



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr K Milne

**Councillors:** P Allsop  
R Byrnes  
C Cherry (Deputy Mayor)  
R Cooper  
J Owen  
W Polglase

# Agenda

## **Ordinary Council Meeting Thursday 15 December 2016**

held at Harvard Room, Tweed Heads Administration Building, Brett Street, Tweed Heads commencing at 5.00pm

# Principles for Local Government

The object of the principles for Tweed Shire Council, as set out in Section 8 of the Local Government Amendment (Governance and Planning) Bill 2016, is to provide guidance to enable council to carry out its functions in a way that facilitates a local community that is strong, healthy and prosperous.

## Guiding Principles for Tweed Shire Council

### (1) Exercise of functions generally

The following general principles apply to the exercise of functions by Tweed Shire Council:

- (a) Provide strong and effective representation, leadership, planning and decision-making.
- (b) Carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Work with others to secure appropriate services for local community needs.
- (h) Act fairly, ethically and without bias in the interests of the local community.
- (i) Be responsible employers and provide a consultative and supportive working environment for staff.

### (2) Decision-making

The following principles apply to decision-making by Tweed Shire Council (subject to any other applicable law):

- (a) Recognise diverse local community needs and interests.
- (b) Consider social justice principles.
- (c) Consider the long term and cumulative effects of actions on future generations.
- (d) Consider the principles of ecologically sustainable development.
- (e) Decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

### (3) Community participation

Council should actively engage with the local community, through the use of the integrated planning and reporting framework and other measures.

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## CONFIRMATION OF MINUTES

- 1 [CONMIN-CM] Confirmation of Minutes of Ordinary and Council Meetings held Thursday 17 November 2016

SUBMITTED BY: Corporate Governance

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## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
  - 1.2 Improve decision making by engaging stakeholders and taking into account community input
  - 1.2.2 Decisions made relating to the allocation of priorities will be in the long-term interests of the community
- 

The Minutes of the Ordinary and Confidential Council Meeting held Thursday 17 November 2016 are attached for information and adoption by Council.

### RECOMMENDATION:

That:

1. The Minutes of the Ordinary and Confidential Council Meetings held Thursday 17 November 2016 be adopted as a true and accurate record of proceedings of that meeting.
2. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (f) matters affecting the security of the council, councillors, council staff or council property.

**REPORT:**

As per Summary.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice Version 2.5.

**b. Budget/Long Term Financial Plan:**

Not applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Attachment 1	Minutes of the Ordinary Council Meeting held Thursday 17 November 2016 (ECM 4307313)
(Confidential) Attachment 2	Minutes of the Confidential Council Meeting held Thursday 17 November 2016 (ECM 4308203).

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**2 [CONMIN-EXT] Confirmation of the Extraordinary Meeting held Thursday 17 November 2016**

**SUBMITTED BY: Corporate Governance**

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## **Civic Leadership**

### **LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

- 1 Civic Leadership
  - 1.2 Improve decision making by engaging stakeholders and taking into account community input
  - 1.2.2 Decisions made relating to the allocation of priorities will be in the long-term interests of the community
- 

The Minutes of the Extraordinary Council Meeting held Thursday 17 November 2016 are attached for information and adoption by Council.

### **RECOMMENDATION:**

**That the Minutes of the Extraordinary Council Meetings held Thursday 17 November 2016 be adopted as a true and accurate record of proceedings of that meeting.**

**REPORT:**

As per Summary.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice Version 2.5.

**b. Budget/Long Term Financial Plan:**

Not applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

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Attachment 1

Minutes of the Ordinary Council Meeting held Thursday 17  
November 2016 (ECM4307060)

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**3 [CONMIN-CM] Confirmation of the Minutes of the Ordinary Council Meeting held Thursday 1 December 2016**

**SUBMITTED BY: Corporate Governance**

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**Civic Leadership**

**LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

- 1 Civic Leadership
  - 1.2 Improve decision making by engaging stakeholders and taking into account community input
  - 1.2.2 Decisions made relating to the allocation of priorities will be in the long-term interests of the community
- 

The Minutes of the Ordinary Council Meeting held Thursday 1 December 2016 are attached for information and adoption by Council.

**RECOMMENDATION:**

**That the Minutes of the Ordinary Council Meetings held Thursday 1 December 2016 be adopted as a true and accurate record of proceedings of that meeting.**

**REPORT:**

As per Summary.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice Version 2.5.

**b. Budget/Long Term Financial Plan:**

Not applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Attachment 1

Minutes of the Ordinary Council Meeting held Thursday 1 December 2016 (ECM 4335233).

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## SCHEDULE OF OUTSTANDING RESOLUTIONS

### 4 [SOR-CM] Schedule of Outstanding Resolutions

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## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
  - 1.2 Improve decision making by engaging stakeholders and taking into account community input
  - 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
- 

### CODE OF MEETING PRACTICE:

#### **Section 2.8 Outstanding Resolutions**

*No debate is to be allowed on Outstanding Resolutions. Any changes to or debate on Outstanding Resolutions should only be by way of a Notice of Motion or a report to Council.*

**16 JULY 2015**

### ORDERS OF THE DAY

#### **31 [NOM] Parking Requirements for Small Businesses**

**408**

**Cr K Milne**

**Cr P Youngblutt**

**RESOLVED** that Council brings forward a report on the issue of Council's requirements for parking for development approvals for new small business and intensified use of existing, or change of use, small business approvals, including but not limited to:

- a) Council's current requirements and the justification for these requirements,
  - b) The potential for these requirements to act as a disincentive for new or expanding small businesses,
  - c) Comparison of Council's requirements with other similar growth Councils requirements,
  - d) Options to alleviate the impost on small businesses such as eliminating, reducing or providing deferred payments,
  - e) Options to address the implications for Council or the community from the above.
-

**Current Status:** This requires a comprehensive amount of investigation and work and sits behind current priorities including Tweed Road Development Strategy - Traffic Study, which will inform the Tweed Road Contribution Plan and a revision of Development Control Plan (DCP), Section A5 - Subdivision Manual.

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**21 JULY 2016**

**REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES**

**16 [CNR-CM] Concept Plans and Estimates - South Murwillumbah**

**337**

**Cr W Polglase  
Cr P Youngblutt**

**RESOLVED** that:

1. Council receives and notes this report.
2. Council liaises with the business owners of South Murwillumbah to obtain a better outcome.

**Current Status:** Consultation will occur in early 2017 to inform the process subject to resources as the Landscape Architect is currently engaged with the Kingscliff foreshore and Tyalgum Community projects.

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**15 SEPTEMBER 2016**

**REPORTS FROM THE GENERAL MANAGER IN COMMITTEE**

**C1 [GM-CM] Murwillumbah Railway Station**

**C 29**

That Council:

1. Authorises the General Manager to enter into lease negotiations for the Murwillumbah Railway Station.
  2. A report be brought back to a future Council meeting which includes the terms and conditions of the future potential lease.
-

**Current Status:** Council officers have finalised and sent an Expression of Interest document to commence formal lease negotiations with NSW Transport.

The General Manager and Council officers attended an onsite meeting with NSW Transport on 7 December 2016 to further negotiate the lease provisions.

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## 15 SEPTEMBER 2016

### aC1 [GM-CM] Murwillumbah Airfield - Lease Negotiations

That Council:

- a) Bring forward a report investigating all development and leasing options available for the Murwillumbah Airfield; and
- b) Advise the potential lessee that the current lease negotiations for the western side of the Murwillumbah Airfield will be suspended until this report is determined by Council.

**Current Status:** Airport Projects have been appointed to undertake this investigation. They have commenced the background research and conducted a meeting with lessees and users at the Airfield on 7 November 2016. It is anticipated that the final report will be presented to Council by early 2017.

The potential lessee has been notified by letter and invited to participate in the discussions to assist the background research of the report.

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## 17 NOVEMBER 2016

### 10 [CNR-CM] Licence for Pottsville Men's Shed at Black Rocks

528

Cr R Cooper  
Cr K Milne

**RESOLVED** that:

1. The determination of the licence be deferred to a future Council meeting, and that Council:
  2. Notes the community's support of a Men's Shed in Pottsville and that Council writes an urgent letter to the State Member Geoff Provest requesting information related to the process by which Crown Lands has to date worked to help the Pottsville and District
-

Men's Shed (PDMS) to find a permanent home as per the Memorandum of Understanding (MOU) between Crown Lands and the Australian Men's Shed Association formulated in 2013, specifically requesting:

- a) A diagram identifying all potentially available Crown Lands in Pottsville.
- b) A copy of the assessment made as to the suitability of a permanent home for the PDMS for each of the sites identified.
- c) A list of the further sites that could be investigated for the purposes of a permanent home for the Pottsville and District Men's Shed and advice on the suitability of these sites.

**Current Status:** Inquiries into alternative sites currently being pursued.

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## MAYORAL MINUTE

### 5 [MM-CM] Mayoral Minute for November 2016

SUBMITTED BY: Cr K Milne, Mayor

Valid



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Civic Leadership
1.2	Improve decision making by engaging stakeholders and taking into account community input
1.2.2	Decisions made relating to the allocation of priorities will be in the long-term interests of the community

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## Councillors

### COMMITTEE MEETINGS

#### Attended by the Mayor

- 18 November NOROC AGM - Ballina Council Chambers, Corner Tamar and Cherry Streets, Ballina.
  - 22 November Destination Tweed Board Meeting and AGM - Peppers Board Room, Peppers Resort, Bells Boulevard Kingscliff.
  - 25 November Richmond Tweed Regional Library Governance Review - Murwillumbah Civic Centre, Tumbulgum Road, Murwillumbah. Cr Cooper also attended.
- 

### INVITATIONS / MAYORAL REPRESENTATION:

#### Attended by the Mayor

- 23 November Tweed Shire Youth Council - Murwillumbah Civic Centre, Tumbulgum Road, Murwillumbah. Crs Allsop and Owen also attended.
  - 24 November Northern Rivers Community Foundation Grant Giving Ceremony - Tweed Masonic Hall, 8 Boyd Street, Tweed Heads.
  - 25 November White Ribbon Day White Tie Ball - Twin Towns Services Club, 2 Wharf Street, Tweed Heads.
-

- 30 November Tweed Access and Inclusion Awards - Twin Towns Services Club, 2 Wharf Street, Tweed Heads. Crs Cherry and Owen also attended.

**Attended by other Councillor(s) on behalf of the Mayor**

- 27 November Kingscliff Triathlon - Foreshore Kingscliff Beach, Kingscliff. Cr Owen attended.

**Inability to Attend by or on behalf of the Mayor**

All invitations were accepted by the Mayor or attended by another Councillor on her behalf.

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**REQUESTS FOR WORKSHOPS:**

Councillors did not request any additional workshops during November 2016.

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**CONFERENCES:**

**Conferences attended by the Mayor and/or Councillors**

Councillors did not attend any conferences during November 2016.

