



D06/374

Mr Jim Mangleson
PO Box 6
MULLUMBIMBY NSW 2482

27 APR 2006

Dear Mr Mangleson

I refer to your letter of 3 February 2006 to the Hon Frank Sartor MP, Minister for Planning, concerning flood damage to residential properties in the Marshalls Creek area. Minister Sartor has referred your letter to the Hon Ian Macdonald MLC, Minister for Natural Resources, as the matter falls within Minister Macdonald's portfolio responsibilities. The Minister has asked me to respond on his behalf.

The Department of Natural Resources has investigated whether Byron Shire Council's management of flood risk in Marshalls Creek has caused flood damage to residential properties in the area.

The NSW Government Flood Prone Lands Policy aims to reduce the impact of flooding and flood liability on individual owners and occupiers, and to reduce public and private losses resulting from flooding. The Policy provides that this is to be achieved through the preparation and implementation of a floodplain management plan, and this is the role of local government councils.

Through Council's floodplain management committee, the Marshalls Creek Floodplain Management Plan (MCFMP) was completed in 1997. Since then, Council has been implementing some of the recommended measures contained in the Plan. I am advised that Council acted in good faith and in accordance with the Policy.

The measures you have suggested, such as dredging and ocean outlets, were considered in the 1995 Value Management Workshop and leading up to the preparation of the MCFMP. They were not adopted principally because of the potential to adversely impact on the environment, high maintenance costs and because flooding in Marshalls Creek could be made worse when offshore storms surge into the estuary and outlets.

There is a provision to review the MCFMP if a flood event greater than the 1 in 10 years level takes place. This occurred on 30 June 2005 when the biggest flood occurred in Marshalls Creek. Council has applied for funding in 2006/2007 to review the MCFMP.

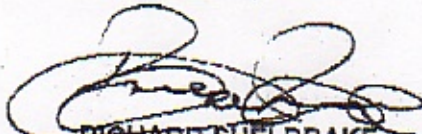
The Kallaroo Circuit Bund has a controversial and complex history. Council has been trying to redress the issue since its introduction in 1992 and in 1996 signed a deed of agreement with the Tweed Shire Council and the Mooball-Crabbes Creek Drainage Union to enlarge the waterway area under the Bund.

Council has twice been unsuccessful with Development Applications to proceed with the waterway enlargement. The flood of 30 June 2005 resulted in some damage upstream and downstream of the Bund. Opponents of the Bund have argued that Council may be liable in this instance, but this is essentially a matter for legal opinion and process. I understand that Council is addressing this matter.

The Department is continuing to work with Council to find a suitable solution to the Bund issue, as well as provide financial and technical assistance with review of the MCFMP.

Should you have any further enquiries in this regard, I invite you to contact the Department's Flood Manager, North Coast Region, Mr Toon Chin, on telephone no. (02) 6627 0111.

Yours sincerely



RICHARD SHELDRAKE
DIRECTOR GENERAL