

1 April 2016

The General Manager
Tweed Shire Council
PO Box 816
Murwillumbah NSW 2484

Gales-Kingscliff Submission on Draft Kingscliff Locality Plan

Dear Sir,

On behalf of the Directors of Gales-Kingscliff and Gales Holdings ('Gales'), I would like to congratulate all those involved in putting together the Draft Kingscliff Locality Plan – Precinct Plans ('Draft KLP') and the Draft Context Issues and Opportunities Paper ('Draft CIO Paper'). From Gales perspective as a major stakeholder, the draft KLP displays a clear vision for the future of Kingscliff and goes far in balancing the many competing factors.

The Draft KLP not only reflects Gales vision of the unique potential of Kingscliff, but is supported by the community, as demonstrated in the Enquiry by Design Workshop, where there was amazing and previously unimaginable unanimity in the vision of what should happen in Kingscliff. Bounded by the sea, the river, Gales future Cudgen Lake, and Cudgen Creek and farmland, the setting and location, and the potential, is truly unique.

Gales vision is to see its lands become a major part of an outstanding coastal community in every respect, with many trees for shade, amenity, and tree-lined boulevards for walkers, bicyclers, visitors and residents, as a major feature. Also that large parts of Gales lands be conserved and enhanced, for public parks and recreation, and for ecological conservation. It is therefore of very great concern, and Gales main concern, that the Draft KLP publically displays serious errors in mapping of Ecological Status, and the text repeatedly emphasises without qualification "high ecological value" and does not mention or even hint that significant parts are not of high ecological value. This misinforms and misleads the community, undermines proper planning, undermines confidence respect and trust, and must be resolved as the highest priority.

Gales-Kingscliff is working with Intrapac, on whose behalf Roberts Day has developed and refined a Masterplan. This was presented at the Workshop, and I was surprised that, given Roberts Day's great experience and success in masterplanning communities, it was not given any representation in the outcome. Intrapac's consultants will be making separate submissions which will reflect their expertise on various technical matters.

Gales supports the vision of the Draft KLP, and except for our very serious concerns detailed regarding Ecology, our submissions are more on some matters of emphasis and detail that we think are too prescriptive at this stage.

1. Draft KLP should be indicative, rather than overly prescriptive

Gales submits: The KLP should clearly differentiate what details are *prescriptive* and what details are *indicative (an indication of intent only)*. e.g. the need Community facilities could be *prescribed* but their location *indicated* to allow flexibility in achieving better outcomes with final details determined at the DA stage.

- a. The Draft CIO Paper states that detailed site analysis is to be undertaken within future Planning Proposals, which Gales supports:
 - *“Specifically, the extent and scope of the development potential within the identified growth areas is to be tested through the KLP process, before more detailed site analysis is undertaken within future Planning Proposals.”* (1.5.2) and
 - *“Of note, the KLP process will be limited in its findings regarding the identified release areas to the following functions: • Vision and/or principles for the release area • Identification of further specialist studies likely to be required as part of any LEP amendment process. Note: This does not preclude landowners of key sites undertaking more detailed site investigations as part of the KLP process.”* (1.5.3)
- b. Despite the above, the level of detail in parts of the Draft KLP is excessive, which could result in suboptimal outcomes. Examples are the location of the community facility, the detail on swales in the Turnock Precinct, and 20m vegetated buffers. These are commented on further below.
- c. **Gales submits** that the KLP should allow flexibility of planning. Draft KLP Figure 3.1 contemplates a 30 year time scale which is a useful visual representation of future development, without being overly prescriptive. Excessive detail will constrain better outcomes that might not be contemplated at present.

2. Ecology – Gales major concern

Gales submits the KLP should:

- (1) Correct the mapping of Ecological Status; not publically display incorrect (as per Land & Environment Court decisions) mapping; not state as undisputed fact that which is disputed or likely to be disputed; not base planning for Precinct plans on such incorrect and disputed mapping;
- (2) Change or qualify references to ‘high’ or ‘significant’ ecological status, to, for example, ‘presumed high ecological status’, unless land has been confirmed by ground truthing. This is because of the long persistence of major errors in Council’s ecological mapping;
- (3) State that “Lands with unconfirmed or disputed ecological status require ecological assessment to determine their actual ecological status, which will be an important input used to defining development envelopes over key development sites”
- (4) Change “12:1 compensatory planting offset” to “appropriate compensatory planting offset”.

