

MACLEAN SHIRE COUNCIL
Palmers Island
Riverbank Plan

Adopted by Council at its meeting on 14 June, 1995

TABLE OF CONTENTS

1. Introduction	3
1.1 Disclaimer	3
1.2 Citation	3
1.3 Background	3
1.4 Aim	3
1.5 Extent of Plan	3
2. Existing Development	3
2.1 Dwellings within the Immediate Management Line (precinct 1)	3
2.2 Dwellings within the 100 year management line but outside the Immediate Management Line (precinct 2)	3
2.3 Dwellings outside precinct 2 but within Palmers Island village.....	3
3. Future Development	4
3.1 Precinct 1 and 2	4
3.2 Dwellings outside precinct 2 but within Palmers Island village.....	4
3.3 Calculation of precincts	4
4. Section 149 advice.....	4
5. Maintenance Works.....	4
6. Emergencies	5
6.1 Responsibilities	5
6.2 Evacuation	5
7. Community education	5
8. Monitoring riverbank recession.....	5
9. Road closures	6
10. Signage	6
APPENDIX A - Maclean LEP Amendment incorporating Clause 20A	7
APPENDIX B - Development Control Plan for Palmers Island Village.....	10
APPENDIX C - Methodology for Monitoring Riverbank Recession	13

1. Introduction

1.1 *Disclaimer*

It is not suggested that this plan wholly addresses the problems that face owners or occupiers of affected lands either now or in the future. It is recommended that all such owners and occupiers actively seek advice to assess the present level of risk and monitor that level of risk from time to time and take such steps as they are advised or think fit for the safety and protection of persons or property.

In, particular, Council does not accept or undertake any responsibility for any future injury or property damage that might occur if any part of the riverbank collapses.

1.2 *Citation*

This plan may be referred to as the Palmers Island Riverbank Plan.

1.3 *Background*

Riverbank erosion at Palmers Island was assessed in the *Palmers Island: Bank Erosion Assessment & Management Plan* (Patterson Britton & Partners, July 1992), which indicated that the bank is at immediate risk of failure. The report outlined various structural and non-structural options for management of the riverbank erosion. Maclean Shire Council resolved at its meeting on 9 November, 1992 to adopt the non-structural option for management of the riverbank erosion at Palmers Island.

1.4 *Aim*

The aim of this plan is, so far as Council has the power and resources to do so, to address the threat posed by the erosion of the riverbank adjacent to Palmers Island village through non-structural measures. It repeals the Palmers Island Interim Development Policy adopted by Council at a special meeting on 28 January, 1993.

1.5 *Extent of Plan*

The plan applies to all land between the intersection of River Rd and Yamba Rd at the Lord Howe Island Trading Company's wharf to the south, and Gillies Lane to the north, as shown in appendix 1 to the Palmers Island Village DCP. That DCP also divides the village into precincts.

2. Existing Development

2.1 *Dwellings within the Immediate Management Line (precinct 1)*

These dwellings are targeted for voluntary purchase by the Clarence River County Council (CRCC). They are subject to the provisions applying to existing development within precinct 1 in the Palmers Island Village DCP.

2.2 *Dwellings within the 100 year management line but outside the Immediate Management Line (precinct 2)*

These dwellings are subject to the provisions applying to existing development within precinct 2 in the Palmers Island Village DCP.

2.3 *Dwellings outside precinct 2 but within Palmers Island village*

No special provisions apply to these dwellings.

3. Future Development

3.1 Precinct 1 and 2

The primary instrument for controlling development within these precincts will be the Palmers Island Village DCP.

3.2 Dwellings outside precinct 2 but within Palmers Island village

All future development outside precinct 2 but within Palmers Island village shall have the following notation made on both development determinations and building approvals:

“Palmers Island is subject to erosion by the Clarence River. Your property may, at some time in the future, come within the estimated erosion impact line which is defined by Maclean Council from time to time (and defined as precincts 1 and 2), and hence be subject to the restrictions relating to those precincts as set out in the attached policies.”