**Information on Conferences to be held**

- 23-24 March National Sustainability in Business Conference - Brisbane QLD  
Renewable Energy Systems and Sources - Think Local First - Innovative Business Opportunities - The Energy Market - Trends, Policies and Strategies - Financial Impact - Innovation.  
Earlybird member registration \$750. One night's accommodation.  
<http://conference.sustainability.asn.au/>
  - 3-5 May Australian Coastal Councils Conference - Redcliff QLD  
The Australian Coastal Councils Conference is an important national event for representatives of local government, policy makers and researchers with a stake in the future of the Australian coastal zone and communities. This successful annual event is programmed to be informative and topical with high quality speakers.  
Super earlybird registration \$990. Two night's accommodation.  
[www.coastalcouncils.org.au/conference](http://www.coastalcouncils.org.au/conference)
-

**SIGNING OF DOCUMENTS BY THE MAYOR:**

- 24 November Transfer - Land Acquisition - 141 Lone Pine Road Doon Doon.
  - 24 November Request Document - Land Acquisition - Machinery Drive Tweed Heads South.
- 

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice Version 2.5.

**b. Budget/Long Term Financial Plan:**

Appropriate expenditure is allowed for attendance by Councillors at nominated conferences, training sessions and workshops.

**c. Legal:**

Not applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**RECOMMENDATION:**

**That:**

1. The Mayoral Minute for the month of November 2016 be received and noted.
  2. The attendance of Councillors at nominated Conferences be authorised.
- 

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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## RECEIPT OF PETITIONS

### 6 [ROP-CM] Receipt of Petitions

SUBMITTED BY: Corporate Governance

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## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
  - 1.2 Improve decision making by engaging stakeholders and taking into account community input
  - 1.2.2 Decisions made relating to the allocation of priorities will be in the long-term interests of the community
- 

### SUMMARY OF REPORT:

Under Section 1.5.4 Receipt of Petitions in the Code of Meeting Practice Version 2.5:

*Petitions received by Councillors or forwarded to the (Acting) General Manager will be tabled as per the Order of Business, Item 11, Receipt of Petitions.*

*Unless Council determines to consider it in conjunction with a report already listed on the agenda, no motion (other than a motion to receive the same) may be made on any petition until the next Ordinary Meeting after that at which it has been presented.*

### RECOMMENDATION:

**That the following tabled Petition(s) be received and noted:**

- **Petition from the residents of Kingscliff containing 19 signatures advising:**

*"This submission is long overdue, actually it has been written a couple of times over the years and then been shelved, hoping that Council would address the issue of its own accord.*

*We and our long suffering neighbours feel neglected and disadvantaged by Council regarding lack of pruning and maintenance of the trees in Shell Street and surrounding the Merv Edwards and Reg Dalton fields in Kingscliff North, particularly the Cadaghi for the last 20 years especially in the last 10. Well over 250 trees surround the fields and there are approximately 100 planted on the south side of the sports fields.*

*The Northerly winds start around August and continue for several months. During this time there is a continual tide of leaves, bark and branches being blown across the road*

*(Shell Street) into the gutters, footpaths, yards and gardens. They travel down Sand, Eddy, Yao and Kingscliff Streets and at times all the way to Terrace Street.*

*This complaint is not about the existing Park staff who maintain the sports fields, many of these leaves are on or across the road, in yards, driveways, roofs and guttering before they land.*

*We are not anti-tree, however all trees benefit from proper and careful pruning. Of the 100 or so trees in Shell Street, our main concerns relate to the approximately 20 *Corymbia toreliana* (Cadaghi). These trees only seem to occur on Council land as the average householder/gardener would regard them as an undesirable pest or weed.*

*We acknowledge that Council has on several occasions pruned the lower branches to dissuade children from climbing but this has resulted in taller, leafier trees. Some specimens are more than 30 metres tall.*

*The leaves block gutters, gutterings, down pipes, pool filters and vacuum cleaners. They cover lawns, patios, paths, gardens and driveways. They collect against garage doors and blow in en masse when doors are being opened. They pile up against walls and particularly in corners, creating a haven for vermin as well as a fire hazard. Branches are constantly falling, creating a hazard for players, spectators and parked vehicles when cricket, hockey, soccer, Austag and training for sports are on.*

*At times each Shell Street household could spend 3-4 hours per week sweeping, raking, collecting and disposing of these leaves. Just mowing in front of my fence, will half fill my green bin with compressed leaf and bark litter. After finishing the lawns the bin is full and I still have one and a half weeks of leaf collection until the bin is emptied.*

*We purchased a mulching vacuum, however due to the harsh nature of the leaf, the mulched leaf litter is of no recycled value (if it was it would be worth a fortune).*

*We recently spent \$1,500 replacing a section of guttering at the rear of our house, the entire gutter was previously replaced and brand new after the storm in 2002, this guttering only lasted 14 years. We have also spent \$200 on gutter guard to try and avoid a recurrence of this problem.*

*We have several neighbours in their 70s and 80s, these people (as well as us) should not be up on ladders clearing gutterings and down pipes nor should they be raking and sweeping leaves in the sun.*

*Due to the trees being easily viewed on Google Maps, our house insurance is increased because we are in a likely Bush Fire Zone.*

*My suggestions for possible options to rectify this problem include:*

- Complete removal of some of the larger trees and replanting with more environmentally and resident friendly substitutes; AND/OR*
- Pruning back to at least a third of their existing height and regular maintenance; AND/OR*
- Providing an extra Green Bin at no fee and you could refund a third of the money we have paid to collect your rubbish over the last 20 years; AND/OR*

- *Provide Council labour to collect and dispose of the litter and debris from gutters and footpaths weekly in the windier months; AND/OR*
- *Provide a mechanical street sweeper on a nominated day during the windy months so that we could put most of the leaves out for collection.*

*Please address your duty of care to your ratepayers and residents and attend to this matter sooner rather than later before someone gets hit by a branch or there is a fire caused by collected leaf matter and debris from these trees. Unfortunately, as the trees grow unchecked and we grow older, our workload is increasing every year."*

**REPORT:**

As per Summary

**OPTIONS:**

That in accordance with Section 1.5.4 of the Code of Meeting Practice Version 2.5:

1. The tabled Petition(s) be considered in conjunction with an Item on the Agenda.
2. The tabled Petition(s) be received and noted.

**CONCLUSION:**

Any Petition tabled should be considered under Section 1.5.4 of the Code of Meeting Practice Version 2.5.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice Version 2.5.

**b. Budget/Long Term Financial Plan:**

Not Applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Consult**-We will listen to you, consider your ideas and concerns and keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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## REPORTS THROUGH THE GENERAL MANAGER

### REPORTS FROM THE GENERAL MANAGER

#### 7 [GM-CM] Destination Tweed Quarterly Report - July to September 2016

**SUBMITTED BY:** Economic Development

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## Strengthening the Economy

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

3	Strengthening the Economy
3.1	Expand employment, tourism and education opportunities

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### SUMMARY OF REPORT:

As required by the current funding and performance agreement with Destination Tweed, a quarterly performance report and summary financial statement are to be provided for Council's review.

This report provides Destination Tweed's quarterly reports for the July to September 2016 quarter.

### RECOMMENDATION:

**That Council:**

- 1. Receives and notes the Destination Tweed's Quarterly report for the July to September 2016 quarter & notes the accompanying officer comments within the body of this report.**
- 2. Endorses payment of the quarterly contract instalment in accordance with contract AC2010-073 Provision of Services for Economic Development Tourism Promotion.**
- 3. ATTACHMENTS 2 & 3 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.**



**REPORT:**

As required by the current funding and performance agreement with Destination Tweed, a quarterly performance report and summary financial statement are to be provided for Council's review. This report provides Destination Tweed's quarterly report for the July to September 2016 quarter. The quarterly report is an attachment to this Council report.

**OPTIONS:**

This report to Council presents Destination Tweed's quarterly report for the July to September 2016 quarter, which is required as part of their contract. The options available to Council are:

1. **Receive and note this Quarterly Report** – In receiving Destination Tweed's Quarterly Report Council acknowledges the work performed by Destination Tweed and agree to process payment of the contract instalment in accordance with AC2010-073 Provision of Services for Economic Development Tourism Promotion contract; or
2. **Does not receive and note this Quarterly Report** - If Council is not satisfied with the progress Destination Tweed has made in achieving the milestones identified in their funding contract and the agreed Business Attraction Marketing Strategy and the Tourism Marketing Strategy then it would be prudent to postpone the endorsement and commence discussions with the Board of Destination Tweed regarding the project.

**CONCLUSION:**

It is recommended that Council receives and notes the July to September 2016 quarterly report from Destination Tweed and endorses the quarterly payment.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable.

**b. Budget/Long Term Financial Plan:**

This report is submitted by Destination Tweed along with their quarterly invoice for payment under the current funding agreement.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

- Attachment 1. Destination Tweed Quarterly Report for July to September 2016 (ECM 4310787)
- (Confidential)* Attachment 2. Destination Tweed Financial Report July to September 2016 (ECM 4310789)
- (Confidential)* Attachment 3. Destination Tweed Annual Works Program 2016 – 2017 (ECM 4310788)
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**8 [GM-CM] Telecommunications Infrastructure on Council Land**

**SUBMITTED BY: General Manager**



**Strengthening the Economy**

**LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

- 3 Strengthening the Economy
  - 3.1 Expand employment, tourism and education opportunities
- 

**SUMMARY OF REPORT:**

Over the years Council has been approached by licenced telecommunications carriers to locate mobile phone and other infrastructure on Council owned land or assets. It can become rather difficult to envisage the full implications of such infrastructure being located in these locations.

This draft Policy would require the carriers to provide Council with specific details of the proposed infrastructure before owners consent is granted on a development application.

This report recommends that the draft Policy be placed on public exhibition.

**RECOMMENDATION:**

**That Council places the draft Telecommunications Facilities on Council Owned Land Policy on public exhibition for a period of 28 days with submissions to be received for a period of 42 days.**

## **REPORT:**

Over the years Council has been approached by licenced telecommunications carriers to locate mobile phone and other infrastructure on Council owned land or assets. It can become rather difficult to envisage the full implications of such infrastructure being located in these locations. These locations typically include parks, sports fields and water towers.

The use of these lands or assets is provided under lease which can generate a return to Council. However these leases typically require the carrier access to their assets for maintenance and upgrade works. There have been situations where access to other Council assets has been hindered by the presence of the telecommunications infrastructure.

By requiring the carriers to provide Council with full specifications and impacts of the proposed infrastructure then a better informed decision can be made in respect of the proposed location.

This draft Policy only relates to telecommunications towers operated by a licenced mobile phone carriers.

If the infrastructure is acceptable then this draft Policy would issue owners consent on a development application. This will simply then allows the carrier to lodge the development application with the relevant consent authority for a full environmental assessment and public exhibition if required. This draft Policy should not be seen as a mechanism to prevent the development of telecommunications infrastructure. This process will be undertaken through the development application process which is governed by the Environmental Planning and Assessment Act.