- a. **Assumption of ecological status:** The Draft KLP too freely assumes, implies or states as a fact ‘high ecological status’ or ‘high ecological significance’. Not all land identified in the draft KLP as high ecological status or significance is in fact high ecological status or significance. The Draft KLP omits required consideration of land, currently zoned or incorrectly mapped as Very High or High Ecological Status and so indicated in the draft KLP for ecological protection, that actually is or might be low ecological status, and which land might better be used for development with appropriate compensatory offset if required.
- b. **Incorrect assumptions:** Some areas indicated as high ecological status contain significant parts which are of low ecological status or are open pasture.
- c. **Incorrect mapping:** Some plans mapping Ecological Status are incorrect or inconsistent. For example CIO Paper Figure 2.0 Kingscliff Ecological Status shows as ‘Very High Ecological Status’ an area which has for several years been a filled industrial area used for trucks and fill and temporary aggregate storage.

- d. **Disputed mapping.** CIO Paper Figure 2.0 Kingscliff Ecological Status shows as ‘Very High Ecological Status’ almost all the treed area in the West Kingscliff Precinct. Gales believes that it is incorrect and misleading to precisely map and define all as ‘Very High Ecological Status’. Planning for West Kingscliff should be deferred until the ecological status is actually assessed.
- e. **Court determinations:** Over the years Council has consistently overvalued the significance of vegetation and in relation to ecological assessments the Courts have preferred the evidence of Gales consultants. For example CIO Paper Figure 2.0 ‘Kingscliff Ecological Status’ and Figure 2.2 ‘Vegetation Communities’ show most of the area north of Turnock Street as ‘Very High Ecological Status’ and ‘High Ecological Status’ yet the large part of it has been approved for removal and filling contrary to Council’s submissions to the Court. The Chief Judge of the Land and Environment Court did not accept Council arguments that the area contained EECs and was of Very High Ecological Significance, and preferred Gales’ consultants.
- f. **Melaleuca and She Oak Forest:** The above matters are particularly relevant to the Melaleuca and She Oak Forest which is stated to cover approximately 36ha and “*which underpins its high ecological status*” (Draft KLP 12.1). Gales consultants have found that significant parts of this 36ha are low ecological status and would be better filled and developed, and parts are open fields with exotic grasses which should be considered for residential development, some form of eco or community centre, parkland, or offset habitat restoration. This is not even hinted at anywhere in the draft KLP.
- g. **Compensatory Planting 12:1:** Draft KLP 7.5(2) and 11.5(4) state “*A compensatory rate of 12:1 will generally be applied*”. This ratio seems very large to suggest for unqualified general application, and an appropriate ratio should take into account a number of factors, not least the quality and significance of the vegetation being cleared. **Gales submits** that the compensatory rate be determined on a scientific, rational and reproducible basis and Gales understands that such methods are available.
- h. **Amend wording of ecological assumptions (i):** Draft KLP 3.5(11) states “*Facilitate the protection and management of land identified as environmentally and/or ecologically important through appropriate land use zoning and provisions for ongoing habitat management.*” Gales assumes that “*identified as*” is used to be synonymous with “*that is*”, but it could be taken to mean “*identified in the KLP*” even if that identification is wrong. To avoid errors, uncertainty, and disputes, **Gales submits** that the KLP should contain an extra dot point, something like “*Facilitate the assessment of land where its environment and/or ecological importance is unconfirmed or disputed, so that appropriate land use zoning can be determined.*”
- i. **Amend wording of ecological assumptions (ii):** Draft KLP 12.3 states “*In terms of lands with a high ecological status there is opportunity for detailed ecological assessment to form a valuable part of defining development envelopes over key development sites. This process has the opportunity to directly inform land use recommendations for both environmental protection as well as areas suitable for development.*” This is unclear and **Gales submits** that the KLP should state explicitly something like: “***Lands with uncertain, disputed or potential high ecological status require detailed ecological assessment to determine the ecological status, which will be an important input used to defining development envelopes over key development sites. This process will help to inform land use recommendations for both environmental protection as well as areas suitable for development.***”
- j. **E Zones must be informed by master-planning considerations:** Gales is advised that in the NSW Government’s E Zone Final Recommendations Report, the application of E zones is not mandatory, and should take into account the desired land uses, such as the potential for residential uses. Therefore where it is preferable from a planning view to