3.3 Calculation of precincts

The Immediate Management Line and the 100 Year Management Line have been determined from the *Palmers Island: Bank Erosion Assessment & Management Plan* (Patterson Britton & Partners, July 1992), with the addition of buffer zones as suggested in that report.

The lines defining the precincts will be reviewed Maclean Council every 5 years or after a major slip or flood and in this review, Maclean Council shall be guided by the surveys of riverbank retreat obtained in accordance with paragraph 8 hereof. The suggested methodology to be employed in determining the degree of riverbank retreat is outlined in Appendix C.

4. Section 149 advice

4.1 The application of clause 20A of the Maclean LEP (Annexure A) and the Palmers Island Village DCP shall be disclosed on all s.149(2) certificates relating to precinct 1 and 2 properties as well as all properties outside precinct 2 but within Palmers Island village.

4.2 Section 149(2) Certificates for affected properties within precincts 1 and 2 shall disclose that this policy restricts the development of land by reason of the likelihood of riverbank recession.

4.3 Section 149(5) Certificates for all properties outside precinct 2 but within Palmers Island village shall have the following advice added thereto:

“Palmers Island is subject to erosion by the Clarence River. Your property may, at some time in the future, come within the estimated erosion impact line which is defined by Maclean Council from time to time (and defined as precincts 1 and 2), and hence be subject to the restrictions relating to those precincts as set out in the attached policies.”

5. Maintenance Works

Maclean Shire Council will not undertake any structural maintenance on the riverbank.

6. Emergencies

6.1 Responsibilities

It shall be the responsibility of the Local Emergency Management Committee comprising representatives of each of the emergency services organisations operating in the Maclean local government area to prepare plans for the prevention of, preparation for, response to and recovery from any emergency arising in the event of a riverbank slip.

Northern Rivers Electricity, Telecom and Lower Clarence County Council (LCCC) will each be responsible for securing their own services. In the event of access being unavailable, LCCC have provided a valve key and map of services which are secured in the Palmers Island bush fire brigade shed, to enable residents to secure the water supply.

6.2 Evacuation

Evacuation will proceed at the direction of the senior police officer stationed in Maclean Shire. Any request for an evacuation shall be determined by the Local Emergency Management Committee. Results of such surveys and other materials relating to monitoring riverbank recession shall be made available to that Committee.

Should an evacuation occur, the police shall determine when residents may return to their dwellings. The Local Emergency Management Committee may request that any return be delayed until a survey has been undertaken to examine the effect of any scouring and/or bank steepening.

7. Community education

On-going community education programmes will be undertaken on a regular basis, particularly when Council recalculates the management lines and the precinct boundaries. All affected residents will need to be notified by Council of the changes, if any, to the precinct boundaries.

8. Monitoring riverbank recession

The riverbank recession shall be monitored by means of the methodology outlined in Appendix C. NRE, LCCC, CRCC, Telecom and the Local Emergency Management Committee shall be notified of the results of each such survey undertaken. Any residents whose status is affected by the survey shall be notified of their changed status.

9. Road closures

Council shall:

- (a) close River Rd between Yamba St and Gordon St and provide alternative access along Purves St,
- (b) close River Rd between Gordon St and Gillies Lane once alternative access has been provided (if necessary),
- (c) close River Rd between Lot 409477(the Lee property) and Lot 1, DP346829.
- (d) offer for sale sections of the River Road reserve determined by the Floodplain Management Committee with full disclosure of the risk of future erosion.

10. Signage

Council shall erect warning signs in locations determined by the Floodplain Management Committee, and approved by Council's risk management consultants.

APPENDIX A - Maclean LEP Amendment incorporating Clause 20A

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

MACLEAN LOCAL ENVIRONMENTAL PLAN 1992 (AMENDMENT NO. 7)

I, the Minister for Planning, in pursuant of Section 70 of the Environmental Planning and Assessment Act, 1979, make the Local Environmental Plan set out hereunder.

Robert Webster
MINISTER FOR PLANNING

Sydney, 1995

How do you cite this plan?

1. This plan may be cited as Maclean Local Environmental Plan 1992 (Amendment No. 7)

What are the aims and objectives of this plan?

