land Application Map*.

**Land Zoning Map** means the *State Environmental Planning Policy (Major Development) 2005 Kings Forest Land Zoning Map*.

**native vegetation** has the same meaning as in the Native Vegetation Act 2003.

### 2 (Repealed)

### 3 Application of Part

(1) Subject to subclauses (2) and (3), this Part applies with respect to development within the Kings Forest site and so applies whether or not the development is a transitional Part 3A project.

(2) This Part does not apply to the land comprising Lot 19, DP 112061 unless and until that land has been vacant for one continuous period of 12 months, being a period that commences on or after the commencement of this Part.

(3) Nothing in this Part applies to or with respect to development for the purposes of a public utility undertaking.

### 4 Land use zones and objectives

(1) For the purposes of this Policy, land within the Kings Forest site is in a zone specified below if the land is shown on the Land Zoning Map as being within that zone:

(a) Zone 2 (c) Urban Expansion,

(b) (Repealed)

(c) Zone 7 (a) Environmental Protection (Wetlands and Littoral Rainforests),

(d) Zone 7 (b) Environmental Protection (Habitat).

(e) Zone SP2 Infrastructure.

(2) Subject to the other provisions of this Part, the provisions of *Tweed Local Environmental Plan 2000*, as in force at the commencement of this clause, apply to land within a zone in the same way as they apply to land within a zone of the same name under that Plan and so apply as if those provisions were provisions of this Policy.

(3) The consent authority must have regard to the objectives for development in a zone within the Kings Forest site when determining a development application in respect of land within that zone.

The zoning of Kings Forest as currently referenced in the SEPP defers back to Tweed LEP 2000.

The proposed amendment to create a new SP2 zoning reference fails to identify under which LEP this zone relates. If it relates to Tweed LEP 2014 (as it is a standard instrument zone title) then this clause of the SEPP needs to be amended to specify to what extent Tweed LEP 2014 applies to the subject site.

- The proponent proposes to add a new Clause 7 detailing the SP2 Infrastructure provisions (and re-number all subsequent clauses) as follows:

#### 7 Zone SP2 Infrastructure

(1) The objectives of Zone SP2 Infrastructure are as follows:

(a) to provide for infrastructure and related land uses;

(b) to prevent development that is not compatible with or that may detract from the provision of infrastructure;

(c) to minimise any adverse effect of infrastructure on other land uses and the environment;

(2) Development for any of the following purposes is permitted without consent within Zone SP2 Infrastructure:

environmental protection works;

(3) Development for any of the following purposes is permitted with consent within Zone SP2 Infrastructure:

infrastructure (including railways, roads, conveyors, electricity transmission and distribution lines, gas pipelines, water pipelines, stormwater systems, flood management facilities, sewerage systems and telecommunications facilities), except if it is for the purposes of a public utility undertaking and is carried out by or on behalf of a public authority;

(4) Except as otherwise provided by this Policy, development is prohibited within Zone SP2 Infrastructure unless it is permitted by subclause (2) or (3).

It is noted that the above definition makes a number of things permissible with consent including water pipelines and sewerage systems. It is noted that the

proposed inclusion of water reservoirs and water pump stations on the site (as evidenced in the drawings in the Odour and Noise Reports) are not included in this definition. This could make them prohibited development. And accordingly the Clause requires amendment.

Further, it is questioned as to what use this land would be put in the event that the proponent is unsuccessful with an application to IPART for a license under the WIC ACT, or does not proceed with private water and sewerage infrastructure. Such an event would require further rezoning of the land and would not meet the stated purpose of this modification request to provide for alternate servicing of the development.

### Changes to MP08/194 Project Application Conditions of Consent

- The proponent proposes changes to the following conditions:

#### **Part 1 – Subdivision of Entire Site**

#### **Registration of Easements / Restrictions to Use / Rights of Carriageway**

2.