The draft Policy would delegate the authority to issue owners consent to the General Manager. This delegation in no way would fetter Council's role as planning authority. The draft Policy specifically states;

*Any owner's consent arising from this Policy will entitle the applicant to lodge a development application over Council owned land. In no way does this fetter Council's statutory role as planning authority over the parcel of land. This role will be undertaken independently by Council's Planning and Regulation Division. The General Manager will not be involved in the determination of the Development Application.*

## **OPTIONS:**

Council has two options available:

1. Place the draft Policy on public exhibition; or
2. Not proceed with the draft Policy.

## **CONCLUSION:**

This report recommends that Council place the draft Telecommunications Facilities on Council Owned Land Policy on public exhibition in accordance with the Local Government Act.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable.

**b. Budget/Long Term Financial Plan:**

Not Applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1.

Draft Telecommunications Infrastructure on Council Owned  
Land (ECM 4272361)

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## REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 79C 79C Evaluation

(1) Matters for consideration-general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
- (iii) any development control plan, and
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979 ),

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

**Note:** See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

The consent authority is not required to take into consideration the likely impact of the development on biodiversity values if:

- (a) the development is to be carried out on biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995 ), or
- (b) a biobanking statement has been issued in respect of the development under Part 7A of the Threatened Species Conservation Act 1995 .

- (2) Compliance with non-discretionary development standards-development other than complying development If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:
- (a) is not entitled to take those standards into further consideration in determining the development application, and
  - (b) must not refuse the application on the ground that the development does not comply with those standards, and
  - (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

and the discretion of the consent authority under this section and section 80 is limited accordingly.

- (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:
- (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 80 is not limited as referred to in that subsection, and
  - (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

**Note:** The application of non-discretionary development standards to complying development is dealt with in section 85A (3) and (4).

- (4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.
- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).
- (6) Definitions In this section:
- (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
  - (b) "non-discretionary development standards" means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

**9 [PR-CM] Development Application DA16/0355 for a 60 Lot Subdivision at Lot 1 DP 779976 No. 26 Tringa Street, Tweed Heads West**

**SUBMITTED BY: Development Assessment and Compliance**

Validms



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Civic Leadership
1.2	Improve decision making by engaging stakeholders and taking into account community input
1.2.1	Council will be underpinned by good governance and transparency in its decision making process

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### SUMMARY OF REPORT:

The application seeks approval for subdivision to create 59 residential allotments and one residual lot, and includes major earthworks and site filling, the construction of substantial stormwater drainage infrastructure both on and off site, installation of all required services, construction of the internal circular road network and external road connections.

The application as submitted was deficient in information. Following a request for further information, the application remains considerably deficient in technical detail, failing to demonstrate acceptable compliance with respect to earthworks; stormwater treatment and discharge; the ability to provide sewer and water infrastructure that meets Council specifications; impacts on existing Council infrastructure and acceptable internal road widths.

On merit considerations, the proposed residential subdivision conflicts with the key aims and objectives of the Tweed Local Environmental Plan 2014 (TLEP 2014), Council's primary planning instrument, and has failed to adequately address the objectives of other key clauses within that plan.

In particular, the application does not adequately address the primary objective of Clause 7.9 of TLEP 2014 which is to *prevent certain noise sensitive developments from being located near the Gold Coast Airport and its flight paths*. The Australian Standard 2021-2015 clearly states that houses are an unacceptable noise sensitive development on land identified as within greater than 25 ANEF contour. The application defaults to the provision of attenuation measures through future dwelling construction to achieve indoor sound levels as a suitable solution. This would require:

- Minimising glazing area (windows);
  - Windows and doors are assumed to be closed to achieve the required internal noise levels, therefore mechanical ventilation/air conditioning systems would be required to each habitable room.
-



- Where windows occur, they are to be double glazed (up to 10.38mm thick) with cavities between glazing panels and acoustic grade seals;
- Clay brick external walls with upgraded in-wall cavity insulation, and additional layers of sound grade plaster board sheeting;
- Compulsory roof void with upgraded in-roof insulation, and additional layers of sound grade plasterboard; and
- An individual Noise Level Impact Assessment for every future dwelling both at development application stage and again prior to occupation certificate.

This alternative solution is not deemed acceptable at such a large scale (i.e. 59 lots) from a sustainability, affordability or energy efficiency perspective. It would also complicate and make more expensive the dwelling approval process for future buyers.

The Gold Coast Airport has provided advice to Council that the assessment aircraft type that overflies the majority of Tweed Shire residential areas on a regular basis every day is the B737-800. The level of noise generated by this aircraft (90dB) is likely to adversely affect outdoor recreation activities and the enjoyment of outdoor living spaces. Given normal conversation is between 63-64 dB, the noise of the aircraft in this location essentially causes conversations to cease. This is considered an unacceptable outcome for a new residential subdivision, particularly one proposing low density residential development which requires provision of minimum landscaping and outdoor living areas.

Further, the Tweed is located in a sub-tropical region with a climate that encourages outdoor recreation in backyards and outdoor living areas for most of the year. The provision of measures to combat noise exclusively in the indoor environment does not support this lifestyle option.

To facilitate the development, all Potential Koala Habitat and isolated mature remnant preferred Koala Food Trees need to be removed. The proposal fails to demonstrate how koala habitat recovery is to be achieved in accordance with the adopted *Tweed Coast Comprehensive Koala Plan of Management 2015* (TCCCKPoM), including omission of a habitat offset proposal in accordance with the relevant provisions of the plan. The applicant has relied on legal advice pertaining that the TCCCKPoM cannot lawfully be used to require offsetting. Despite ongoing advice and request from Council Officers:

- The development design has not been altered to allow for the retention and protection of Preferred Koala Habitat and Preferred Koala Food Tree/s on site; and
- Neither onsite or offsite (or combination of these) offsetting as a variation under section 5.12 was proposed.

On this basis the proposed development fails to comply with Part 5 of the TCCCKPoM and the overall objectives of the plan.

Unacceptable discharge of untreated stormwater runoff to Cobaki Creek, an environmental sensitive area identified under State Environmental Planning Policy 14 Coastal Wetlands, is also apparent. The application lacks owners consent for proposed works on Council land and has failed to provide a master plan (or waiver) as required under State Environmental Planning Policy 71 Coastal Protection.

The proposal was advertised with five submissions received from adjoining residents objecting to the application. Gold Coast Airport Pty Ltd also submitted a strong objection stating *“Due to the severe level of affectation of the site by aircraft noise, GCAPL considers that the site is entirely unsuitable for development of residential premises, and that the application should be refused and an alternative land use selected.”*

The site is currently zoned R2 Low Density Residential and subdivision is permissible with consent. On its creation in 1988, the land was zoned for urban expansion given its location on the urban fringe. It retained its residential zoning by default through transitions to Council’s 2000 and 2014 planning schemes. It is imperative to note that retention of zoning by virtue of transitioning planning schemes over time is not in itself an endorsement or acknowledgement of the appropriateness of the zone for a site or wider locality, or a reflection of the true capability of the land for a given use when measured against present day standards. The Tringa Street locality is one such example of an historic zoning anomaly that purports the use of land arguably well beyond its environmental capability. Furthermore, a zoning per se does not impose or create a legal entitlement to a land use or development intensity that is permissible only with development consent.

In summary, there are concerns that residential subdivision of the subject site would result in an end product which is inconsistent with the overarching planning objectives and corresponding vision for growth in the Tweed, which include encouraging development that incorporates the principles of sustainability in design, materials and lifecycle.

The various plans, technical polices and guidelines of Tweed Shire Council exist to guide development towards achieving high quality neighbourhoods. Ultimately, Council Officers are concerned that the proposed development would result social, environmental and economic issues attributable to a poor planning solution for the site in relation to land use conflicts, by permitting residential housing in close proximity to major infrastructure such as the Gold Coast Airport along with adjacent industrial land and the Tweed Wastewater Treatment Plant.

For the above reasons and those further outlined in this report, it is recommended the application be refused.

**RECOMMENDATION:**

**That:**

1. **ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
  - (g) **advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.**
2. **Development Application DA16/0355 for a 60 lot subdivision at Lot 1 DP 779976 No. 26 Tringa Street, Tweed Heads West be refused for the following reasons:**
  1. **The proposed development conflicts with aim (j) of the Tweed Local Environmental Plan 2014 by failing to provide special protection and suitable habitat for the recovery of the Tweed coast koala.**

2. The proposed development conflicts with aim (a) of the Tweed Local Environmental Plan 2014 in regards to giving effect to the desired outcomes and actions of Council's adopted Tweed Coast Comprehensive Koala Plan of Management.
  3. The proposed development conflicts with aims (c) of Tweed Local Environmental Plan 2014 in regards to management of Tweed's natural waterways.
  4. The proposal fails to demonstrate how the objectives of Clause 7.9 of the *Tweed Local Environmental Plan 2014* have been satisfied in regards to preventing an increase in the number of people and dwellings subject to aircraft noise.
  5. The application fails to articulate how the objectives and development standards of the following clauses of the *Tweed Local Environmental Plan 2014* have been met:
    - Clause 5.5 Development within the Coastal Zone
    - Clause 7.2 Earthworks
    - Clause 7.6 Stormwater Management
    - Clause 7.10 Essential Services
  6. The applicant has failed to provide sufficient development design details to enable comprehensive assessment of the proposal's compliance with Council's subdivision design specifications with respect to infrastructure provision, flooding and stormwater management.
  7. The proposed development fails to demonstrate compliance with the Tweed Development Control Plan Section A5 Subdivision Manual with respect to the treatment and discharge of stormwater.
  8. The proposal fails to satisfy the matters for consideration under State Environmental Planning Policy No. 71 Coastal Protection with respect to the suitability of the site, measures to conserve animals (koalas) and the likely impacts of the development on the water quality of coastal water bodies (Cobaki Broadwater).
  9. The proposed development is inconsistent with the Council endorsed Coastal Zone Management Plan for Cobaki and Terranora Broadwater that highlights improving the quality of urban stormwater discharge as a key priority.
  10. The proposal is inconsistent with the intentions and directions for appropriate development of the site contained within Council endorsed strategic planning documents including the Tweed Employment Lands Strategy 2009.
  11. The proposal has not adequately responded to the site's ecological features or proposed adequate mitigation measures and would thus result in an unacceptable ecological impact.
-

12. The site is not deemed suitable for residential development due to conflicting surrounding land uses.
13. Residential development on the subject site is deemed unacceptable under Australian Standards 2021-2015.
14. The proposal would result in unacceptable environmental impacts on Cobaki Broadwater due to untreated stormwater discharge.
15. The proposal fails to demonstrate that the site is suitable for residential development with respect to contamination.
16. The proposal fails to articulate how future dwellings could be suitably designed to respond to both indoor sound requirements and acceptable design with respect to solar access, natural ventilation and liveability.
17. Land owners consent has not been provided for works outside the subject site.
18. Approval of the proposed development would set unwarranted precedent for future subdivision and increased population densities within proximity to the Gold Coast Airport which would undermine the Tweed Local Environmental Plan 2014 in regards to Clause 7.9.
19. The proposal is not in the public interest given its failure to demonstrate suitable compliance with Council's plans and policies which would result in an undesirable residential subdivision.

