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TOWN PLANNING & DEVELOPMENT CONSULTANTS

**PRELIMINARY ASSESSMENT
MAJOR PROJECT APPLICATION NO. 05_0198**

PROPOSED RESIDENTIAL SUBDIVISION

**LOT 1 DP 167380, LOT 1 DP 134787, LOT 2 DP 961928
& PART LOT 4 DP 1054848, WALMSLEYS ROAD
& STOTT STREET, BILAMBIL HEIGHTS
SHIRE OF TWEED**

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PRELIMINARY ASSESSMENT MAJOR PROJECT APPLICATION NO. 05_0198

LOT 1 DP 16738, LOT 1 DP 134787, LOT 2 DP 961928 & PART LOT 4 DP 1054848 WALMSLEYS ROAD AND STOTT STREET, BILAMBIL HEIGHTS

1.0 INTRODUCTION

1.1 Brief and Background

The owners of the land have commissioned Darryl Anderson Consulting Pty Ltd to prepare this Preliminary Assessment for a Major Project Application in relation to four parcels of land at Bilambil Heights.

On 20 April 2006 the Department of Planning advised that the proposal is a project and that Part 3A applies. In accordance with the Department's requirements this Preliminary Assessment Report addresses the matters contained in the Schedule accompanying the Department's letter.

Prior to the introduction of Part 3A of the Act, a Draft Master Plan under State Environmental Planning Policy No. 71 was prepared, supported by a number of specialist reports (see Annexures). It is intended that the specialist reports will form part of the final assessment.

1.2 Property Description

The land to which this Major Project Application relates is described as follows:

LOT	DP	AREA	OWNER	ZONING
1	134787	9 ha	M Walmsley	Part 2(c) Urban Expansion 5.28 ha. Part 7(d) Environmental Protection Scenic Escarpment 3.7 ha
1	167380		P Walmsley	
2	961928		H Mabbutt D Miller	
Part 4	1054848	16.32 ha	CR & ME Roberts	Part 2(c) 10.34 ha of which approximately 4.90 ha is the subject of this Draft Master Plan. Part 7(d) 5.91 ha.
	TOTAL	25.32 ha		

J and L Dickinson have a contract to purchase part of Lot 4 being proposed Lot 5. A development application to create the separate lots has been approved by Tweed Shire Council. A copy of the development application plan is attached as **Figure 10**. Registration of the Plan of Subdivision is anticipated in the near future.

Figure 1 shows the configuration, areas and dimensions of the existing lots and their real property descriptions.

1.3 Consultations

On 17 January 2003 the proposal for Walmsley's land was discussed with Tweed Shire Council's Development Assessment Panel, particularly in relation to the implications of the Tweed 2000+ Strategic Plan. The Panel advised that spare traffic capacity existed at that time on Cobaki Bridge/ Kennedy Drive that would enable the project to proceed (however it is understood that the spare capacity has now been consumed). A copy of the Development Assessment Panel minutes is attached at **Annexure A**.

A Planning Focus Meeting (including a site view) was held on 11 May 2004, involving key state agencies and Tweed Shire Council. No absolute constraints to development of the site were identified at the meeting. A copy of the meeting notes is attached at **Annexure B**.

Subsequently, the site was inspected by Mr Pradesh Ramiah of the Department of Infrastructure, Planning and Natural Resources (Coastal Team, Urban Assessments) on 15 June 2004 following which Mr Ramiah provided the comments at **Annexure C**.

1.4 Site Overview

Located approximately 3km southeast of the NSW/Qld state border and Coolangatta airport, the development site forms part of the Bilambil Heights Release Area, which is identified in the Tweed Shire Council's Tweed 2000+ Strategic Plan and the Tweed Development Program (Tweed Shire Council 17 December 1996) as an urban release area for up to 8000 people.

Figure 2 indicates the spatial relationship between the site and other key facilities within the Tweed Heads area. Beaches, schools (primary and secondary) local and subregional shopping centres, sporting facilities and industrial precincts are located within approximately 5km of the site.

A local shopping centre and the Seagulls Club are located on Scenic Drive approximately 1.5km by road east of the site.

Vehicular access is provided from the Pacific Highway via Kennedy Drive, Scenic Drive, Walmsleys Road, Piggabeen Road and Stott Street.

To the southeast of the site is the existing Tweed Pacific residential estate comprising mainly detached dwelling houses on lots of approximately 700 m² to 800 m² in area. The density of this estate is approximately ten dwellings per hectare.

To the north is the Tweed Highlands residential estate comprising lots of 700m² to 800m² and an aged care complex. This estate also achieves a density of approximately ten dwellings per hectare.

Land to the east and west of the development site is currently vegetated and is not used for any purpose.

Figure 3 comprises an aerial photograph showing the land in its local context, together with broad site opportunities and constraints.

Figure 3 shows the juxtaposition of the subject site and adjacent land. In summary, land to the south and east is used for urban purposes and is zoned residential.

To the northeast the adjoining land is forested and zoned 7(d) Environmental Protection Scenic Escarpment. This land is not used for any economic purpose and given its physical characteristics is highest and best use is probably limited to apiary.

To the north, part of the adjoining land is used for urban purposes and is zoned residential. The remaining adjoining land to the north is zoned Rural and Environmental Protection and is currently used for grazing.

Land to the west of the development site is zoned 1(c) Rural Living and is currently used for cattle grazing.

The adjoining land to the south of the site is zoned part 1(c) and part 2(c) and is used for grazing and other agricultural purposes. A dwelling exists adjacent to the southern boundary of the site on Lot 2 DP 748915.

Part of the site itself is used for small cropping, however this use will, of course, cease when the urban development proceeds. The existing small farm shed located on Lot 4 DP 1054848 (south eastern corner of the western part of the lot) is the only building on the site.

Apart from normal bushfire hazard buffers, the nature of the current and likely future uses of adjoining and adjacent land do not give rise to a need for any agricultural buffers.

