



DARRYL ANDERSON CONSULTING PTY LTD

TOWN PLANNING & DEVELOPMENT CONSULTANTS

PLANNING PROPOSAL

**REZONING OF PART OF LOT 237 DP 1139108
ROUS RIVER WAY, MURWILLUMBAH
RIVA VUE ESTATE**

PREPARED FOR:

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MAY 2010

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PLANNING PROPOSAL

REZONING OF PART LOT 237 DP 1139108 ROUS RIVER WAY MURWILLUMBAH RIVA VUE ESTATE

1.0 INTRODUCTION AND BACKGROUND

Metricon (QLD) Pty Ltd has instructed Darryl Anderson Consulting Pty Ltd to prepare a Rezoning Proposal in respect of the final stages of the Riva Vue residential subdivision at Murwillumbah.

The proposal seeks to rezone the residue of the Riva Vue Estate comprising approximately 14 hectares from 1(b2) Agricultural Protection to R1 General Residential and RE1 Public Recreation.

On 26 April 2007 Jim Glazebrook & Associates formally requested rezoning of the balance area of the Riva Vue site. Subsequently, JGA made a further written submission (9 July 2008) and a number of emails were exchanged. A meeting was held with Tweed Shire Council officers on 27 November 2007.

As we understand it, the formal rezoning request was not processed by Council to the point of obtaining a Section 54 resolution.

In April 2009, Council considered a report relating to the Planning Reform Unit Works Program and changes to the Environmental Planning and Assessment Act concerning the Local Environmental Plan amendment process. The amendments to the Act came into force on 1 July 2009. We understand that for rezoning applications already in the system there are savings and transitional provisions that apply as follows:

1. For an application at Section 54 stage (Council resolution to proceed) the time limit is 18 months.
2. For an application at Section 65 stage, that is, where the Department has issued an authority to publicly exhibit a draft plan, the time limit is 12 months.
3. An application already in the system cannot be rolled over into the new system.

On 24 December 2009, Tweed Shire Council advised that in accordance with the Tweed Shire Council and Department of Planning Guidelines, the proponents are required to prepare and submit a fresh Planning Proposal for Council's consideration, being Stage 1 of the process.

Council further advised that Option 1 requiring the applicant to pay the Stage 1 Application Fee of \$1000.00 was the preferred option.

This Report describes the Planning Proposal and addresses relevant matters contained in the Tweed Shire Council Guidelines for Planning Proposals (July 2009) and the Department of Planning Guide to Preparing Planning Proposals (July 2009).

2.0 TWEED SHIRE COUNCIL MATTERS TO BE ADDRESSED IN A PLANNING PROPOSAL

Tweed Shire Council's Guidelines for Planning Proposals contains the following information relating to preparing an LEP Planning Proposal.

"Since 1 July 2009 the need to invest significant resources in both time and money on Local Environmental Plan proposal's before a decision to proceed is made by both the Council and the Minister has changed. The new Gateway determination process enables, on a reasonable level of information, the Relevant Planning Authority (usually a Council) and the Minister to determine whether a proposal has a reasonable chance of succeeding and if it does the minister will determine what specialist reports will be required, their scope, and the level of community and public authority consultation."

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The following is a guideline on the level of information that is generally required for a Planning Proposal, it needs to be read in conjunction with the Department of Planning's; Guide to Preparing a Planning Proposal (GPPP), July 2009.

1. *Details of the owner/proponent, property description, adjacent land uses and context analysis using the four key planning proposal considerations (Points) contained in the GPPP).*
2. *A general evaluation of the lands constraints and opportunities and any apparent ameliorative measures required. This may include potential impact on vegetation, soil erosion, visual impact, increased traffic generation, servicing considerations, bushfire, land contamination or the like.*
3. *A justification based upon the Local Government Amendment (Ecologically Sustainable Development) Act 1997, on environmental, economic and social considerations must be provided.*

Approval Function (Council)

The 1997 amendment to the Local Government Act 1993 requires a Council determining any application, to take into consideration the principles of ecologically sustainable development (Section 89(1)(c)). In considering the public interest, the matters the Council is to consider include the principles of ecologically sustainable development (Section 89(2)(a)).

4. *Address existing relevant planning controls, including local instruments, State Environmental Planning Policies, Tweed Local Environmental Plan, together with addressing the relevant directions issued under the Section 117 of the Environmental Planning and Assessment Act, Circulars issued by the Department of Planning and the like.*
5. *Address any relevant Council codes and policies. This should include consideration of any relevant Development Control Plans, Section 94 Contributions and any policy that would apply to any future development as a consequence of the rezoning."*

These matters are addressed in the following sections.

2.1 Details of The Owner/Proponent, Property Description, Adjacent Land Uses and Context Analysis

Meticon (Qld) Pty Ltd is the landowner and proponent for this Planning Proposal.

Tweed Shire Council approved the first stages of Riva Vue Estate within that part of the site zoned 2(a) Low Density Residential and 2(c) Urban Expansion by way of Development Consent No. 05/0308. Those stages have been partly constructed. The residue Lot 237 DP 1139108 is in three separate parts. This Planning Proposal related to those parts marked on **Annexure 1**.

Rous River Way has been constructed to link Joshua Street to the northern boundary of the site adjacent to the Murwillumbah Sewerage Treatment Plant. Rous River Way will ultimately connect to the West End Street extension to form part of the Byangum Road Bypass.

Lot 237 is located approximately 2 kilometres west of the Murwillumbah town centre adjacent to the Rous River and has an area of approximately 14 hectares in total. The rezoning site is shown on **Figure 1**.

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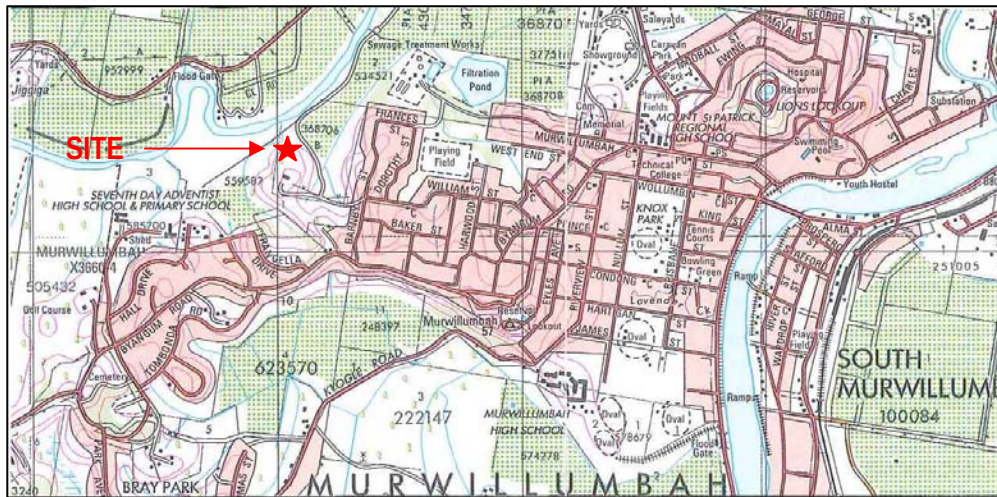


Figure 1 – Site Location
Source: 1:25000 Topographic Map, Central Mapping Authority 1987

2.2 Preliminary Site Analysis

2.2.1 Topography

The site comprises an elevated ridge with scattered vegetation but is predominantly low lying land ranging from approximately RL 2.2m AHD to approximately RL 15.5m AHD on the elevated ridge. The low lying parts of the site comprise former sugar cane production land with the elevated parts comprising mainly grasslands. Adjoining development to the south and east comprises low density, detached dwelling houses and the Rous River abuts the land to the northeast and grazing land abuts the land generally to the west.

Rous River Way has been constructed through the site from Joshua Street to the north eastern property boundary. Topographic details of the site are shown on **Annexures 1 and 2**.

2.2.2 Acid Sulphate Soils

The subject land is identified as part Class 3, 4 and 5 on Council's Acid Sulphate Soils Planning Maps.

An Acid Sulphate Soils Assessment (Gilbert and Sutherland Pty Ltd 2004) has been completed in accordance with the NSW Acid Sulphate Soil Advisory Committee Acid Sulphate Soil Manual (August 1998). The procedures associated with that Assessment covered the entire 24 hectare site. Subject to the implementation of an Acid Sulphate Soils Management Plan as a precautionary approach, the Gilbert and Sutherland Report concludes that development of the land does not pose a risk to the surrounding environment from an acid sulphate soils perspective.

2.2.3 Bushfire Hazards

As indicated on **Figure 2** the south western corner of the land is mapped as bushfire prone. The bushfire hazard comprises a stand of vegetation located within a public reserve (Frangella Park) adjoining the site. The vegetation is generally buffered from the proposed residential lots by Rous River Way however part of the site will directly abut the vegetation community. A Bushfire Hazard Assessment will therefore need to accompany any future Development Application, however bushfire hazards are not considered to be a significant constraint to rezoning of the land.

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Figure 2 – Bushfire Hazard
Source: Tweed Shire Council Aerial Photography 2007

2.2.4 Flooding

Tweed Development Control Plan 2007, Section A3 indicates a design flood level of RL 5.1m AHD for this particular site. Site levels for the low lying part of the land range from approximately RL 2.2m AHD to RL 5m AHD. Filling to RL 5.1m of that part of the site to be zoned R1 is proposed.