**REPORT:**

**Applicant:** Urban Base  
**Owner:** ACN 169 913 259 Pty Ltd  
**Location:** Lot 1 DP 779976 No. 26 Tringa Street, Tweed Heads West  
**Zoning:** R2 - Low Density Residential  
**Cost:** \$2,613,000

**Background:**

Proposed Development:

The application before Council seeks approval to subdivide Lot 1 DP 779976 No 26 Tringa Street, Tweed Heads West to create 59 residential allotments and one residual lot for the dual purposes of stormwater drainage and casual open space. Works to facilitate the proposed subdivision would include:

- Clearing of all vegetation on site;
- Filling of the site by approximately 2m to achieve minimum floor levels for flood mitigation;
- Construction of an internal road network consisting of a circular road, central road and two connection roads to Tringa Street and Marian Street;
- Construction of pedestrian footpaths within the road reserve throughout the subdivision;
- Construction of substantial on site stormwater drainage infrastructure;
- Construction of substantial off site overland drainage infrastructure within Council owned operational and community land to the west of the site and within the Tringa Street road reserve;
- Relocation of the existing driveway access to a neighbouring allotment to facilitate construction of stormwater infrastructure;
- Installation of all required essential services including sewer drainage and water supply infrastructure, underground telecommunications and electricity supply to all proposed new lots.

The proposal does not include the design or construction of dwellings on the newly created lots. These would be subject to future individual development assessment and approval.

The subdivision would result in a low density residential environment, with Lots 1 – 58 ranging from 450m<sup>2</sup> to 637m<sup>2</sup> and intended for single dwelling houses. Proposed Lot 59 is 6637m<sup>2</sup> in area with a defined 455m<sup>2</sup> building envelope in its south eastern corner. Lot 59 encompasses for the most part land that is sterilised from residential development due to buffer requirements to adjoining land uses. Proposed Lot 60 is 5920m<sup>2</sup> and would be developed into a public park to be dedicated to Council.

The proposal is identified as Integrated Development with approval required under Section 100B of the Rural Fires Act 1997. General Terms of Approval have been provided to be included on any consent should it be granted.

On 28 November 2015 the applicant attended a pre lodgement meeting with the Development Assessment Panel (DAP) to discuss the proposed development. It was highlighted at that meeting that the site is heavily constrained by physical and environmental

characteristics that would require consideration on merit and would likely be determining factors in respect to any determination. Council Officers also emphasised that whilst residential subdivision is permissible by definition, it is not an assumed entitlement.

The proposal as submitted on 28 April 2016 was deficient in information. Initial meetings and further discussions with the applicant resulted in the provision of additional information, predominately relating to koala habitat assessment and the provision of public park space within the subdivision. Preliminary assessment and extensive meetings between Council's internal divisions resulted in a comprehensive Council response being issued on 26 August 2016. The letter highlighted:

- Extensive habitat offsetting is required to satisfy the provisions of the Tweed Coast Koala Plan of Management. The level of offsetting likely to be required would be very difficult to achieve, taking considerable time to negotiate, prepare and confirm;
- The location of the site is considered unsuitable for residential development due to adjoining and nearby land uses, particularly proximity to the Gold Coast Airport, Industrial land and Tweed Heads Wastewater Treatment Plan; and
- The application should be withdrawn as it is unlikely to receive a favourable consideration.

Acknowledging that no previous formal response had been given the applicants were further advised that, should they wish to pursue the application, there were numerous items of further information that would be required for a proper assessment to take place.

The applicant advised that they did wish to proceed with the application, and on 1 November 2016 a response to Council's Request for Further Information was received which included additional information that addressed many of the outstanding issues, and legal advice pertaining that the TCKKPoM cannot lawfully be used to require offsetting for the clearing of preferred koala habitat. No offsetting has therefore been proposed. This legal advice in included as Attachment 1 to this report.

It should be noted that, despite the provision of additional information, the application remains deficient with respect to numerous key issues. The application has been assessed on the level of information provided to date.

### Compliance issues

On Tuesday 2 August, Council was informed by the applicant that damage to trees on site had been identified.

A site visit by Council Officers on the 17 August 2016 confirmed that a large number of remnant native trees (approximately 60 trees) occurring across the site exhibited drill holes (approximately 10 mm in diameter) on the lower trunk of the trees. A number of trees that had been drilled showed signs of decline (i.e. leaf fall, canopy dieback). The types and estimated number of trees that appear to have been drilled are as follows:

- *Melaleuca quinquenervia* (Broad-leaved Paperbark) - 55 trees ranging in size from 200 mm diameter at breast height (dbh) to 1200 mm dbh
- *Casuarina glauca* (Swamp Oak) – 5 trees ranging in size from 400 mm dbh to 500 mm dbh

The drilled trees were mapped and recorded.

With reference to the *Tweed Local Environmental Plan 2014* and associated *Tweed Development Control Plan – Section A16 Preservation of Trees or Vegetation* all trees described above that exhibit drill holes qualify as prescribed vegetation.

A permit under Development Control Plan A16 is required to carry out vegetation clearing (injure or wilfully destroy vegetation) of prescribed vegetation. A search of Council records failed to return evidence of a permit being issued for vegetation management works on the site.

In order to progress Council's investigations into the abovementioned matter the registered land holder was sent a letter on the 28 October 2016 requesting that the following information be provided:

1. Details of who was responsible for the drilling of the trees, confirm whether herbicide was applied to the drill holes and state the reason/purpose of the activity.
2. Provide to Council an arborist assessment report appraising of the health and vigour of the trees including a diagnostic of trees experiencing decline:
  - a. Predicted response of trees to any arborist measures that may be necessary to improve tree health and vigour of the trees in light of the current activity; and
  - b. Recommendations for future tree management.

Furthermore the letter:

- Gave notice that Council shall undertake a further scheduled site inspection within four weeks of the date of the letter to assess the health of the trees;
- Advised that the register land owner refrain from any vegetation management activity on the subject site until this matter has been resolved; and
- Noted that the activity may be referred to the NSW Office of Environment and Heritage under the provisions of the *Threatened Species Act 1995* for the harm/damage of an Endangered Ecological Community upon further investigations.

A response to Council's letter has not been received from the registered landholder. The matter remains under investigation.

### Site Details

The subject site is an irregular rectangle with an area of approximately 5.504 hectares. It is zoned R2 Low Density Residential. It is low lying (between 1 and 2m AHD) and virtually flat, with locally gentle slopes as a result of historic uncontrolled earthworks and stockpiling of material. It is currently undeveloped, with stored machinery items and shipping containers scattered throughout the site. A significant portion of the site is cleared however remnant stands of vegetation remain along with numerous large eucalyptus trees identified as Hollow Bearing and Significant Habitat trees.

The site has access to various points of service infrastructure; Council's reticulated water supply and sewer infrastructure terminates near the property boundary in both Tringa and Marian Streets; an existing overhead electricity line is located in Marian Street and extends within the subject site; and telecommunications services via Telstra infrastructure are in

place at the property boundary. A 300mm sewer rising main intersects the north western corner of the site.

Access to the site is via Tringa Street on the western side or Marian Street in the south eastern corner, with Gray Street and Limosa Road providing vehicular connection through to Kennedy Drive. The site has good access to the Pacific Highway, local neighbourhood shopping facilities and is within reasonable walking distance to public transport routes.

Adjacent land uses are many and varied. Long standing residential development bounds the site to the west and south displaying a mix of older style single residences and multi dwelling developments on traditionally large lots ranging from 700m<sup>2</sup> to 3000m<sup>2</sup>.

The Tweed Heads Wastewater Treatment Plant (WWTP) and Council Depot site is located directly to the north, with plant and infrastructure separated from the boundary of the subject site by approximately 50m of vegetated land including the Hakea Drive unformed road reserve.

The adjoining site to the north west is zoned for industrial use. Whilst currently vacant, a construction certificate was issued in February 2015 to begin works for an approved (and legally commenced) 37 lot industrial subdivision. The approved permanent vehicle access for the industrial subdivision is via Hakea Drive, which runs parallel and adjacent to the northern boundary of the subject site.

The southern end of the Gold Coast Airport runway is less than 1 kilometre to the north, separated from the northern boundary of the site by the WWTP and Tweed Heads Pony Club land.

The foreshore of Cobaki Creek is 500m to the west and Terranora Creek is located 250m to the south. Both these waterways are identified as environmentally sensitive SEPP 14 Coastal Wetlands and drain into the wider Cobaki and Terranora Broadwater. Council owned operational land links the northern western corner of the site to Cobaki Creek.

Notwithstanding the variety and complexity of adjoining land uses, the site itself is heavily constrained with respect to development potential. It is low lying and susceptible to flooding thus requires significant site works and filling to achieve the design flood level. It is mapped as bushfire prone; affected by Class 2 Acid Sulfate Soils; within the 30-35 Australian Noise Exposure Forecast (ANEF) contour for aircraft noise; contains identified preferred koala habitat, identified preferred koala food trees, identified Endangered Ecological Communities, significant Hollow Bearing habitat trees; and there is a high likelihood of occurrence of numerous threatened fauna species including the Bush Stone Curlew, three species of Micro Bat and the Little Lorikeet.



SITE DIAGRAM



**Site Diagram**  
**Lot 1 DP 779976**  
**26 Tringa Street Tweed Heads West**

<p><b>Disclaimer:</b> While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a "Dig before you Dig" enquiry must be made by calling 1100. The information contained in this document remains valid for the 30 days only from the date of supply.</p>	<p>Created: 24 November, 2016                  © Land and Property Information (LPI) &amp; Tweed Shire Council.                  Boundaries shown should be considered approximate only.</p>	<p>Scale: 1:10,000                  GDA 1984 - MGA Zone 55                  GDA 94</p>	<p>Civil and Cultural Centre                  3 Turbulgah Road                  Murwillumbah NSW 2486</p> <p><b>TWEED</b>                  SHIRE COUNCIL</p> <p>PO Box 816                  Murwillumbah NSW 2486</p> <p>T (052) 6678 2499 / 1306 352 472                  F (052) 6419 3429                  W   www.tweed.nsw.gov.au                  E   planning@tweed.nsw.gov.au</p>
	<p>Date Printed: 24 November, 2016                  Author: S. Sack - GSB                  File No: 2-2281-PRISAC-PRC-REPORTS/26 Tringa Street Tweed Heads West Site Diagram</p>	<p>Coordinate System                  MGA Zone 55                  Datum - GDA 94</p>	

DEVELOPMENT/ELEVATION PLANS:



**Considerations under Section 79C of the Environmental Planning and Assessment Act 1979:**

**(a) (i) The provisions of any environmental planning instrument**

**Tweed Local Environmental Plan 2014**

**Clause 1.2 – Aims of the Plan**

- (1) This Plan aims to make local environmental planning provisions for land in Tweed in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
  - (a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*

There are numerous Council adopted strategic planning documents that development proposals are required to respond to in order to satisfy this primary objective of the Tweed LEP 2014. It should be noted, however, that there is a real and tangible difference between direct action towards achieving the desired outcomes; no action for or against; and action in direct opposition to the desired outcome. Proposals may be able to satisfy this aim of the TLEP 2014 by taking no specified action towards an identified strategic outcome so long as the resulting development does not contradict it.