1.5 Project Description

Figures 5A and 5B show the key elements of the project. In summary, they include:

- A collector road connecting Walmsleys Road and Stott Street which has been designed with an 11m carriageway to accommodate buses;
- Dedication and embellishment of approximately 2500m² of casual open space (local park). Embellishment will include playground equipment, turfing, landscaping and seating (proposed Lot 13);
- Establishment of a bushfire asset protection zone on the perimeter of the site adjacent to hazard areas;
- Creation of approximately 85 residential lots based on a local street network which achieves connectivity and permeability between neighbourhoods;
- Creation of relatively large lots to provide flexibility in the design and siting of dwellings, improve energy efficiency and facilitate extensive landscaping using native species;
- Retention of existing threatened species of flora in and adjacent to environmental protection zones and erecting suitable protection fencing.

2.0 KEY ISSUES

2.1 Planning Controls

2.1.1 State Environmental Planning Policies

State Environmental Planning Policy No. 14 – Coastal Wetlands

The land to which this Major Project Application relates is not affected by the provisions of this State Environmental Planning Policy. The nearest mapped wetlands under the provisions of this Policy are located approximately 150m to the northwest of the site with an additional area located immediately north adjacent to Piggabeen Road. Given the extensive buffers from the site to the mapped wetland and subject to normal water quality management measures the existing State Environmental Planning Policy No. 14 – Wetlands do not impose a significant constraint on the development potential of the site.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

In summary, Clause 9 of this Policy provides that before a Council may grant consent to a Development Application for consent to carry out development on land to which Part 2 of the Policy applies, that it is satisfied is a core Koala habitat, there must be a Plan of Management prepared in accordance with Part 3.

Clause 13 of the Policy provides that the Plan of Management must be approved by the Director of the Department of Planning.

The Flora and Fauna Assessment (**Annexure H**) concludes that a Koala Plan of Management is not required.

State Environmental Planning Policy No. 55 – Remediation of Land

In summary, Clause 7 of this Policy provides that the consent authority must not consent to the carrying out of any development on land unless it has considered, among other things, whether the land is contaminated, based on a preliminary investigation of the land carried out in accordance with the Contaminated Land Planning Guidelines.

The Contaminated Land Planning Guidelines (Department of Urban Affairs and Planning, Environment Protection Authority, 1998) provide information relating to preliminary contamination investigations.

In addition, Council has adopted a Contaminated Land Policy which contains details of the information required to be submitted with applications for development. Section 3.4.1 of the Policy requires the applicant to provide responses to various questions.

Soil Contamination Assessments have been prepared (Gilbert and Sutherland, September 2003 and October 2003). Those reports conclude that the land is suitable for urban development.

State Environmental Planning Policy No. 71 – Coastal Protection

The land to which this Major Project Application relates is within the coastal zone as defined under the provisions of this Policy and as the development involves a subdivision for more than 25 residential lots a Master Plan is required pursuant to Clause 18 of the Policy.

In addition, Clauses 8 and 20 of the Policy require various criteria to be considered in preparing a Master Plan and in assessing any subsequent development application.

As the provisions of Part 3A of the Act apply a Master Plan is not required under this Policy.

2.1.2 Tweed Local Environmental Plan 2000

Tweed Local Environmental Plan 2000 is the principal planning instrument controlling development within Tweed Shire generally and the subject land in particular. Under the provisions of this Plan, the land is zoned partly 2(c) Urban Expansion and partly 7(d) Environmental Protection Scenic Escarpment. Relevant provisions of this instrument are addressed in detail at Section 3.0.

Under the provisions of Tweed Local Environmental Plan 2000, the land is zoned part 2(c) Urban Expansion and part 7(d) Environmental Protection Scenic Escarpment. The zoning of the land is shown on **Figure 6**. The objectives of each zone are as follows:

"2(c) Urban Expansion

Primary objectives

- *to identify land for urban expansion (which will comprise mainly residential development focused on multi-use neighbourhood centres) and to ensure its optimum utilization consistent with environmental constraints and the need to minimize residential land take.*

Secondary objectives

- *to allow associated non-residential development which meets the recreation, shopping, commercial, employment and social needs of future residents.*
- *to ensure that sensitive environmental areas within and outside the zone are protected from any adverse impacts of development.*
- *to enable planning flexibility to achieve the other objectives of the zone by providing detailed guidelines through development control plans."*

“7(d) Environmental Protection Scenic Escarpment

Primary objectives

- *to protect and enhance those areas of particular scenic value to the area of Tweed, minimize soil erosion from escarpment areas, prevent development in geologically hazardous areas, and maintain the visual amenity of prominent ridgelines and areas.*

Secondary objective

- *to allow other development that is compatible with the primary function of the zone.”*

The following table summarises the range of permissible uses in each zone. The list is not exhaustive and reference should be made to the Local Environmental Plan for full details.

USES	2(C) ZONE PERMISSIBILITY	COMMENTS	7(D) ZONE PERMISSIBILITY	COMMENTS
Dwelling Houses	Yes	Minimum 450m ² lot size	Yes	Minimum 40ha or Clause 57 lot
Multi-Dwelling Housing	Yes	See DCP No. 6 for density controls	Yes	Maximum of 2 dwellings on a 40ha lot or a Clause 57 lot
Agriculture	Yes	Item 3 use ie. must satisfy the prerequisites in Clause 8 of the LEP	Yes	Item 3 use ie. must satisfy the prerequisites in Clause 8 of the LEP
Shops	Yes	Item 2 use	Prohibited	
Commercial Premises	Yes	Item 2 use	Prohibited	
Recreation Areas	Yes	Includes sports fields and playgrounds	Yes	Item 3 use ie. must satisfy the prerequisites in Clause 8 of the LEP
Educational Establishments	Yes	ie. Schools	Prohibited	

As reflected in the objectives of each zone and the range of permissible uses, the 2(c) zone is quite flexible whereas the 7(d) zone is very restrictive.

While the 2(c) zone objectives contemplate more detailed planning through a Development Control Plan, this is not considered to be necessary in the circumstances of this case because virtually the whole of the undeveloped 2(c) land in this locality is covered by this Major Project Application. In addition, the future urban pattern for the area is largely determined by existing street networks, zone boundaries and residential neighbourhoods. The project is considered to be consistent with the provisions of Tweed Local Environmental Plan 2000.

