

PRELIMINARY ASSESSMENT

PROPOSED RESIDENTIAL SUBDIVISION AT BRUNSWICK HEADS

"BAYSIDE BRUNSWICK"

AUGUST 2006

Prepared by



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PRELIMINARY ASSESSMENT

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“BAYSIDE BRUNSWICK”

AUGUST 2006

1.0 BACKGROUND

Development Consent 92/390 was issued to Codlea Pty Ltd by Byron Shire Council on 24 November 1994, for Stage 1 of the Bayside Brunswick residential development. The subdivision is complete and 83 lots have been created, comprising 67 residential lots, commercial, preschool and public open space lots and a residue of 31.33 hectares.

Codlea Pty Ltd still owns the residue land and proposes a subdivision to create further stages of the Bayside Brunswick residential development. Preliminary investigations indicate that approximately 209 residential lots could be created.

In April 2005, Jim Glazebrook & Associates Pty Ltd (JGA), on behalf of Codlea Pty Ltd, lodged a request with the Department of Planning to waive the requirement for a master plan under the provisions of State Environmental Planning Policy (SEPP) No. 71 – Coastal Protection. The Department advised by way of an undated letter (received on 9 March 2006) that the application to waive the need for a master plan had been refused.

While this request was being considered, Part 3A of the Environmental Planning and Assessment Act 1979 (the Act) relating to Major Projects was introduced, which has an effect on this proposal. The Department of Planning, in its letter dated 16 January 2006, to JGA, have confirmed that the proposal is a Major Project and that Part 3A of the Act does in fact apply.

Accordingly, this Preliminary Assessment is provided to accompany the Major Projects application form and is prepared in accordance with the “Schedule – Information required at Lodgement”.

The applicant intends to apply for a “concept plan approval”, which according to the Department’s letter, is its preferred approach for this proposal.

2.0 PRELIMINARY ASSESSMENT – PURPOSE

The Schedule identifies that the purposes of the Preliminary Assessment is to assist in the preparation of the ‘Director-General’s Environmental Assessment Requirements and to culminate in a summary of “Key Issues”.

Section 3.0 provides the “Information to be addressed” in the preliminary assessment following which the Key Issues are summarised in Section 4.0.

3.0 PRELIMINARY ASSESSMENT

3.1 SITE & LOCALITY

3.1.1 Site Description

The land is described as Lot 73 DP 851902 Bayside Way, Brunswick Heads. It has an area of 31.33 hectares and frontages to Bayside Way, Kingsford Drive, Omega Circuit and Torakina Road. These roads were created as part of Bayside Brunswick Stage 1 and terminate at the boundary of the subject site. A copy of DP 851902 is provided in Appendix A.

The site is generally flat with grades of less than 1%. Surface levels generally range between RL 3.0 metres and RL 5.0 metres. Artificial channels and existing natural drainage swales drain the site to Simpsons Creek, located adjacent to the eastern boundary of the site.

The north eastern portion of the site, adjacent to Simpsons Creek, contains dense vegetation, including communities of tall closed wet sclerophyll forest and mangroves. This portion of the site has an area of approximately 8.2 hectares, and it is intended to be dedicated as an environmental park. The remainder of the site has previously been cleared and used for grazing. It is dominated by a low open slashed heath vegetation community. Figure 2 shows existing site features and Figure 3 is a vegetation plan.

3.1.2 Site Location & Context

The site is located immediately adjacent to Stage 1 of the Bayside Brunswick Estate, which is approximately 1.5 kilometres south of the Brunswick Heads commercial area (refer Figure 1).

Photoplate 1 is an aerial photograph of the site and surrounding land.

