



Land and Property
Management Authority

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Our reference: **09/08664**
Your reference: **05_0198**

28 September 2009

Attention: Jane Flanagan

Dear Ms Flanagan,

**Re: Environmental Assessment Exhibition – Major Project Application 05 0198
Proposed Residential Subdivision of Lot 1 DP134787, Lot 1 DP167380, Lot 2
DP961928, and Part Lot 4 DP1054848 (sic, now Lot 5 DP1117326) at Walmsleys
Road and Stott Street, Bilambil Heights**

I refer to your letter dated 19 August 2009 inviting a submission from the Department of Lands (now the Land and Property Management Authority or LPMA) in relation to the abovementioned major project application and accompanying environmental assessment (EA), as lodged by Darryl Anderson Consulting Pty Ltd (the Proponent). Thank you for providing an opportunity to submit comments.

Potentially affected Crown parcels

- The Subject Site (Lot 1 DP134787, Lot 1 DP167380, Lot 2 DP961928, and Lot 5 DP1117326) does not adjoin any Crown parcels (that is, Crown lands under the *Crown Lands Act 1989* or Crown public roads under the *Roads Act 1993*).
- The closest Crown parcel is Terranora Broadwater Foreshore Reserve (R1002955) for Public Recreation notified 29 September 2000 (Lot 7130 DP1113340) encompassed by Crown Reserve No. 1012191 (Tweed Coast Regional Crown Reserve) for Access and Public Requirements, Rural Services, Tourism Purposes and Environmental and Heritage Conservation notified 25 August 2006. Tweed Shire Council is the appointed corporate manager of the Terranora Broadwater Foreshore (R1002955) Reserve Trust, charged with the care, control and management of the Reserve. The Reserve is highlighted in orange in Figure 1. The proposed development is not expected to directly impact upon the Reserve.

In light of the above, the LPMA's interest in the proposed development is limited. Nevertheless, the following comments are offered.

Threatened entities

- The Proponent's intention to constrain the proposed urban area, including its asset protection zones (APZs), to within the 2(c) zone is recognised. However, it is noted the Proponent argues against the establishment of a 50m-wide buffer to the identified 'Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions' endangered ecological community (EEC). The Proponent's argument is based upon the following contentions (Page 31):



- The adjoining vegetation community (grassland largely devoid of trees) is incapable of providing an effective ecological buffer. This, arguably, may be the case in some respects at present but it may not necessarily be so in the future. Failure to establish a contemporary 50m-wide buffer may limit management options designed to protect the (potentially rehabilitating) EEC over the long term. There is nothing to say the buffer can't also be rehabilitated or revegetated so as to enhance its functionality. Additionally, a reduced buffer may constrain any future expansion of the EEC.
- The current successional stage and disturbed nature of the EEC mandates long-term active management. The fact the EEC is disturbed reinforces, not diminishes, the need to establish a suitable buffer, so future on-ground activities aimed at recovering the EEC are afforded the best possible chances of success (that is, without complicating pressures from more severe edge effects).
- Boundary adjustments have resulted in an additional 0.7 hectares of the EEC being added to the 7(d) zone. Although this action is commended, the aim of the buffer is to protect the existing EEC from edge effects.
- With respect to the proposed buffers to the EEC, the Proponent suggests "... effective buffering in this instance can be affected (sic) by the recommended 25m APZ, within which proposed covenants will, amongst other things, require endemic lowland rainforest species to be planted" (Page 32). However:
 - The '**Plan of Constraints of Proposed Subdivision of Lot 1 DP167380, Lot 1 DP134787, Lot 2 DP961928 and Lot 5 DP1117326, Walmsleys Road and Stott Street, Bilambil Heights**' (Annexure 5) shows patches of EEC occurring within the 25m APZ (that is, patches A, B, D). Patch B appears to extend beyond the APZ into the development envelopes of lots 38, 39, 41 and 42. It is difficult to ascertain how the APZ in these cases will act as a buffer to the EEC when the EEC occurs within the APZ (noting a secondary objective of the 2(c) zone is: "*to ensure that sensitive environmental areas within and outside the zone are protected from any adverse impacts of development*", and that the 'Tweed Shire Council Tree Preservation Order (1990)' applies to the zone).
 - APZs, by their very nature and as a result of imposed management regimes, do not allow for the regeneration of EECs. For example, as proposed in Table 3: "... a Sec 88b covenant mandating that the APZ area must be maintained as mown lawn with any plantings restricted to endemic lowland rainforest species such that no more than 20% of APZ area is covered by tree canopy OR tree crowns to be separated by minimum distance of 2-5 metres". These comments also hold true for threatened species (such as *Amorphospermum whitei* (Rusty Plum)), the juveniles of which may be difficult to spot and therefore protect during on-ground maintenance activities such as mowing.
 - Claims that: "... those parts of the site with high conservation values will be retained in Environmental Protection zones and no development will occur in those areas" (Table 8, Page 42) do not ring true in light of what is proposed in relation to the APZs.
- Drawing attention to threatened species 25m either side of the 2(c)/ 7(d) zone boundary with specific signposting, as proposed on Page 32, is not recommended as this may heighten the exposure of individuals and place them at an increased risk of wanton damage, destruction and unauthorised collection.
- Given the presence, or potential presence, on or adjoining the Subject Site of native fauna at particular risk of predation or injury from domestic pets (such as the Northern Brown Bandicoot (*Isodon macrourus*) and Common Planigale (*Planigale maculate*)), it is recommended the Proponent explore measures designed to limit domestic pet encroachment into sensitive habitats (such as the registration on title of covenants pertaining to pet ownership, or the erection of appropriate internal and external fencing).