A Flood Study and Hydraulic Modelling was undertaken by WBM Oceanics (September 2004) for the whole site. The 100 year ARI peak flood level at the Riva Vue site was determined to be RL 5.68m AHD. Consequently, 6m AHD was modelled as the fill level for residential areas and up to 5.0m AHD (5 year ARI peak flood level) for areas designated for water quality ponds, open space, etc. The Study found that the proposed fill is predicted to have a negligible impact (ie. less than 0.01m) in the peak 5 year ARI flood level, with the maximum increase in the peak 20 and 100 year ARI flood levels predicted to be 0.01m in the Rous River on the northern side of the site. Site earthworks have consequently been approved on that basis.

Given that the design flood level of RL 5.1m AHD contained in Part A3 is based on modelling undertaken on behalf of Council after 2004, it is considered that RL 5.1m AHD should be adopted as the design flood level for the site.

Part 3A requires all new subdivisions to have high level road evacuation route(s) to land above PMF level, accessible to all allotments via (as a minimum) pedestrian access at or above 100 year ARI flood level not exceeding 100m in length.

“High level evacuation route” means a road or footway (as applicable based on the development type), whose entire length has a level (measured at top of kerb for roads) of not less than the design flood level and, which provides a route to enable people to evacuate to land above the PMF. Ideally a high level evacuation route will have a rising grade that ensures users will not be cut off as floodwaters rise. Overland stormwater flow paths on high level evacuation routes must be designed to remain trafficable when conveying the 100 year ARI design stormwater flow. High level evacuation routes should have levels that in combination with effective warning time, development type and flood duration, provide adequate time for evacuation to land above the PMF.

The proposed PMF level based on a recently exhibited Amendment to Section A3 is RL 9.3m AHD. As indicated on **Figure 2**, the site has access to elevated land above RL 9.3m AHD and therefore compliance with the evacuation requirements of Section A3 can be achieved.

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2.2.5 Flora and Fauna

The land which is the subject of this Planning Proposal is not mapped under Council's 1990 or 2004 Tree Preservation Orders. Tweed Shire Council Vegetation Management Plan Mapping identifies the site as mainly highly modified and disturbed with the elevated area mapped as Miscellaneous Map Unit which contains scattered trees.

A Flora and Fauna Assessment has been completed for the entire 24 hectare site (James Warren and Associates Pty Ltd, 2005). That Assessment made a number of recommendations (which were subsequently confirmed in Development Consent No. 05/0308) for impact management and rehabilitation. Importantly, these include the creation of a riparian buffer adjacent to the Rous River frontage of the site. That buffer forms part of the area which is the subject of this Planning Proposal. Generally the Flora and Fauna Assessment determined that the land proposed for rezoning has no significant constraints. It has a recent history of disturbance by agricultural practices including sugar cane cultivation and cattle grazing. Its potential use for residential purposes is considered to be consistent with the environmental constraints and opportunities in relation to flora and fauna.

2.2.6 Prime Agricultural Lands

Tweed Shire Council's Agricultural Land Suitability Map indicated that the low lying area is suitable for grazing land or well suited to pasture improvement. The Agricultural Land Suitability Map is reproduced below as **Figure 3**.

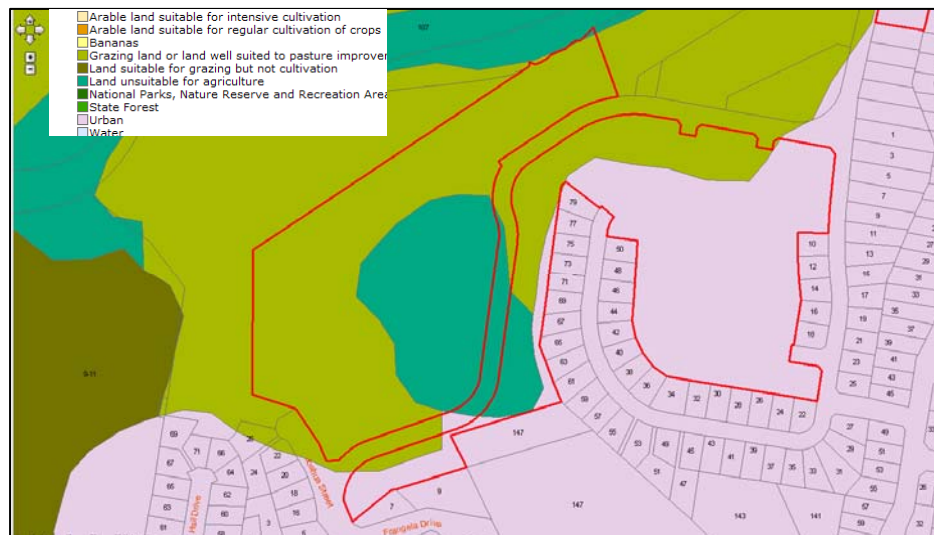


Figure 3 – Agricultural Land Suitability Map
Source: Tweed Shire Council

The land proposed for rezoning is currently zoned Agricultural Protection 1(b2). With respect to the implications of that zoning, it should be noted that:

- i. An Agricultural Suitability Assessment (Gilbert and Sutherland Pty Ltd, October 2004) undertaken for the approved Development Application determined that taking into account topography, soils and erosion hazard, all of the land is appropriately designated as Agricultural Land Classifications 4 and 5. That is, it does not meet the criteria (in terms of land classification) for an agricultural protection zone.
- ii. The land is currently constrained in the context of potential agricultural activities by the adjoining residential neighbourhoods and is essentially a small infill site.

- iii. Fragmentation of this particularly property was obviously pre-empted when a substantial part of it was zoned for urban expansion. That fragmentation was confirmed by the recent Development Consent No. 05/0308 which has been given physical effect by the construction works to establish Rous River Way, service infrastructure, public reserves, buffers and drainage works.

2.2.7 Farmland Protection Project

The maps accompanying the Farmland Protection Project indicate that the whole rezoning area is classified as Other Rural Land. The site is not mapped as Regionally or State Significant Farmland. The relevant map from the Farmland Protection Project is reproduced as **Figure 4**.

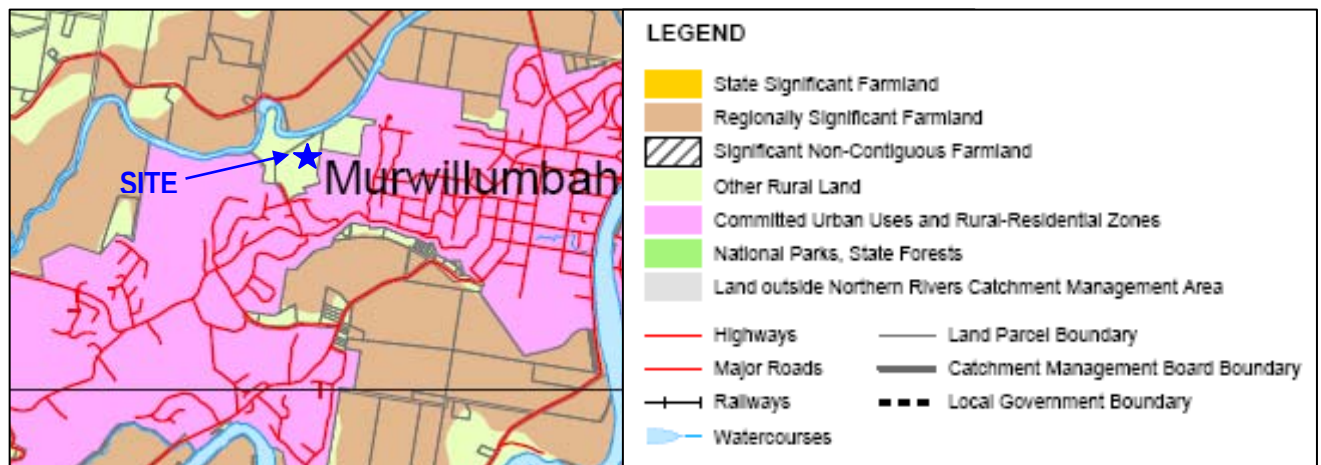


Figure 4 – Farmland Protection Map 2
Source: Northern Rivers Farmland Protection Project

2.2.8 Infrastructure

All urban services are available to the land. Reticulation and construction of necessary infrastructure has occurred as part of the approved stages of the adjacent Riva Vue Estate. Service capacity has been appropriately sized to cater for development of that part of the site which is the subject of this Planning Proposal.

2.2.9 Contamination

Investigations of the site for residual contamination has been undertaken (Gilbert and Sutherland Pty Ltd, 2004) that investigation included soil sampling and analysis for the entire 24 hectare site in accordance with Tweed Shire Council's Contaminated Land Policy. That investigation determined that no remediation was necessary and that the site is suitable for the intended residential use.

2.2.10 Traffic

Investigations by Council (refer Tweed Shire Council Operations Committee Meeting, 7 March 2007) have costed and addressed the possibility of the development providing new link roads around the perimeter of the Riva Vue Estate. The identified works for the link roads proposed by Council include:

- ♦ Cane Road to Barnby Street extension (estimate \$4.64 million).
- ♦ West End Street to Frances Street extension (estimate \$961,584.00).
- ♦ West End Street (Frances Street extension) to Barnby Street (estimate \$498,648.00).

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In addition, the development consent for Riva Vue Estate (Condition 22A) requires construction of the Joshua Street road link through the residual 1(b2) zoned land. That land is the subject of this current Planning Proposal. The link road has been constructed and is named Rous River Way. Clearly, significant road infrastructure is planned around the Riva Vue development. That infrastructure combined with services constructed for the completed stages of Riva Vue Estate provides a logical sequence for urban infill development of the subject land.