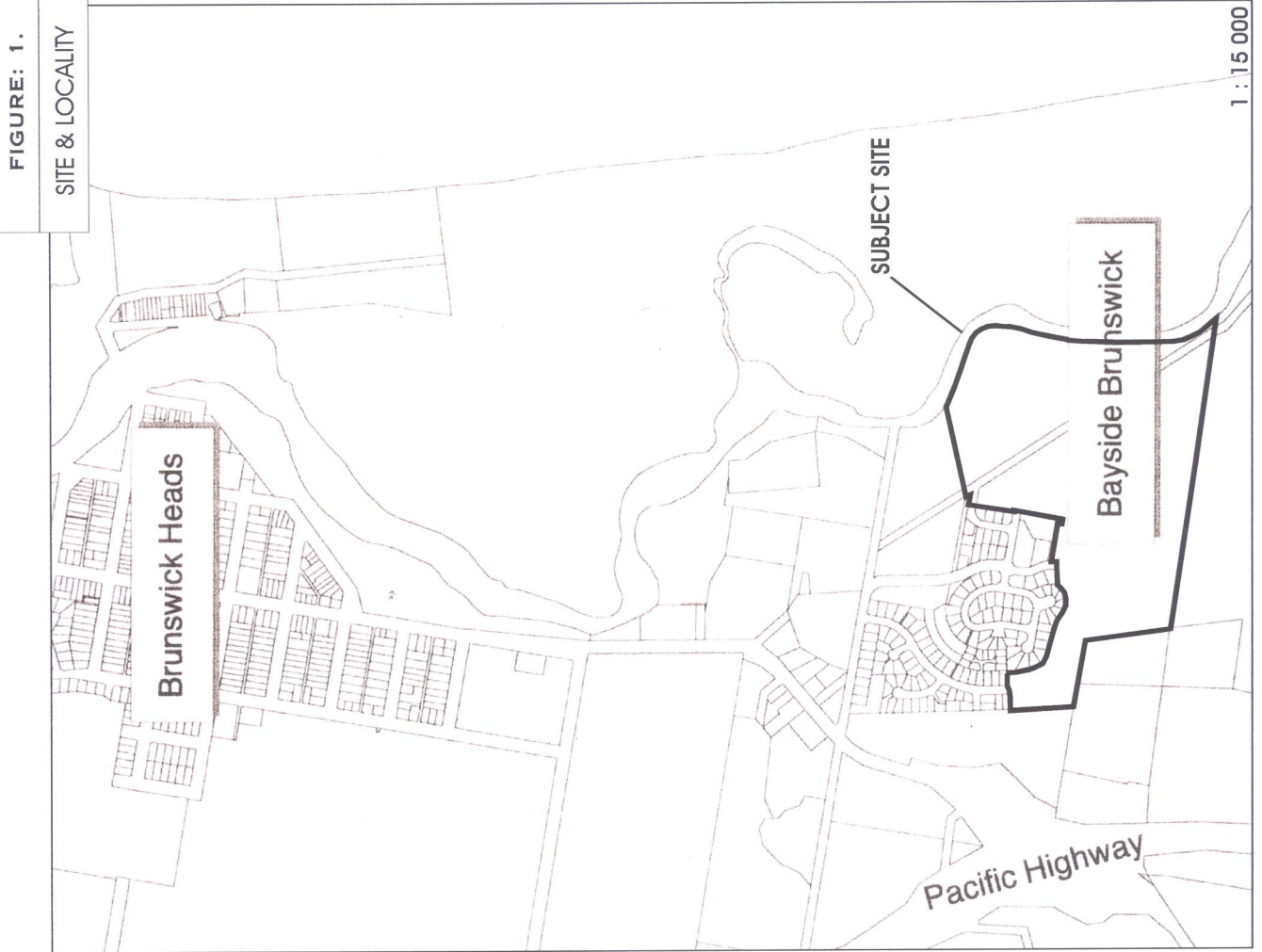
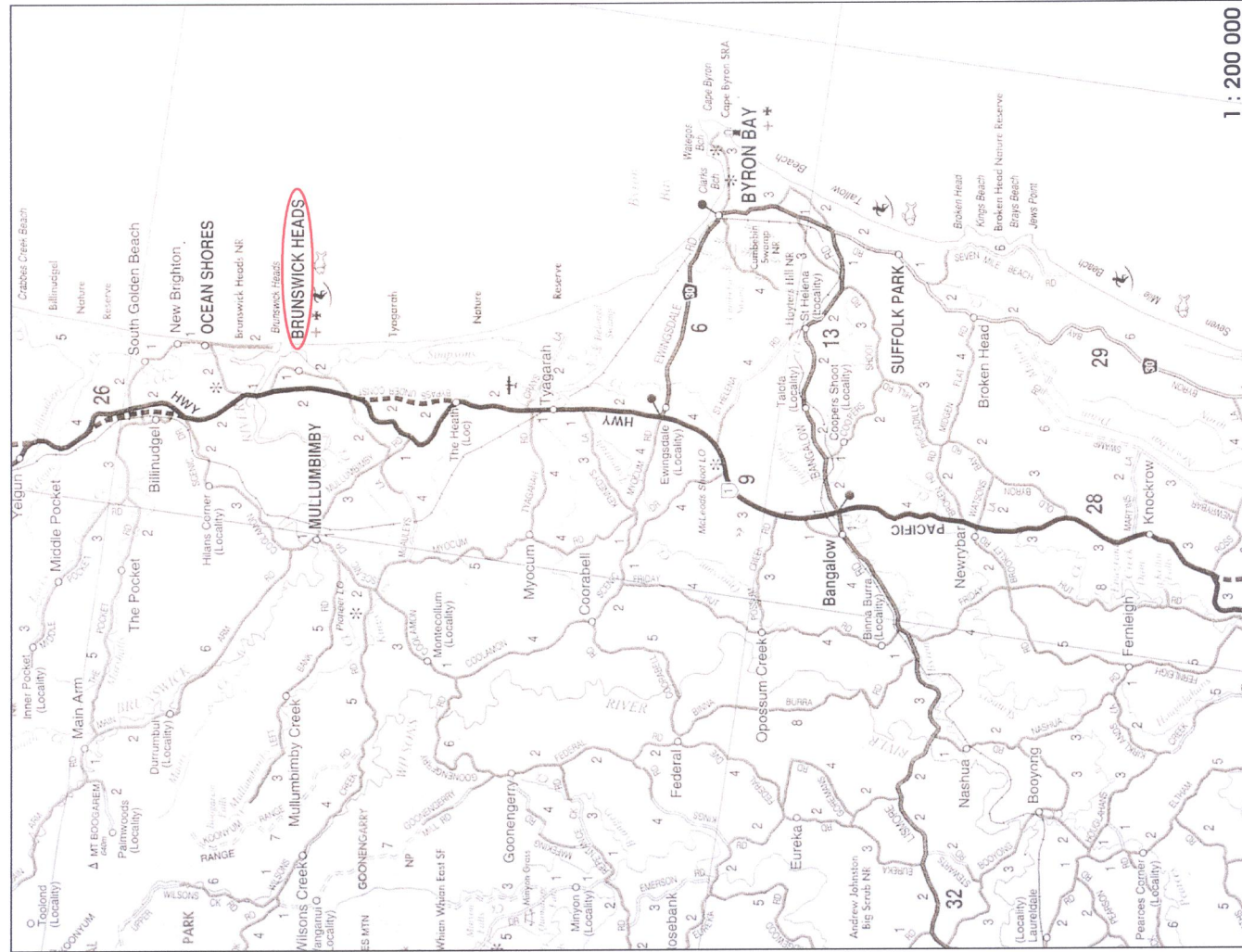


FIGURE: 1.