Vegetation management plan

- It is noted the Proponent commits to preparing a vegetation management plan (VMP) for the 7(d)-zoned lands within the "development precinct" (Page 32). The preparation of a VMP is strongly supported.
- It is recommended the proposed VMP encompass the entirety of the 7(d)-zone across the Subject Site, not just those areas within the "development precinct" (assumed to be synonymous with the development footprint) (Page 32).
- It is further recommended the VMP incorporate scoped and appropriate performance requirements for the restoration of the notophyll rainforest across the 7(d)-zone (for example, in relation to the diversity and density of plantings, seedling survival and growth rates, cumulative crown coverages, and the abundance and diversity of weed species) referenced to appropriate benchmarks (such as comparable, undisturbed vegetation communities).
- It is similarly recommended the VMP specify appropriate trigger values for intervention or corrective actions, referenced to the aforementioned performance requirements.

Plans, architectural drawings and diagrams

- The LPMA notes the disclaimer attached to the '**Proposed Subdivision Plan Overlay on Aerial Photograph**' (Annexure 9): "*PHOTOGRAPH SCALE NOT CONTROLLED, HENCE APPROXIMATE DISTORTIONS AT WESTERN DEVELOPMENT PERIMETER DUE TO TOPOGRAPHY IN 15-20M RANGE*". Care is required when using uncontrolled aerial imagery to reference proposed on-ground activities, such as weed control (comparisons between the attached Figure 1 and Annexure 9 in relation to the location of the western boundaries of the Subject Site are invited). Inadvertent encroachments onto neighbouring lands can occur where the locations of property boundaries aligned with particular features on an image differ from the actual property boundaries as referenced to on-ground features. The use of global positioning systems, or Ground-truthing or surveying prior to the commencement of works, is recommended.

Soil contamination assessments

- It is noted the soil contamination assessments presented in Annexure 11 '**Soil Contamination Assessment for Lot 1 DP167380, Lot 2 DP961928, Lot 1 DP134787 Walmsleys Road, Bilambil Heights**' and '**Soil Contamination Assessment for Lot 4 DP1054848, Stott Street, Bilambil Heights**' both state all the composite soil samples were analysed for organochlorine and organophosphate pesticides, arsenic, cadmium, copper, lead, mercury and zinc. Conclusions with respect to the concentrations of these potentially contaminating substances in the soils of the Subject Site are reached for all except organophosphate pesticides.