2.2.11 Adjacent Land Uses

As indicated on the Aerial Photograph at **Annexure 1**, adjacent land uses comprise predominantly low density residential to the east, south and southwest with grazing to the northwest. The Rous River forms the site boundary towards the north eastern corner of the site.

2.2.12 Cultural Heritage

The site has been highly modified by agricultural and urban activities over many years and is not considered to contain any cultural heritage values.

2.2.13 Ecologically Sustainable Development and Relevant Planning Controls

These matters are addressed in Section 6.0 and Table 6.

3.0 DEPARTMENT OF PLANNING MATTERS TO BE ADDRESSED IN A PLANNING PROPOSAL

Section 55 of the Environmental Planning and Assessment Act, 1979 (as amended) identifies the matters that must be addressed in a Planning Proposal. The Department of Planning has produced two documents titled "A Guide to Preparing Planning Proposals" (Department of Planning, July 2009) and "A Guide to Preparing Local Environmental Plans" (Department of Planning, July 2009) to assist proponents in addressing the relevant matters. Those matters are addressed in this Section of this Report.

4.0 PART 1 – A STATEMENT OF THE OBJECTIVES OR INTENDED OUTCOMES OF THE PROPOSED LOCAL ENVIRONMENTAL PLAN

The objective of this Planning Proposal and any Draft Local Environmental Plan is to enable part of Lot 237 DP 1139108 to be subdivided to create a low density residential estate of a similar character to the approved adjoining Riva Vue subdivision.

5.0 PART 2 – EXPLANATION OF THE PROVISIONS

The objectives and intended outcomes of this Planning Proposal are to be achieved by amendment of the relevant Tweed Local Environmental Plan 2000 Zoning Map in accordance with the Plan Showing Proposed Zones at **Annexure 4**. The Plan of Existing Zones is contained at **Annexure 3**.

At the date of preparing this Planning Proposal, Draft Tweed Local Environmental Plan 2010 is on public exhibition. The Draft Plan implements the Standard Instrument and zones. As the Draft Plan is likely to be gazetted in 2010, the proposed zones shown on **Annexure 4** are consistent with those zones used in the exhibited Draft Tweed Local Environmental Plan 2010. No changes to the existing or Draft Environmental Planning Instrument are proposed or required.

6.0 PART 3 – JUSTIFICATION FOR THE PROPOSAL

6.1 Section A – Need for Planning Proposal

6.1.1 Is the planning proposal a result of any strategic study or report?

Part of the Riva Vue site was zoned for residential purposes in 1988 by way of Tweed Local Environmental Plan 1987. Those zonings were subsequently retained in the current Tweed Local Environmental Plan 2000.

Meticon (QLD) Pty Ltd purchased the land in 2004 and initiated a master planning process over the whole site, including that part of the site zoned 1(b2) which is the subject of this Planning Proposal. Following completion of the master planning process, Meticon lodged a Development Application for a 96 lot residential subdivision over that part of the site zoned for residential purposes. The Development Application (No. 05/0308) was subsequently approved by Tweed Shire Council. A number of specialist investigations were undertaken to inform the Development Application and the Master Plan. The key investigations and their outcomes are addressed in Section 4.0 of this Report.

In summary, the investigations and subsequent reports confirmed that that part of the site which is the subject of this Planning Proposal is relatively unconstrained and is suitable for urban development.

In addition, the master planning process concluded that the relatively minor extension of the existing urban footprint achieves a more logical urban form, more efficient use of urban infrastructure and in particular facilitates early connection of Joshua Street to West End Street which is a key component of Tweed Shire Council's Transport Strategy and addresses capacity constraints and safety issues on Byangum Road.

The link road (Rous River Way) has been constructed and dedicated to Tweed Shire Council at no cost within that part of the site which is the subject of this Rezoning Proposal.

A copy of the Master Plan for Riva Vue Estate is attached at **Annexure 5**.

6.1.2 Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?

The land to which this Planning Proposal relates is currently zoned 1(b2) Agricultural Protection. A general minimum lot size of 40 hectares applies for the erection of dwelling houses in this zone. In addition, the zone objectives preclude residential development. The current land parcel is approximately 14 hectares.

Rather than rezone the land to permit the proposed development, an enabling clause could be included in Schedule 3 of Tweed Local Environmental Plan 2000. However, given the nature of the proposed development and the need to ensure that for Conveyancing purposes Section 149 Certificates reflect the actual use of the land (ie. residential) it is considered that a residential zone as proposed in this Planning Proposal is the most appropriate option.

6.1.3 Is there a net community benefit?

The Department of Planning Guidelines (July 2009) include the following advice in relation to the net community benefit assessment:

- ♦ The Assessment should only evaluate the external costs and benefits of the proposal (ie. the externalities).
- ♦ Consideration must be given to changes that reflect a higher community benefit.

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- ♦ The proposal should be assessed against the matters specified in the justification. The Assessment should evaluate the proposal against a base case or base cases including retaining the existing zoning on the land.
- ♦ The Draft Centres Policy includes guidance on conducting a Net Community Benefit Test that should be followed when assessing the net community benefit of a Planning Proposal. This guidance has been reproduced in the Department of Planning's Guidelines but adapted to suit all types of Planning Proposals.
- ♦ Because of the difficulty in assigning values to certain costs and benefits associated with Planning Proposals, the Net Community Benefit Test will not be a purely quantitative test.

The following table identifies the key external costs and benefits of the Planning Proposal:

TABLE 1 – EXTERNAL COSTS AND BENEFITS		
ELEMENT	COST	BENEFIT
Base Case		
Buffer Residential Development to Adjacent Cane Fields	Currently sugar cane is farmed adjacent to the existing residential properties in Joshua Street and Rous River Way. This can result in adverse amenity impacts arising from dust, noise and ash from cane burning.	The proposal will achieve open space and drainage buffers to the Rous River and the existing grazing land to the northwest of the site. This will minimise noise, dust and cane ash impacts.
Infrastructure	The current land use does not utilise existing urban infrastructure.	The proposal will result in more efficient use of existing urban infrastructure including in particular the adjacent recently augmented Murwillumbah Sewerage Treatment Plant and the Murwillumbah Water Treatment Plant. Services are available to develop this land and its development would provide additional Developer Contributions and increased rates revenue.
Transport	Retaining the 1(b2) zoning and current land use does not facilitate the construction of the Joshua Street to West End Street link road.	The rezoning of the land is a logical progression and it entails a net community benefit particularly in relation to traffic and transport for the following reasons: 1. At Council's request Metricon have designed a road to connect Joshua Street with the proposed Frances Street connection. The construction of this link will connect two existing residential areas and effectively create an infill parcel. The road has been constructed at Metricon's cost within the subject land (Rous River Way). 2. Development Approval Condition 22A requires the Joshua Street link to be constructed as a temporary public road, "however this is a permanent link and is required for immediate and permanent use by the public".

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TABLE 1 – EXTERNAL COSTS AND BENEFITS		
ELEMENT	COST	BENEFIT
		This road shall be a temporary public road "until further development and / or a rezoning occurs over the residual portion of the site". We believe that this condition highlights that further development and /or a rezoning is a natural progression for the site. 3. Metricon have not requested compensation for the land required for the Joshua Street link road and the volume of traffic on this link road due to the development represents less than 4% of the total estimated traffic (Cardno Eppell Olsen letter 14/03/2007). It is clear that the link is not required for the development and the intent is to assist in achieving the Tweed Road Contribution Plan objectives by connecting Joshua Street with Frances Street, West End Street and Cane Road (refer to Item 2 above). 4. As requested by Council (DA Condition 22A), a designated bus route has been identified which connects Joshua Street with the proposed Frances Street connection. This plan has been approved by Council and this bus route travels through the proposed rezoning area and it is likely that it would be available for use by the future residential land. 5. As requested by Council, Metricon has designed and constructed the Joshua Street link with the provision for a cycleway. This cycleway will improve the Murwillumbah connectivity and will also be available for use by the future residential land.

6.2 Section B – Relationship to Strategic Planning Framework

6.2.1 Is the Proposal Consistent with the Objectives and Actions Contained Within the Applicable Regional or Subregional Strategy (including the Sydney Metropolitan Strategy and Exhibited Draft Strategies)

On 17 January 2007, the Far North Coast Regional Strategy, 2006 – 2031 was adopted by the Minister for Planning. The purpose of the Regional Strategy is to manage the region's expected high growth rate in a sustainable manner. The Regional Strategy will protect the unique environmental assets, cultural values and natural resources of the region while ensuring the future planning maintains the character of the region and provides for economic opportunities.

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In addition, future growth will be managed by preventing the spread of coastal development and encouraging the development of non-coastal centres – ensuring adequate land is available and appropriately located to sustainably accommodate the projected housing, employment and environmental needs of the region's population over the next 25 years.

The Regional Strategy identifies and promotes a settlement pattern that protects environmental values and natural resources while utilising and developing the existing network of major urban centres, reinforcing village character and requiring efficient use of existing services and major transport routes.

To accommodate the addition of 60400 people anticipated to be living in the region by 2031, the Regional Strategy has set individual dwelling targets for each Local Government Area.

The Strategy aims to achieve a more appropriate mix for future housing that reflects the region's changing housing needs (ie. 60% single dwellings and 40% multi unit) for the 51000 proposed dwellings within the town and village growth boundaries by 2031.

The Strategy indicates that in the Tweed Local Government Area there were 34650 dwellings existing in 2006 and an additional 19100 dwellings will be required by 2031 to accommodate the expected population growth.

