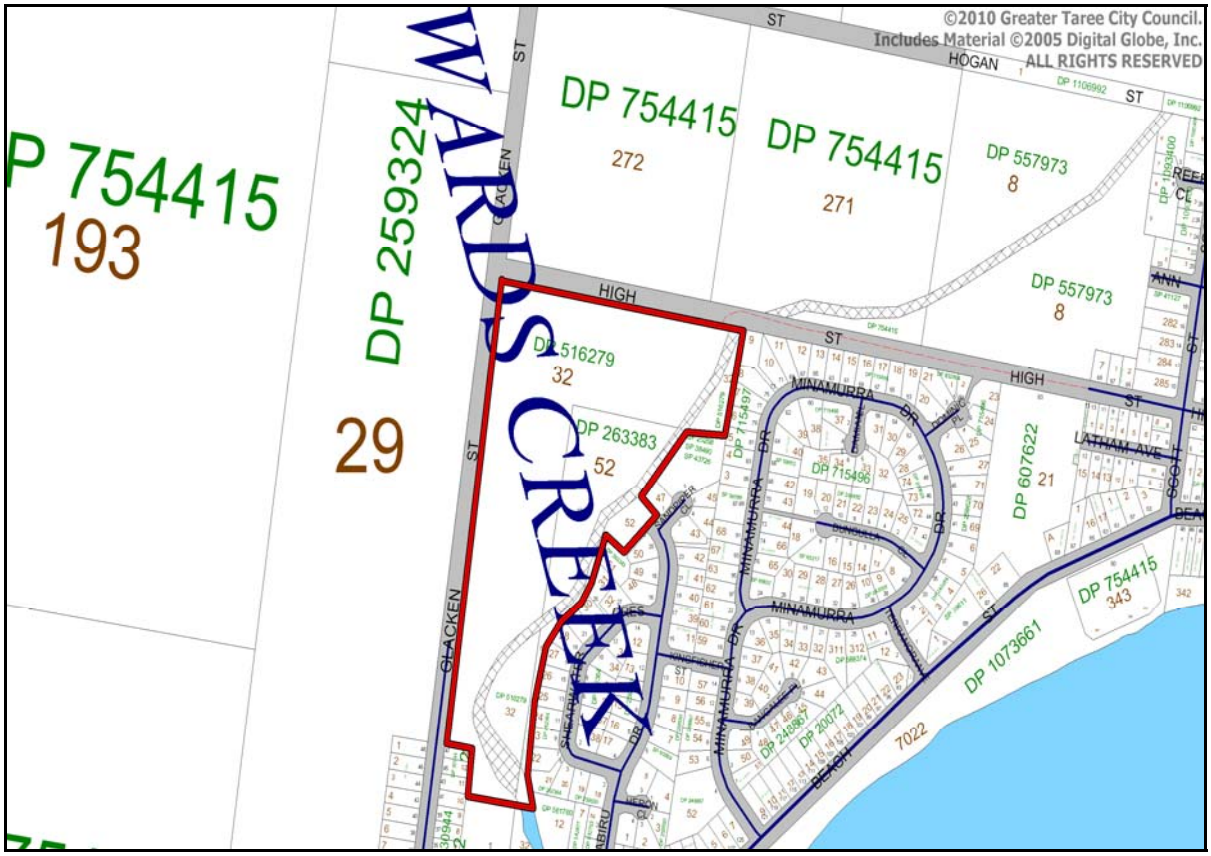
# Planning Proposal

***Introduction:*** This Planning proposal has been compiled in accordance with the Department of Planning's *A Guide to Preparing Planning Proposals (July 2009).*

***Subject Site:*** **Lot 32 DP 516279 and Lot 52 DP 263383 Glacken Street, Harrington.**




The site is approximately 3.3ha and is located to the northwest outskirts of the village of Harrington.

***Background:*** ERM Australia were engaged by Council in 1997 to undertake a Local Environmental Study (LES) for the rezoning. That LES is included as Attachment E. The LES also contains a number of technical studies that expand on the information contained within the LES as part of the environmental assessment process for the rezoning of the site. A Section 65 Certificate dated 17 July 2003 was issued to Council allowing for the public exhibition of the draft plan. The LES and technical studies were exhibited between 26 July and 12 September 2003.