2. The aims of this plan are:
 - a) To identify areas adjacent to the Clarence River or its tributaries subject to significant river bank erosion.
 - b) To restrict development in areas subject to an identified significant risk of river bank erosion.
 - c) To allow detailed provisions to be made by means of a Development Control Plan for the control of development in areas subject to the risk of river bank erosion.

Where does the plan apply?

3. The plan applies to the land bounded by dashed heavy black lines on the map marked "Maclean Local Environmental Plan 1992 (Amendment No. 7)". This map is kept in the office of Maclean Council.

How does this plan affect other plans:

4. This plan amends Maclean Local Environmental Plan 1992 in the manner set out in Clause 5.

How is the Maclean Local Environmental Plan proposed to be amended?

5. The Maclean Local Environmental Plan 1992 is amended:
 - a) by inserting at the end of the definition of "the map" in Clause 7(1) the following words:
"Maclean Local Environmental Plan 1992 (Amendment No. 7)"
 - b) by inserting after Clause 20, the following Clause:

Development Within Riverbank Erosion Areas

20A(1) This Clause applies to all land shown within the heavy dashed lines on the map marked Maclean Local Environmental Plan 1992 (Amendment No. 7) deposited in the office of the Council.

(2) The aims of this clause are as follows:

- a) to identify and protect areas adjacent to the Clarence River subject to a significant risk of river bank erosion;
- b) to restrict development in areas subject to an identified significant risk of river bank erosion; and
- c) to allow detailed provisions to be made by means of a development control plan for the control of development in areas subject to such river bank erosion.

(3) A person shall not carry out any work, subdivision or development, or erect any building or structure on land to which this clause applies, except with the consent of the Council.

(4) Within an area marked on the map by cross-hatching and bounded by a dashed heavy line, a person shall not carry out development for the purpose of erecting any building.

(5) Notwithstanding Clause 20A(4), within an area marked on the map by cross-hatching and bounded by a dashed heavy line, an existing building which has been destroyed partially through accident or damage caused by other than river bank erosion, may be repaired or rebuilt with the consent of the Council, if:

- a) the total floor area of the rebuilt or the repaired building is no greater than the total floor area before the damage occurred;
- b) where possible, the building is relocated at the time of rebuilding or repair to a position on the site as far as possible from the river bank erosion escarpment; and
- c) the repairs or rebuilding are carried out within twelve months of the date when the damage occurred.

If a building is destroyed totally, no rebuilding will be permitted.

(6) Within an area shown stippled on the map and bounded by a dashed heavy line, the Council shall not consent to the erection of any building or the carrying out of any work unless it has taken into consideration:

- a) the likelihood of the proposed development or work adversely affecting or being adversely affected by river bank erosion and flooding;
- b) the need to relocate buildings in the long-term;
- c) the need for development to be limited to a particular period;
- d) the nature, bulk and intensity of the proposed development;

- e) the provisions of any development control plan relating to development in this area;
 - f) whether adequate safeguards and measures have been or will be in place to protect the environment and mitigate the risk of property damage or loss of life as a result of river bank Erosion and flooding; and
 - g) satisfactory arrangements are made for access to the building or work during a flood or after river bank erosion.
- (7) A person may not carry out work to protect land to which this plan applies, from river bank erosion or flooding, without the consent of the Council.