It is difficult to determine, given the scale of the mapping and the absence of cadastre, whether or not the site falls within the existing urban footprint on Sheet 1 of the Strategy Maps, however it appears not to. Notwithstanding the above, Section 7 of the Far North Coast Regional Strategy (Settlement and Housing) provides that:

"Where demonstrated by a Local Environmental Study that a minor adjustment to the Town and Village growth boundary is necessary so that new development is consistent with it, some minor variations of the boundary may be considered. In determining the extent of any variation consideration will be given to the efficient use of infrastructure/ services, avoidance of significant environmental constraints and natural resources, and reinforcement of the regional settlement hierarchy.

Any minor variation will be determined through a joint analysis undertaken between the local Council and the Department of Planning."

As demonstrated elsewhere in this Planning Proposal, the subject land does not have significant natural values and there are no major environmental constraints or natural resources affected by the rezoning.

In addition, the rezoning will lead to more efficient use of existing infrastructure and services provided in the adjacent Riva Vue Estate within land zoned Residential. In the context of the Strategy as a whole, it is submitted that the variation is relatively minor in that it only involves approximately 8.23 hectares of additional land within the residential footprint.

It is therefore submitted that Council and the Department of Planning should accept that the rezoning area is only a minor variation to the urban footprint within the Strategy and therefore is not inconsistent with the Strategy.

In addition to the above, Section 7 also provides that in respect of non coastal areas:

"To reinforce the function and role of non coastal settlements, future land releases should first be directed to land identified within the Town and Village Growth Boundary. Any future development proposals on greenfield sites in the non coastal area located outside of the Town and Village Growth Boundary are subject to satisfied the sustainability criteria in Appendix 1."

The land to which this application relates is outside the coastal zone and appears to be outside the Town and Village Growth Boundary and therefore the above provisions apply.

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Compliance with the sustainability criteria contained in Appendix 1 of the Strategy is addressed in the following table:

TABLE 2 – SUSTAINABILITY CRITERIA		
Threshold Sustainability Criteria for any proposed development site outside designated areas in regional strategies	Measurable explanation of criteria	ASSESSMENT/COMMENTS
1. Infrastructure Provision <i>Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way</i>	- Development is consistent with the outcomes of Far North Coast Regional Strategy, any subregional strategy, regional infrastructure plan and relevant section 117 direction/s. - The provision of infrastructure (utilities, transport, open space, and communications) is costed and economically feasible based on Government methodology for determining infrastructure development contributions. - Preparedness to enter into development agreement.	Compliance is addressed in Section 5.4.1 of this Planning Proposal. In summary, whilst the rezoning site is outside the future urban footprint, it is nevertheless submitted that the rezoning is of a minor nature which represents a logical infill of the existing urban fringe and in addition it complies with the sustainability criteria contained in the Policy. Infrastructure generally is addressed in Section 4.8 of this Planning Proposal and community facilities, amenities and emergency services availability and adequacy is addressed in Section 5.6.1. In summary, given the scale of the development and its convenient location to the Murwillumbah town centre it is submitted that all existing infrastructure has adequate capacity. All relevant Section 94 contributions and Section 64 contributions in accordance with Council policies will be applicable.
2. Access <i>Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided</i>	- Accessibility of the area by public transport and/or appropriate road access in terms of: > Location/land use – to existing networks and related activity centres. > Network – the area's potential to be serviced by economically efficient transport services. > Catchment – the area's ability to contain, or form part of the larger urban area which contains adequate transport services. Capacity for land use/ transport patterns to make a positive contribution to achievement of travel and vehicle use goals. - No net negative impact on performance of existing subregional road, bus, rail, ferry and freight network.	The site is located approximately 1.5 to 2 kilometres west of the Murwillumbah town centre. Rous River Way will form a future bus route which will provide convenient access for existing and future residents to the town centre. The site is a logical and minor extension to the existing urban footprint where all necessary transport infrastructure is existing and will be upgraded as part of any rezoning and future development by way of Section 94 Contributions. The area can be efficiently and economically serviced as all necessary infrastructure has been planned and provided for in the adjoining completed sections of Riva Vue Estate. This is a relatively minor infill development and it will assist in ensuring that adequate public transport (bus route) services and improved road networks generally are achieved whilst making more efficient use of existing urban infrastructure including water, sewer and treatment plants. The proposal will have in fact a positive impact by providing Rous River Way in a timely manner at no cost to the community.

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TABLE 2 – SUSTAINABILITY CRITERIA		
Threshold Sustainability Criteria for any proposed development site outside designated areas in regional strategies	Measurable explanation of criteria	ASSESSMENT/COMMENTS
3. Housing Diversity <i>Provide a range of housing choices to ensure a broad population can be housed</i>	Contributes to the geographic market spread of housing supply, including any government targets established for aged, disabled or affordable housing.	The proposal will provide for a range of lot sizes to enable housing choice for purchasers, however given the established character and amenity of the surrounding area it is anticipated that most residential development will be predominantly single detached dwelling houses.
4. Employment Lands <i>Provide regional/local employment opportunities to support the Far North Coast's expanding role in the wider regional and NSW economies</i>	- Maintain or improve the existing level of sub-regional employment self-containment. - Meets subregional employment projections. - Employment-related land is provided in appropriately zoned areas.	Not applicable.
5. Avoidance of Risk <i>Land use conflicts, and risk to human health and life, avoided</i>	- No residential development within 1:100 floodplain. - Avoidance of physically constrained land, e.g. > High slope. > Highly erodible. - Avoidance of land use conflicts with adjacent existing or future land use as planned under relevant subregional or regional strategy. - Where relevant available safe evacuation route (flood and bushfire).	This issue is addressed in Section 4.4 of this Report. In summary, modelling demonstrates that filling of that part of the site within the floodplain will not result on any significant adverse impacts and is not inconsistent with the State Government's Floodplain Development Manual. An analysis of all key site opportunities and constraints is contained in Section 4.0 of this Planning Proposal. There are no significant biophysical or geophysical constraints on the land. Rezoning and development of the site for residential purposes will achieve appropriate buffers to the Rous River and adjoining cane lands and will help to mitigate existing potential conflicts. A small part of the site is bushfire prone however appropriate evacuation routes are available via the existing road and street network with risk mitigated by a Bushfire Management Plan. In addition, flood evacuation routes to existing high ground will be available from the rezoning site.
6. Natural Resources <i>Natural resource limits not exceeded/ environmental footprint minimised</i>	- Demand for water within infrastructure capacity to supply water and does not place unacceptable pressure on environmental flows. - Demonstrates most efficient/suitable use of land > Avoids identified significant agricultural land > Avoids productive resource lands – extractive industries, coal, gas and other mining, and quarrying.	Adequate water supply exists within the existing water supply network to service the relatively minor increase in demand which would arise from this development. This issue is addressed in Sections 4.6 and 4.7 of this Planning Proposal. In summary, the land is Class 4 and 5 and is not mapped as significant regional or state farmland. The site does not contain any productive resources.

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TABLE 2 – SUSTAINABILITY CRITERIA		
Threshold Sustainability Criteria for any proposed development site outside designated areas in regional strategies	Measurable explanation of criteria	ASSESSMENT/COMMENTS
	Demand for energy does not place unacceptable pressure on infrastructure capacity to supply energy-requires demonstration of efficient and sustainable supply solution.	The rezoning will make more efficient use of existing infrastructure including power, sewer and water supply and therefore result in more efficient use of energy.
7. Environmental Protection <i>Protect and enhance biodiversity, air quality, heritage, and waterway health</i>	- Consistent with government-approved Regional Conservation Plan (if available). - Maintains or improves areas of regionally significant terrestrial and aquatic biodiversity (as mapped and agreed by DEC). This includes regionally significant vegetation communities, critical habitat, threatened species, populations, ecological communities and their habitats. - Maintain or improve existing environmental condition for air quality. - Maintain or improve existing environmental condition for water quality: > Consistent with community water quality objectives for recreational water use and river health (DEC and CMA). > Consistent with catchment and stormwater management planning (Catchment Management Authority and council). - Protects areas of Aboriginal cultural heritage value (as agreed by DEC).	The site does not have any natural environmental values as it has been highly modified by urban and agricultural activities. Appropriate buffers will be provided to the Rous River together with water quality facilities to ensure that Council's water quality outcomes are achieved. There are no areas of Aboriginal cultural heritage likely to exist on site because it has been highly modified by agricultural (cane farming) and urban activities.
8. Quality and Equity in Services <i>Quality health, education, legal, recreational, cultural and community development and other government services are accessible</i>	- Available and accessible services. > Do adequate services exist? > Are they at capacity or is some capacity available? > Has Government planned and budgeted for further service provision? > Developer funding for required service upgrade/access is available.	Adequate services exist within the town of Murwillumbah as addressed in Section 5.6.1. There are no known capacity constraints which would preclude the creation of up to approximately 100 additional dwellings. There are no known constraints in relation to service provision. Normal Section 64 and Section 94 contributions will apply to the provision of additional infrastructure. In addition, the developer has constructed Rous River Way at no cost to Council and this will provide a key piece of transport infrastructure for the wider community.

Rezoning of the site as proposed in this Planning Proposal and development of the site for residential purposes would be consistent with the Settlement and Housing Provisions of the Far North Coast Regional Strategy in that it will provide approximately 80 to 90 dwellings in a range of housing types to assist in meeting identified demand for an additional 19,100 dwellings within the Tweed Local Government Area by 2031.