**<u>Part 1 – Objectives (Intended Outcomes)</u>**

To enable the development of Lot 32 DP 516279 and Lot 52 DP 263383 Glacken Street, Harrington, for a mix of environmental conservation, recreational and residential uses.

## Part 2 - Explanation of the Provisions

**LEP 1995:**
Under GTCC LEP 1995 the site is zoned 1(a) Rural General, 7(a) Environmental Protection Habitat, 6(a) Open Space Recreation and 2(a) Residential. The draft plan proposes to amend LEP 1995 to allow for residential, environmental protection and open space uses. Attachment A contains the existing and proposed zonings for the site under LEP 1995.

**dLEP 2010:**
Under GTCC dLEP 2010 the site is zoned E2 Environmental Conservation, RU1 Primary Production, R1 General Residential and RE1 Public Recreation. It is proposed to rezone the site, consistent with the Standard Template Instrument, to R1 General Residential, RE2 Private Recreation, W2 Recreational Waterways and E2 Environmental Conservation.

It should be noted that Wards Creek which runs in a north – south direction on the eastern edge of the site was previously proposed to be zoned RE1 Public Recreation (as a direct translation of the rezoning under LEP 1995). It is now proposed to be zoned W2 Recreational Waterways. This is because, in overlaying the cadastre on the most recent aerial photographs of the site, it is clear that the proposed Public Recreation zone covers only the body of water, which is used for recreational canoeing, boating and fishing and is an extension of the larger Manning River waterway. It is therefore more appropriate and accurate if this area is zoned to reflect its waterway use. This approach is consistent with the LEP practise note PN 06-002 Standard Instrument for LEPs and LEP 2010.[1]

Attachment B contains the proposed new zones under dLEP 2010, which are consistent with the outcomes of the public exhibition and agency consultation process, (as contained at Attachment C, the s.68 report sent to the Department in April 2009) and a direct translation of the zones that were proposed in that s.68 report, apart from the W2 zone (refer again to footnote 1). DLEP 2010 is nearing gazettal, therefore it is intended that this Planning Proposal would be an amendment to LEP 2010.

## Part 3 - Justification

### Section A – Need for the planning proposal

**1. Is the planning proposal a result of any strategic study or report?**

The area proposed for rezoning has been identified in the Harrington Development Strategy, adopted by Council and endorsed by the Department of Planning for residential infill and corresponds to the area identified in the Mid North Coast Regional Strategy.

**2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

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[1] *Justification for W2 zone*: Under GTCC LEP 1995 there is no zoning for waterways, thus all waterways were zoned according to the surrounding land use. DLEP 2010 has attempted to assign a W2 zoning over all navigable waterways to better reflect the use of such waterways for recreational purposes.

Changing the zoning of the site is the only means of achieving the objectives and intended outcomes, as residential development would not be permitted within the current zones. In addition, there would be a net increase in the amount of land zoned for environmental conservation and recreation (private and waterways) in order to more accurately reflect the environmental attributes of the site and to mitigate any potential natural hazards that may affect the site.

**3. Is there a net community benefit?**

There would be a net community benefit resulting from the proposal as the development of the site is considered to be a logical infill of an existing land resource within the Harrington residential footprint. A net community benefit test is contained at Attachment D.

**Section B - Relationship to strategic planning framework**

**4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The area proposed for rezoning has been identified in the Mid North Coast Regional Strategy for urban growth. Urban consolidation and infill development are considered to be a contributory mechanism towards meeting the expected housing demand of the Mid North Coast Region.

**5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?**

Council's draft Manning Valley Community Plan 2010-2030 states that "In keeping with the area's predicted population growth, there will be a steady increase in housing over the next 20 years, with an additional 5000 homes expected, mostly in existing urban centres" (p.5). Strategy 6.2 to achieve this objective states that Council needs to "Create urban renewal opportunities to meet the Department of Planning requirements for a 40% infill population growth capability". The proposal contributes to the objectives of the draft Plan as it provides a residential area (of approximately 30 lots) within an existing urban centre.