SITE & LOCALITY

CLIENT: Codea Pty Ltd

JIM GLAZE BROOK & ASSOCIATES

DATE: 22/10/2003



FILE: BRUNSIOC

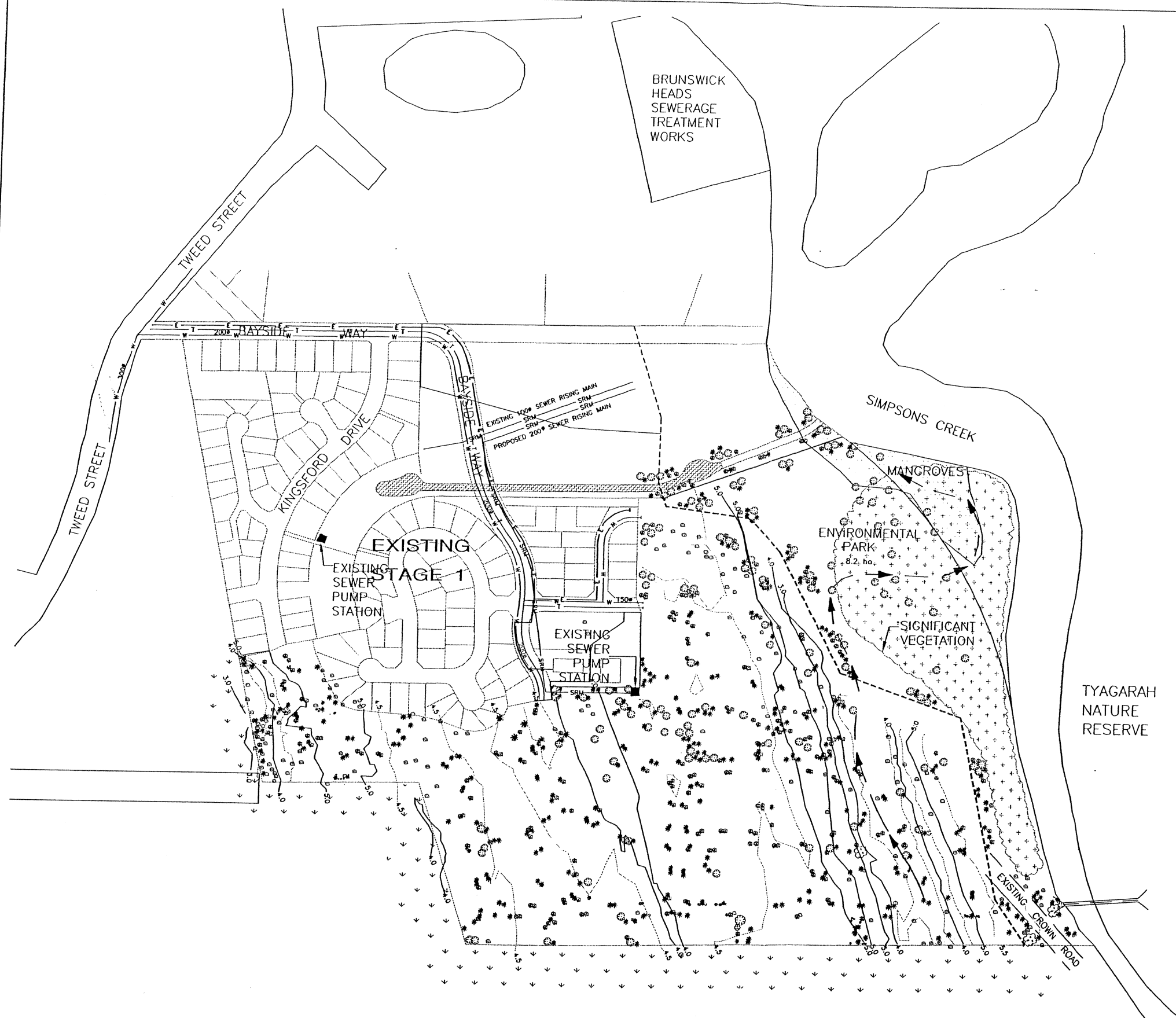
IMS: N/A

JOB: Bayside Brunswick

PTV LTD
ACN 003 836 799

SOURCE: Byron Shire Council

SCALE: As noted



LEGEND

- 4.0 ——— EXISTING CONTOUR
0.5 m INTERVAL
- EXISTING DRAINAGE SWALE
- ZONE BOUNDARY
- S — S — EXISTING SEWER MAIN
- SRM — EXISTING SEWER RISING MAIN
- W — W — EXISTING WATER MAIN
- E — E — EXISTING ELECTRICITY
- T — T — EXISTING TELSTRA
- + + + + SIGNIFICANT VEGETATION
- • • • MANGROVES

DRAFT

CODLEA PTY LTD
ENGINEERING REPORT

LOT 73 DP 851902
BAYSIDE BRUNSWICK
BRUNSWICK HEADS

FIGURE 2.0
EXISTING FEATURES PLAN

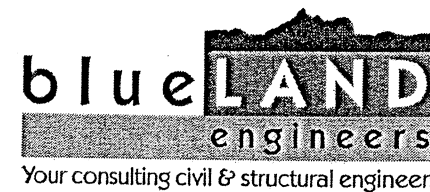
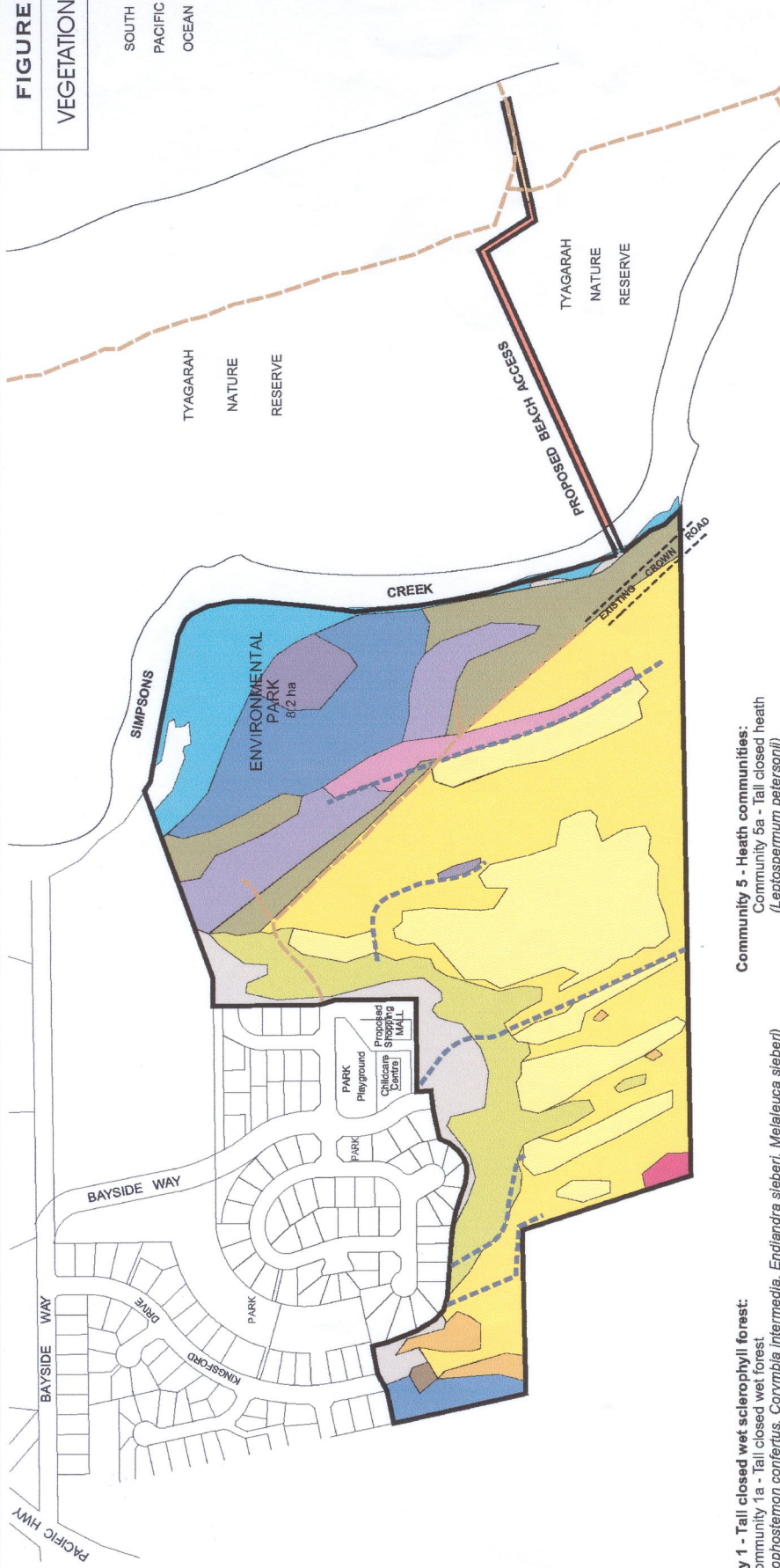


FIGURE: 3.