The application currently before Council for determination has failed to accept and respond to the habitat offsetting provisions of the Tweed Coast Comprehensive Koala Plan of Management (TCCKPoM), which is a key Council adopted strategic planning document. This approach on its own deems the proposal unable to meet the aims of this particular clause, and the TLEP as a whole. The TCCKPoM is discussed in detail in later section of this report.

In relation to land use, the proposal does not give effect to the identified outcomes for the site proposed by the Tweed Urban and Employment Land Release Strategy, which was developed as part of a Local Growth Strategy under direction from the Department of Planning. Under the Strategy, which was adopted by Council in 2009, the subject site is clearly identified as potential future Employment Land. Residential development of this land does little to facilitate achieving this identified long term outcome.

For the reasons outlined above, the proposed subdivision is considered inconsistent with this first aim of the TLEP 2014.



- (b) *to encourage a sustainable, local economy, small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed Shire,*

The applicant has recognised that housing affordability in the Tweed is an issue of concern and contends the development will deliver an efficient and affordable housing product, stating new house and land package cost estimates ranging from the low \$400k's - \$500k's dependant on home size and design.

Housing affordability is a difficult concept to quantify, however this cost range appears to be comparable to other recent land release areas in the Tweed (e.g. Hundred Hills in Murwillumbah), thus the question of whether this is considered 'affordable' remains.

The proposal is acceptable in terms of the other elements within this aim.

- (c) *to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, the built environment, and cultural heritage,*

Stormwater generated from the site is proposed to be directed to Cobaki Creek which supports SEPP 14 Coastal Wetlands (opposite the discharge point) and Key Fish Habitat (DPI 2009). The design of the proposed stormwater management system has not comprehensively considered the impact of stormwater discharge on sensitive receiving estuarine environments of Cobaki Creek and the greater Cobaki Broadwater. The reliance on Gross Pollutant Trap devices in isolation is considered insufficient.

Furthermore, all on site high value ecological features are to be removed to facilitate development, including:

- Two units of vegetation totalling an area of 4535 m<sup>2</sup> approximately representative of candidate Endangered Ecological Communities listed under the *Threatened Species Conservation Act 1995*;
- Preferred habitat for six (6) listed threatened fauna species (under the TSC Act) considered to have a high likelihood of occurrence on site;
- Hollow bearing and winter flowering habitat trees; and
- Preferred Koala Habitat and individual Preferred Koala Food Trees.

The development therefore has not been appropriately designed to sustainably and sensitively respond to the above-mentioned environmental values. Measures to mitigate the expected impact on ecologically significant values and processes are inadequate. Given all habitat values are to be removed from the site suitable management arrangements necessary to secure long term conservation of these areas has not been proposed.

- (d) *to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*

Concern was raised during initial assessment of the proposal relating to energy efficiency of future dwellings given their expected reliance on mechanical ventilation and air conditioning to achieve indoor design sound levels for aircraft noise. Such engineering solutions would lead directly to an increase in carbon emissions beyond that reasonably expected from residential development.

No response was provided by the applicant to a request for an example dwelling design demonstrating long term environmental, social and economic viability. It is considered the proposal neither promotes nor facilitates the principles of ecological sustainable development or any action on climate change.

The proposed development is therefore considered inconsistent with this aim of the TLEP 2014.

- (e) *to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*

In a similar vein to the previous response, the design and construction requirements that would be required for dwellings within the proposed subdivision to meet Australian Standards for indoor noise levels are clearly contradictory to this particular aim of the TLEP 2014. Industry best practice for energy efficient building design does not promote minimising windows and reliance on air conditioning and mechanical ventilation.

- (f) *to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,*

No specific promotion of sustainable natural resource use has been proposed. On the contrary, the resulting development would likely result in higher than usual reliance by dwellings on natural resources for the supply of power.

No specific actions toward the transition from fossil fuels to renewable energy have been proposed. It is acknowledged that this element has traditionally been incorporated into individual dwelling design rather than within the greater subdivision design. Current trends towards integrating larger scale sustainable features and renewable energy elements earlier in the planning process indicate it is a possibility, however it is acknowledged this can be difficult to achieve and not always possible.

The proposal before Council does not attempt any such measures, however is considered acceptable with respect to this particular aim.

- (g) *to conserve or enhance the biological diversity, scenic quality, geological and ecological integrity of the Tweed,*

The application does not sufficiently address measures to conserve the ecological integrity of the Tweed, particularly with respect to Threatened Species likely to occur and Endangered Ecological Communities identified on site, and through its non-compliance with the habitat offset requirements of the TCCKPoM.

- (h) *to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,*

No declared World Heritage sites are identified on the site or in the locality, thus no opportunities exist within the proposal to meet this aim.

- (i) *to conserve or enhance areas of defined high ecological value,*

The application does not sufficiently address measures to conserve the ecological integrity of the Tweed, particularly with respect to the high value ecological features identified on site. The development design has failed to demonstrate how high value estuarine areas are to be conserved or enhanced in the long term.

The proposal is thus considered unsatisfactory with respect to this particular aim of TLEP 2014.

- (j) *to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.*

To facilitate the development all Potential Koala Habitat and isolated mature remnant preferred Koala Food Trees are to be removed. The proposal fails to demonstrate how koala habitat recovery is to be achieved in accordance with the adopted *Tweed Coast Comprehensive Koala Plan of Management 2015*.

#### Clause 1.4 – Definitions

Clause 1.4 directs the reader to the dictionary at the end of the Plan for land use definitions. Subdivision is not a defined land use within the TLEP 2014 dictionary.

Subdivision of land is defined under the EP&A Act 1979, and means:

*‘the division of land into two or more parts that, after division, would obviously be adapted for separate occupation, use or disposition’*

The proposal also includes subdivision works, which under the EP&A Act means:

*'any physical activity authorised to be carried out under the conditions of a development consent for the subdivision of land, as referred to in section 81A(3).'*

Section 81A(3) states that *a development consent that enables the subdivision of land may authorise the carrying out of any physical activity in, on, under or over land in connection with the subdivision, including the construction of roads and stormwater drainage systems.*

#### Clause 2.1 Land Use Zones

The subject site is zoned R2 Low Density Residential.

#### Clause 2.3 – Zone objectives and Land use table

The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Subdivision is permissible with consent in the R2 Zone.

The proposed subdivision would create allotments of suitable size to accommodate single dwelling houses in a low density environment. In that regard, it is not inconsistent with the primary objective of the zone. However, whether such dwelling houses (once constructed to the standard required on the site given its environmental constraints) would meet the needs of the community is questionable, particularly with regards to affordability and energy efficiency.

This Clause does not mandate that all land zoned R2 shall be developed for residential purposes only. Of further note, is the range of non-residential land uses that are permissible within the R2 zone and therefore available alternative land uses.

#### Clause 4.1 to 4.2A - Principal Development Standards (Subdivision)

The objectives of Clause 4.1 are to:

- Ensure minimum lot sizes are appropriate for the zones to which they apply and for the land uses permitted in those zones, and
- To minimise unplanned rural residential development

The Clause goes on to state that the size of any lot resulting from subdivision of land shall not be less than the minimum size shown on the *Lot Size Map*.

The subject site is mapped as subject to a minimum lot size of 450m<sup>2</sup>.

Proposed residential lot sizes range from 450m<sup>2</sup> to 637m<sup>2</sup>. The proposal complies with the minimum lot size development standard for the R2 Low Density Residential Zone thus satisfying the first objective of Clause 4.1. The land is not zoned for rural purposes, thus the second objective is not relevant.

Clause 4.1AA relates to community title schemes; Clause 4.1A relates to strata schemes in certain rural zones; Clause 4.1B relates to subdivision within split zone; and Clauses 4.2 and 4.2A relate to rural subdivision. None of these are relevant to the proposed residential subdivision.

#### Clause 5.5 – Development within the Coastal Zone

This clause of the LEP states that development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered the following;

- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:
  - (i) *maintaining existing public access and, where possible, improving that access, and*
  - (ii) *identifying opportunities for new public access, and*

The subject site does not impact on the provision of any public access to coastal lands nor does it represent an opportunity for a new public access given there is no through link from the site to public open space.

- (b) *the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*
  - (i) *the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
  - (ii) *the location, and*
  - (iii) *the bulk, scale, size and overall built form design of any building or work involved, and*

The proposed development is permissible on the subject site and meets Council's minimum requirements with respect to minimum lot size and anticipated built form. The proposal is acceptable at this location with respect to the above criteria.

- (c) *the impact of the proposed development on the amenity of the coastal foreshore including:*
  - (i) *any significant overshadowing of the coastal foreshore, and*
  - (ii) *any loss of views from a public place to the coastal foreshore,*



The proposed development would not impact the coastal foreshore by way of overshadowing or loss of views, by virtue of sufficient physical separation from the coastal foreshore.

*(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*

Little opportunity to protect the visual amenity and scenic qualities of the coast are present within the current proposal, given the site's physical separation from the coastal foreshore.

*(e) how biodiversity and ecosystems, including:*

- (i) native coastal vegetation and existing wildlife corridors, and*
- (ii) rock platforms, and*
- (iii) water quality of coastal waterbodies, and*
- (iv) native fauna and native flora, and their habitats can be conserved, and*

As discussed in detail elsewhere in this report, the proposed development would likely result in significant environmental impacts, and does not consider conservation of native flora and fauna, or their habitats within the proposal.

*(f) the cumulative impacts of the proposed development and other development on the coastal catchment.*

The site is located in an established urban area on land that is currently zoned residential, and has been identified as suitable for future employment and airport services land uses. It is thus highly likely to be developed in some form in the future. Integration of best practice sediment and erosion control and ongoing stormwater management into any development that occurs on this site is considered to be suitable in mitigating cumulative impacts on the coastal catchment, however the proposal as submitted does not demonstrate as such.

Koala habitat removal, stormwater discharge to Cobaki Creek and impacts on flora and fauna through habitat removal, as described elsewhere in this report, are considered cumulative impacts of the proposed development on the coastal catchment that have not been appropriately mitigated against.

*(3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:*

- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and*

As outlined elsewhere in this report, the proposal will not impede or diminish the right of access of the public either to or along the public foreshore.

- (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the*

*sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

The proposed development proposes extension to and full utilisation of Council's reticulated sewerage infrastructure for disposal of effluent and waste.

- (c) *the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

Stormwater overflow would be diverted to a 20m wide grass/turf channel and 2.5m wide concrete lined low flow drain across adjacent Council owned land, and ultimately discharged to Cobaki Creek. Treatment of a portion of the development's runoff via a proprietary treatment device such as a Humeceptor is proposed, with the applicant stating discussions with Council's Manager Roads and Stormwater approving such. No evidence of such discussions has been submitted, and the proposed treatment system to only a portion of the total development discharge is not acceptable due to the potential environmental impact on sensitive receiving waters.

- (d) *the proposed development will not:*

- (i) *be significantly affected by coastal hazards, or*
- (ii) *have a significant impact on coastal hazards, or*
- (iii) *increase the risk of coastal hazards in relation to any other land.*

The proposed development is acceptable having regard to coastal hazards as outlined above.