ZONE INDEX

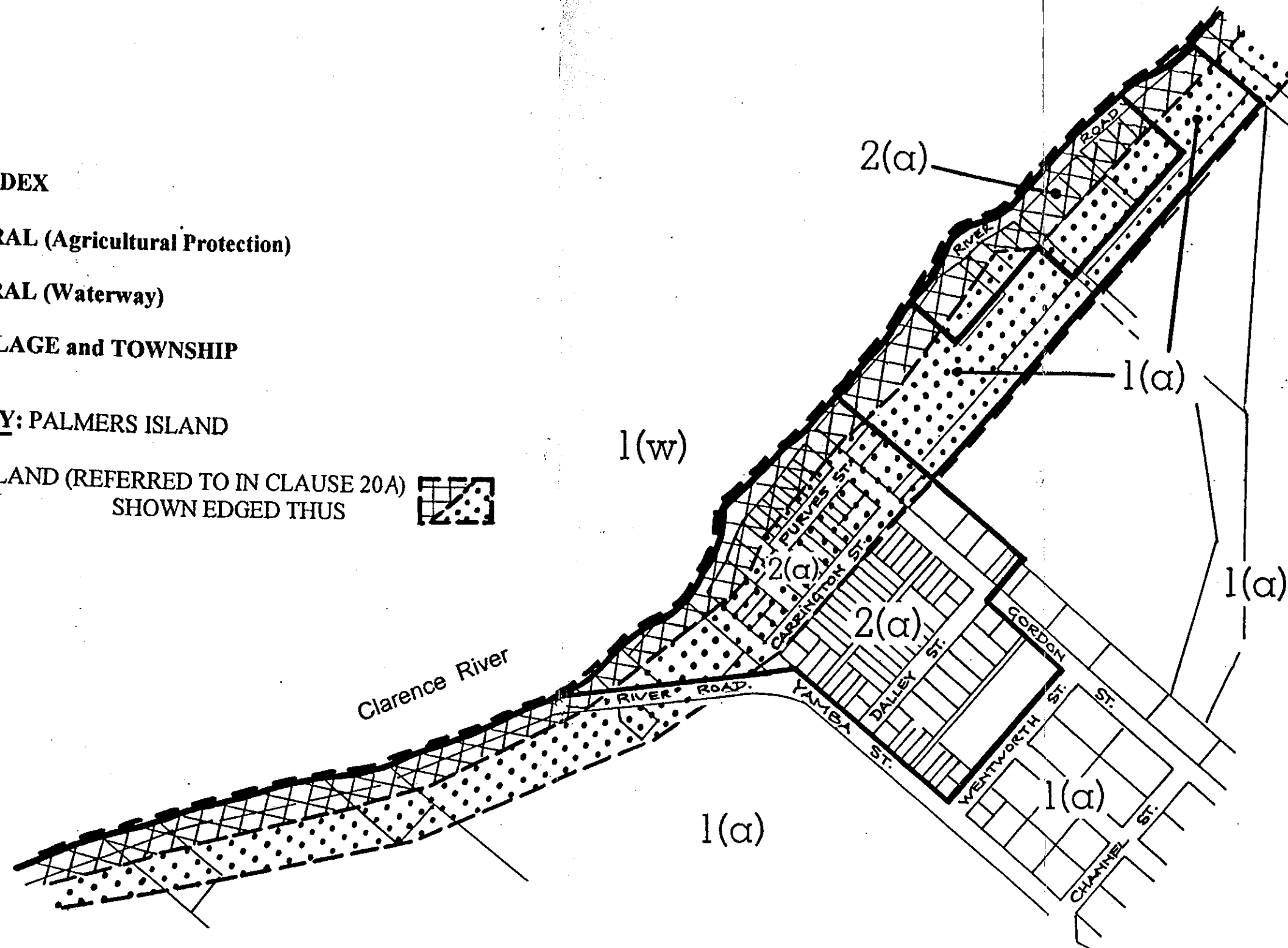
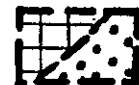
1(a) RURAL (Agricultural Protection)

1(w) RURAL (Waterway)

2(a) VILLAGE and TOWNSHIP

LOCALITY: PALMERS ISLAND

SUBJECT LAND (REFERRED TO IN CLAUSE 20A)
SHOWN EDGED THUS



STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMENDS MACLEAN LOCAL ENVIRONMENTAL PLAN 1992

CERTIFIED IN ACCORDANCE
WITH THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT
1979, AND REGULATIONS

GENERAL MANAGER

DATE:

NOTE:

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

DRAFT
MACLEAN LOCAL ENVIRONMENTAL PLAN 1992
(AMENDMENT NO 7)