VEGETATION PLAN



LEGEND

Community 1 - Tall closed wet sclerophyll forest:

Community 1a - Tall closed wet forest
(*Lophostemon confertus*, *Corymbia intermedia*, *Endiandra sieberi*, *Melaleuca sieberi*)

Community 1b - Tall closed wetland
(*Melaleuca quinquenervia*, *Eucalyptus robusta*, *Melaleuca sieberi*)

Community 1c - Tall closed wet forest
(*Eucalyptus signata*, *Eucalyptus robusta*)

Community 1d - Tall closed wet sclerophyll forest
(*Eucalyptus signata*, *Eucalyptus robusta*, *Banksia aemula*)

Community 2 - Tall open wet sclerophyll forest
(*Eucalyptus robusta*)

Community 3 - Tall open dry sclerophyll forest
(*Eucalyptus signata*, *Allocasuarina littoralis*, *Banksia aemula*)
intact understorey

Community 4 - Mangroves
(*Avicennia marina*, *Aegiceras corniculatum*)

Community 5 - Heath communities:

Community 5a - Tall closed heath
(*Leptospermum petersenii*)

Community 5b - Low open slashed heath community

Community 5c - Low closed wet heath / sedge land

Community 6 - Low open grassland community

Community 7 - Drainage lines / canals

Paperbark forest

Disturbed Dunal scrub

Garden weeds

Cleared / very disturbed land

Existing track

CLIENT: Codlea Pty Ltd

JOB: Bayside Brunswick

DATE: 21/03/2005

JIM GLAZE BROOK

PTV LTD
ACH 003 836 789
TOWN PLANNERS & DEVELOPMENT CONSULTANTS

SCALE: as shown.

FILE: BrunsVEG

IMS: N/A

SOURCE: James Warren & Assoc.





CLIENT: Codlea
FILE: BRUNSpate

JOB: Bayside Brunswick
IMS: N/A

JGA JIM GLAZE BROOK
& ASSOCIATES
PTY LTD
ACN 003 824 799
TOWN PLANNERS & DEVELOPMENT CONSULTANTS

DATE: 01/04/2005
SOURCE: Blueland Engineers

SCALE: not to scale

Access to Bayside Brunswick is via Bayside Way. That road intersects with Tweed Street, which is the former Pacific Highway and the main street through Brunswick Heads. Tweed Street intersects with the new Pacific Highway approximately 4.5 kilometres to the south west of Bayside Way (refer Figure 1).

To the east of the site is Simpsons Creek which is a tributary of the Brunswick River.

Stage 1 of the Bayside Brunswick Estate is primarily developed with single storey dwellings of brick and tile construction. The estate also contains a number of paths, a formal playground and a childcare centre. A site is also identified for a future shopping centre.

A site analysis plan is provided in Appendix B (BlueLAND Engineers, July 2006).

3.2 PROJECT DESCRIPTION

The environmental, engineering and planning investigations for the site are sufficiently progressed to enable a preliminary site analysis and constraints map to be prepared, following which the preparation of a preliminary subdivision layout has been prepared. The site analysis and constraints plan is provided in Appendix B and the preliminary subdivision layout is at Appendix C.

Essentially the proposal involves:

- the creation of 209 residential lots, including single dwelling, dual occupancy and medium density lots, and
- the provision of local parks and the dedication of an 8.2 hectare parcel of land adjacent to Simpsons Creek for the purpose of an environmental park.

The site analysis and constraints plan identified the following key site constraints and attributes.

Site attributes : proximity to services and facilities,

: relatively flat land zoned for urban development with controls for development already established by DCP 6 (Bayside Brunswick),

: location near Simpsons Creek and beach for enjoyment of residents,

- : topography enables a pedestrian and cycle friendly design,
- : north-south and east-western orientation readily achieved because of site topography, and
- : majority of site does not contain significant vegetation.

- Site constraints** :
- land adjacent to Simpsons Creek zoned for environmental protection purposes,
 - some scattered significant stands of trees,
 - small areas of site are flood liable,
 - wallum froglet recorded on parts of the site, and
 - bushfire protection buffers required from property boundaries.

3.3 PLANNING CONTROLS

3.3.1 Byron Local Environmental Plan 1988 (Byron LEP 1988)

The land is zoned part 2(a) Residential Zone, part 7(a) Wetlands Zone and part 7(b) Coastal Habitat Zone. Figure 4 illustrates the zoning of the subject land and other land in the general locality.

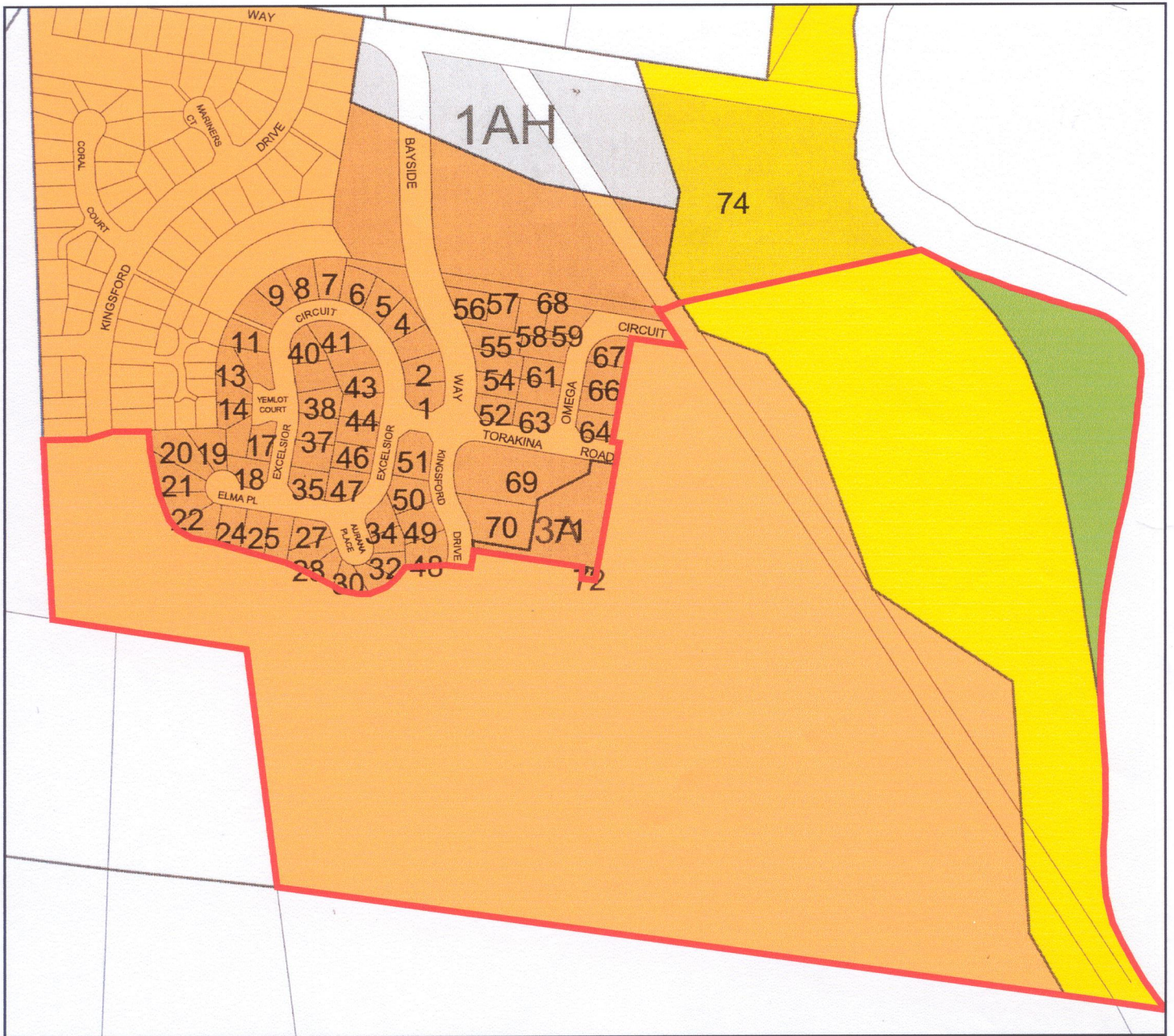
The development of the land for residential subdivision purposes is permissible with consent in the 2(a) Residential Zone.