#### Clause 5.9 – Preservation of Trees or Vegetation

The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation. It applies to the species and kinds of trees as outlined in Tweed Development Control Plan Section A16, and includes all trees that have a trunk diameter greater than or equal to 0.8m measured at 1.4m above ground level and the listed Koala food trees, amongst other species of trees.

Under this clause, a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any development control plan applies without consent from Council.

Normally the clearing of a site to facilitate development such as the proposed subdivision would be subject to assessment against a range of legislative and policy documents, with appropriate mitigation or compensatory measures put in place via conditions of consent, should consent be granted. In such an event, the provisions of this clause would be addressed via the granting of consent.

However, in this case damage to a significant number of trees on the subject site has recently occurred in the form of drill holes and potential poisoning, independent of the development and its assessment process. The applicant volunteered the

information and stated no knowledge of how or when the damage occurred. This is being dealt with as a separate compliance matter.

In the context of the proposed development being able to meet the provisions of this clause, it is a matter of whether consent is granted to carry out the activity, and if it is, the clause is satisfied. The proposed vegetation clearing is discussed at length elsewhere in this report in relation to DCP A16, the Tweed Coast Comprehensive Koala Plan of Management, and the overall merit based assessment of the impacts of the proposal.

#### Clause 5.10 - Heritage Conservation

The objectives of this clause are as follows:

- (a) *to conserve the environmental heritage of Tweed,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

A search of the proposed development site has been undertaken on the NSW Government Office of Environment & Heritage website through the Aboriginal Heritage Information Management System (AHIMS) tool which has identified that there are no Aboriginal sites recorded or Aboriginal places declared at or near the proposed development site.

An Aboriginal Cultural Heritage assessment was provided with the application detailing the results and recommendations from due diligence assessment that was performed in conjunction a Site Officer of the Tweed Byron Local Aboriginal Land Council, Traditional Owner representatives and a Senior Archaeologist consultant. In summary, no Indigenous cultural heritage sites or relics were identified within the project area; no areas have been identified as potential archaeological deposits of significant Aboriginal heritage; and all of the project area has been highly disturbed in a manner which constitutes 'disturbance' within the meaning of the Due Diligence Code. Having regard to the low archaeological potential of the site, the assessment recommended that work may proceed with standard cautious practice with a clear understanding of the steps required should any cultural material be uncovered.

In light of the above, the proposal is deemed acceptable with regards to this clause.

#### Clause 7.1 – Acid Sulfate Soils

The objective of this Clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The subject site is mapped as Class 2 on the Acid Sulphate Soils Planning Constraints Map. Class 2 land requires development consent for works below

the natural ground surface, and works by which the water table is likely to be lowered.

According to the application details, an environmental assessment of the site found that there may be acid sulfate soils present given its low lying nature. However the application also proposes to import material to the site in order to fill it to the required design levels for flood mitigation, and goes on to advise that it is unlikely excavation works will extend below the level of foreign fill material either in relation to the provision of services or for future dwelling construction works.

Should consent be granted, application of appropriate conditions of consent is considered suitable mitigation to address the objectives of this Clause.

### Clause 7.2 - Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The clause goes on to identify the following assessment considerations:

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) *the effect of the development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) *the source of any fill material and the destination of any excavated material,*
- (f) *the likelihood of disturbing relics,*
- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*
- (i) *the proximity to, and potential for adverse impacts on, any heritage item, archaeological site, or heritage conservation area.*

*Note. The National Parks and Wildlife Act 1974, particularly section 86, deals with harming Aboriginal objects.*

On review of the application by Council Officers in relation to proposed bulk earthworks, it was highlighted as being significantly deficient in detail with multiple concerns still outstanding despite re-submission of additional information.

In summary:

- In relation to soil classification, uncontrolled fill and abnormal moisture conditions exist on site. It is unknown if the site can be re-worked from

Class “P” – problem site for future house construction, roads and underground services;

- The geotechnical report does not adequately address settlement issues on site or if settlement can be achieved for residential building construction;
- Extent and height of proposed retaining is unknown (shown only as ‘indicative’ on engineering plans);
- Impact of retaining walls on neighbouring properties is unknown e.g. drainage flows; and
- Batters for proposed diversion channels at 33.3% are too steep for regular maintenance.

In light of the above summary and the insufficient information provided to make a full and proper assessment, the proposal in its present form is deemed unable to satisfactorily address the matters for consideration under this Clause.

#### Clause 7.3 – Flood Planning

The objectives of this clause are as follows:

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the land’s flood hazard, taking into account projected changes as a result of climate change,*
- (c) to avoid significant adverse impacts on flood behaviour and the environment.*

The clause goes on to state that consent shall not be granted unless the consent authority is satisfied that the development is compatible with the flood hazard of the land, will not adversely affect flood behaviour; incorporates appropriate measures to manage risk to life from flood; and will not adversely affect the environment.

The site is within the flood planning area with a minimum residential floor level of 3.1m AHD. The application advises that the site will be filled to RL 2.6m AHD and provide for a 0.5m freeboard to achieve the minimum floor level for all new dwellings. This achieves one component of flood risk mitigation; however concern remains regarding the impact of significant fill (up to 2m in some places) on the behaviour of flood waters with respect to surrounding low lying land.

#### Clause 7.6 - Stormwater Management

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties.

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) *is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
- (b) *includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
- (c) *avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

The stormwater concept design proposes to convey high flows (up to Q100) from the subject site via a 20m wide open swale channel through Council owned operational land, through a culvert under the Tringa Street pavement then through the unformed section of the Tringa St road reserve and Council owned Community land to eventually discharge to Cobaki Creek. This design would also require the realignment of the existing vehicle access to Lot 1 DP 569304 within the Tringa St road reserve to create space for the 20m wide channel. During initial discussions with the applicant, Council Officers acknowledged it may be possible to the use this land for drainage purposes, however a final engineering solution has not been clearly demonstrated and no owners consent has been provided.

Further concern is raised regarding the quality of the stormwater discharge. The concept design proposes treatment via a gross pollutant trap (Humeceptor) to approximately 20% of the development catchment; however the remaining 80% appears to have no water quality treatment, and is discharged directly into Cobaki Creek, which is protected under State Environmental Planning Policy 14 Coastal Wetlands and is considered an unsuitable receiving waterway.

The application states the highly constrained nature of the site as the reason that on site stormwater retention and treatment cannot be achieved. Council's Officers do not support the notion that untreated development flow be discharged to a highly sensitive receiving waterbody due to site constraints alone.

This design was not made clear as the preferred option in the application documents that were originally submitted and on which notification was based. Thus there are 13 dwellings along Tringa Street that would be directly impacted by such a drain being constructed flush with their rear or side boundaries that were not specifically notified of the development.

It is noted the following has not been considered/provided:

- No owners consent for construction of an open drain in road reserve.
- No owners consent for construction of an open drain in Council owned operational and community land.
- Resolution of vehicle access to Lot 1 DP 569304

Further concerns exist regarding the interface between the subject site and the surrounding developed catchment. In particular the proposed pipe system along

the Marian Street frontage conflicts with existing vehicle access to dwellings on adjoining lots.

#### Clause 7.8 – Airspace operations

The objectives of this clause are as follows:

- (a) to provide for the effective and ongoing operation of the Gold Coast Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport,
- (b) to protect the community from undue risk from that operation.

The proposed subdivision occurs at ground level, and any future dwellings (should the subdivision be approved) would be limited to height of 9m by virtue of TLEP 2014 development standards. Thus no penetration of the Limitation or Operations Surface is anticipated.

#### Clause 7.9 - Development in areas subject to aircraft noise

This clause applies to development that:

- (a) is on land that:
  - (i) is near the Gold Coast Airport, and
  - (ii) is in an ANEF contour of 20 or greater, and
- (b) the consent authority considers is likely to be adversely affected by aircraft noise.

The 30-35 ANEF contour traverses the site, thus the provisions of this clause apply.

As is the case with the majority of clauses within the TLEP 2014, this clause has two parts that any development must be assessed against. First and foremost, any development must satisfactorily meet the overall strategic objectives of the clause. Secondly, the proposal must meet the merit based and prescriptive development standards. The following section of this report is broken down into separate assessment of each of these two parts.

##### *1. Clause 7.9 Objectives*

The objectives of this clause are as follows:

- (a) *to prevent certain noise sensitive developments from being located near the Gold Coast Airport and its flight paths,*

- (b) *to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,*
- (c) *to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.*

Response to Objective (a):

*Applicant's Response: "The proposed development does locate a sensitive use near the Gold Coast Airport and associated flight paths, however, it is in a location of existing sensitive uses (i.e. existing residences adjoining the site). The proposed residential development of the site is also consistent with the residential zoning and density of the land which was recently confirmed with the commencement of Tweed LEP 2014. The development proposes specific acoustic construction to achieve appropriate residential acoustic amenity".*

In response to Objective (a) as detailed above, the applicant acknowledges that the proposed development would result in a noise sensitive development being located near the airport and flight paths. This acknowledgement, along with Australian Standard 2021-2015 clearly stating that houses are an unacceptable noise sensitive development on land identified as within greater than 25 ANEF contour, provides the fundamental response for whether the proposal meets the primary objective of Clause 7.9.

The applicant proposes two reasons to justify why residential development of the subject site should not *be prevented* as advised by Objective (a). These are discussed below.

*It is in a location of existing sensitive uses (i.e. existing residences adjoin the site)*

The subdivisions that created and allowed for residential development on the adjoining sites to the south, east and west were approved in 1917, 1965, and 1984 respectively. The subject site was a residue lot from the previous 1917 subdivision, and was eventually given title in 1988 and zoned 2(c) Urban Expansion under TLEP 1987. No further subdivision to create new lots in the locality has been approved since its creation, and the site itself has remained vacant with no development proposals submitted. The urban zoning has remained with the site by default given its location on the urban fringe of West Tweed.

Aircraft noise in the region was non-existent in 1917 and in later years (1965-1987) when Coolangatta Regional Airport was in operation the number and size of aircraft using the airport was minimal. Thus constraints on development in the locality due to aircraft noise were not apparent at the time of those historic subdivisions.

Significant expansion of the airport in response to population increases in southeast Queensland and the Gold Coast's ever increasing popularity as a tourist destination have resulted in the addition of an international terminal and



significant increases in daily flight numbers and aircraft size. Consequently, aircraft noise is now a genuine and significant issue to be considered in the context of land use planning and development in proximity to the airport.

The existence of residential development in the locality that was approved under historical standards that are no longer relevant does not create an entitlement to create more of the same, which under present day standards are considered unacceptable.

*'The proposed residential development of the site is consistent with the residential zoning and density of the land, which was recently confirmed with the commencement of TLEP 2014.'*

The transition from Tweed LEP 2000 to Tweed LEP 2014 was undertaken in response to the NSW Department of Planning's Standard Instrument Order 2006, which directed all Councils to prepare and submit a Local Environmental Plan using the standard instrument template. The underlying purpose was to standardise land use zones and terminology across all Councils and to ensure consistency in the language and meaning of provisions. During the transition there was limited opportunity for broader evaluation of the 'appropriateness' of current zonings on specific parcels of land that remained undeveloped.