have residential, this should take precedence to environmental, especially as Gales lands has such a large area (south of the main EW drain) parts of which actually are of moderate and significant ecological significance.

- k. **Need for detailed ecological assessment & consideration of best land uses:** Gales believes that it is of the highest priority that the KLP state that detailed ecological assessment be undertaken to allow consideration of best land uses taking all factors into account, to determine on the one hand the envelope for fill and development, and on the other hand land that should be best used for parkland and passive recreation, retained for ecological protection, and used as offset for ecological restoration.
- l. **The above matters particularly apply to the West Kingscliff Precinct, and consequently the development footprint and the route of the new main access road into Kingscliff.**

3. Margins of Precincts

Gales submits:

- (1) to extend the Cudgen Precinct to include the Lake; and
- (2) to extend the Business and Knowledge Precinct south-west, to lots along the western side of Tweed Coast Road south of the golf course.

- a. **Cudgen Precinct. Gales submits** that the Cudgen Precinct is extended west of Crescent Street to include the future lake and its surrounds (see Draft KLP Figure 11.2).

Gales vision is that the Lake be to Cudgen what the Beach is to Kingscliff.

Admittedly, this is quite a long term vision. But currently it is not clear what Precinct the Lake is in, as it is discussed in the Cudgen Precinct section, but is shown on page 4 as part of the Green Edge Precinct.

- b. **Business and Knowledge Precinct. Gales submits** that consideration be given to extending the Business and Knowledge Precinct to its south west of Tweed Coast Road to the land south of the Golf Course, including Lots C/33290, 1,2/1107690, allowing uses such as a school or agricultural campus. These lots are similar to the “Undeveloped General Industrial Area” in being west of Tweed Coast Road, but the lots are otherwise immediately adjacent to the main part of the Precinct.

4. Integrated Community Facility location

Gales submits that the KLP should not specify the locations of community facilities, and depending on its catchment, also consider locating it in the West Kingscliff Precinct or in the Business and Knowledge Precinct.

- a. **Integrated community facilities description:** *“Integrated community facilities - opportunity for this central park to be co-joined with community based uses which may include a community centre, library, community meeting rooms, incubator work space, preschool and early childhood facilities.”* (Draft KLP 3.3)
- b. **Scale requires further consideration of location:** Due to the scale of the proposed integrated community facilities, if sited as proposed it will add further significant traffic and parking demands to the already demanding situation in central Kingscliff.

- c. **Alternative locations:** The ‘Enquiry by Design Workshop – Workshop Outcomes and Key Recommendations October 2015’ by Architectus includes the following:
- *“Can a larger community and social services infrastructure precinct be located within this area [West Kingscliff] or is it better off in the town centre”* (West Kingscliff Provocation, page 21); and
 - *“Consider opportunity to reposition town centre geographically further west along Turnock Street. Benefits - traffic and car-parking, new public domain, arrival sequence, view corridor”* (Key Recommendation, page 24).
- d. **Catchment considerations:** The best location for the integrated community facilities depends significantly on its catchment. Locating a Community Centre near the town centre would generate increased traffic and the need for more parking, so its location requires careful consideration. It might be better located in West Kingscliff, or even in the Business and Knowledge Precinct where it could be part of a larger Civic development, and be convenient for a wider catchment. These latter locations would provide better access to a greater population and avoid adding extra traffic and parking problems around Turnock Street.
- e. **Gales submits** that the KLP should not fix the community facilities location in the Turnock Street Precinct or at a specific location without further consideration.