- 1) The creation of easements for services, rights of carriageway and restrictions as to user are applicable to the subdivision of the entire Kings Forest Estate under Section 88B of the *Conveyancing Act 1919*, including (but not limited to) the following:
  - a) Easements for sewer, water supply and stormwater/drainage over all public services/infrastructure on private property
  - b) Stormwater/drainage easements are to be placed over all relevant surface drains, all subsurface drains and inter-allotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.
  - c) Easements for existing and proposed powerlines benefiting the energy supplier to allow access for maintenance purposes
  - d) An easement over the existing 600mm water main across Precincts 12, 13 and 14 registered on title over the location of the main. The 88B is to benefit council and contain a provision enabling the easement to be revoked, varied or modified only with the consent of council.
- 2) Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit the relevant authority council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of council the relevant authority.
- 3) Pursuant to Section 88BA of the *Conveyancing Act 1919* the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened, and for costs to be shared equally or proportionally on an equitable basis.

No objection.

#### UTILITIES

#### **Water Supply and Sewerage Strategy**

30. Prior to the issue of a Construction Certificate for civil works the Proponent shall engage a suitably qualified person to prepare a detailed Water Supply and Sewerage Strategy for the whole site in consultation with and to the satisfaction of Council the relevant authority.

No objection.



## Water &amp; Sewer

31.

- 1) Reticulated water supply and outfall sewerage reticulation shall be provided to all residential lots and all lots for private occupation, community facilities lots, sport fields, parks, play areas, other utility facilities (pump stations, etc.) but not including proposed environmental open space lots within the project in accordance with ~~council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development~~ the relevant authority's Design and Construction Specifications (as in force at the date of this approval).
- 2) Where relevant, A sewer conveyancing design report shall be submitted for all sewer pump stations and rising mains proposed to be constructed in the project. The study will include staging of pumps and mains, odour and septicity issues, interaction of future pump stations that may share the rising mains and controls for variable speed pumps that may be recommended. The sewer conveyancing design report is to be provided prior to the issue of a Construction Certificate for civil works relating to water and sewer.
- 3) Where Council is the water authority, A water supply network model study of the water reticulation within Precincts 1 and 5 shall be submitted to Council for approval as required by Council's Development Design Specification D11 (as in force at the date of this approval) prior to the issue of a construction certificate for civil works relating to water and sewer.
- 4) Where Council is the sewerage authority, Prior to the issue of a construction certificate for any stage of the civil works in Precinct 5 and Precinct 1 the Proponent must prepare a detailed network analysis and plans for water and sewer reticulation infrastructure. The analyses must be prepared in accordance with council's Development Design Specification D11 and D12 (as in force at the date of this approval) respectively.

The requirements of DCP A5 Subdivision Manual remain relevant as the requirement is that "All lots created in urban areas for private occupation must be fully and individually serviced with sealed road (equipped with kerb and gutter both sides of the road) frontage, water supply, sewerage, underground electricity and telecommunications." Table A5-10 does link the Standard of Infrastructure to Council's Development Design Specifications D11 and D12 for Water Supply and Sewerage.

It is therefore proposed that this clause should be reworded as follows:

- 1) Reticulated water supply and outfall sewerage reticulation shall be provided to all residential lots and all lots for private occupation, community facilities lots, sports fields, parks, play areas, other utility facilities (pump stations etc.) but not including proposed environmental open space lots within the project in accordance with council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications (as in force at the date of this approval). Where a private utility is licensed under the provisions of the Water Industry Competition Act to provide water supply and sewerage services, alternate recognised Australian design and construction standards and or codes may be used.
- 2) This change proposes the addition of the words "Where relevant" to a condition requiring the provision of a sewer conveyancing design report.

This phrase is too general in nature as even if the developer does not proceed with the proposed private water utility to service the development, "where relevant" could be construed to permit argument that the report is not relevant.

It is proposed that the phrase should be replaced with something much more specific such as "Where Council is the sewerage authority,".

- 3) This change proposes the addition of the words "Where Council is the water authority" to the start of the condition.

No objection to this change as it is quite specific.

- 4) This change proposes the addition of the words "Where Council is the sewerage authority" to the start of the condition.

This change should include water authority as it refers to both water supply and sewerage. i.e. "Where Council is the water authority and / or sewerage authority,".

To align this development to Council's current practice of requiring a Certificate of Compliance application prior to Construction Certificate add the following sub-condition:

- 5) Where Council is the water authority and/or sewerage authority, Prior to the issue of a Construction Certificate for Subdivision Works, application shall be made to Council under Section 305 of the Water Management Act 2000 for a certificate of compliance for development to be carried out – i.e.: the provision of water and sewerage to the development.