The draft Plan outlines a number of objectives that are to be met in maintaining the existing environment within the Greater Taree area. In relation to strategic land use planning, objective 6 requires "a strategic land-use planning framework that will establish a clear balance between development and conservation, and accommodate economic investment and lifestyle change demands". The proposal is consistent with this objective as it achieves an appropriate balance between conservation, development and open space.

**6. Is the planning proposal consistent with applicable state environmental planning policies?**

| Regional and State Polices | Application | Addressed in LEP | Direction Met |
|---|---|---|---|
| SEPP 44 – | The area of the | • An assessment of Koala habitat was undertaken during the preparation of | yes |

| Regional and State Polices | Application | Addressed in LEP | Direction Met |
|---|---|---|---|
| Koala Habitat Protection | proposed rezoning does not contain core koala habitat. | the LES and Environmental Report. The area was not found to provide core koala habitat. | |
| SEPP 55 – Remediation of Land | Applies, as Clause 6 is applicable in relation to rezonings. | • A desktop survey of the area proposed for rezoning indicates that it is unlikely that soil contamination exists within the site. | yes |
| SEPP 71 – Coastal Protection | Applies as the area proposed for rezoning is within 1km of a tidal coastal river. | • SEPP 71 expands upon the implementation of the *NSW Coastal Policy (1997)* and was taken into consideration during the preparation of the LEP and it's supporting LES and technical studies. The matters for consideration have been incorporated into the LEP. | yes |

**7. Is the planning proposal consistent with the applicable Ministerial Directions (s.117 directions)?**

| S117 (2) Direction – Post-September 2005 | Application | Addressed in LEP | Direction Met |
|---|---|---|---|
| **1. Employment and Resources** | | | |
| 1.1 Business and Industrial Zones | Does not apply, as the proposed rezoning will not affect land zoned for business or industrial purposes. | • There is no gain or reduction in business zones and no gain or reduction in industrial zones. Thus, there is no gain or reduction in the total potential floor space in business or industrial zones. | N/A |
| 1.2 Rural Zones | Applies as the LEP alters existing rural land to a number of other zones. | • The rezoning of the area is consistent with the Mid North Coast Regional Strategy, the Harrington Development Strategy and the Draft Greater Taree Conservation and Development Strategy as the area is identified as a potential development area.<br>• The rezoning of the area has been | yes |

| S117 (2) Direction – Post-September 2005 | Application | Addressed in LEP | Direction Met |
|---|---|---|---|
| | | justified by a Local Environmental Study (ERM, 1997) prepared in accordance with Section 57 of the *Environmental Planning and Assessment Act 1979* and other supporting studies and reports.<br>• The site in question does not contain any land zoned as containing any high agricultural value land or 1(b1) – Rural Valley Agriculture in the Greater Taree LEP 1995. | |
| 1.3 Mining, Petroleum Production and Extractive Industries | Applies as the rezoning may have the potential effect of prohibiting mining or extractive industries. | • The Former NSW Department of Mineral Resources was consulted to identify any issues relating to mining or extractive industries. The Department advised that the rezoning does not pose any issues to the extraction of minerals. | yes |
| 1.4 Oyster Aquaculture | Does not apply, as the rezoning does not change a land use that would have adverse impacts on an oyster aquaculture area. | n/a | n/a |
| **2. Environment and Heritage** | | | |
| 2.1 Environmental Protection Zones | Applies as Council has prepared a draft LEP. | • The LEP has included areas zoned for environmental protection.<br>• The area includes land in an existing environmental protection zone. The rezoning does not reduce the environmental protection standards that currently apply to the land. | yes |
| 2.2 Coastal Protection | Applies as the area is within the coastal zone. | • The LEP and it's supporting studies have given consideration to, and are consistent with, the *NSW Coastal Policy 1997*, the *Coastal Design Guidelines 2003*, and Section 733 of the *Local Government Act 1993*. | yes |