The objectives of the 2(a) Residential zone are:

- (a) to make provision for certain suitable lands, both in existing urban areas and new release areas, to be used for the purposes of housing and associated neighbourhood facilities of high amenity and accessibility;
- (b) to encourage a range of housing types in appropriate locations;
- (c) to enable development for purposes other than residential purposes only if it is compatible with the character of the living area and has a domestic scale and character; and
- (d) to control by means of a development control plan, the location, form, character and density of permissible development.

The objectives of the 7(a) Wetlands Zone are:

- (a) to identify all lands covered by State Environmental Planning Policy No. 14 – Coastal Wetlands;



- SUBJECT SITE



- 2(a) RESIDENTIAL ZONE



- 7(a) WETLAND ZONE



- 7(b) COASTAL HABITAT ZONE

CLIENT: Codlea PTY LTD

JOB: Bayside Brunswick

DATE: 22/10/2003

SCALE: N.T.S.

FILE: BRUNSzone

IMS: N/A

SOURCE: Byron Shire Council



-
- (b) to identify and preserve estuaries and wetlands and allow them to continue to function as feeding and breeding areas for wildlife, shellfish and fish;
 - (c) to prohibit development within the zone that is likely to have a detrimental effect on the habitat or landscape qualities or the flood mitigation function of the wetlands;
 - (d) to enable development of public works and environmental facilities where such development would not have a significant detrimental effect on the habitat or landscape qualities of the wetland and other significant coastal habitat areas; and
 - (e) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.

The objectives of the 7(b) Coastal Habitat Zone are:

- (a) to identify coastal habitats (being wetlands, heath, sedge, marshland, rainforest types, sclerophyll forest and the like) of local significance,
- (b) to identify and preserve estuaries and other significant coastal habitat areas, wetlands and allow them to continue to function as feeding and breeding areas for wildlife, shellfish and fish;
- (c) to prohibit development within the zone that is likely to have a detrimental effect on the habitat or landscape qualities or the food mitigation function of significant coastal habitat areas, including wetlands;
- (d) to enable development of public works and environmental facilities where such development would not have a significant detrimental effect on the habitat or landscape qualities of the wetland and other significant coastal habitat areas; and
- (e) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.

Any development of the site would be undertaken in accordance with the zone objectives.

There are a number of specific clauses of the Byron LEP 1988 that would apply to the subdivision of the site. These are discussed in general terms below. It is not proposed to examine in detail how the preliminary layout plan responds to each clause. That would be part of the concept approval process. Rather, it indicates the relevant principles which would be applied.

Clause 10 requires development consent for the subdivision of land.

Clause 11 requires a minimum area of 40 hectares for the subdivision of land for agriculture, forestry or a dwelling house in zones 7(a) and 7(b). Land within these zones would be dedicated as open space, therefore no minimum lot size applies.

Clause 24 applies to flood liable land and contains matters which Council must be satisfied of in order for consent to be issued. These matters include:

- that the development would not restrict the flow characteristics of flood waters,
- that the development would not increase the level of flooding of other land in the vicinity,
- that the structural characteristics of any building or work are capable of withstanding flooding,
- that building construction is adequately flood proofed, and
- that satisfactory arrangements are made for access to the building or work during a flood.

Some sections of the site are below the 1:100 year flood level of RL 3.9 metres. These areas are shown on the site constraints plan (refer Appendix B). Balanced earthworks within the site would be undertaken to ensure that the land meets the minimum levels for residential development.

Clause 36 applies to land adjoining or contiguous to land within the zone 7(a). It requires that Council shall not consent to development unless it has taken into consideration certain matters relating to flora and fauna, effects on the water table and the wetlands. These matters would be addressed with the concept plan application.

Clause 45 requires that Council shall not consent to development unless it is satisfied that prior adequate arrangements have been made for the provisions of sewerage, drainage and water services to the land. These matters would be addressed with the concept plan application. The issue of sewerage provision is discussed in more detail in Section 4.1.

Clause 63 contains controls for development of land affected by acid sulfate soils. Acid sulfate soil investigations were carried out by Border Tech in 2003. Results indicate that acid sulfate soils and potential acid sulfate soils were not encountered on the site (refer Appendix D).

3.3.2 North Coast Regional Environmental Plan (REP) 1988

This planning instrument aims,

- (a) to develop regional policies that protect the natural environment, encourage an efficient and attractive built environment and guide development into a productive yet environmentally sound future;
- (b) to consolidate and amend various existing policies applying to the region, make them more appropriate to regional needs and place them in an overall context of regional policy;

-
- (c) to provide a basis for the co-ordination of activities related to growth in the region and encourage optimum economic and social benefit to the local community and visitors to the region; and
 - (d) to initiate a regional planning process that will serve as a framework for identifying priorities for further investigation to be carried out by the Department and other agencies.