Note:

1. Following this, requirements shall be issued by Council under Section 306 of the Water Management Act 2000.
2. Following this, any works needing to be undertaken will require a further application to be made to Council under Section 68 of the Local Government Act for the relevant water / sewer works. Approval of this application will be required prior to/in conjunction with issuing the Construction Certificate.

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

**Registration of Easements**

118.

- 1) Prior to the issue of any Occupation Certificate, the Proponent shall provide to the Certifying Authority evidence that all matters required to be registered on title including easements and Restrictions as to User under Section 88B of the *Conveyancing Act 1919* required by this approval, have been lodged for registration or registered at the NSW Land and Property Information.

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- 2) A restriction to the land use shall be placed on the lots containing an asset protection zone requiring the asset protection zone to be maintained as outlined within section 4.1.3 and Appendix 5 of *Planning for Bush Fire Protection 2006* and the NSW Rural Fire Service's document *Standards for asset protection zones*.
- 3) Easements for sewer, water supply and drainage over all public services/infrastructure on private property.
- 4) Drainage Easements are to be placed over all subsurface drains and interallotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.
- 5) Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council the relevant authority shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council the relevant authority.

No objection.



#### Registration of Easements / Restrictions to Use / Rights of Carriageway

142.

- 1) The creation of easements for services, rights of carriageway and restrictions as to user are applicable under Section 88B of the *Conveyancing Act 1919*, including (but not limited to) the following:
  - a) Easements for sewer, water supply and stormwater/drainage over all public services/infrastructure on private property.
  - b) Stormwater/drainage easements are to be placed over all relevant surface drains, all subsurface drains and inter-allotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.
  - c) A restriction to the land use shall be placed on the lots containing an asset protection zone requiring the asset protection zone to be maintained as outlined within section 4.1.3 and Appendix 5 of *Planning for Bush Fire Protection 2006* and the NSW Rural Fire Service's document *Standards for asset protection zones*.
  - d) A Restriction as to User on all residential lots prohibiting the keeping of cats within the site.
  - e) All existing powerlines are to have an easement registered on title over the location of the powerlines and the land transferred to Essential Energy prior to dedication of any land to the Office of Environment and Heritage.
  - f) A Restriction as to User over all private allotments abutting the acoustic fence within Precinct 5: Certification shall be received from an appropriately qualified acoustic engineer certifying that an acoustic building shell assessment has been undertaken in accordance with Australian Standard AS3671:1989 Acoustics - Road traffic noise intrusion - Building Siting and Construction to achieve satisfactory internal noise levels prescribed in AS/NZS 2107:1987 Acoustics - Recommended Design Sound Level and Reverberation Times for Building Interiors. The assessments are applicable to any second and subsequent level, or equivalent level, habitable spaces.
  - g) A Restriction as to User burdening all private allotments abutting any acoustic fence making the landowner responsible for the acoustic fence in perpetuity, including maintenance and replacement.
- 2) Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit council the relevant authority shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of council the relevant authority.
- 3) Pursuant to Section 88BA of the *Conveyancing Act 1919* (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened, and for costs to be shared equally or proportionally on an equitable basis.

No objection, however this item should be correctly referenced as "143."

#### Section 64 Developer Contributions

Condition 154(c)-(e) is relevant only where the local water and sewer authority remains as Council.

154.

- a) Development Servicing plans relevant to the project include:
  - i. Tweed Shire Council Development Servicing Plans for Water Supply Services July 2007
  - ii. Tweed Shire Council Development Servicing Plans for Sewerage Supply Services July 2007
- b) Where Council is the relevant water and sewer authority, A certificate of compliance (CC) under Sections 305, 306 and 307 of the *Water Management Act 2000* is to be obtained from council to verify that the necessary requirements for the supply of water and sewerage to the development have been made.
- c) Where Council is the relevant water and sewer authority, pursuant to Section 109J of the *Environmental Planning and Assessment Act, 1979* a Subdivision Certificate shall not be issued unless all Section 64 Contributions have been paid and the Certifying Authority has sighted council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of council.
- d) The below charges remain fixed for a period of twelve (12) months from the date of this approval and thereafter in accordance with the rates applicable in council's adopted Fees and Charges current at the time of payment.
- e) The Proponent shall pay, in proportion to the additional lots created by each stage, the following monetary contributions:

#### Stage 1 – Precinct 1

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|                             | Equivalent Tenement | Rate per ET     | Total Contribution |
|-----------------------------|---------------------|-----------------|--------------------|
| Water DSP5                  | 4.072 ET*           | \$12,575 per ET | \$51,205.40        |
| South Kingscliff Water Levy | 4.072 ET            | \$292 per ET    | \$1,189            |
| Sewer Kingscliff            | 6.108 ET            | \$6,042 per ET  | \$36,904.50        |

Note in the Consolidated Conditions, this is shown as "Condition 155."