| S117 (2) Direction – Post-September 2005 | Application | Addressed in LEP | Direction Met |
|---|---|---|---|
| 2.3 Heritage Conservation | Applies as Council has prepared a draft LEP. | • On 10 January 2007 the Purfleet-Taree Local Aboriginal Land Council advised Council of a potential heritage site occurring within the vicinity of the proposed development, however the heritage value of this site was not considered significant and no specific recommendations have been made in this regard. The Purfleet-Taree Local Aboriginal Land Council will however be involved, as requested, in the assessment of any proposed works on the site that may interfere with any potential heritage significance within the area. | yes |
| 2.4 Recreation Vehicle Areas | Applies as Council has prepared a draft LEP. | • The LEP has not enabled land to be developed for the purpose of a recreation vehicle area. | yes |
| **3. Housing, Infrastructure and Urban Development** | | | |
| 3.1 Residential Zones | Applies as land is being rezoned for residential purposes. | • The Greater Taree LEP 1995 includes a variety of aims to address the provision of a range of housing types, sizes and affordability, through the provision of land that can be subdivided into different sized lots.<br>• Existing infrastructure has been utilised where possible, notably the access route through Jabiru Drive.<br>• Council has ensured that the area proposed for rezoning will be adequately serviced, MidCoast Water has confirmed this.<br>• The provisions of the draft LEP are consistent with the *Harrington Development Strategy*. | yes |
| 3.2 Caravan Parks and Manufactured Home Estates | Applies as Council has prepared a draft LEP. | • There is no provision for caravan parks or manufactured home estates in the draft LEP (amendment No 55). | yes |
| 3.3 Home Occupation | Applies as Council has prepared a draft LEP. | • Home occupations are permitted without consent in the Greater Taree LEP 1995, where a dwelling is permitted. | yes |

| S117 (2) Direction – Post-September 2005 | Application | Addressed in LEP | Direction Met |
|---|---|---|---|
| 3.4 Integrating Land Use and Transport | Applies as the rezoning creates land zoned for residential purposes. | • The proposal includes provisions that are consistent with *Improving Transport Choice* (DUAP 2001) as the proposed development is sympathetic to the existing road network and occurs in close proximity to Beach Street, which is the main arterial road within the area. The development is also within close proximity of the commercial core of Harrington and areas of employment. | yes |
| 3.5 Development Near Licensed Aerodromes | The proposed development is not located within the vicinity of a licensed aerodrome and is therefore not affected by OLS or ANEF restrictions | n/a | n/a |
| **4. Hazard and Risk** | | | |
| 4.1 Acid Sulfate Soils | Applies, as the area proposed for rezoning is located on land that is identified as having a probability of containing acid sulphate soils. | • The large proportion of the area classified as potentially containing ASS is located outside of the proposed development area, being within the boundaries of the SEPP14 wetland and associated 7(a) and 6(b) land zonings. Furthermore, the location of the site of the proposed development has been previously filled and will require additional filling in order to adequately mitigate the potential flood affection of the site. Therefore the risk of exposure of acid sulphate soils on this site is considered minor. However, if for any reason acid sulphate soil issues arise at a later stage of the proposed development they will be addresses appropriately in accordance with relevant legislation. | yes |
| 4.2 Mine Subsidence and | Does not apply as the | n/a | n/a |

| S117 (2) Direction – Post-September 2005 | Application | Addressed in LEP | Direction Met |
|---|---|---|---|
| Unstable Land | area proposed for rezoning is not within a mine subsidence district and is not located on unstable land. | | |
| 4.3 Flood Prone Land | Applies, as the area proposed for rezoning is located on land that is identified as being within the 1% flood level. | • Although the area in question occurs on land identified as being under the 1% flood level, appropriate site preparation such as filling will be undertaken prior to the development of the site.<br>• The undertaking of the proposed works is also consistent with the provisions of the Flood Plain Management Manual (NSW Government, 2005) and DCP 2010.<br>• Flood studies for this site have concluded that the proposed development of the site in question will not significantly affect the surrounding land and that the nature of the site is such that any flood affection would occur in a "Flood Storage" nature as the site is not adjacent to any major flood channels. Further flood studies are currently being undertaken to address the recently released NSW Government Benchmarks for sea level rise. | yes |
| 4.4 Planning for Bushfire Protection | Applies as the area proposed for rezoning is mapped as Bushfire Prone Land. | • Council has consulted the Rural Fire Service in undertaking the Local Environment Study. The recommendations made by the RFS in their Section 62 consultation response will be integrated into the design considerations for the site.<br>• The proposed rezoning addresses the bushfire risk through APZ and other provisions, incorporating the directions contained in this section of the Section 117 directions. Although native vegetation is only located on one side of the site, an APZ has been incorporated into the planning proposal adjacent to the residential area, providing a buffer between the | yes |