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In this regard it should be noted that because of significant environmental constraints, reduced densities resulting from the provisions of Tweed Development Control Plan 2008, Part A1 – Residential and Development Code and Part A5 – Subdivision Manual, yields from existing zoned land and land identified for urban expansion within the Strategy are significantly below the target of fifteen dwellings per hectare contained in the North Coast Urban Planning Strategy, 1995. In many cases yields are as low as seven dwellings per hectare.

It follows from the above, that achieving a yield of 19,100 dwellings from the footprint identified in the Strategy is unlikely to be achieved and therefore this relatively minor extension of the Strategy footprint will assist in meeting the identified demand of 19,100 dwellings.

Rezoning and development of the site for residential purposes will assist in achieving the key strategic land use outcomes identified in the Regional Strategy.

Table 3 identifies the key actions contained in the Regional Strategy and assesses the site against those actions.

TABLE 3 – FAR NORTH COAST REGIONAL STRATEGY	
ACTION	ASSESSMENT
Environment and Natural Resources	
Local environmental plans will protect and zone land with State or regional environmental, agricultural, vegetation, habitat, waterway, wetland or coastline values.	As demonstrated elsewhere in this Report, the land which is the subject of this Planning Proposal does not have any environmental, agricultural or natural values.
Local environmental plans will not zone land within the Environmental Assets and Rural Land area to permit urban purposes, other than rural residential development. Existing and future rural residential development will be located in this area, but not where it conflicts or coincides with the attributes or values listed above.	The proposed rezoning represents a logical and efficient minor expansion of the existing urban footprint and will achieve appropriate buffers to the Rous River and to adjacent cane land.
Local environmental plans will identify and zone land of landscape value (including scenic and cultural landscapes) to protect those values.	The subject land is relatively low lying and does not have any significant landscape values.
Local environmental plans will protect land identified as having extractive resources of regional significance (see Appendix 2).	The land does not contain areas of extractive resources.
New development adjoining or adjacent to farmland, extractive resources, waterways, wetlands, and areas of high biodiversity value will incorporate buffers to avoid land use conflict.	Appropriate buffers will be incorporated into the proposal to separate the urban footprint from the Rous River and existing cane fields as indicated on the plans in the annexures.
The Department of Primary Industries and the Department of Planning will assist local government with the development of appropriate subdivision standards for rural zones.	Not applicable.
- Local environmental plans will: > include minimum subdivision standards for rural and environment protection zones > include provisions to limit dwellings in the rural and environmental zones > not include provisions to permit concessional allotments.	It is proposed that all provisions in the Tweed Local Environmental Plan 2000 or the exhibited Draft Tweed Local Environmental Plan 2010 will apply.
Local environmental plans will include provisions to encourage habitat and corridor establishment in future zoning of Environmental Assets and Rural Land area.	The proposed buffers will protect the riparian vegetation adjacent to the Rous River and these areas will be dedicated as open space and appropriately embellished.

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TABLE 3 – FAR NORTH COAST REGIONAL STRATEGY	
ACTION	ASSESSMENT
♦ Local environmental plans will include provisions to limit the creation of additional water rights on land fronting watercourses.	Not applicable.
♦ Local environmental plans will not rezone land within town water supply catchments and significant groundwater areas if this has the potential to reduce the quality and quantity of these assets.	Not applicable.
♦ Rezoning of land for future development within the catchments of coastal lakes (as defined in Schedule 1 of State Environmental Planning Policy No. 71—Coastal Protection) will consider the recommendation of any Coastal Lake Sustainability Assessment which has been prepared.	Not applicable.
♦ Subdivision and dwelling standard provisions in local environmental plans will reflect the objectives of the relevant zone and the Regional Strategy.	Existing standards in Tweed Local Environmental Plan 2000 and Draft Tweed Local Environmental Plan 2010 will apply.
♦ A Regional Conservation Plan prepared by the Department of Environment and Conservation will guide local councils in implementing conservation outcomes.	There are no known regional conservation plans.
Cultural Heritage	
♦ Councils are to ensure that Aboriginal cultural and community values are considered in the future planning and management of their local government area.	Given that the site has been highly modified over many years by agricultural (cane farming) and urban activities it is highly unlikely that any Aboriginal cultural heritage values would exist on the site.
♦ Councils and the Department of Planning will review the scope and quality of the existing statutory lists of heritage items and ensure that all places of significance are included in the heritage schedules of local environmental plans.	There are no listed heritage items on the subject land.
♦ The cultural heritage values of major regional centres and major towns that are to be the focus of urban renewal projects will be reviewed, with the aim of protecting cultural heritage.	Not applicable.
Natural Hazards	
♦ In order to manage the risks associated with climate change, councils will undertake investigations of lands with the potential to be affected by sea level rise and inundation to ensure that risks to public and private assets are minimised.	The key natural hazard involving flooding is addressed in Section 4.4 of this Report. Modelling of potential flood impacts indicates that flooding is not a constraint to rezoning.
♦ Local environmental plans will make provision for adequate setbacks in areas at risk from coastal erosion and/or ocean based inundation in accordance with Coastal Zone Management Plans. Until these plans are made by the Minister for Natural Resources, councils cannot zone land or approve new development or redevelopment in potential hazard areas, unless assessed within a risk assessment framework adopted by the council.	Not applicable.
♦ Local environmental plans will zone waterways to reflect their environmental, recreational or cultural values.	Not applicable.
♦ Local environmental plans will zone areas subject to high hazard to reflect the capabilities of the land.	Not applicable.

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TABLE 3 – FAR NORTH COAST REGIONAL STRATEGY	
ACTION	ASSESSMENT
Settlement and Housing	
Local environmental plans, local growth management strategies and other statutory planning controls will align with the Regional Strategy's settlement network (as shown on the Housing Map) to contain the spread of urban development, efficiently utilise existing services and infrastructure, and protect areas of high conservation value.	The recommended zoning is consistent with the provisions of the FNCRS in terms of settlement network and is also compatible with the existing 2(a) and 2(c) zoning of adjoining land which results in predominantly detached dwelling houses.
Tweed Heads, Lismore and Ballina will be promoted and supported as major regional centres of population and service provision for the Region.	Not applicable.
Councils will review the building height limits within the central business areas, major employment areas and major tourism areas of Tweed, Ballina and Lismore local government areas.	No change in building height is proposed.
Local environmental plans will ensure that all new development reinforces existing urban and rural centres, towns and villages.	The site is conveniently located in relation to the existing Murwillumbah town centre and will reinforce the centre as the primary commercial focal point for the town.
New development must be located in a manner that prevents ribbon or strip development along major roads and does not impact on the safety and efficiency of arterial roads.	The site does not have frontage to any major or arterial roads and will not result in ribbon development.
A land release staging program will be developed to ensure the orderly release of new housing.	The Planning Proposal is considered to be consistent with the Housing and Settlement Strategy and Sustainability Guidelines contained in the FNCRS.
Where development or a rezoning increases the need for State infrastructure, the Minister for Planning may require a contribution towards the provision of such infrastructure.	The State Infrastructure Strategy for NSW 2006/2007 – 2015/2016 (NSW Treasury) does not include any infrastructure for the Murwillumbah area.
Councils will plan for a range of housing types of appropriate densities, location and suitability that are capable of adapting and responding to the ageing of the population.	The NCUPS (Department of Planning 1995) provides that new urban release areas should aim for a yield of 15 dwellings per hectare subject to the physical capabilities of the site. Given the established character and amenity of the adjoining areas (which is predominantly low density detached residential dwellings at a density of approximately 10 dwellings per hectare) it is likely that the future development within the Planning Proposal area will have a similar density.
Local government will consider a range of affordable housing strategies, including forms of low cost housing, suitable zonings and development controls to improve housing choice, and specific schemes. These strategies must be consistent with relevant State policies.	Council has not prepared a housing strategy at this stage.
Existing land use rights will not be diminished by the Regional Strategy.	Not applicable.
Local environmental plans generally should locate major health and educational facilities in urban areas.	Not applicable.
New caravan parks and manufactured home estates, where there is any potential for permanent accommodation to occur, should be located generally in urban areas.	Not applicable.