The Tweed Shire Council Tree Preservation Order (1990) applies to that part of the site zoned 2(c) while the 2004 Tree Preservation Order applies to the area zoned Environmental Protection.

2.1.3 North Coast Regional Environmental Plan, 1988

Relevant clauses of this Plan are summarised as follows.

Clause 12 – Agricultural Activities
Clause 15 – Rivers, Streams and Wetlands
Clause 29A – Natural Areas and Water Catchments
Clause 32B – Coastal Lands

Clause 36 – Heritage Items (None in Tweed Shire)
Clause 43 – Residential Development
Clause 51 – Tall Buildings
Clause 66 – Community Services

The project is considered to be consistent with this Plan.

2.1.4 Development Control Plans

No site specific Development Control Plans apply but the following Shire wide plans are relevant:

Development Control Plan No. 2 – Access and Car Parking Code
Development Control Plan No. 6 – Multi-dwelling Housing
Development Control Plan No. 16 – Subdivision Manual
Development Control Plan No. 25 – Biting Midges and Mosquito Control
Development Control Plan No. 26 – Childcare Centres
Development Control Plan No. 39 – Energy Efficient Housing Policy
Development Control Plan No. 44 – Dual Occupancy
Development Control Plan No. 45 – Socio-economic Impact Assessment
Development Control Plan No. 47 – Cut and Fill

The project is considered to be consistent with these Development Control Plans.

2.1.5 Tweed 2000+ Strategic Plan and Tweed Strategic Plan 4/24

Following lengthy community consultation, Tweed Shire Council adopted the Tweed 2000+ Strategic Plan in December 1996.

Clause 114 of the Tweed 2000+ Strategic Plan (as amended) is as follows:

"Long Term Urban Release – The Bilambil Heights release area has major infrastructure impediments and requires a comprehensive planning approach. No development approvals for the release of land for residential development will be granted until such times as the Tugun Bypass and the Cobaki Parkway are commenced to provide appropriate access to the regional road network."

Walmsleys Road and Stott Street are existing constructed public roads which provide access to the site from the south and north respectively.

Having regard to contemporary urban design principles relating to permeability and connectivity, it is obviously desirable that these two streets are connected. Connection is in fact required by Tweed Shire Council and achieved by the preferred development option (**Figure 5**).

Tweed Local Environmental Plan 2000 and Section 94 Plan No. 4 provide for a proposed road to the west of the site connecting Scenic Drive and Piggabeen Road (and ultimately linking with Cobaki Parkway, see **Figure 6**). It is not feasible to link the proposed streets with this future road because of the difficult terrain (slopes over 33°) and sensitive environmental values of the vegetated area west of the 2(c) land.

There is a downstream traffic capacity limit at Kennedy Drive (Cobaki Bridge). Tweed Shire Council has recently advised that there is no remaining capacity. Council has resolved, by way of amendment to the Tweed 2000+ Strategic Plan (Policy and Action No. 114) that no further urban releases will be supported in the Bilambil Heights area until both Cobaki Parkway and Tugun Bypass are commenced. The Environmental Impact Statement for Tugun Bypass has been exhibited (in late 2004 and early 2005) and the project has been approved. Construction has commenced and completion is planned for 2008. It should be noted also that construction of the Cobaki Parkway has commenced and is now likely to proceed to completion by 2008.

It is likely to be approximately eighteen months before any development on the subject land (ie. dwellings) generates traffic by which time Tugun Bypass and Cobaki Parkway will be well advanced, if not completed and therefore available downstream capacity is a relative short term constraint. In any case this constraint does not preclude approval of this Major Project Application.

In summary, the constraints imposed by Clause 114 on further releases in Bilambil Heights could be satisfactorily addressed within approximately 12 to 18 months in which case further development would not be inconsistent with Clause 114 of the Tweed 2000+ Strategic Plan.

2.1.6 North Coast Urban Planning Strategy, 1995

Under the provisions of this Strategy, the site is identified as a “committed urban area”. Development of the site for residential purposes is consistent with the provisions of this Strategy.

2.1.7 Tweed Shire Council Residential Development Strategy, 1991

The Bilambil Heights Release Area is defined as “an existing urban area” under the provisions of this Strategy. Development of the site is also consistent with this Strategy.

2.1.8 Exhibited Draft Tweed LEP Amendment No. 21 – Vegetation Management

This Draft Local Environmental Plan was publicly exhibited from 8 December 2004 to 25 March 2005. In summary, the Draft Plan proposes:

- ♦ Replacing the current 7(d) Environmental Protection (Scenic Escarpment) zoning with a 7(a) Environmental Protection (Significant Natural Vegetation and Wildlife Habitat) zone;
- ♦ Relocating the 2(c)/7(a) zone boundary to the west on that part of the site east of the Aged Care complex;
- ♦ Back zoning of the eastern part of Lot 4 DP 1054848 from 2(c) to 7(a);
- ♦ Relocating the 2(c)/7(a) zone boundary on the southeastern corner of the site to the west.

This Major Project Application is not inconsistent with the exhibited Draft Plan and the Indicative Development Concept at **Figure 5** is consistent with the proposed zone boundary changes.

As the eastern part of Lot 4 DP 1054848 is proposed to be rezoned to 7(a) and as the current owners have no objection to the rezoning (and indeed have requested it) there is no need to extend this Major Project Application to include the current 2(c) land on the eastern side of Lot 4.

3.0 KEY ISSUES – POTENTIAL ENVIRONMENTAL IMPACTS, RISKS AND CONSTRAINTS

3.1 Site Opportunities and Constraints

3.1.1 Slope Analysis and Land Stability

Site elevations range from approximately RL 80m AHD at the southwestern and northern parts of the site to RL 50m AHD in the western part of the site. **Figure 4** (blueLAND Engineers) provides a slope analysis of the development site and surrounding areas based on 5% increments up to 20% slope; 20% to 33% and greater than 33%.

As a general principle, those parts of the site with slopes of less than 10% do not pose significant design and development constraints.