Retention of zoning by virtue of transitioning to new planning schemes over time is not in itself an endorsement or acknowledgement of the appropriateness of the zone for the site or wider locality. There are numerous parcels of land subject to zonings that do not reflect the true capability of the land for a given use when measured against present day standards. The Tringa Street locality is one such example of an historic zoning anomaly that purports the use of land arguably well beyond its environmental capability. Furthermore, a zoning per se does not impose or create a legal entitlement to a land use or development intensity that is permissible only with development consent.

Response to Objective (b):

An Aircraft Noise Planning Assessment prepared by MWA Environmental was submitted with the application, which demonstrates that there are engineering solutions for dwelling houses to be constructed to a level that achieves the required indoor sound levels through noise attenuation measures. It also provides a methodology for pre and post construction certification to ensure the construction obligations are met. In that regard, Objective (b) can technically be met.

Response to Objective (c):

The proposal was referred to Gold Coast Airport Pty Ltd (GCAPL) for comment in order to identify any potential conflicts or impacts specifically with respect to the ongoing safe and efficient operation of the airport. Their response identified the:

*'inevitable adverse effects of aircraft noise on residents (apart from the direct impacts on their health and enjoyment of lifestyle) are complaints to*

*the airport and other aviation agencies, eventually leading to pressure and agitation to change flight paths or other operational arrangements’.*

In response, the applicant indicates that:

*‘On the basis of the proposed acoustic design and construction, residents are provided with compliant dwellings in terms of aircraft noise and, we suggest, would have no valid right of complaint regarding aircraft noise on the basis of having compliant dwellings in terms of meeting appropriate internal noise levels.’*

Even with full disclosure at the time of purchase, and despite dwellings being constructed to the recommended design for acoustic treatment, the noise exposure that residents living on the subject site would experience on a daily basis will inevitably result in complaints to the airport. As suggested in their submission, the GCAPL has years of experience in dealing with the concerns of landowners and residents in proximity to the airport, and have major concerns as to the suitability of this site for residential development and what that means for future public relations.

GCAPL also identified the site as within the Lighting Zone for the Gold Coast Airport, where use of non-reflective roof surfaces is mandatory, and requested that reference be made to that in any approval should it be issued, and all future dwellings be subject to Council’s standard condition of consent regulating roof material and colour.

It is considered that a 60 lot residential subdivision on the subject site is not consistent with objective (c) of Clause 7.9, in that future resident discontent due to noise (and other health aspects e.g. exhaust fall out) poses too great a risk for efficient and unhindered operation of the airport in the future.

### Overall Response to objectives

The objectives of Clause 7.9 have not been tested to date for residential subdivision in the Tweed Shire, nor in the NSW Land and Environment Court as far as Council Officers are aware. Thus there are no planning principles established by court verdict with which to assist with assessment of this application. The development proposal before Council, were it to be approved, would be a landmark decision within the Tweed Shire with significant consequences including, but not limited to, setting precedent for the removal of any significant weight from the objectives of Clause 7.9 for large scale residential development and the impact of aircraft noise, specifically Objective (a) which serves to protect both residents and the airport, by *preventing certain noise sensitive developments from being located near the Gold Coast Airport and its flight paths.*

### 2. *Development Standards*

Clause 7.9 goes on to state that before determining a development application the consent authority must consider subclauses a) and b), and must be satisfied of subclause c). The merits of these are addressed below.

- (a) *must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise;*

The proposed subdivision would create 59 new residential allotments with the potential for 59 new dwelling houses. Undoubtedly, the development will result in an increase in the number of dwellings and people affected by aircraft noise. In consideration of this, an increase in the number of dwellings on a site deemed unacceptable for residential development under Australian Standard is considered both detrimental and unnecessary.

- (b) *must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, AND*

The development is located within ANEF contour 30-35.

Accordance to Table 2.1 of AS2021-2000, development for the purposes of a 'house, home unit, flat or caravan park' is unacceptable anything above ANEF 25.

Note 4 relating to Table 2.1 states the following:

*"This Standard does not recommend development in unacceptable areas. However, where the relevant planning authority determines that any development may be necessary within existing built-up areas designated as unacceptable, it is recommended that such development should achieve the required ANR determined according to Clause 3.2. For residences, schools, etc., the effect of aircraft noise on outdoor areas associated with the buildings should be considered".*

Note 5 relating to Table 2.1 states the following

*"In no case should new development take place in greenfield sites deemed unacceptable because such development may impact airport operations".*

Based on the above statements associated with Table 2.1 of AS2021 – 2015, the development is deemed to be unacceptable on the basis of the ANEF Contour and in consideration of unacceptable external noise that to date the applicant has not satisfactorily addressed. Provision of roofed outdoor courtyard areas has been suggested as being sufficient to provide outdoor areas with 'a degree of shielding from overhead aircraft noise', however no specifications relating to roof design or materials beyond those normally found in residential development to provide normal weather protection has been discussed.

- (c) *must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.*

An Aircraft Noise Planning Assessment prepared by MWA Environmental was submitted with the application. This report assessed aircraft noise impacts relevant to the proposed residential subdivision utilising the provisions of AS2021-2015 and site measurements of aircraft fly overs.

The report identifies an aircraft noise level impact for assessment purposes of 89dBA, however AS 2021-2015 advises that the highest of the calculated and measured aircraft level should be used for assessment purposes which is 90dBA for a 737-800 aircraft.

Notwithstanding, the report concludes that in consideration of the requirements of subclause (c) of Clause 7.9 of TLEP 2014, it is possible to achieve the required indoor design noise levels as specified in Table 3.3 of AS2021-2015. In order to achieve this construction would necessitate, at a minimum:

- Clay brick external walls with upgraded in-wall cavity insulation, and additional layers of sound grade plaster board sheeting;
- Compulsory roof void with upgraded in-roof insulation, and additional layers of sound grade plasterboard;
- Minimising glazing area (windows);
- Where windows occur, to be double glazed (up to 10.38mm thick) with cavity between glazing panels and acoustic grade seals.
- Windows and doors are assumed to be closed to achieve the required internal noise levels, therefore mechanical ventilation/air conditioning systems would be required to each habitable room.

The Aircraft Noise Planning Assessment also concludes that design specific assessment will be required for each separate dwelling, which essentially means a separate Aircraft Noise Level Impact Assessment report will be required for every future dwelling proposed both at development application stage and again prior to occupation certificate.

Thus, it appears the requirements of subclause (c) are able to be satisfied with the inclusion of noise attenuation measures during future dwelling construction and pre and post construction certification. However, as stated in the Gold Coast Airport Pty Ltd's submission "*this multi-step methodology in complex, and while essential, will clearly complicate and make more expensive the dwelling approval and construction process, coupled with the considerable greater than normal building construction costs*".

It must also be noted that such measures (e.g. double glazed windows in the shut position and subsequent need for mechanical ventilation/air conditioning) are likely to place considerable strain on the internal and external liveability of future dwellings and conflict with the aims of sustainable housing including energy efficiency, carbon emission reduction and ongoing affordability.

#### Clause 7.10 - Essential Services

This clause states that development consent shall not be granted unless the consent authority is satisfied that any of the following services that are essential for development are available or that adequate arrangements have been made to make them available when required (including the supply of water and electricity; the disposal and management of sewage, stormwater drainage and suitable vehicular access).

The subject site is located within an established residential area with all requisite essential services considered to be available. These include water and sewer reticulation, stormwater drainage, electricity and adequate vehicular access. Electricity and telecommunications infrastructure are in place and operational at the site.

Despite the availability of service connection points, however, the application has failed to adequately address Council's requests for further information regarding infrastructure provision. It is therefore unknown at this time whether adequate arrangements can be made for the provision of the above services, thus consent may not be granted by virtue of unsatisfactory response to this clause.

The following summarises Council Officer's detailed assessment of the proposed sewer, water and stormwater infrastructure network:

#### *Sewer*

Insufficient information has been provided within the Engineering Servicing Report by Morton's Urban Solutions to demonstrate if the proposed sewer reticulation designs meet Council's Development Design Specifications. Despite requests for additional information and the subsequent submission of plans that do show additional details on two alternative designs, the developer is yet to demonstrate that they can meet Council requirements with respect to sewer drainage and reticulation.

#### *Water*

The applicant's response to Council's request for additional information states that the water network has been assessed, however this information has not been provided to Council, nor have the calculations for design loading as outlined within D11. This information should be included within the report to demonstrate that the design meets requirements and the development assessment requirements outlined within D11 and D13.

#### *Stormwater*

Construction of an open swale stormwater channel is proposed across Council owned land which contains an existing sewerage pumping station and sewer rising main. The applicant has not addressed these assets within their report and if they propose to relocate the existing sewerage pumping station and rising main and this must be taken into consideration before Council can assess the development application further.

### **State Environmental Planning Policies**

#### **SEPP No. 44 - Koala Habitat Protection**

This policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline by:

- a) Requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and
- b) Encouraging the identification of areas of core koala habitat, and
- c) Encouraging the inclusion of areas of core koala habitat in environmental protection zones.

The site exceeds 1 ha in area and as such assessment under the *SEPP 44 Koala Habitat Protection* is required.

A tree survey and inventory was submitted with the application compiled in *Koala Habitat Assessment – Drawing Set dated August 2016 prepared by Biome Water and Environmental Consulting*. From on-site inspections by Council Officers, the survey was verified to be generally accurate.

Of the 190 surveyed living trees on site 17 (generally greater than 5 m in height) were identified as a preferred koala feed tree species being *Eucalyptus tereticornis* (Forest Red Gum) listed under Schedule 2 of the SEPP. This equates to 9% of the total number of trees (greater than 5m height) occurring onsite. Whilst *E. tereticornis* was identified in the lower strata of the tree component (below 5m), when considering the definition of Potential Koala Habitat for the purposes of the SEPP 44 meaning:

*‘..areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper and lower start of the tree component’*

*E tereticornis* does not exceed the 15% threshold criteria.

On the basis that Potential Koala Habitat as defined under SEPP 44 does not occur onsite:

- a. No further assessment is required under Clause 7 of the SEPP to determine the presence of Core Koala Habitat; and
- b. Council is not prevented because of the SEPP 44 policy from granting consent to the development application

Notwithstanding, the SEPP 44 Koala Habitat Protection assessment outcomes, a koala habitat study of the Tweed Heads and Southern Tweed Coast area was prepared in January 2011 (Phillips et al. 2011). The study revealed that the Tweed Coast koala population has declined by an estimated 50 per cent (below the minimum viable population numbers) in the last decade and that the population is at significant risk of extinction within the next three Koala generations without active intervention. The site occurs within this habitat study area. In response, Council prepared the *Tweed Coast Comprehensive Koala Plan of Management* (TCCKPoM) which was adopted on 19 February 2015.