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TABLE 3 – FAR NORTH COAST REGIONAL STRATEGY	
ACTION	ASSESSMENT
Local environmental plans cannot use the Transition Zone in the Standard Instrument (Local Environmental Plans) Order 2006 to identify land for future urban investigation purposes.	The recommended zones are consistent with the standard planning instrument and also consistent with the zones described in Draft Tweed Local Environmental Plan 2010 which is on exhibition in February/March 2010.
Local environmental plans will maintain interurban breaks between existing and new settlements.	The proposal is a minor expansion of an infill nature on the existing urban fringe.
Town and Village Growth Boundary	
The Town and Village Growth Boundary is defined by the Town and Village Growth Boundary Map (see sheets 1 to 6 at back of document).	The site appears to be outside the Town and Village Growth Boundary as defined within Sheet 1 of the Tweed Heads Maps under the Far North Coast Regional Strategy however justification for what is a logical minor infill expansion is contained in Section 5.4.1.
No land in the Coastal Area will be released other than land identified within the Town and Village Growth Boundary or within an approved rural residential release strategy.	Not applicable – the site is not within the coastal zone.
Councils will prepare a Local Growth Management Strategy prior to zoning further land for urban, commercial and industrial uses in accordance with the Settlement Planning Guidelines.	Council has not finalised a Local Growth Management Strategy at this stage.
Councils will demonstrate through the Local Growth Management Strategy how dwelling targets (Table 1) for each local government area will be met in local environmental plans.	Council has not finalised a Local Growth Management Strategy at this stage.
Planning for urban land must be integrated with the supply of relevant infrastructure and transport provision.	Council has prepared an infrastructure strategy (Tweed Development Program, 1996) and that Program together with Council's Section 94 Contribution Plans in relation to roads (Section 94 Plan No. 4) ensures that there is a timely and equitable provision of transport infrastructure to service new release areas.
Any development proposed for greenfield sites in the non coastal area that is located outside of the Town and Village Growth Boundary will be subject to satisfying the Sustainability Criteria (Appendix 1).	The proposal complies with the sustainability criteria contained in Appendix 1 as demonstrated in Table 2 of this Planning Proposal.
Settlement Character and Design	
Councils should prepare desired character statements for their localities that include provisions (through a development control plan) to ensure that new development enhances the desired character.	Council has not prepared a desired character statement for this area of Murwillumbah.
New buildings should be designed to maximise adaptability to meet changing demographic needs and alternative future uses.	New buildings will comply with BASIX requirements and will be predominantly one and two storey detached dwelling houses.
New development should be designed to respond to the subtropical climate of the Region through best practice in water and energy efficient design, and use of landscaping and building materials.	Future dwellings will comprise contemporary water and energy efficiency design elements and will comply with BASIX requirements.
New development should be designed to reflect and enhance the natural, cultural, visual and built character and values of the local and regional landscape.	Future dwellings will be compatible with existing dwellings on adjoining land.

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TABLE 3 – FAR NORTH COAST REGIONAL STRATEGY	
ACTION	ASSESSMENT
New and changing urban areas should provide access to natural features such as coastal foreshore and riparian land in a manner that is consistent with the maintenance of their ecological values.	The proposal will facilitate access to the Rous River foreshore by way of public reserves.
New and changing settlement areas should incorporate open space that is accessible to the public, which provides opportunities for recreation, nature conservation, social interaction, and for visual enhancement and amenity.	Appropriate foreshore open space will be allocated and embellished. In accordance with Council's Policy contributions will be made towards structured open space (playing fields).
Village centres are to be multifunctional, mixed-use (including residential) areas catering for diverse community needs.	Not applicable.
Local environmental plans will set building heights in urban areas that reflect the landscape character, function and hierarchy of the future settlement and visual and cultural amenity of its location.	Those building height controls contained in Council's current and draft Local Environmental Plans will apply.
Local environmental plans for areas subject to the NSW Coastal Policy (NSW Government 1997) will incorporate provisions to achieve the outcomes of the Coastal Policy in respect to overshadowing. Generally, development on urban land in Tweed Heads, Kingscliff, Byron Bay and Ballina will not result in the beach or adjoining open space being overshadowed before 3.00 p.m. midwinter (standard time) or 6.30 p.m. midsummer (daylight savings time). For other beaches or waterfront open space in the Region, development will not result in overshadowing before 4.00 p.m. midwinter or 7.00 p.m. midsummer (daylight saving time).	The subject land is not within the coastal zone and is therefore not subject to the NSW Coastal Policy.
Local environmental plans and development control plans (and subsequent land release development) will be consistent with the Settlement Planning Guidelines, and the Government's <i>Coastal Design Guidelines for NSW</i> (2003) as applicable.	The proposal is consistent with the Settlement Planning Guidelines and the Government's Coastal Design Guidelines notwithstanding that it is not a coastal site.
Water and Energy Resources	
Councils are to complete Integrated Water Cycle Management Plans.	Council is preparing an Integrated Water Cycle Management Plan.
Local environmental plans will recognise and protect the regional water supply system through appropriate planning provisions.	Not applicable.
In preparing local environmental plans councils will liaise with water and energy providers and make provision for any regional gas, water and electricity infrastructure corridors that may be required.	Appropriate consultations will be undertaken with service providers during the consultation phase of the Planning Proposal however there are no known capacity constraints.
All future development is to apply water sensitive urban design principles, including the use of dual use reticulation systems in releases of adequate scale, and meet storm water management targets that support the environmental values of the catchments.	Water Sensitive Urban Design Principles have been incorporated into the adjoining approved Riva Vue Estate and they will also apply to any future development on the land to which this Planning Proposal applies.
The Department of Natural Resources, Department of Energy Utilities and Sustainability and local water authorities will prepare a Regional Water Plan to ensure long term regional water efficiencies and improved drought security.	Not applicable.

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TABLE 3 – FAR NORTH COAST REGIONAL STRATEGY	
ACTION	ASSESSMENT
♦ Suitable locally generated and/or renewable energy projects such as wind, solar, bio-waste and wave power will be supported.	Not applicable.
Regional Transport	
♦ Planning and construction of the Pacific Highway upgrade program through the Region will be continued.	Noted.
♦ Local environmental plans will provide for passenger interchanges in all major regional centres, major towns and towns. These interchanges will be well connected to pedestrian and cycle ways	Noted.
♦ Land use and transport planning must be integrated to minimise the need to travel, and to encourage energy and resource efficiency.	Noted.
♦ Local environmental plans are to recognise and protect the regional transport network through appropriate planning provisions.	Noted.
♦ The Casino to Murwillumbah rail corridor will be protected.	Noted.
♦ As the Gold Coast rail extension is planned, investigation will be undertaken to determine whether demand warrants extension of the route into NSW.	Noted.
Implementation	
This Regional Strategy will be implemented primarily through local environmental plans, development control plans, the State Infrastructure Strategy and funds collected as development contributions.	This Planning Proposal is consistent with the Housing and Settlement provisions of the FNCRS and the sustainability criteria contained in Appendix 1 of the Strategy.
The State Infrastructure Strategy 2006–07 to 2015–16 identifies infrastructure projects in the short to medium-term that (among other things) support population growth and demographic change in the Far North Coast. A list of projects from this Strategy is contained in Appendix 3.	There are no applicable infrastructure projects for Murwillumbah identified in the State Infrastructure Strategy.
The Regional Strategy sets out the agreed position of the NSW Government on the future of the Far North Coast Region. The Regional Strategy is recognised by the State Infrastructure Strategy as a long term planning strategy to be used by State agencies and public trading enterprises to understand the future infrastructure needs of the Region.	The proposal is considered to be consistent with the relevant provisions of the Far North Coast Regional Strategy as discussed above.
Where development or rezoning increases the need for state infrastructure, the Minister for Planning may require a contribution towards the provision of such infrastructure.	There are no applicable state infrastructure items identified for Murwillumbah.
Funds collected from contributions from major developments will be used for regional infrastructure, consistent with the State Infrastructure Strategy, and approved biodiversity outcomes.	See above.
Funds collected by councils through section 94 contributions plans and levies will be used to fund local infrastructure and achieve any local biodiversity outcomes.	Normal Section 94 Contributions will apply in accordance with Council's applicable Section 94 Contribution Plans.

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6.2.2 Is the Planning Proposal Consistent with Applicable State Environmental Planning Policies

The following table addresses compliance with relevant State Environmental Planning Policies.

TABLE 4 - STATE ENVIRONMENTAL PLANNING POLICIES	
STATE ENVIRONMENTAL PLANNING POLICY	COMMENTS
State Environmental Planning Policy (North Coast Regional Environmental Plan) 1988 This Policy applies to the subject land and the following clauses are particularly relevant to this Planning Proposal:	
Clause 7 – Prime Crop or Pasture Land	As discussed in Sections 4.6 and 4.7 of this Planning Proposal, the subject land comprises Class 4 and 5 lands and is not mapped as State or Regionally significant farmland. It therefore does not comprise prime crop or pasture land notwithstanding the current 1(b2) zoning.
Clause 14 – Wetlands or Fisheries Habitat	There are no mapped wetlands in close proximity and appropriate buffers will be provided to the Rous River together with contemporary water management facilities to ensure that urban runoff entering the river is of a high quality.
Clause 29 – Natural Areas	Appropriate buffers will be provided to the Rous River.
Clause 38 – Urban Release Strategy	The subject land is not included in the Tweed Residential Development Strategy, 1987 or the Tweed Shire Council Residential Development Strategy, 1991, however those Strategies have largely been superseded by the Far North Coast Regional Strategy, 2006 – 2031. Consistency with the Far North Coast Regional Strategy is addressed in Section 5.4.1 of this Planning Proposal.
Clause 40 - Principles for Urban Zones	The Planning Proposal will adopt the existing residential zones within the Tweed Local Environmental Plan 2000 or the exhibited Draft Tweed Local Environmental Plan 2010.
Clause 42 – Principles for Housing	As above.
Clause 45 – Hazards	All relevant hazards are addressed in Section 4.0 of this Planning Proposal. There are no hazards which impose a constraint on the rezoning of the land.
Clause 50 – Height Controls	The height controls contained in Tweed Local Environmental Plan 2000 or exhibited Draft Tweed Local Environmental Plan 2010 will apply.
Clause 58 – Servicing Urban Area	All necessary urban infrastructure is available in the adjacent Riva Vue Estate to service the proposed development.
Clause 61 – Health and Education Facilities	As indicated in Section 5.6.1, Murwillumbah contains a public hospital, a number of medical centres and health care professionals, two public high schools, one private high school, three public primary schools and several private primary schools. Adequate facilities are therefore available for the likely additional population of approximately 200 – 250 people.