| S117 (2) Direction – Post-September 2005 | Application | Addressed in LEP | Direction Met |
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| | | residential area and the native vegetation. | |
| **5. Regional Planning** | | | |
| 5.1 Implementation of Regional Strategies | Does apply as this rezoning falls within the area of the Mid North Coast Regional Strategy. | • This draft LEP amendment is consistent with the Mid North Coast Regional Strategy (MNCRS). | yes |
| 5.2 Sydney Drinking Water Catchments | Does not apply, as the area proposed for rezoning is not within the Sydney Drinking Water catchment area. | n/a | n/a |
| 5.3 Farmland of State and Regional Significance on the NSW far North Coast | Does not apply, as the area proposed for rezoning is not within the NSW Far North Coast. | n/a | n/a |
| 5.4 Commercial and Retail Development along the Pacific Highway, North Coast. | Does not apply, as the area proposed for rezoning is not within the vicinity of the Pacific Highway. | n/a | n/a |
| 5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) | Does not apply as the area proposed for rezoning is not within the | n/a | n/a |

| S117 (2) Direction – Post-September 2005 | Application | Addressed in LEP | Direction Met |
|---|---|---|---|
| | vicinity of Ellalong, Paxton or Millfield and is not within the Cessnock LGA. | | |
| 5.6 Sydney to Canberra Corridor | Does not apply, as the area proposed for rezoning is not within the Sydney to Canberra corridor. | n/a | n/a |
| 5.7 Central Coast | Does not apply, as the area proposed for rezoning is not within the Gosford or Wyong Local Government Areas. | n/a | n/a |
| 5.8 Second Sydney Airport: Badgerys Creeks | Does not apply, as the area proposed for rezoning is not within the vicinity of the Badgerys Creek proposed airport site. | n/a | n/a |
| **6. Local Plan Making** | | | |
| 6.1 Approval and Referral Requirements | Applies as Council has prepared a draft LEP. | • The proposed amendment to the Greater Taree LEP 1995 and dLEP 2010 proposes zonings for the site that will ensure that the development will be appropriate for the area. Greater Taree LEP 1995 provides all provisions relating to the proposed zones that will trigger the undertaking of efficient and appropriate development | yes |

| S117 (2) Direction – Post-September 2005 | Application | Addressed in LEP | Direction Met |
|---|---|---|---|
| | | assessment. | |
| 6.2 Reserving Land for Public Purposes | Applies as Council has prepared a draft LEP. | • The proposed rezoning will result in a total net increase of over 1.58 Ha of land reserved for public open space. The existing services within Harrington are adequate to accommodate this minor development (approximately 30 residential blocks).<br>• No request has been made to rezone or remove a reservation of any land currently zoned for a public purpose or open space. | yes |
| 6.3 Site Specific Provisions | Applies as Council has prepared a draft LEP to allow a particular development to be carried out. | • The LEP zones land appropriate for the uses proposed.<br>• The LEP does not contain or refer to drawings that show details of the development proposal. | yes |

| Relevant S117 (2) Direction – Pre-September 2005 | Application | Addressed in LEP | Direction Met |
|---|---|---|---|
| S26 Coastal Policy | Applies as the area proposed for rezoning is within 1km of a tidal coastal river. | • The NSW Coastal Policy and its nine goals were taken into account during the preparation of the LEP amendment and it's supporting technical studies. | yes |
| C1 Acid Sulfate Soils | Applies, as the area proposed for rezoning is located on land that is identified as having a probability of containing acid sulphate | • The large proportion of the area classified as potentially containing ASS is located outside of the proposed development area, being within the boundaries of the SEPP 14 Wetland and associated 7(a) and 6(b) land zonings. Furthermore, the site in question has been previously filled and will require additional filling in order to adequately mitigate the flood affection of the site. Therefore the risk of exposure of acid sulphate | yes |