Slopes in excess of 10% are a relative constraint in relation to road gradients and allotment accesses and slopes greater than 20% are also a relevant constraint in relation to allotment access and building footprints.

The indicative subdivision layout shown on the slope analysis map reflects these constraints by:

- ♦ Locating proposed roads within areas where longitudinal gradients are generally less than 15%;
- ♦ Proposing relatively large lots on those parts of the site with slopes greater than 20%;
- ♦ With the exception of six lots in the southwestern corner of the site, substantially avoiding any landform changes on those parts of the site which exceed 33%.
- ♦ Maiden Geotechnics have carried out Geotechnical investigations over the development site and prepared two reports (Lot 4 DP 1054848, for J and L Dickinson, December 2003/January 2004 and Lot 1 DP 167380 for P Walmsley, June/July 2004).

In summary, having regard to the findings of the geotechnical investigations and the constraints map at **Figure 9**, it is concluded that geotechnical and slope constraints are relative and subject to appropriate design and mitigation measures they do not preclude residential development from any part of the land zoned 2(c).

3.1.2 Vegetation

In December 2004 Biolink Pty Ltd prepared a Flora and Fauna Assessment of the site. That report includes a map showing vegetation communities (Figure 3) and threatened plant species (Figure 4). As indicated on Figure 3 of the report, the majority of the 2(c) zoned land is mostly cleared comprising of grassland and scattered trees.

However Figure 4 of the report indicates that with the exception of several specimens of *L.pulchella* and *Endiandra Globosa* on and adjacent to the 2(c)/7(d) zone boundary, there are no threatened plant species within the 2(c) land.

Potential impacts on threatened species of fauna are also addressed in the Biolink report. In summary, the report concludes that:

"Because the area proposed for subdivision is predominantly cleared, any use by threatened fauna is likely to be transient and/or restricted to vegetation communities below the eastern and western escarpment edges. Impacts on threatened fauna species that could potentially occur and/or utilise vegetation communities in the area are largely mitigated by the exclusion of these areas from any development interest."

In summary, threatened species of flora and fauna do not impose significant constraints on the development potential of the 2(c) zoned land. However, appropriate management and mitigation measures will be required at the zone boundaries/vegetation interface and in proximity of identified threatened species.

3.1.3 Bushfire Hazards

With the exception of relatively small areas in the northern and southern parts of the site, the whole of the site is mapped as bushfire prone land.

A Bushfire Hazard Assessment prepared in accordance with the publication "Planning for Bushfire Protection, NSW Rural Fire Service, 2001". In summary, Page 32 of the report states that:

"The application of vegetation and slope considerations of relevance to the precinct can be interpreted in terms of Bushfire Attack Categories (BAC) as follows:

- ♦ *Distance from vegetation less than 20m: within flame zone;*

- ♦ *Distance from vegetation from 20m but not greater than 30m: a low BAC generally applies for the site with the exception of areas with slopes exceeding 15° (sites 2, 4 and 5) as in the east and west – southwest where a high BAC applies.*
- ♦ *Distance from vegetation greater than 30m but not greater than 50m a low BAC applies.”*

The report further concludes that, in summary, the greater proportion of the northern and southern property boundaries are adjoined by lands that are both cleared and zoned for residential purposes. For the purposes of assessing bushfire hazard, the predominant vegetational group on and surrounding the site is Group 3 (rainforest, grasslands, open woodlands, mallee).

This categorisation necessitates provision for development setbacks or asset protection zones of a minimum of 20 – 30m of managed vegetation for all slope categories in order to realise a uniform low BAC for the precinct, an outcome that Biolink considered desirable for the purposes of longer term bushfire planning.

On the western boundary the longitudinal gradient along the 2(c)/7(d) zone boundary exceeds the maximum requirement of 15° in some areas, with slopes perpendicular to the 7(d) boundary on average also greater than 15°. This would require cut and fill type earthworks in order to establish a trafficable trail for fire fighting purposes. Because of this, Biolink do not recommend that a fire trail be established along this boundary but that an overall, cadastrally based asset protection zone of 20m be imposed from the existing vegetation line into any adjoining lots.

The eastern boundary of the site is bordered by a 7(d) zoning beyond which the predominant vegetation type is rainforest extending down slope on average at 14°. Both the vegetation group and slope dictates a minimum asset protection zone of 30m that optimally incorporates a fire trail. However Biolink consider that the same purpose may also be served in this instance by the provision of a perimeter road in this area as a component of subdivision design. Regardless, the asset protection zone will need to be established from the current vegetation line as opposed to the property boundary.

In summary, subject to appropriate subdivision design and incorporation of feasible mitigation measures it is considered that bushfire hazards do not impose an absolute constraint on the development potential of the 2(c) zoned land.

3.1.4 Soil Contamination

Gilbert and Sutherland have investigated the land use history of the land, including soil sampling and testing for contaminants. In summary their reports conclude that:

Soil Contamination Assessment for Lot 1, Lot 2 and Lot 1 (September 2003)

”This Soil Contamination Assessment examined the occurrence and concentration of arsenic, cadmium, copper, lead, zinc, mercury and organochlorin compounds in the natural surface soils of the investigation area.

The results conclude that, of these potentially contaminating substances, none are present in concentrations exceeding the NEPC’s Level A, Health Investigation Levels for frequently occurring substances. Based on this finding, Gilbert and Sutherland consider that no additional sampling analysis is required. In relation to soil contamination issues, Gilbert and Sutherland consider that the site is suitable for the proposed residential development.

Soil Contamination Assessment Lot 4 Stott Street, Bilambil Heights (October 2003)

”This Soil Contamination Assessment determined the occurrence and concentration of arsenic, cadmium, copper, lead, zinc, mercury and organochlorin compounds existing in the natural surface soils of the investigation area.

The analytical results confirm that none of these potentially contaminating substances were present in the site soils in concentrations exceeding the NEPC’s Level A, Health Investigation Levels.

The site is therefore considered to be uncontaminated and in relation to soil contamination issues is suitable for the proposed residential development. Based on this finding, it is considered by Gilbert and Sutherland, that no additional sampling or analysis is required."