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TABLE 4 - STATE ENVIRONMENTAL PLANNING POLICIES	
STATE ENVIRONMENTAL PLANNING POLICY	COMMENTS
Clause 65 – Provision of Community Welfare and Childcare Services	Murwillumbah contains normal community welfare and childcare services (including a childcare centre in Joshua Street) which are considered to be adequate for the proposed minor rezoning.
Clause 78 – Public Recreation Areas	Additional casual open space will be provided on the foreshore and suitably embellished. Contributions will be paid towards active open space playing fields.
State Environmental Planning Policy No. 44 – Koala Habitat	The site does not contain any Koala habitat areas and therefore this Policy is not applicable.
State Environmental Planning Policy No. 55 – Remediation of Land	Contamination issues are addressed in Section 4.9 of this Report. In summary, the Contamination Assessment undertaken by Gilbert and Sutherland concludes that the site is suitable for the proposed development.
State Environmental Planning Policy (Major Development) 2005	The site is not within the coastal zone however any future Development Application exceeding 100 lots may be a Major Project Application under Part 3A subject to the Minister exercising his discretion pursuant to Clause 6 of the Policy.
State Environmental Planning Policy (Rural Lands) 2008 Clause 7 of the Policy contains the following Planning Principles: (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas, (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State, (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development, (d) in planning for rural lands, to balance the social, economic and environmental interests of the community, (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,	As indicated elsewhere in this Planning Proposal, that part of the site which is the subject of this Planning Proposal does not comprise prime agricultural land and is not mapped as state significant or regionally significant farmland. The Planning Proposal is therefore not inconsistent with this Principle. As above. As above. The Planning Proposal involves a rezoning of a relatively small area of rural land which is not of a sufficient size or soil quality to provide an economic cane farm and therefore its rezoning for urban purposes represents the highest and best use, the most efficient use of infrastructure and achieves positive social, economic and environmental outcomes for the community. There are no natural resources on the site.

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TABLE 4 - STATE ENVIRONMENTAL PLANNING POLICIES	
STATE ENVIRONMENTAL PLANNING POLICY	COMMENTS
(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,	Not applicable.
(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,	All appropriate services and infrastructure are available on the adjacent Riva Vue Estate stages and within the town of Murwillumbah generally.
(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.	The proposal's consistency with the Far North Coast Regional Strategy is addressed in Section 5.4.1.

6.2.3 Is the Planning Proposal Consistent With Applicable Ministerial Directions (Section 117 Directions)

The following table (Table 5) addresses consistency with relevant Section 117 Local Planning Directions.

TABLE 5 – SECTION 117 LOCAL PLANNING DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
1.2 – Rural Zones	In summary, this Direction provides that Draft LEPs shall retain existing zones and provisions relating to the control of traffic generating developments or access to major roads and shall not rezone rural land for urban purposes unless the land has been identified in a Strategy, is justified by an Environmental Study or is in accordance with an approved Regional Strategy.	The subject land does not have frontage to a major road and it is considered that rezoning of the land for urban purposes is consistent with the Far North Coast Regional Strategy for the reasons identified in Section 5.4.1 of this Planning Proposal.
4.5 – Rural Land	In summary, this Direction provides that a Planning Proposal must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008. The Policy further provides that a Planning Proposal may be inconsistent with the terms of the Direction only if the relevant planning authority can satisfy the Director General of the Department of Planning that the provisions of the proposal are justified by a strategy which gives consideration to the objectives of the Direction or identifies the land which is the subject of a Planning Proposal or is approved by the Director General of the Department of Planning or is of minor significance.	Table 4 addresses the Planning Principles contained in State Environmental Planning Policy (Rural Lands) and demonstrates compliance. In addition, this rezoning is of minor significance and it is therefore submitted that it is consistent with the Direction.
2.1 – Environmental Protection Zones	A Draft LEP shall include provisions that facilitate the protection and conservation of environmentally sensitive areas and shall not reduce the environmental protection standards that apply to the land.	There are no existing environmental protection zones on site and no environmentally sensitive areas requiring environmental protection zones.
2.3 – Heritage Conservation	In summary this Direction provides that a Draft LEP shall contain provisions to facilitate the conservation of items of environmental heritage significance and aboriginal objects, areas of aboriginal heritage significance or aboriginal places.	There are no known European or Aboriginal cultural heritage sites on the subject land.

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TABLE 5 – SECTION 117 LOCAL PLANNING DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
3.1 – Residential Zones	In summary, this Direction provides that Draft LEPs shall contain requirements that broaden the choice of building types and locations, make more efficient use of existing infrastructure and services, reduce the consumption of land for housing and associated urban development, are of good design, not permit residential development until the land is adequately services and not contain provisions which will reduce the permissible residential density of the land.	The proposed zones will integrate into the Standard Planning Instrument which is currently being implemented by way of exhibited Draft Tweed Local Environmental Plan 2010.
3.3 – Home Occupations	In summary, this Direction provides that a Draft LEP shall permit home occupations to be carried out in dwelling houses without the need for development consent.	As above.
3.4 – Integrated Land Use and Transport	In summary, this Direction provides that a Draft LEP shall locate zones for urban purposes and include provisions that give effect to or are consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for Planning and Development (DUAP 2001) and The Right Place for Business and Services – Planning Policy (DUAP 2001). The Direction also provides that a Draft LEP may be consistent with the Direction if the land has been identified in the Strategy prepared by Council and approved by the Director General or, the rezoning is justified by an Environmental Study or the rezoning is in accordance with the relevant regional strategy.	It is considered that the Planning Proposal is generally consistent with this Direction because the rezoning is generally consistent with the Far North Coast Regional Strategy and it will facilitate the early provision of a bus route (Rous River Way) to link into the planned road network within Murwillumbah.
4.1 – Acid Sulphate Soils	Direction requires Councils to consider the Acid Sulphate Soils Planning Guidelines and include provisions which are consistent with the Acid Sulphate Soils Model Local Environmental Plan.	This issue is addressed in Section 4.2 of this Planning Proposal. In summary, acid sulphate soils can be appropriately managed.
4.3 – Flood Prone Land	In summary, this Direction provides that a Draft LEP shall include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.	The proposal is not inconsistent with the Flood Prone Land Policy and the principles contained in the Flood Plain Development Manual 2005 in that modelling has identified that filling will not have any significant adverse impacts.
4.4 – Planning for Bushfire Protection	In summary, this Direction provides that in the preparation of a Draft LEP a Council shall consult with the Commissioner of the Rural Fire Service and take into account any comments made. In addition, the Draft LEP is required to have regard to Planning for Bushfire Protection, 2001 among other things.	As indicated in Section 4.3 of this Planning Proposal, a very small section of the site is mapped as bushfire prone. However, the future layout will ensure the this does not impose a significant constraint to development.
5.1 – Implementation of Regional Strategies	This Direction provides that when a Council prepares a Draft LEP the Plan shall be consistent with a Regional Strategy released by the Minister for Planning.	Consistency with the Far North Coast Regional Strategy is addressed in Section 5.4.1 of this Planning Proposal.

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TABLE 5 – SECTION 117 LOCAL PLANNING DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
5.3 – Farmland of State and Regional Significance on the NSW Far North Coast	In summary, this Direction provides that a Draft LEP shall not rezone land identified as State Significant Farmland or Regionally Significant Farmland for urban or rural residential purposes, unless the Draft LEP is consistent with Section 4 of the Report titled "Northern Rivers Farmland Protection Project – Final Recommendations, February 2005".	The subject land is not identified as being State or Regionally Significant Farmland on the relevant maps.
6.1 – Approval and Referral Requirements	In summary, this Direction provides that a Draft LEP shall minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or Public Authority, not contain these provisions unless Council has obtained approval from the relevant Authority and not identify development as designated development unless certain prerequisites can be met.	The LEP Amendment will integrate into the Standard Planning Instrument and exhibited Draft Tweed Local Environmental Plan 2010.
6.2 – Reserving Land for Public Purposes	This Direction provides that a Draft LEP shall not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant Authority among other things.	As above.
6.3 – Site Specific Provisions	This Direction provides that a Draft LEP that amends another Environmental Planning Instrument in order to allow a particular development proposal shall either allow that land use to be carried out in the zone that the land is situated on or rezone the site to an existing zone already applying in the Environmental Planning Instrument that allows that land use without imposing any development standards or requirements in addition to those already existing or allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal Planning Instrument being amended.	As above.

6.3 Section C – Environmental, Social and Economic Impacts

6.3.1 Is There any Likelihood That Critical Habitat, Threatened Species, Populations or Ecological Communities, or Their Habitats, Will be Adversely Affected As a Result of the Proposal?

The land which is the subject of this Planning Proposal is not mapped under Council's 1990 or 2004 Tree Preservation Orders. Tweed Shire Council Vegetation Management Plan Mapping identifies the site as mainly highly modified and disturbed with the elevated area mapped as Miscellaneous Map Unit which contains scattered trees.

A Flora and Fauna Assessment has been completed for the entire 24 hectare site (James Warren and Associates Pty Ltd, 2005). That Assessment made a number of recommendations (which were subsequently confirmed in Development Consent No. 05/0308) for impact management and rehabilitation. Importantly, these include the creation of a riparian buffer adjacent to the Rous River frontage of the site. That buffer forms part of the area which is the subject of this Planning Proposal.

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Generally the Flora and Fauna Assessment determined that the land proposed for rezoning has no significant constraints. It has a recent history of disturbance by agricultural practices including sugar cane cultivation and cattle grazing. Its potential use for residential purposes is considered to be consistent with the environmental constraints and opportunities in relation to flora and fauna.