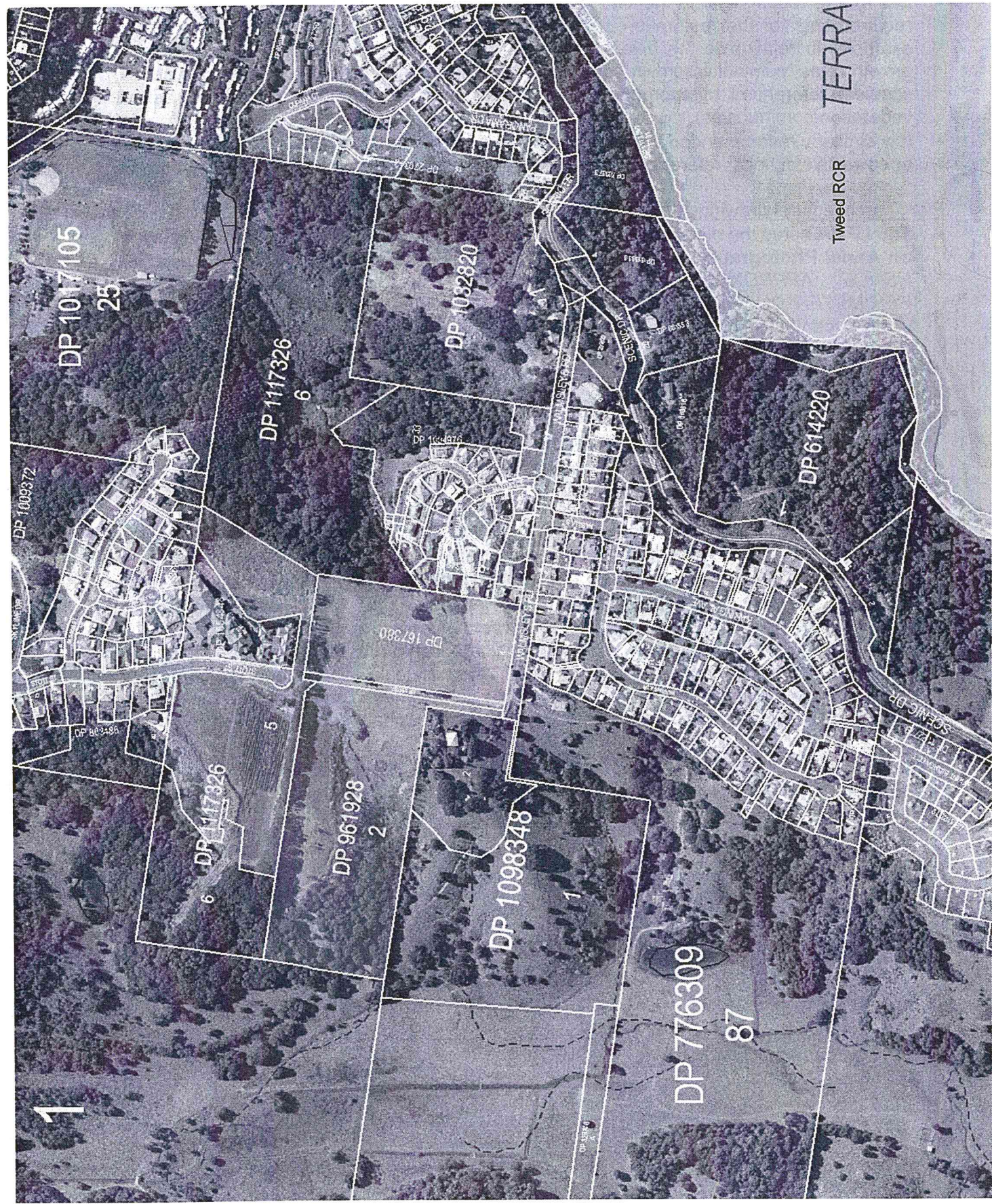
Please feel free to contact me on 6640 3436 or Ian.Hanson@lpma.nsw.gov.au if you have any questions or concerns in relation to these comments.

Yours sincerely,



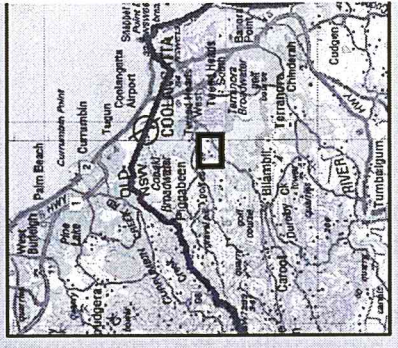
Ian Hanson
Senior Environmental Officer
Crown Lands Division





Proposed Residential Subdivision

- Legend**
- DECC EA
 - SEPP26 R
 - SEPP14 V
 - Plan
 - MP05_0188_Subject_Site
 - Regional Crown Reserve
 - Crown Land - Parcel
 - Crown Land Status Type
 - Undeveloped - Status Unknown
 - Crown Land
 - Contracted for Sale
 - Non Crown Land
 - Granted Land Claim awaiting Transfer
 - Crown Land - Waterway
 - Crown Land - Road
 - Crown Land Status Type
 - Crown Road
 - Shared Crown / Council Road



0 20 40 80 120 160



Metres

Aerial Photography: LPI Northern River Imag
Date of Photography: 26/06/04
Coordinate System: Geographic
Datum: GDA94
Prepared By: Ian Hanson



Land and Property Management Authority

Disclaimer:
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