3.1.5 Landscape and Visual Values

The development site extends from approximately RL 50m AHD to approximately RL 80m AHD and is largely cleared of vegetation (see **Figure 2**). The site is well screened by existing topographic features including ridges and vegetation. In November 1995, Katherine Brouwer (Landscape Architect) prepared a Scenic Evaluation Report for Tweed Shire which assessed the land to which this application relates as mainly in the Cobaki district having medium scenic quality and located in Scenic Landscape Management Zones B and C, as best can be determined from the maps accompanying the report.

Scenic Landscape Management Zone A is assigned to those areas where the highest visual quality and sensitivity coincide. These areas are of critical scenic value to the shire and the most vulnerable to the loss of that value with change. They are recommended for maximum protection of their visual landscape values and features.

"Within Zone A landscape alterations, only of minimal impact with no apparent visual disturbance are allowed. Small-scale developments which are allowed planned to fully accommodate or enhance the special landscape qualities of the area, including visual impact assessment as part of an environmental impact assessment. The site is not within Zone A.

Scenic Landscape Management Zone B is assigned to those areas where the similar combinations are not as critical as zone A but the values are still highly significant to the maintenance of the scenic quality and landscape character of the shire and locality.

Within Zone B, landscape alterations are allowed, but only if they have no visual dominance or alteration of scenic quality or landscaped character. Alterations allowed as extensions of existing use without significantly changing the landscaped character or as minor landscaped changes. In the first two years the development may be apparent but not dominant and subsequently not apparent.

Scenic Landscape Management Zone C is assigned to those areas of medium to medium to low scenic quality and moderate scenic sensitivity. Within Zone C, generally small to medium scale developments allowed with major or significant change to the scenic quality overall landscape character of the locality.

Alterations may be apparent but in similar scale and density to surrounding structure. Screening of development (if appropriate) with vegetation in the character of the surrounding areas to be effective within five years."

Some disturbance of the existing landscape will be required to create the proposed allotments and future dwellings. Existing trees will be retained where possible and earthworks are limited to that required to achieve compliant road and lot grades. The site is not located on a visually prominent ridge and is screened from views by existing vegetation and topography. Generous lot sizes are proposed to facilitate landscaping to screen dwellings. In addition, private title restrictions will regulate the type of dwelling which may be erected on the lots and restrict foundation types such that minimal disturbance results. These measures are consistent with the scenic management zone objectives for Zones B and C. Landscaping of the proposed future lots will also assist in mitigating any potential short term adverse visual impacts.

3.1.6 Archaeology and Heritage

No formal Archaeological Assessment has been carried out on the site however given that it has been intensively cultivated and highly modified in landform over many years as a result of agricultural activities it is most unlikely that any archaeological relics would exist on the site.

Similarly, based on detailed site inspections, there are no existing items with European heritage values remaining on the property.

3.1.7 Traffic and Transport

See comments at Section 2.1.5.

3.1.8 Water and Sewer

In summary, based on consultations with Council officers, sufficient capacity exists within both the Tweed Council water and sewer reticulation, storage and treatment systems. Subject to normal extensions and payment of headworks charges, the provision of water and sewer services to the development are not a constraint.

3.1.9 Power and Telephone

Telstra and Country Energy confirm that the provision of underground services to the site does not pose a constraint to development. The existing overhead power on the alignment of the proposed connecting road will be placed underground.

3.1.10 Playing Fields

Piggabeen Sports Complex exists approximately 500m northeast of the site (see **Figures 2 and 3**). This facility is accessed from Piggabeen Road and Carama Drive and the complex includes playing fields, amenities block, car parking and flood lighting. Council currently levies contributions through Section 94 Plan No. 4 on developments within this catchment towards upgrading and embellishment of these playing fields. In view of the convenient location of this existing facility; the unsuitability of the terrain on the site for sports fields and the fact that a demand for only approximately 3700m² (ie. less than one playing field) is generated by the likely future development proposal, a contribution in lieu of on site provision of playing fields is appropriate and consistent with Section 94 Plan No. 4 and Table 4.33 of Development Control Plan No. 16.

3.1.11 Casual Open Space

Table 4.33 of Development Control Plan No. 16 – Subdivision Manual establishes a hierarchy of open space categories to be provided in subdivisions. Table 4.33 requires the dedication and embellishment of 1.13 hectares per 1000 population as casual parks. Based on a notional yield of 83 residential lots at 2.7 people per lot, this equates to a requirement for approximately 2563m² of dedicated and embellished local casual open space. Table 4.33b1 (Local Parks – Development Standards of Development Control Plan No. 16) sets out the desirable minimum standard for a local park. The proposed casual open space area (Lot 13) substantially complies with the standards in this table.

4.0 CONCLUSION

The purpose of this Preliminary Assessment is to enable the Department of Planning to prepare the Director General's Environmental Assessment Requirements for the project. The relevant matters contained in the Schedule accompanying the Department's letter dated 20 April 2006 are addressed in this Preliminary Assessment. As indicated at Section 1.1, detailed site investigations have been completed and opportunities/constraints have been identified as a result of which the creation of a total of 85 lots has been determined to be a feasible and sustainable project. The specialist reports and plans which underpin the 85 lot subdivision concept are identified in the Schedule of Annexures and Figures. Copies of Annexures not provided can be made available to assist the Department in preparing the Director General's Environmental Assessment Requirements.