The REP contains provisions concerning,

- Wetland and fishery habitats and the need to consider water quality issues (clause 15).
- Coastal lands, including the need for the Council to take into account the NSW Coastal Policy 1997 (clause 32B).
- Residential development, including the requirement to maximise density without adversely affecting the environmental features of the land and the minimisation of erosion in accordance with sedimentation and erosion control plans (clause 43).
- Adequacy of community and welfare services (clause 66).
- Development adjacent to the ocean or a waterway (clause 81) – this clause contains provisions requiring that Council is not to grant consent to a development application for development on land within 100 metres of the ocean or substantial waterway unless it is satisfied of certain matters, including:
 - that there is sufficient foreshore open space which is accessible and open to the public within the vicinity of the proposed development,
 - that buildings to be erected will not detract from the amenity of the waterway;
 - that the development is consistent with the principles of any foreshore management plan applying to the area.

These matters would be addressed with the concept plan application.

3.3.3 State Environmental Planning Policies (SEPPS)

Under the provisions of SEPP No. 11 – Traffic Generating Developments, the development would be referred to the Regional Advisory Committee.

Part of the land is affected by a SEPP 14 Coastal Wetland (refer Appendix B).

As part of the concept plan process, investigations would be undertaken to determine the suitability of providing a footbridge over Simpsons Creek to the beach. A footbridge is identified in DCP 6. No other work in the wetlands is proposed.

SEPP 44 – Koala Habitat Protection and SEPP 55 – Remediation of Land apply to the site. SEPP 44 contains provisions for determining whether the site is potential or core koala habitat and SEPP 55 contains provisions for identifying contaminated land and the approval procedures for remediating land if it is contaminated.

Investigations undertaken to date indicate that the site is not potential koala habitat nor contaminated land.

SEPP 71 – Coastal Protection also applies to this site. Section 6.1 demonstrates how the objectives of SEPP 71 can be achieved by other planning instruments and policies.

3.3.4 Development Control Plans (DCP'S)

3.3.4.1 Byron Shire DCP 2002

This DCP sets out Council's requirements for lodging development applications and contains requirements for specific types of developments. Part B contains Council's requirements for urban subdivision and includes,

- design guidelines (eg. site design, climate control, aspect, landscaping, tree preservation etc);
- development guidelines (eg. road hierarchy, public open space, public reserves, lot size, lot frontage and stormwater drainage etc);
- urban subdivision requirements including lot size, lot layout and lot design;
- roads in urban areas including road design and construction, footpath and nature strip design and access design; and
- other urban services including requirements for drainage control, utility services, water and sewer services and requirements for geotechnical reports.

The concept plan would be prepared in accordance with this DCP and it is not expected that any departures to the DCP would be necessary.

3.3.4.2 Byron Shire DCP No. 6 – Bayside Brunswick Estate

This Plan sets out specific controls for development of the Bayside Brunswick Estate and contains the following objectives:

- To facilitate and provide guidelines for the development of the Bayside Brunswick Estate consistent with the provisions of the Byron LEP 1988.
- To promote innovative residential and subdivision development of a high design quality and a variety of housing types, maximising the retention of environmental quality and utilisation of the land.
- To encourage medium density residential development through group dwellings, etc, in an appropriate location to take advantage of the natural setting of the land and reduce the land cost component of housing in the Brunswick Heads locality.
- To identify in stages the type and density of development of the land in order to meet resident and developer expectations as to the future character of each neighbourhood or stage.
- To efficiently utilise the level topography and local services to provide a variety of residential accommodation suitable to meet the requirements of the aged, eg. serviced apartments, garden villas, hostels, nursing home, retirement village, mobile home park, etc.
- To establish a movement system by a hierarchy of roads, bikeways and walkways which recognises the topography and maximises access to open space and shopping/community facilities for residents.
- To provide an adequate flow of stormwater along drainage lines, integrated and developed in conjunction with the open space and walkway network, and ensuring the maintenance of water quality and control of saltation and pollution in Simpsons Creek.
- To protect and preserve any attractive or significant feature of the environment.
- To facilitate the future provision of a controlled pedestrian access into the Tyagarah Nature Reserve and thence to the beach by way of delineating the eastern approach point for a footbridge.

A copy of DCP 6 is provided in Appendix E

The following Table provides comments in respect of the relevant performance standards contained in the DCP and identifies how these standards are addressed on the preliminary plan, or would be addressed in the concept plan or future approvals.

TABLE 1
DCP 6 CRITERIA

| ISSUE | PERFORMANCE STANDARD | COMMENTS |
|----------------------------------|---|---|
| NATURE CONSERVATION SIGNIFICANCE | Retain and protect significant features of natural environmental significance. In particular the applicant shall demonstrate that the stands of significant vegetation shown on Map 1 will not be degraded, in both the long and short term, as a consequence of development activity. | It is intended to retain the significant features as part of the concept plan. An environmental park encompassing the 7(a) & 7(b) land is proposed for dedication to the public rather than being retained as common property. There are obvious benefits in putting this land in public ownership. A plan of management would be provided for this land. |
| ESTATE AMENITY | Retain and protect, as is reasonably possible, all larger trees located within the body of the site for the purpose of retaining the general character of Brunswick Heads local landscape, identifying and enhancing the residential amenity of the estate generally. Structural mass landscaping should also be implemented immediately upon completion of site development construction activity. | This would be implemented at concept plan and subsequent stages. |
| LOCAL OPEN SPACE | Active open space for children's playing areas and community sporting facilities of meaningful proportions shall be provided within easy walking distance of residential areas. Passive open space shall be defined throughout the estate primarily in the form of dual use open space/drainage and bikeway corridor, to enhance the residential amenity of the estate. | Open space would be provided in accordance with DCP 6 standards. DCP 6 enables the payment of a Section 94 contribution instead of physical land dedication. A contribution is proposed. The environmental park (7(a) & 7(b) land) is proposed for dedication over and above normal open space requirements. |
| ROAD & MOVEMENT SYSTEMS | <p>(a) Roads within the site shall:</p> <ul style="list-style-type: none"> • Be sited and designed to be efficient and practical having regard to the principle specific in Byron DCP No.1 (Part B) – Subdivision, and the Australian Model Code for Residential Development. • Be restricted to the existing single access point (Bayside Way) to the Pacific Highway. • Provide for the "relocation" of the existing Crown road traversing the site. • Provide for future road access to adjoining land to the south and west, and to a potential parking area close to the preferred site for a footway bridge across Simpsons Creek to the Tyagarah Nature Reserve. <p>(b) Pedestrian movement shall:</p> <ul style="list-style-type: none"> • Provide easy walking access within and external to the site minimising conflict with motor vehicle traffic, primarily by utilising the dual use open space/drainage corridor. | <ul style="list-style-type: none"> • Roads and pedestrian access would be designed to comply with relevant standards. • Future residential development at Brunswick Heads is limited to Bayside Brunswick (Brunswick Heads Village Settlement Strategy). Therefore, access for this purpose to the adjoining land is not required. However, the land to the south and west would be provided with public road frontage for bushfire control purposes. • The conceptual layout provides for a parking area and a footbridge across Simpsons Creek to the Tyagarah Nature Reserve. • Safe and efficient pedestrian movement would be catered for. |