5. Turnock Street Swales

Gales submits that the KLP removes reference to ‘wide landscape swale’ and ‘widened drainage swale’ along Turnock Street.

- a. **Swales along Turnock Street** is emphasised in the Draft KLP: *“wide landscape swale for landscape and ecological habitat”* (3.3) and *“widened drainage swale to provide a high level of visual amenity and ecological habitat”* (re. extension of Turnock St 7.5(4)) and such swales are shown in Figure 3.3 and the Indicative Montage on page 35.
- b. **No need for drainage or ecological swales:** Short of an engineering requirement, Gales is opposed to prescribing swales along Turnock Street for a number of reasons. There is no demonstrated need for any drainage swales along Turnock Street since Council implemented the Blue Jay Circuit drainage scheme. There is no need for ecological habitat along the main road into central Kingscliff, with the largest habitat area in the region extending close-by to the main drain south of Turnock Street. Swales will prevent pedestrian use and constrain access across Turnock Street.
- c. **Gales submits** that in the absence of engineering requirement, the KLP remove reference to widened (drainage) swale and ecological habitat. 3.5(2) specifies *“shade, seating, lighting and water points at regular intervals”* This is a general requirement which Gales fully supports. Further detail should be left to the detailed design stage.

6. Vegetative Buffers along Tweed Coast Road and WWTP:

Gales submits that the KLP:

- (1) remove detail of vegetative buffers in the Business and Knowledge Precinct; and
- (2) remove reference to width of buffer along the Cudgen Precinct development site; and
- (3) clarifies that the ‘10m wide landscape buffer’ around the east side of the WWTP already exists within the approved WWTP site.

- a. **Emphasis is placed on 20m wide vegetative buffers along Tweed Coast Road:**
- i. *“opportunity for a tree lined frontage along Tweed Coast Road (20m wide landscape area)” (6.3)*
 - ii. *“Create a 20m wide vegetative buffer to Tweed Coast Road frontage providing a ‘green screen’ to the site with large street trees and under storey vegetation” (6.5(11));*
 - iii. *“Require a 20m vegetative buffer edge to the Cudgen Precinct development site along the western edge of the Tweed Coast Road.” 12.4(4); and*
 - iv. Figure 7.2 ‘Indicative Turnock Street Extension Section’.
- b. **Exhibition Plan 19 refers to 10m buffers:** this conflicts with the 20m buffers in the Draft KLP specified in (a) above.
- c. **Gales submits that reference to the buffer width be removed:** A dense buffer (as seen in Exhibition Panel 19) might be inferior to a more open strip allowing pedestrian and bicycle paths with views to what might be architecturally interesting buildings in the Business and Knowledge Precinct. A low partial screen of trees could be attractive from a car, allow glimpses or views into the Precinct, and allow expansive views westwards out from the Precinct over the Golf Course to Mount Warning from offices and apartments in the Precinct. The buffer width should be determined later in the planning process to take into account other Design and Planning Opportunities

Gales envisions an iconic or landmark building to identify the Business and Knowledge Precinct with outstanding prominence.

That would be negated by screening as proposed in the Draft KLP. The area used in an *extra* 10m width of 800m is 0.8ha and might be better as a park within the Precinct. These details should be left until the design stage

- d. **Gales submits** that reference in Draft KLP 11.5(2) to a 10m vegetative buffer surrounding the WWTP should be removed, or it should clarify that it already exists within the eastern boundary of the WWTP and was required as part of its development.

7. Boardwalk along Kingscliff beach front

Gales submits that the KLP considers constructing a boardwalk along the Kingscliff beach to encourage use in the evenings and after dark and extend dining activities.

We congratulate those involved in producing the Draft KLP. Except for our comments on Ecology, our comments are minor in comparison with the many positive aspects of the Plan. We hope that consideration of our submissions will improve the already excellent Plan.

We are anxious to undertake required ecological assessments and meet Council to work towards an agreed outcome. Please do not hesitate to contact me for any discussion or clarification in this important process of developing Gales lands and Kingscliff moving forward.

Yours sincerely,

Stephen Segal

Director
Gales-Kingscliff Pty Ltd
Gales Holdings Pty Ltd