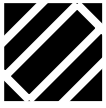


FIGURE 1



FIGURE 2



FIGURE 3



FIGURE 4



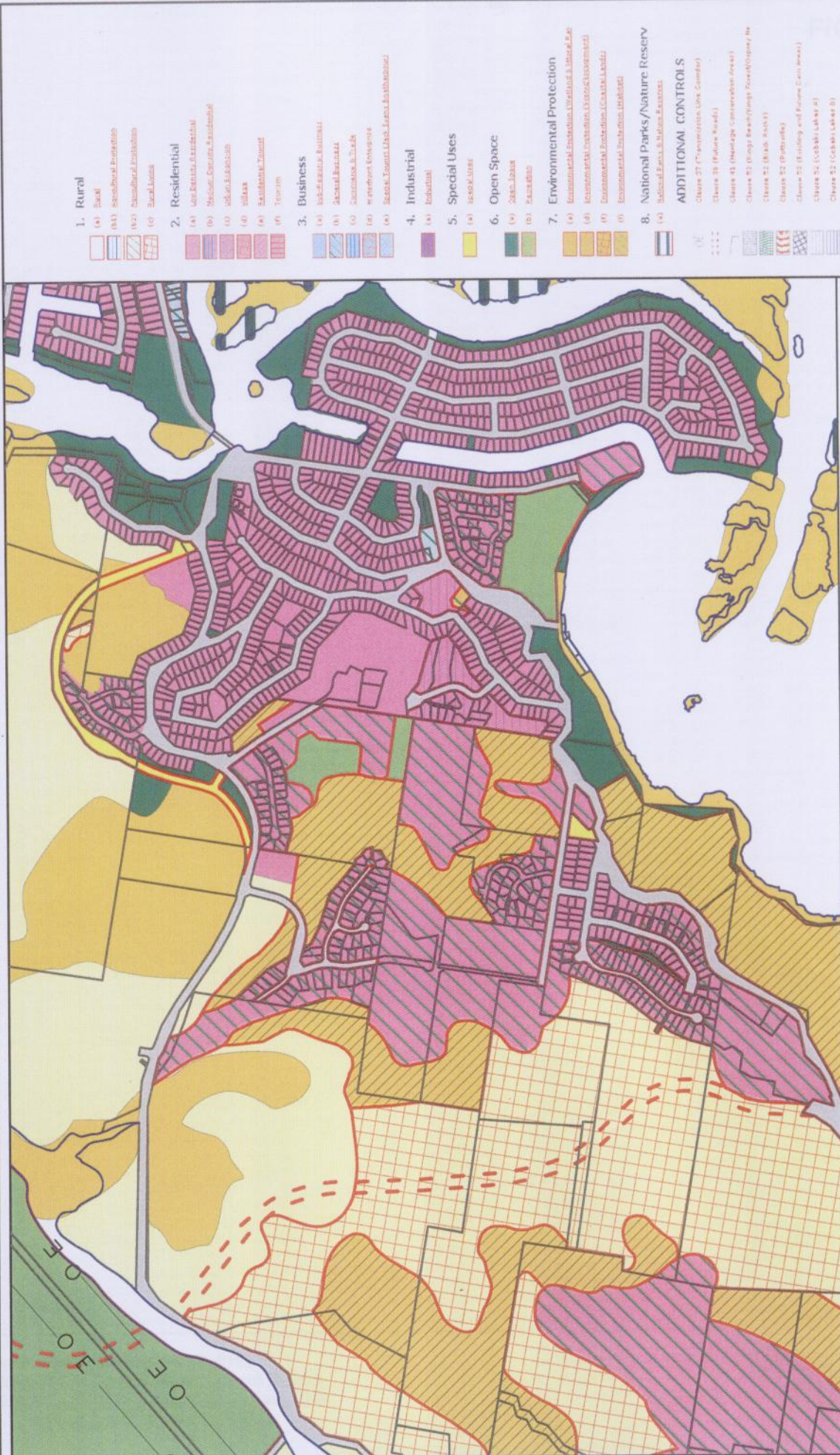
FIGURE 5A



FIGURE 5B



FIGURE 6



- 1. Rural**
 - (R1) Rural
 - (R2) Residential Environment
 - (R3) Special Use Environment
 - (R4) Rural Living
 - 2. Residential**
 - (R5) Low Density Residential
 - (R6) Medium Density Residential
 - (R7) Urban Suburban
 - (R8) Urban
 - (R9) Residential Transit
 - (R10) Town Centre
 - 3. Business**
 - (B1) International Business
 - (B2) General Business
 - (B3) Community & Trade
 - (B4) Metropolitan Enterprise
 - (B5) Special Transit Urban Living Residential
 - 4. Industrial**
 - (I1) Industrial
 - 5. Special Uses**
 - (S1) Special Use
 - 6. Open Space**
 - (O1) Open Space
 - (O2) Recreational
 - 7. Environmental Protection**
 - (E1) Environmental Protection (Class 1 & 2)
 - (E2) Environmental Protection (Class 3)
 - (E3) Environmental Protection (Class 4)
 - (E4) Environmental Protection (Class 5)
 - 8. National Parks/Nature Reserve**
 - (NP) National Parks/Nature Reserve
- ADDITIONAL CONTROLS**
- Class 17 (7' Minimum Line Control)
 - Class 18 (Future Roads)
 - Class 41 (Heritage Conservation Area)
 - Class 42 (Bays Beachfronts From 600m to 700m)
 - Class 43 (Bays Beachfronts From 700m to 800m)
 - Class 44 (Parks)
 - Class 45 (Employment and Retail Core Area)
 - Class 46 (Local Lakes)
 - Class 47 (Stromboli & 60)
 - Class 48 (Stromboli & 60)
 - Class 49 (Stromboli & 60)
 - Class 50 (Stromboli & 60)

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**TWEED LOCAL ENVIRONMENTAL
 PLAN 2000**

R.R. 1 : 13834
 Date Plotted: 09/08/2004

Although all care has been taken with the Production of this Map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the Information supplied in this map.