| ISSUE | PERFORMANCE STANDARD | COMMENTS |
|---|--|---|
| RESIDENTIAL DENSITY INTEGRATION | <p>Site development shall be carried out in manner which provides for innovative and traditional development forms (eg. house site subdivision and medium density development) and higher yield style development (eg. Australian Model Code for Residential Development or Community Titles Development Act integrated/cluster housing).</p> <p>Integrated community subdivision preferred adjacent to vegetated areas zoned 7(a) and 7(d)</p> | <ul style="list-style-type: none"> • Medium density development would be provided close to the commercial zone, with smaller lots near the medium density precincts and the park. • No community title development is proposed adjacent to the 7(a) & 7(b) land. It is proposed to dedicate that land to the public. Furthermore the creation of a C/T development together with the 7(a) & 7(b) land does not appear commercially feasible. • Minimum allotment sizes would comply with DCP 2002. Larger lots would be provided for medium density housing development. • Overall the resultant density would meet DCP objectives. |
| NEIGHBOURHOOD SHOPPING & COMMUNITY FACILITIES | <p>Provision of neighbourhood retail facilities of a size and variety, and in a location appropriate to the demographic profile of estate residents; and to complement the Brunswick Heads CBD as the principle commercial centre for the locality.</p> <p>The architectural design of any shopping facility should provide for an estate "meeting place" as a partially or fully covered plaza or the like within the development.</p> | <ul style="list-style-type: none"> • Retail facilities have been provided for as part of earlier stages of the Bayside Brunswick Estate. |
| NATURE RESERVE ACCESS | <p>A pedestrian access by way of a future footbridge and walkway into and across the northern end of the Tyagarah Nature Reserve is a desirable amenity enabling controlled pedestrian access to the beach integrated with the design of the road/walkway/open space and residential subdivision development on the eastern part of the DCP area, and enabling such facility to be constructed at no cost to the public.</p> <p>The preferred access point is as shown on Map 1 and is subject to approval and lease by the National Parks and Wildlife Service.</p> <p>The preferred footbridge access point is to be included with the common area of a significant integrated Community Titles or Strata Act development to the west and to be subject to public right of access.</p> | <ul style="list-style-type: none"> • The concept plan application process would investigate the provision of a footbridge. This would be subject of a detailed environmental assessment. |
| STORMWATER DRAINAGE & UTILITY SERVICES | <p>Provision of an integrated corridor system of open space, trunk drainage, bikeway/walkway and utilities as appropriate is sought in the locations shown on Map 1.</p> | <ul style="list-style-type: none"> • Drainage and open space corridor would be provided generally in accordance with the DCP layout. • Drainage would not involve work in previously undisturbed areas of 7(a) & 7(b) land. • Water supply and sewer comply with relevant standards. |
| SECTION 94 CONTRIBUTIONS | N/A | <ul style="list-style-type: none"> • Contributions would be imposed as consent conditions in any subsequent DA as per the relevant Section 94 Contributions Plan. |

3.3.5 Brunswick Heads Settlement Strategy

The Brunswick Heads Settlement Strategy is a component of the Byron Shire Small Towns and Villages Settlement Strategy ("the Strategy").

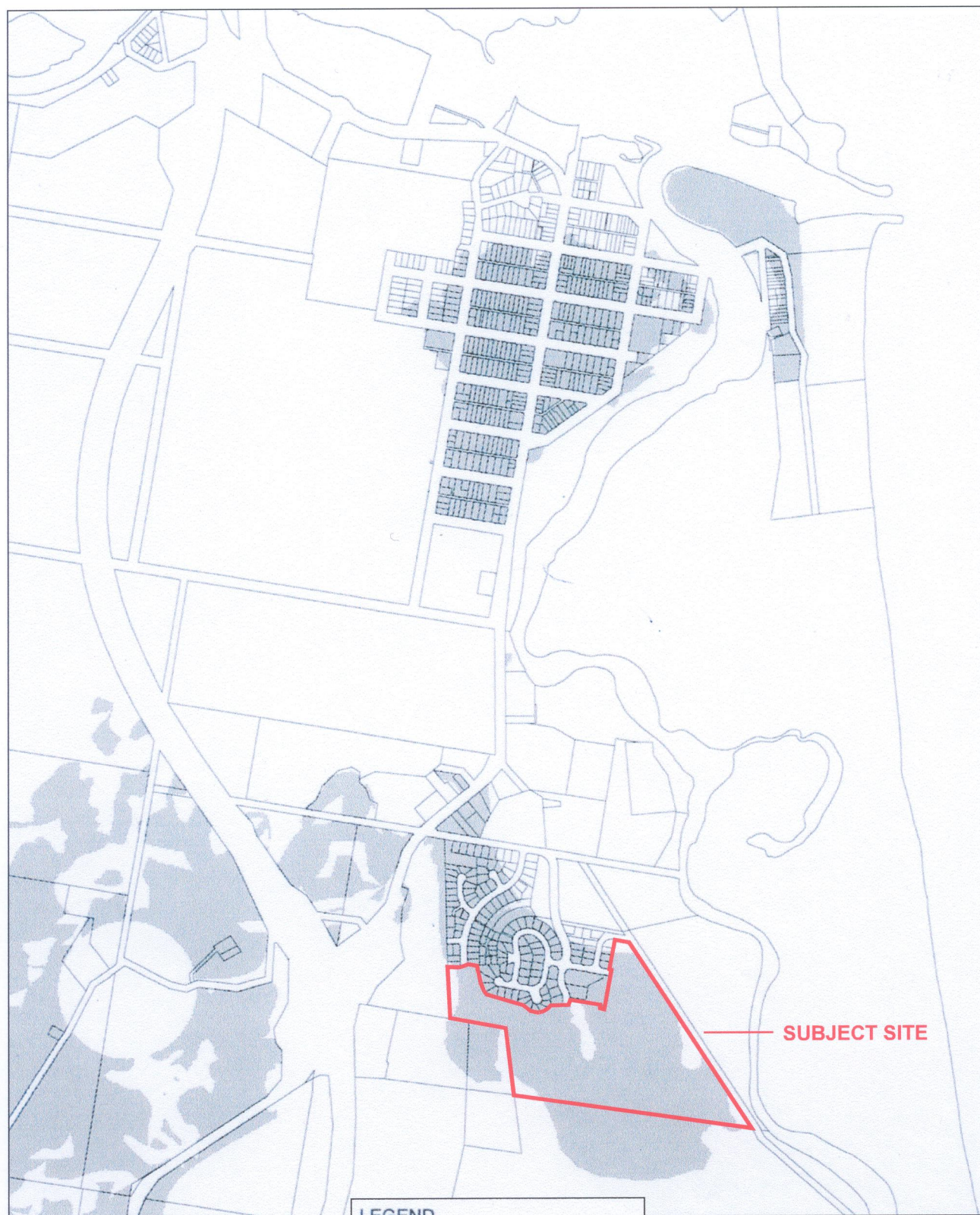
The primary aim of the Strategy is to provide for better planning, management and community ownership of the future character, design and strategic direction, including housing density, housing location and infrastructure works as required by the Brunswick Heads village catchment area.