| Relevant S117 (2) Direction – Pre-September 2005 | Application | Addressed in LEP | Direction Met |
|---|---|---|---|
| | soils. | soils on this site is considered negligible. However, if at any stage acid sulphate soil issues arise they will be addressed appropriately through relevant legislation. | |
| G20 Planning for Bushfire Protection | Applies as the area proposed for rezoning is mapped as Bushfire Prone Land. | • Council has consulted the Rural Fire Service in undertaking the Local Environment Study. The recommendations made by the RFS in their Section 62 consultation response will be integrated into the design considerations for the site.<br>• The proposed rezoning addresses the bushfire risk through APZ and other provisions, incorporating the directions contained in this section of the Section 117 directions. Although native vegetation is only located on one side of the site, an APZ has been incorporated into the planning proposal adjacent to the residential area, providing a buffer between the residential area and the native vegetation. | yes |
| G25 Flood Liable Land | Applies, as the area proposed for rezoning is located on land that is identified as being within the 1% flood level. | • Although the area in question occurs on land identified as being under the 1% flood level, appropriate site preparation such as filling will be undertaken prior to the development of the site.<br>• The undertaking of the proposed works is also consistent with the provisions of the Flood Plain Management Manual (NSW Government, 2005) and DCP 2010.<br>• Flood studies for this site have concluded that the proposed development of the site in question will not significantly affect the surrounding land and that the nature of the site is such that any flood affection would occur in a “Flood Storage” nature as the site is not adjacent to any major flood channels. Further flood studies are currently being undertaken to address the recently released NSW Government Benchmarks for sea level rise. | yes |

## Section C - Environmental, social and economic impact.

**8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No critical habitat or threatened species, populations or ecological communities or their habitats will be adversely affected as a result of the proposal as the vegetated areas on site would be protected through the E2 Environmental Conservation and RE2 Private Recreation zones.

**9. Are there any other likely environmental effects as a result of the planning proposal and how are they to be managed?**

A Local Environmental Study (LES) was undertaken for the proposed rezoning in 1997. This is included as Attachment E. No significant environmental impacts were identified in that LES.

The proposed rezoning involves filling land that is flood prone. A flood study undertaken in 2007 is currently being updated to reflect the NSW Government's benchmarks for sea level rise. The existing flood impact assessment (WBM, 1997) is included as Attachment F.

There are no other anticipated impacts as the site has been previously cleared in most places, and native vegetation is protected through the use of environmental protection zones.

**10. How has the planning proposal adequately addressed any social and economic effects?**

The proposal is not expected to have any negative social or economic effects. There are no known items of European or Aboriginal heritage significance on site. Prior to the preparation of detailed design, an archaeological assessment and appropriate Aboriginal community consultation would be undertaken.

## Section D – State and Commonwealth interests

**11. Is there adequate public infrastructure for the planning proposal?**

Not applicable as the proposal will only involve the creation of up to 30 residences, which can be accommodated within the existing road, water and sewer infrastructure without the need for upgrades.

**12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

S.62 consultation has been undertaken for the rezoning. Attachment C details the responses received from State and Commonwealth public authorities for the rezoning. There are no outstanding agency objections to the proposal.

## Part 4 – Community Consultation

The rezoning was exhibited for public comment between 26 July and 12 September 2003. The Draft Local Environment Plan was forwarded to the relevant public authorities and all affected landowners were notified. Council received forty seven (47) written submissions in respect of the proposed amendment; being thirty five (35) submissions from the general public and twelve (12) from public authorities.

## ATTACHMENTS

Attachment A – Zonings under LEP 1995.

Attachment B – Zonings under dLEP 2010.

Attachment C – S.68 Report sent to the Department in 2009.

Attachment D – Net Community Benefit Test

Attachment E – Local Environmental Study, 1997.

Attachment F – Flood Study, 1997.

**Attachment A – Zonings under LEP 1995.**

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**Attachment C – S.68 Report sent to the Department in 2009.**

# Attachment D – Net Community Benefit Test.

**Attachment E – Local Environmental Study, 1997.**

**Attachment F – Flood Study, 1997.**