TWEED SHIRE COUNCIL
 Produced by Tweed Shire
 GIS Intranet

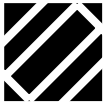


FIGURE 7

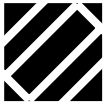
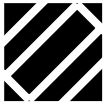


FIGURE 8



ANNEXURE A

MINUTES OF THE DEVELOPMENT ASSESSMENT PANEL HELD

FRIDAY 17 JANUARY 2003

3. APPOINTMENT:

Addressed By: Darryl Anderson, Basil McLauchlan & Peter Walmsley**Postal Address:** C/- Darryl Anderson Consulting**Present:** Messrs Garry Smith, Manager Development Assessment; Warren Boyd, Acting Manager Design; Ross Cameron, Acting Manager Building Services and Linda Krausz (recorder)**Property****Description:** Lot 1 DP 167380, Lot 2 DP 961928 & Lot 1 DP 134787 Walmsleys Road, Bilambil Heights**Land No:** PF2480/45**Proposal:** 50 lot subdivision – details of this proposal have been previously discussed with Manager Development Assessment and the purpose of this meeting was to clarify Council's resolution of 17 May 2000.**Comments:**

- The land is zoned part 2(c) Urban Expansion and part 7(d) Environmental Protection (Scenic Escarpment) under Tweed LEP 2000. Residential subdivision is entirely within the 2(c) zone and is permissible with consent.
- Council, at a meeting held on 17 May 2002 resolved as follows in relation to the Bilambil Heights area:
 - *Amends Clause 114 of the Tweed Shire 2000+ Strategic Plan, to read as follows: "Long Term Urban Release - The Bilambil Heights Release Area has major infrastructure impediments and requires a comprehensive multi-ownership planning approach. If after three years no commitment has been given by landowners for infrastructure at Bilambil Heights, then Area 'E' at Terranora should be considered for release subject to other Strategic Plan requirements. No development approvals for the release of land for residential development will be granted until such time as the Tugun Bypass and Cobaki Parkway are commenced to provide appropriate access to the regional road network".*
 - *In accordance with Section 54 of the Environmental Planning and Assessment Act inform the Regional Director, Department of Urban Affairs and Planning, that Council intends to prepare a draft LEP to amend the Tweed LEP 2000 to require that no development approval for the release of land for residential development at Bilambil Heights can be granted by Council until the Tugun Bypass and Cobaki Pathway are commenced to provide appropriate access to the regional road network, and that in Council's opinion a Local Environmental Study is not required.*

The Strategic Plan has not yet been formally amended in accordance with Dot Point 1. Notwithstanding this, a formal application for this subdivision will need to demonstrate why this site is not constrained by this resolution.

FRIDAY 17 JANUARY 2003

In relation to Dot Point 2, Planning NSW have been advised of this resolution, however no further action has been taken to progress this amendment.

- Because of the amendment to the Development Consent for the Terranora Resort project, spare capacity exists for Cobaki Bridge/Kennedy Drive at this point in time that would enable this proposal to proceed.

Conclusion:

It is open to the applicant to lodge a development application and any such application would be considered on its merits having particular regard to the above issues. The comments provided above are to assist the proponent in preparing a development application. No detailed assessment has been carried out and all issues may not have been identified. Therefore, the above advice does not provide certainty of approval being obtained.

NOTE: THESE ARE DRAFT MINUTES ONLY AND ARE SUBJECT TO CONFIRMATION. IF ANY SUBSTANTIAL CHANGES ARE MADE COPIES OF THE ADOPTED MINUTES WILL BE FORWARDED WITH CHANGES HIGHLIGHTED IN ITALICS



ANNEXURE B

Meeting Notes – Planning Focus Meeting
Tweed Heads Civic Centre
11 May 2004
Proposed 80 Lot Subdivision and Master Plan under SEPP 71,
Walmsleys Road and Stott Street, Bilambil Heights

Present:	John Finlay	Department of Infrastructure, Planning and Natural Resources
	Graham Budd	Department of Environment and Conservation
	Brett Nudd	Department of Environment and Conservation
	Rik Whitehead	Department of Agriculture
	Basil McLaughlin	McLaughlin Surveying
	Barry Green	McLaughlin Surveying
	Keith Black	McLaughlin Surveying
	Jodi Earwaker	Blueland Engineers
	Martin Findlater	Blueland Engineers
	Peter Walmsley	Land Owner
	Jim Dickinson	Land Owner
	Garry Smith	Tweed Shire Council
	Patrick Knight	Tweed Shire Council
Apologies:	Tim Rabbidge	Department of Infrastructure, Planning and Natural Resources
	Richard Dunning	Department of Lands
	Patrick Dwyer	NSW Fisheries
	Carl Cormack	NSW Waterways Authority
	Julie Conlon	Natural Resources Commission
	Lawrence McCoy	Rural Fire Service
	John Allen	Department of Environment and Conservation

Following an inspection of the development site the following comments by the various state agencies were provided:

Brett Nudd and Graham Budd – Department of Environment and Conservation

- # Parts of the site are steep and stormwater management will be a key issue. The zone of instability adjacent to the former dam site which has now been filled may be a constraint on infiltration.
- # Rainwater tanks and water sensitive design principles should be implemented.
- # Downstream water quality will be a critical issue.
- # The habitat values of the site and how any remnant stands or individual species will be retained and/or managed should be addressed (see attached general comments provided by Department of Environment and Conservation relating to threatened species issues in particular).
- # Contamination Report will be required.
- # A sewer strategy will also be required particularly addressing available capacity at the Banora Point Sewerage Treatment Works.
- # Graham raised concerns about treating stormwater off site.

Rik Whitehead – Department of Agriculture

- # A land use history should be provided including a description and any old aerial photographs available such as the one obtained by Peter Walmsley.
- # Present land uses within a one kilometre radius of the site and the implications of existing passionfruit plantation on part of the land will need to be addressed.

- # Relationship with adjoining zonings will need to be addressed.
- # Management of the large residue lot zoned 7(d) needs to be addressed ie. values, land use.

Gary Smith – Tweed Shire Council

- # The Tweed 2000+ Strategic Plan particularly Clause 114 (as amended) relating to further residential development within the Bilambil Heights release area will need to be addressed.
- # Kennedy Drive capacity remaining at 11 May 2004 has been determined by Council at 568.2 vehicle trips which equates to approximately 87 lots. Capacity is only allocated to a project when development consent is granted. This issue will need to be addressed in any development application and/or Master Plan.
- # The LEP Amendment to preclude further releases referred to in the amended Clause 114 has not been implemented to date and will probably not proceed.
- # Geotechnical investigations and a report required.
- # A Bushfire Hazard Assessment will be required in accordance with the publication Planning for Bushfire Protection.
- # A Scenic Impact Assessment will be required.
- # A Flora and Fauna Assessment addressing the matters for consideration in Sections 5A and 5C of the Environmental Planning and Assessment Act will be required.
- # Specific of clauses of the LEP to be addressed include: 15, 17, 26, 39, 39A.
- # Development Control Plans to be addressed include: Development Control Plan No. 16 – Subdivision Manual, Development Control Plan No. 39 – Energy Efficient Housing, Development Control Plan No. 45 – Socio Economic Impact Statement (note a Socio-Economic Impact Statement will need to accompany the application), Development Control Plan No. 44 – Dual Occupancy, Development Control Plan No. 47 – Cut and Fill on Residential Land.