6.3.2 Are There Any Other Likely Environmental Affects As a Result of the Planning Proposal and How Are They Proposed to be Managed

Section 4.0 of this Report identifies the key site opportunities and constraints applicable to the land the subject of the Planning Proposal.

In summary, there are no significant constraints on rezoning of the site as proposed. Appropriate management and mitigation measures relating to water quality in the Rous River and buffers to the River and adjacent agricultural land can be dealt with at the Development Application stage.

This Planning Proposal makes provision for appropriate buffers to the River to accommodate stormwater management facilities together with suitable revegetation.

6.3.3 How Has the Planning Proposal Adequately Addressed Any Social and Economic Effects

As discussed elsewhere in this Report, the rezoning will result in the loss of approximately 8 hectares of agricultural land. However because of the size of that land, the fragmentation of the land and the fact that the site is Class 4 and 5 in terms of land suitability, the continued use of the land for agriculture is not commercially viable or sustainable. Therefore there will be negligible social and economic effects arising as a result of the rezoning and urbanisation of the site.

Social, economic and environment issues are addressed in the Net Community Benefit Analysis contained in Section 5.3.1. In summary, the Planning Proposal will have positive social and economic benefits in that it will provide a greater range of housing choice in close proximity to the Murwillumbah town centre; facilitate the provision of key public infrastructure including Rous River Way and also contribute approximately \$35,000 per allotment towards Council's normal Section 94 and Section 64 Contributions for community infrastructure.

In addition, public open space will be dedicated and all necessary infrastructure will be provided to the residential allotments by way of extensions from the completed stages of Riva Vue Estate.

Contemporary environmental planning practice requires development projects to be assessed against the key ecologically sustainable development principles.

Table 6 identifies those principles and assesses the site generally and the rezoning/development concept against each of those principles.

TABLE 6 – ESD PRINCIPLES	
OBJECTIVE	COMMENT
(a) the precautionary principle—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:	Rigorous and comprehensive assessment of the site's biophysical and geophysical opportunities and constraints has been undertaken to inform the rezoning process. Key environmental factors are discussed in Section 4.0.
(i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and	There are no areas of high conservation value on the site and appropriate buffers and water quality control measures will be implemented to ensure that water quality in the Rous River is not compromised.

TABLE 6 – ESD PRINCIPLES	
OBJECTIVE	COMMENT
(ii) an assessment of the risk-weighted consequences of various options, and	The site is not used for sugar cane production and given its small size, poor quality soils (Class 4 and 5 Agricultural Suitability) and fragmentation agriculture is not a sustainable land use. The relatively minor and logical expansion of the urban footprint does not give rise to any significant risks and is considered to be an appropriate and sustainable land use.
(b) inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations, and	The Planning Proposal is considered to be consistent with this Principle in that appropriate area to buffer the Rous River together with embellishment will be undertaken as part of any future development proposal.
(c) conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration, and	The site does not exhibit any attributes of high biological diversity or ecological integrity.
(d) improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as: (i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement, and (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste, and (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.	Appropriate water quality control mechanisms will be implemented to ensure that water quality in the Rous River is not diminished. Appropriate contributions will also be paid towards the augmentation of the Murwillumbah Sewerage Treatment Plant to ensure that only high quality effluent is discharged to the natural water way system. In addition, the site will be connected to the reticulated sewerage system. The future landowners will pay appropriate costs by way of contributions and normal rates and charges to ensure that services are provided on an equitable and sustainable basis. A number of mechanisms will be implemented to achieve the environmental goals including water and energy efficiency, stormwater management, Architectural Design Guidelines and compliance with BASIX requirements.

6.4 Section D – State and Commonwealth Interests

6.4.1 Is There Adequate Public Infrastructure For the Planning Proposal

Transport

As discussed elsewhere in this Report, the construction by Metricon of Rous River Way will assist in ensuring that adequate capacity exists within the transport network and to accommodate buses when the remaining links are constructed by Council from the northern end of the site to West End Street and ultimately to Cane Road.

Water Supply

Council has recently augmented the Murwillumbah Water Treatment Plant and sufficient capacity exists in that system to accommodate the proposed development.

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In addition, the existing reticulation of the completed stages of Riva Vue have been designed with sufficient capacity to meet the demand generated by the proposed rezoning area.

Sewer

The Murwillumbah Sewerage Treatment Plant is located immediately northeast of the subject land and has been recently augmented by Council and has sufficient capacity to accommodate the additional demand generated by the proposed rezoning. In addition, existing reticulation within the adjacent Riva Vue Estate has been designed with sufficient capacity to service the subject land.

Power

Sufficient capacity has been designed into the existing system to accommodate the proposed additional lots to be created from the area to be rezoned.

Telephone

Sufficient capacity has been designed into the existing system to accommodate the proposed additional lots to be created from the area to be rezoned.

Health

Murwillumbah has a public hospital located approximately 2 kilometres east of the site together with normal medical, dental and other health care professionals within the town centre.

Police

Murwillumbah has a Police Station located within the town centre approximately 2 kilometres east of the site.

Ambulance

Murwillumbah has an Ambulance Station located within the town centre approximately 2 kilometres east of the site.

Fire Brigade

Murwillumbah has a Fire Brigade located within the town centre approximately 2 kilometres east of the site.

Schools

Murwillumbah has two public high schools (Wollumbin High School located approximately 3 kilometres west of the site and Murwillumbah High School located approximately 1 kilometre east of the site).

In addition, there are three public primary schools and several private primary schools and one private high school located within the town of Murwillumbah.

In summary, given the scale of the rezoning and the potential lot yield, it is submitted that all existing public infrastructure has adequate capacity to meet the additional demands generated by the development.

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6.4.2 What are the Views of State and Commonwealth Public Authorities Consulted In Accordance With the Gateway Determination

This Section of this Planning Proposal will be completed following consultations with the State and Commonwealth Public Authorities identified in the Gateway Determination.

Any issues raised by these Authorities will be summarised and addressed as appropriate.

7.0 PART 4 – COMMUNITY CONSULTATION

The Gateway Determination will specify the community consultation that must be undertaken on this Planning Proposal. The consultation will be tailored to specific proposals generally on the basis of a 14 day exhibition period for low impact Planning Proposals and a 28 day exhibition period for all other Planning Proposals.

Low Impact Planning Proposal means a Planning Proposal that, in the opinion of the person making the Gateway Determination: is consistent with the pattern of surrounding land use zones and/or land uses; is consistent with the strategic planning framework; presents no issues with regard to infrastructure servicing; is not a principal Local Environmental Plan; and does not reclassify public land.

Having regard to the definition of Low Impact Planning Proposals and the scale, nature and issues relating to this Planning Proposal, it is submitted that it would be defined as a Low Impact Planning Proposal.

Community consultation will be commenced by the placing of a public notice in the local newspapers and on the website of the Tweed Shire Council and/or the Department of Planning. In addition, adjoining landowners will be notified in writing.

Normal exhibition material will be made available by the relevant planning authority during the exhibition period. The community consultation process will be completed when the relevant planning authority has considered any submissions received concerning the proposed Local Environmental Plan and has forwarded those reports to the Department of Planning for final consideration by the Minister.

8.0 SUMMARY AND CONCLUSIONS

As reflected in this Report, the Planning Proposal involves a modest scale residential rezoning comprising approximately 8.23 hectares of land which is anticipated to yield approximately 80 to 90 lots.

All necessary infrastructure to service the land is available and was provided as part of the adjoining stages Riva Vue Estate.

In particular, Rous River Way has been constructed as part of Council's strategic road network. Rous River Way provides a key link in the planned network and facilitates rezoning and development of the subject site.

The Site Analysis undertaken as part of this Planning Proposal does not identify any significant constraints on the development potential of the land for residential purposes and this Planning Proposal therefore concludes that rezoning of the site in accordance with **Annexure 4** would achieve ESD Principles and be consistent with the public interest.

Council and the Department of Planning are therefore requested to support the Planning Proposal to enable the project to proceed through the Gateway Process.

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**ANNEXURE 1 Aerial Photograph Showing Those Parts of Lot 237 DP 1139108 to Which the
Planning Proposal Relates (Source: TSC – Date of Photography 2009)**

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**ANNEXURE 2 Plan Showing Existing Topography and Proposed Layout (Revision E) – B & P
Surveys, 6 April 2010 and Aerial Photograph of Proposed Riva Vue Subdivision –
B & P Surveys, May 2010**

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ANNEXURE 3 Plan Showing Current Zones (Revision E) – B & P Surveys, 6 April 2010

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ANNEXURE 4 Plan Showing Proposed Zones (Revision E) – B & P Surveys, 6 April 2010

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Planning Proposal
Project No: MET 09/42 – May 2010

Riva Vue Estate
Rous River Way, Murwillumbah



ANNEXURE 5 Riva Vue Estate Staging Concept Plan – Brown and Haan, 9 December 2008

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Riva Vue Estate
Rous River Way, Murwillumbah



**ANNEXURE 6 Flood Impact Assessment of Proposed Development at Barnby Street
Murwillumbah – WBM, 1 March 2004**

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ANNEXURE 7 Flora and Fauna Assessment – James Warren and Associates Pty Ltd, 2005

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Project No: MET 09/42 – May 2010

Riva Vue Estate
Rous River Way, Murwillumbah



ANNEXURE 8 Acid Sulphate Soils Assessment and Management Plan; Stormwater Management Plan; Erosion and Sedimentation Control Plan; Agricultural Suitability Assessment and Preliminary Site Contamination Assessment – Gilbert and Sutherland Pty Ltd, October 2004

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