Condition 154(c)–(e) is relevant only where the local water and sewer authority remains as Council.

It is agreed that sub-conditions a) and b) will remain active if the water and sewer is provided under a WIC Act license.

- b) Addition of “Where Council is the relevant water and sewer authority” at the start of the condition – no objection. The proponent should understand that this will apply where a water utility wishes to obtain services from Council for potable water supply and disposal of excess effluent or early stage raw sewage.
- c) Addition of “Where Council is the relevant water and sewer authority” at the start of the condition – no objection, however there needs to be some mechanism whereby the Subdivision Certificate cannot be signed off without proof that water supply and sewerage has been provided to all lots subject of the certificate.
- e) The Stage 1 s64 contributions quoted in the Attachment 1 are not the current contributions as shown in the consolidated Conditions of Approval. These contributions were increased in the recent MOD approval for the service station and other facilities in lieu of the rural services previously approved. See table below copied from Consolidated Conditions.

#### Stage 1 – Precinct 1

|                                    | <b>Equivalent Tenement</b> | <b>Rate per ET</b> | <b>Total Contribution</b> |
|------------------------------------|----------------------------|--------------------|---------------------------|
| <b>Water DSP5</b>                  | 19.2631 ET                 | \$13,386 per ET    | \$257,855.86              |
| <b>South Kingscliff Water Levy</b> | 19.2631 ET                 | \$338 per ET       | \$6,510.92                |
| <b>Sewer Kingscliff</b>            | 30.4854 ET                 | \$6,431 per ET     | \$196,051.61              |

It should be noted that at some point, or points, if the developer engages a private water utility and the water supply and sewerage services for this development are provided under a license issued pursuant to the Water Industry Competition Act, whereby the water utility sources potable water from Council and discharges excess effluent and / or early stage raw sewerage to Council's sewerage scheme, developer charges will be necessary and the proponent / water utility will be required to obtain a Certificate of Compliance under s305, 306 and 307 of the Water Management Act to certify that Council's requirements have been met.



## Water Supply and Sewer

157.

- 1) Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all residential lots within the subdivision in accordance with ~~Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual (as in force at the date of this approval), Council's Development Design and Construction Specifications (as in force at the date of this approval) and the Construction Certificate approval.~~
- 2) Where relevant, The site of the sewage pumping station shall be transferred to Council in fee simple, at no cost to Council within 28 days of the date of registration of the plan of subdivision.  
 Note: The *Environmental Planning and Assessment Act 1979* makes no provision for works under the *Water Management Act, 2000* to be certified by an Accredited Certifier.
- 2) In the event that Council provides sewerage services, The site of the sewage pumping stations shall be transferred to Council in fee simple no cost to Council within 28 days of the date of registration of the Plan of Subdivision. The size and shape of the any pump station lot required shall be determined on the basis of the design of the pump station taking into account all infrastructure to be constructed on the site at the initial stage and at any future stage of the development of Kings Forest as indicated by the Water and Sewer Strategy to the extent of the relevant authority requirements (as in force at the date of this approval) and Council's Development ~~the relevant authority's~~ Design Standards and Standard Drawings (as in force at the date of this approval). Location, size and layouts shown on the drawings are considered indicative and may be subject to change to ensure compliance with relevant standards and requirements.

Note in the Consolidated Conditions, this is shown as "Condition 158."

- 1) This change proposes removal of reference to Council's DCP Part A5 Subdivisions Manual and Council's Development Design and Construction Specifications and simply replacing it with "the relevant authority's Design and Construction Specifications.