Pat Knight – Tweed Shire Council

- # Development Control Plan No. 16 and State Environmental Planning Policy No. 71 both require Master Plans. John Finlay considers that State Environmental Planning Policy No. 71 would prevail but relevant provisions of Development Control Plan No. 16 would need to be addressed in any State Environmental Planning Policy No. 71 Master Plan.
- # Need to integrate pedestrian/cycleway networks into the subdivision design and address public transport issues.
- # Stormwater quality and quantity criteria – rainwater tanks may be needed to provide retention. Pat also advised that the State Government's BASIX Policy will apply after June 2005. The policy requires sustainability principles to be addressed as a scorecard at the lot creation stage.
- # A visual assessment is required under Development Control Plan No. 16.
- # Open space stands in Development Control Plan No. 16 need to be addressed and any inconsistencies justified on their merits.
- # Connectivity to vegetation areas needs to be considered.
- # Some concern with Community Title area – stability and stormwater discharges from the Aged Care Centre.
- # The lawful point of discharge to natural watercourses or easements across intervening land will need to be addressed.

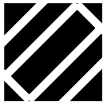
- # Development Control Plan No. 16 contains recommended buffers to adjacent conflicting uses.
- # A Traffic Assessment is required together with compliance with the Development Control Plan No. 16 infrastructure requirements.
- # Active Open Space contributions may be acceptable in lieu of on site dedication however no Section 94 Contribution Plan is currently in force.
- # Peter Walmsley requested that Council ensure that the future trunk water main routes follow the proposed roads.
- # Pat Knight raised questions of staging and preference to connect roads (Stott Street and Walmsleys Road) initially.
- # Pat also requires 2(c) land to the south to be included in the Master Plan and adjoining land generally.
- # Master plan should address management of environmental protection zones generally.

John Finlay – Department of Infrastructure, Planning and Natural Resources

- # John advised that asset protection zones and environmental buffers should be separate.
- # John considers that the 2(c) zoned land east of the development site which is to be retained by Mr Dick Roberts should be included in the Master Plan. This land appears to have limited development potential because of its constraints and therefore the purchasers are reluctant to include it in the Master Plan. Pat Knight considers that a desktop assessment over this area would be OK as it is a discrete parcel of land separated by a parcel zoned 7(d).
- # Questions were raised in relation to the residue lot to the east and whether or not it would have frontage to a public road and also legal and practical access. Pat knight considers that it is desirable under Development Control Plan No. 16 that each lot have frontage to a public road but not mandatory and a right of carriageway way be acceptable. Darryl Anderson proposed that a desktop assessment of the eastern area be carried out as part of the Master Plan to identify options and issues, particularly access, based on contours, Flora and Fauna Assessment, Bushfire Hazards and other key constraints.
- # John Finlay suggested that a desktop analysis could be provided and then formally consult Department of Infrastructure, Planning and Natural Resources as to whether we need to do more detailed work over this area.

It was agreed that these meeting notes will be provided to Pradesh Ramiah in Urban Assessments with a view to resolving the issues in relation to the eastern area and other relevant matters when Ramesh or his staff visit the Tweed area and inspect the site in the near future.

General written comments were provided by Patrick Dwyer of NSW Fisheries, Carl Cormack of NSW Waterways Authority and Lawrence McCoy of the Rural Fire Service and those comments will be taken into account in preparing the draft Master Plan and development application.



ANNEXURE C

Darryl Anderson Consulting

From: Pradesh Ramiah [Pradesh.Ramiah@dipnr.nsw.gov.au]
Sent: Tuesday, 20 July 2004 5:28 PM
To: admin@daconsulting.com.au
Subject: Re: FW: Proposed 80 Lot Subdivision and Master Plan under SEPP 71 - Walmsleys Road & Stott Street, Bilam

Hello Darryl,

I've reviewed the meeting notes and the aerial photos and my notes of the site visit and offer the following comments.

With regard to the eastern portion of land as I understand that land is not yet in your client's ownership. An application for a master plan must include owners consent.

from the preliminary analysis undertaken, the main issue for me is the proposal to place residential development on steep slopes. At a master plan stage it is difficult to detail the proposed development that is likely to proceed as a consequence of the subdivision. It would be prudent that in your master plan if you clearly articulate how you want to deal with residential development on steep slopes (ie expectations about cutting and filling, designating building envelopes etc) and what are the expected development/housing types you would expect to follow. It is important that land forming works be kept to a minimum and the proposed development responds to the natural topography

I'm little perturbed by the number of cul de sacs and battle axe blocks proposed. I don't have any strong objection as I understand the reasons why (ie steep slopes). However, your master plan will need to demonstrate that this layout is sensitive to the site's topography (and not just because it maximises lot yield) and provides for a good urban design outcome. I suggest that you examine the road layout to improve permeability, where it is possible. Your arguments will need to be convincing.

I've had a look at the minute notes and don't have any further comments to offer. I am sorry for the delay.

cheers

>>> "Darryl Anderson Consulting" <admin@daconsulting.com.au> 07/19/04 09:59am >>>
Pradesh

Could you please urgently advise of any comments or requirements you may have.

Regards Darryl

-----Original Message-----

From: Darryl Anderson Consulting [mailto:admin@daconsulting.com.au]
Sent: Tuesday, 22 June 2004 1:00 PM
To: Pradesh Ramiah
Cc: jimdicko@bigpond.com; Peter Walmsley
Subject: Proposed 80 Lot Subdivision and Master Plan under SEPP 71 - Walmsleys Road & Stott Street, Bilambil Heights

Pradesh

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1

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