LOCALITY: PALMERS ISLAND

DRAWN BY: J. Pickles SCALE: 1:5000

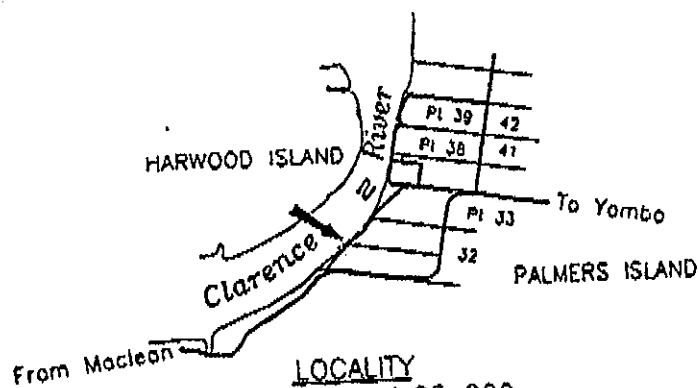
DATE: / /9

PLANNING OFFICER:

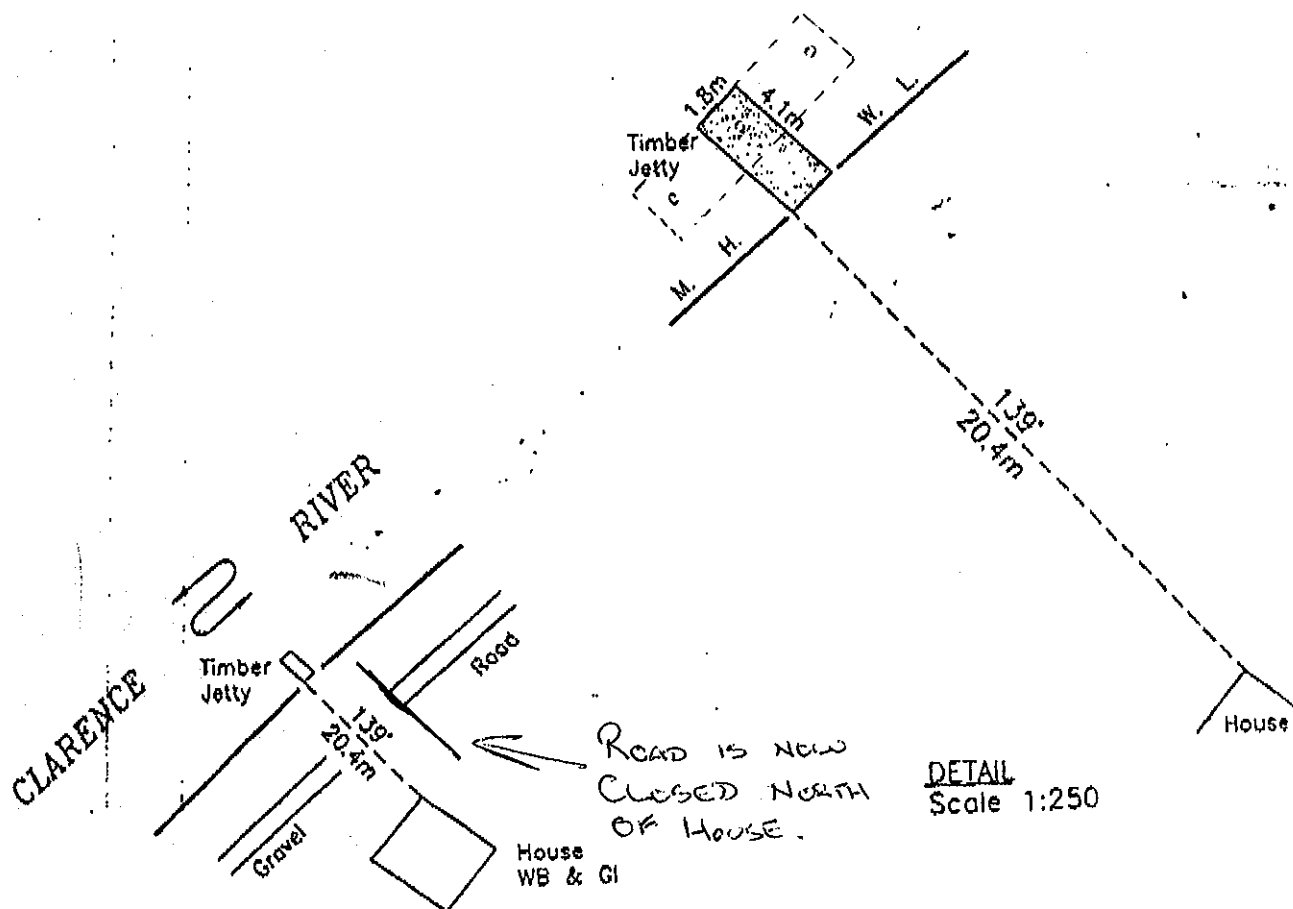
COUNCIL FILE NO.: DEPT. FILE NO:

GOVT. GAZETTE OF:

SCHEDULE 3



LOCALITY
Scale 1:25 000



DETAIL
Scale 1:250

LICENCE AREA
Jetty 7.38m²

LOT 1
D.P. 409477

<p>Diagram Showing</p> <p>Licence No: 201089</p> <p>Holder: I.R. & L.J. LEE</p> <p>Location: RIVER ROAD PALMERS ISLAND</p>	<p>Parish: TALOUMBI</p> <p>County: CLARENCE</p> <p>Council: MACLEAN</p> <p>District: GRAFTON</p> <p>Office: GRAFTON</p> <p>File No: GF94 H 428</p>	
<p>Metres 0 10 20 30 40 50 Metres</p> <p>REDUCTION RATIO 1:1000</p> <p>ALL MEASUREMENTS ARE IN METRES</p>	<p>Date Drawn: 15/3/1994</p> <p>Drawn From: PO DIAGRAM</p>	

APPENDIX B - Development Control Plan for Palmers Island Village

B.1.1 Citation

This policy, which may be cited as either "Maclean Council Development Control Plan No.....", or as "Maclean Council Palmers Island Village Riverbank Erosion Policy" constitutes part of a development control plan as provided for by section 72 of the Environmental Planning and Assessment Act, 1979.

B.1.2 Application

This policy shall apply to all land, both rural and urban, shown as being affected by erosion on the map in Appendix 1.

B.1.3 Objectives

The objectives of this plan are :

- To make provision for the orderly and economic development of land within the erosion zone of Palmers Island Village.
- To ensure that such development is carried out in a manner which does not adversely affect the riverbank erosion process and will not be adversely affected by riverbank erosion processes.
- To provide guidelines for the determination of the merits of development on lands subject to riverbank erosion as required by Section 90(1)(g) of the Environmental Planning and Assessment Act, 1979.

B.1.4 Definitions

In this policy, except in so far as the context or subject matter otherwise indicates:

Map mean Development Control Plan No..... Map titled "Land subject to Riverbank Erosion."

Immediate Management Line means the line shown on the map marking the extent of land considered to be under immediate threat from riverbank erosion.

100 year Management Line means the line shown on the map indicating that the land on the river side of that line may come under threat from riverbank erosion within 100 years.

Precinct 1 means that area between the river bank and the immediate management line.

Precinct 2 means that area between the immediate management line and the 100 year management line.

B.1.5 Development Application

In determining application for development on land which is the subject of this policy, Council will take into consideration all those matters listed under Section 90 of the Environmental Planning and Assessment Act, 1979, the North Coast Regional Environmental Plan, Maclean Council's Local Environmental Plan, State Environmental Planning Policies and the matters raised in this DCP.

B.2. DEVELOPMENT STANDARDS

B.2.1 Precinct 1 - Riverbank to the Immediate Management Line

Generally no buildings or works within this precinct other than fencing and those permitted by clause 2.4.

B.2.2 Precinct 2 - Between the Immediate Management Line and the 100 year Management Line

Development within this precinct will be considered on the understanding that any consent granted will be subject to the provision that should the riverbank come within 18 metres of any building then the development consent will cease.

If the development consent does cease then the owner of the land will be responsible for the removal of any or all buildings from the site at the owner's expense, or where possible, to a location on the site further than 18 metres from the riverbank.

Prior to lodging an application with Council, the developer of the land must determine whether buildings are to be relocated or demolished, should the consent cease.