The requirements of DCP A5 Subdivision Manual remains relevant as the requirement is that "All lots created in urban areas for private occupation must be fully and individually serviced with sealed road (equipped with kerb and gutter both sides of the road) frontage, water supply, sewerage, underground electricity and telecommunications." Table A5-10 does link the Standard of Infrastructure to Council's Development Design Specifications D11 and D12 for Water Supply and Sewerage.

Council proposes that this clause should be reworded as follows:

- 1) Prior to subdivision certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all residential lots and all lots for private occupation, community facilities lots, sports fields, parks, play areas, other utility facilities (pump stations etc.) but not including proposed environmental open space lots within the project in accordance with council's Development Control Plan Part A5 - Subdivisions Manual, Council's Development Design and Construction Specifications (as in force at the date of this approval) and the Construction Certificate approval. Where a private utility is licensed under the provisions of the Water Industry Competition Act to provide water supply and sewerage services, alternate recognised Australian design and construction standards and or codes may be used.

It is noted that under this Condition, the proponent has requested changes to two conditions 2) whereas in the Consolidated Conditions the second one cited is 4). It does appear that there is a duplication of the condition or very similar conditions in that 2) talks about the site of the sewerage pumping station while 4) refers to the site of the sewerage pumping stations. 4) has further information about the size and shape of the lot.

Accordingly it is considered that 2) could probably be deleted and that 4) be modified to refer to the sites of the sewerage pumping stations.

In relation to the proponent's proposed change to 2), the phrase "Where relevant" may be considered too general and should be replaced with "Where a sewerage pumping station is to become Council's".

In relation to the proponent's proposed change to 4), either the proposed introductory clause "In the event that Council provides sewerage services," or "Where a sewerage pumping station is to become Council's," may be suitable.

The change to "any pump station lot required" seems unnecessary as "the lot" refers to the site referenced in the preceding sentence of the same condition, but otherwise appears not to change the intent.

Other changes requested in this condition are considered unnecessary as it refers only to pump stations being gifted to Council, in which case the standards required should be those in Council's Development Design Standards and Standard Drawings.

Accordingly, the addition of "to the extent of the relevant authority requirement" and the replacement of "Council's Development" with "the relevant authority's" is not supported as this only refers to pump stations that will become Council assets.

#### Other Approvals and Permits

##### A2. Where required:

- 1) The Proponent shall apply to the council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act 1993 or Section 138 of the Roads Act 1993.
- 2) The Proponent must obtain relevant licences under the Water Act 1912 and the Water Management Act 2000 (whichever is relevant at the time the application is made) for all activities that intercept or extract groundwater or surface water prior to commencement of these activities.

The addition of "Where required" is unnecessary as there may be requirements under all the various provisions listed that has nothing to do with water supply or sewerage. S68 of the Local Government Act does not refer only to water supply and sewerage but includes stormwater drainage and other items that may be relevant. The provisions in 2) relate to groundwater and surface water and not to water supply.

Overall the changes to the Project Application do not appear to address recycled water.

The proponent is required to address recycled water in both the Project Application MP08\_0194 MOD 5 and the Kings Forest Development Code for consistency.

These applications reference road and verge widths in the nominated plans and references to DCP A5 which will be affected if recycled water is approved for the subdivision.

The approvals should all be consistent with the recent Concept Plan Modification MP06\_0318 MOD 5 to avoid confusion.

#### OPTIONS:

That Council:

1. Endorse this report as Council's submission to the NSW Department of Planning.
2. Endorse changes to this report.

Option 1 is recommended.

#### **CONCLUSION:**

Council's assessment of the Modifications has raised a number of concerns for the proposed WWTP for the Kings Forest development site. It is considered appropriate to forward these concerns to the NSW Department of Planning for consideration.

#### **COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable

**b. Budget/Long Term Financial Plan:**

Not Applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

Not Applicable.

#### **UNDER SEPARATE COVER/FURTHER INFORMATION:**

|               |   |         |             |                          |
|---------------|---|---------|-------------|--------------------------|
| Attachment 1. | Kings Forest Development Code (ECM 4591865)                               |         |             |                          |
| Attachment 2. | Consolidated  | Concept | Application | Conditions (ECM 4591866) |
| Attachment 3. | Consolidated  | Project | Application | Conditions (ECM 4591877) |
| Attachment 4. | Part 6 Kings Forest SEPP (State Significant Precincts) 2005 (ECM 4591878) |         |             |                          |

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