A further aim is to meet Council's obligations under the North Coast Regional Environmental Plan 1988 for a residential development strategy.

Key findings of this Strategy in relation to Bayside Brunswick are outlined below.

- The only area available for expansion is a southward extension of Bayside Brunswick, south of the village. This will have the effect of creating a new residential focus that will, because of the degree of physical separation, remain functionally separated from the existing village.
- The Bayside Brunswick land is currently under investigation by the Department of Education and Training as a site for a new high school. It is not known whether the Department will proceed with this site, or will upgrade the Mullumbimby High School instead.
- The population potential of the undeveloped section of Bayside Brunswick would be approximately 700 persons.
- The Strategy does not propose urban residential densities of the order suggested in the North Coast Urban Planning Strategy of about fifteen (15) dwellings per hectare. The average development density in the village is approximately ten (10) dwellings per hectare.
- Council's Wastewater Management Strategy (WMS) commits Council to upgrading or replacing its sewage treatment plant to sensitive water standard. The plant servicing Brunswick Heads is to be upgraded.
- An analysis of site constraints indicates that the outward expansion of the village will be confined to the land in the 2(a) Residential zone south of the village in the Bayside Brunswick area.

Figure 5 illustrates the physically unconstrained land as identified in the Strategy.



LEGEND
 □ Property Boundaries
 ■ Physically unconstrained land

CLIENT: Codlea Pty Ltd

JOB: Bayside Brunswick

DATE: 23/10/2003

SCALE: 1 : 15 000

FILE: BRUNSphys.

IMS: N/A

SOURCE: Byron Shire Council



3.3.6 NSW Coastal Policy 1997

Under the provisions of the North Coast REP 1988, the NSW Coastal Policy 1997 must be considered by the consent authority in determining development applications.

Table 2 of the Policy sets out strategic actions in the policy which are relevant to development control and Table 3 contains design and location principles for consideration in LEP's, DCP's and development control.

The strategic actions relating to development control contain policies relating to:

- The Natural Environment (eg. threatened species, fish habitat modification, pollution, contaminated stormwater, assessment of estuarine development proposals etc).
- Natural processes and climate change – physical and ecological processes to be considered when assessing development applications, including acid sulfate soils and sea level change.
- Aesthetic qualities.
- Cultural heritage.
- Ecological sustainable use resources and ecologically sustainable human settlement.
- Public access and use.

The design and locational principles in the Policy include provisions relating to beaches, frontal dunes, development on headlands, overshadowing of beaches and waterfront space, tall buildings, setbacks from waterways etc.

It is the applicant's intention to dedicate the environmental protection zoned land adjacent to Simpsons Creek to the public. As part of the concept plan application preparation process, the possibility of providing a footbridge over Simpsons Creek to Tyagarah Nature Reserve, and hence the coastal foreshore, would be investigated. This would be provided for if the environmental assessment indicates that it is sustainable and if approved by the Department of Environment & Conservation.

The site for the residential development is not visually prominent because the land is relatively flat and low lying and is largely screened from Simpsons Creek and the beach by the existing vegetation.

The development of the site would satisfy the locational and design principles contained in the Policy.

3.4 CONSULTATION

Byron Shire Council's Manager of Development Assessment, Mr Randall Evans, was consulted via telephone on 9 March 2006. The applicant was seeking an appointment with Council's Development Advisory Panel to discuss the proposal. Mr Evans advised:

- Council would not support approval of the proposal because of the provisions of Clause 4.5 of the Byron LEP 1988 and that a moratorium is in place preventing any approvals that increase the number of tenements on the sewerage treatment works, until the plant is upgraded. This issue is further discussed in Section 4.1.
- The Development Advisory Panel could not provide any definite advice on the proposal because of the required review to the LEP therefore a meeting with the Panel was rejected.

The views of other agencies and/or the community have not been sought at this stage.

The timing of a review to the LEP is not seen to be a key issue at this stage. Any proposal would need to comply with the LEP that is in place at the time and the concept plan would be designed to reflect the relevant legislation.

3.5 STRATEGIES

The draft Far North Coast Regional Strategy was publically exhibited until 10 May 2006. With respect to residential development, the draft Strategy identifies that only land within a Town & Village Growth Boundary may be released for urban purposes. The site is within that boundary.

Specific provisions of the Strategy, if and when adopted, would be addressed with the concept plan application.

4.0 KEY ISSUES

Identified key issues can be conveniently categorised as statutory, infrastructure or environmental. These are summarised below with general comments as to how the issue might be addressed.

4.1 STATUTORY

Byron LEP 1988

Clause 45(1) of the Byron LEP 1988 states:

- 45(1) The Council shall not consent to the carrying out of development on any land to which this plan applies unless it is satisfied that prior adequate arrangements have been made for the provision of sewerage, drainage and water services to the land.

Byron Shire Council presently has a moratorium preventing any development within the Byron and Brunswick Heads Sewerage Treatment Works catchment that generates additional tenements. The moratorium is based on an interpretation of Clause 45(1) that adequate arrangements have not been made for sewerage services to the land.

Augmentation of the Brunswick Sewage Treatment Works is required to cope with the increased demand from the proposal. Augmentation is currently in the planning and design phase.

Once augmentation is completed, satisfactory servicing arrangements would be in place.

Because of the lead time in undertaking the necessary studies and preparing documentation for the proposal, the concept plan application could be prepared whilst design of the STW upgrade is underway. An approval for a concept plan could be issued prior to the upgrade being undertaken but the final project approval not issued until the upgrade has commenced.

This approach to development was specifically contemplated by Part 3A of the EP & A Act and the introduction of 'concept plans'.

DCP No. 6 Bayside Brunswick

Minor variations to the provisions of DCP 6 would be required mainly with respect to road and lot layout. This is required to achieve more contemporary urban design outcomes, to respond to the environmental constraints of the site and to comply with current planning controls (eg. bushfire legislation).

4.2 INFRASTRUCTURE

The key infrastructure issue relates to the provision of sewer which was discussed above.

4.3 ENVIRONMENTAL

The likely environmental constraints are shown on the plans contained in Appendix B. Key environmental issues arising from the preliminary analysis relate to:

- flora and fauna
- bushfire
- drainage/water quality

All issues would be thoroughly examined and addressed as part of the concept plan application preparation process.

KELLIE SHAPLAND MPIA
August 2006