Notwithstanding the above, all Class 1 residential buildings (dwelling-houses) must be relocatable (as defined in clause 3.1). Extensions to existing dwellings may also be required to be demountable, taking into consideration the additional floor space proposed and the likely effect of the extension on the ability of the building to be relocated in case of an emergency.

Section 3 lists the conditions of consent likely to apply to dwellings in this precinct.

B.2.3 Servicing

The provision of vehicular access, water, electricity, telephone and other services will be considered on the merits of each case. In principle, all services should be provided from the landward side of the development such that the building is between the services and the riverbank.

B.2.4 Rebuilding

This clause applies to Precinct 1 only.

Where an existing building is totally destroyed through accident or damage caused by processes other than riverbank erosion, no rebuilding will be allowed. This is to ensure that a new building is not erected in the area at highest risk of riverbank slip.

Where an existing building is partially destroyed through accident or damage caused by processes other than riverbank erosion, it is preferred that the building be demolished. However, where no building or development approval is required, the building may be repaired so that :

- (a) the total floor area of the rebuilt or repaired building is no greater than the total floor area before the damage occurred;
- (b) the repairs or rebuilding have no detrimental effect on the ability of the building to be relocated in an emergency; and
- (c) the repairs or rebuilding are effected within 12 months of the date when the damage occurred.

B.3. CONDITIONS

B.3.1 Conditions - Precinct 2

This clause lists the conditions of consent likely to apply to dwellings on land within Precinct 2. These conditions are imposed because of the possibility of riverbank erosion adversely affecting these dwellings within the next 100 years.

- (a) The dwelling-house will be designed and constructed so that it can be easily removed from the site by road vehicle. The plans of the building will include an adequate description of the removal process.
- (b) Further to subclause (a), at the time of submission of a building application, a certificate is to be provided from a practising structural engineer as to the adequacy of this building to be easily dismantled and readily removed from the site by road vehicle.
- (c) The dwelling shall be located so as to maximize as far as practicable the distance from the nearest point of the building to the riverside boundary of the site with due consideration given to subclause (a) above and to any relevant local government building regulations.
- (d) Subsequent to any approval being given for a relocatable dwelling, no works shall be carried out on the property which might hinder the ready relocation of the building. Such works might include the construction of wall, fences, screens, enclosures, brick veneering, landscaping or the fixing of joints or structural members by welding or other means.
- (e) A restriction as to user will be placed on the title pursuant to the provision of section 88B of the Conveyancing Act 1919, stating :

The subject land and any improvements erected thereon shall not be used for the purpose of (land use) in the event that the riverbank, as defined by Maclean Council from time to time, comes to within 18 metres of any building or any part thereof at any time erected on the said land.
- (f) This development consent shall cease if at any time the riverbank, as defined by Maclean Council comes to within 18 metres of any building associated with this development. The buildings shall then be removed by the owner of the land at the owner's expense.

APPENDIX C - Methodology for Monitoring Riverbank Recession

C.1 General Monitoring

A photographic and/or video record is to be kept of the condition of the riverbank, with a minimum annual inspection frequency. Following a major slip, a hydrographic survey and underwater inspection shall be undertaken at and adjacent to the slip and the effect on the Immediate Management Line (if any) and 100 year Management Line (if any) is to be determined. The precincts are to be redefined every 5 years unless there is a major slip, when a review is to be undertaken immediately as above. The 5 yearly review is to estimate the average rate of bank recession for the cross sections over the previous 5 years, and from this the “smoothed” Immediate Management Line and the 100 year Management Line are to be recalculated.

C.2 Following a significant flood event

A survey is to be undertaken following significant flood events, defined as an event equal to or exceeding a 10% AEP at the Maclean Flood Gauge, to establish whether there has been any scouring and/or steepening of the riverbank at Cross Sections 13, 13(a), 13(b), 13(c), 14 and 15. The following matters are also to be considered when assessing the condition of the riverbank following a significant flood:

- * The degree of riverbank erosion;
- * River behaviour;
- * Level of water table; and
- * Moisture content of soil above water table.

If the survey and tests indicate significant change, a slope/stability analysis shall be undertaken by experienced geo-technical consultants to examine the effect of the changed conditions. The results of these tests shall be conveyed to the Local Emergency Management Committee.