The plan was prepared in conjunction with the Tweed Coast Koala Advisory Group and in accordance with State Environmental Planning Policy No. 44 – Koala Habitat Protection and associated guidelines.

The TCKPoM applies to the site and an evaluation of the proposal against the provisions of the plan has been undertaken elsewhere in this report.

SEPP No. 55 - Remediation of Land

SEPP (Remediation of Land) aims to promote the remediation of contaminated land for the purpose of reducing risk of harm to human health or any other aspect of the environment by specifying when consent is required; by specifying certain considerations in determining development applications and by requiring remediation work to meet certain standards and notification requirements.

An Environmental Assessment was undertaken by GeoEnvironmental Consultants dated 23 October 2016 in relation to potential site contamination. The report states that on the basis of available information and the completed assessment program (as detailed within the report), the site would be suitable for residential development with respect to soil contamination as assessed under the current NEPM soil contamination guideline criteria. However, the following statements within the body of the report are concerning and indicate that the available information on which the assessment is based is not sufficient:

- *'Despite this there may be some contaminated areas of limited lateral and vertical extent that have not been identified by this investigation'.*
- *'While not providing coverage of all site area in accordance with the Australian Standard AS4482.1-1999 Guide to the sampling and investigation of potentially contaminated soil Part 1 – Non-volatile and semi volatile compounds, the number and locations of the test pits are considered sufficient to assess the areas of most potential concern and achieve the stated objectives for this preliminary assessment'.*

Thus it is considered that a further detailed contaminated land assessment would be required to ensure no contamination risk remains, and the application as submitted with respect to mitigation of potential site contamination is unacceptable.

SEPP No 71 – Coastal Protection

The twelve aims of this Policy are set out in Clause 2, and relate broadly to the protection and management of the Coast with respect to environmental, visual, cultural, recreational and economic values.

Of particular relevance to the current proposal is aim (j) which is *to manage the coastal zone in accordance with the principles of ecologically sustainable development.*

For reasons outlined elsewhere in this report, it is considered that the proposed subdivision would facilitate residential development that is inconsistent with the principles of ecologically sustainable development, particularly with respect to the conservation of biological diversity and ecological integrity relating to the Tweed Coast koala population.

Part 2 of the SEPP sets out 16 matters for consideration that should be taken into account by Council when it determines a development application, with the following matters being of particular relevance to the current proposal:

- (d) *the suitability of the development given its type, location, design and its relationship with the surrounding area;*
- (g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995);*
- (m) *likely impacts of the development on the water quality of coastal water bodies;*

As detailed elsewhere in this report, the proposed residential subdivision of the subject site is deemed an inappropriate development type for the site given land use conflicts with surrounding sites. The proposal is inconsistent with (g) above in that it proposes clearing of units of vegetation representative of Endangered Ecological Communities likely to support threatened flora and fauna; and in response to (m) above, concerns exist over the impact of urban stormwater runoff treated only with gross pollutant trap (Humeceptor) into the sensitive receiving waters of Cobaki Creek.

In summary, the proposal as submitted does not adequately respond to these considerations to ensure that the development is compatible with adjoining significant habitat and that cumulative impacts are appropriately managed/avoided.

Part 5 of SEPP 71 prohibits Council from granting consent to the subdivision of land within a residential zone into more than 25 lots unless the Minister has adopted a master plan for the land, or the Minister has waived the need for a master plan.

To date, no master plan has been submitted, and a waiver from the Minister has not been received. Council is therefore unable to grant consent to the proposed development.

In light of the above, there are numerous matters which do not satisfy the provisions of SEPP 71 and are considered sufficient reasons for refusal.

**(a) (ii) The Provisions of any Draft Environmental Planning Instruments**

Draft State Environmental Planning Policy (Coastal Management)

This Policy is currently on public exhibition, and gives effect to the planning objectives outlined in the Draft Coastal Management Act, which is also currently on exhibition. The two documents combined provide an integrated approach to land use planning in the Coastal zone.

In relation to the proposed development, the draft SEPP aims to manage development in the coastal zone and protect the environmental assets of the coast.

Clause 12 relates to development on land in proximity to coastal wetlands, and states that

*Development consent must not be granted to development on land wholly or partly identified as 'proximity area for coastal wetlands' on the Coastal Wetlands Area Map unless the consent authority is satisfied that the proposal will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland.*



Figure 1 below is an excerpt from the mapping associated with the Draft, which identifies coastal wetlands in solid blue, land in proximity to coastal wetlands in transparent blue, the proposed overland flow path for stormwater in yellow and the proposed discharge point in red. It is clear that the proposed discharge point is within land mapped as 'in proximity to coastal wetlands'.

As discussed elsewhere in this report, the impacts of stormwater discharge on this sensitive coastal area are potentially significant, and Council Officers are not satisfied of the level of assessment or mitigation proposed. Consent is therefore unable to be granted having regard to the Draft SEPP.

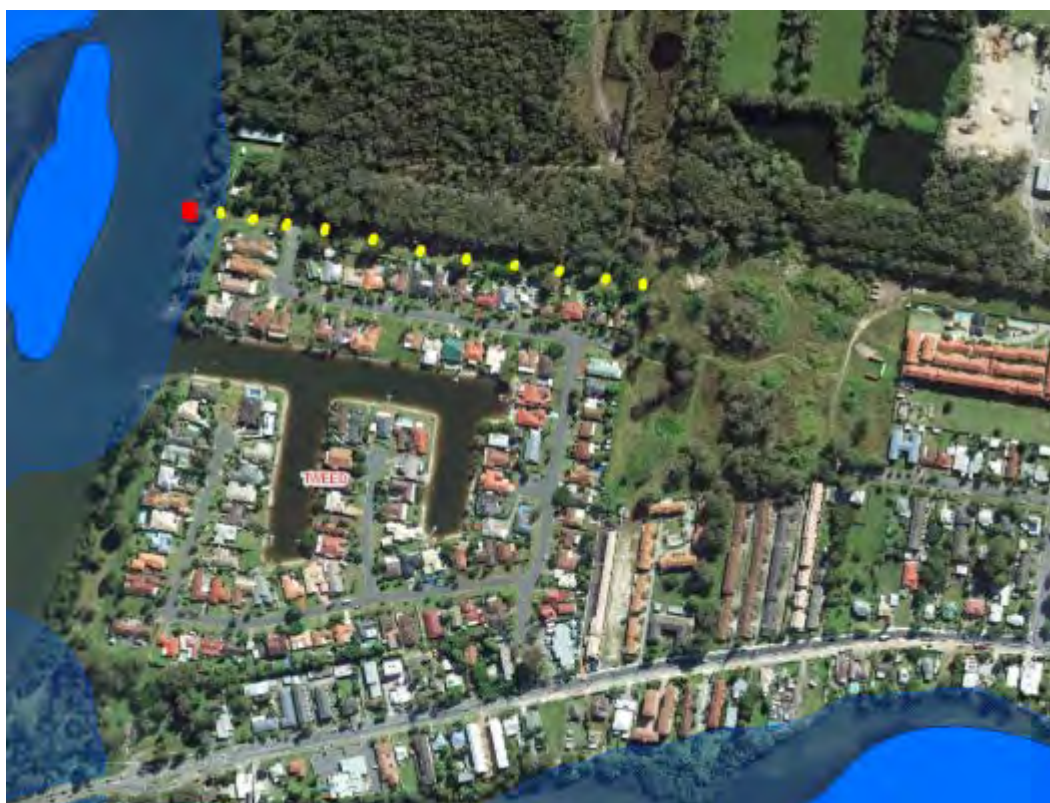


Figure 1 – Coastal Wetlands and Land in Proximity to Coastal Wetlands

### Draft North Coast Regional Environmental Plan

The Draft North Coast Regional Environmental Plan has recently been on public exhibition. The plan identifies the Tringa Street locality as a 'transition area', specifically identifying employment land in proximity to the subject site.

The Draft NCREP was directly informed by Council's adopted Strategies for future growth in the Tweed, and was further facilitated via working groups consisting of Council Planning Officers. It is aligned with the intent for the locality to transition from residential to employment lands, and further highlights the unsuitability of the proposed development of this site for residential purposes.

**(a) (iii) Development Control Plan (DCP)**

*A3-Development of Flood Liable Land*

DCP A3 sets out detailed standards for development in order to minimise the adverse effect of flooding on the community. It applies to all flood liable land within the Tweed.

Section A3.3.2 relates to development generally on flood liable land, and specifies that for residential subdivision, all land, other than public roads and reserves, is to be filled to a minimum level of the design flood where an allotment is created.

Based on the bulk earthworks plans submitted, the proposal complies in terms of filling the site so that individual lots achieve the RL 2.6m AHD requirements.

However, some concerns remain regarding the interface between and resulting potential impacts on the surrounding low lying developed catchment. Insufficient detail has been provided to date to address this.

*A5-Subdivision Manual*

DCP A5 aims to present Council's strategic plan objectives for the development of subdivisions in order to achieve the highest quality and best practice of subdivision development in the Shire. It provides advice and guidelines on the preliminary planning and design of subdivisions, and sets out specific design specifications relating to road design, stormwater drainage and treatment, water supply, sewerage systems and earthworks.

As discussed earlier in this report in relation to the TLEP 2014 Clauses which relate specifically to earthworks, stormwater treatment and discharge and infrastructure provision, the application remains deficient in information with regards to the above listed elements of the subdivision design.

In addition, section A5.E.8 relates to sewerage treatment works and states the recommended buffer to sewerage treatment plants be *"400 metres between any current or proposed primary or secondary process units of any Sewerage Treatment Plant and the nearest boundary of any allotment created for tourism, rural housing (including caravan parks) and community facilities"*

The Tweed Heads Wastewater Treatment Plant is located on the adjacent lot directly to the north and approximately half of the subject site falls within the 400m buffer zone. It is acknowledged that the sewerage treatment plant is not currently operating at capacity however Council's Water and Wastewater Unit has advised that the future plans for the plant are as follows:

*"The plans for the WWTP in the future include possible upgrade in 20 years, increase in levels (for flood requirements) and increased pond sizes in the next 5 years."*

The intention of the buffer is to reduce land use conflicts and ensure amenity implications are reduced. Whilst advice to the applicant has previously indicated a reduced buffer may be acceptable from an asset management perspective, given the intentions of Council for upgrading the facility, and in the absence of a technical report to support the application detailing potential impacts from odour particularly on the subject site, concern remains regarding the placement of a residential subdivision in close proximity to the STP in the interests of the amenity of future residents of the subject site.

Section 5.4.5 of DCP A5 concerns environmental constraints to subdivision.

Ecologically significant vegetation for the purposes of the DCP – Section A5 Subdivision Manual occurs onsite. Areas of significant vegetation are to be removed as opposed to being afforded adequate protection.

After thorough review of the information provided, Council Officers cannot be confident that the development would avoid significant impact on threatened species, population or ecological communities, or their habitats in accordance with section 5A of the Environmental Planning and Assessment Act 1979. Appropriate mitigation measures and/or alternative development designs have not been considered in order to satisfy section 5A of the EP&A Act.

The proposal fails to:

- Demonstrate that the development proposal does not detract from the ecological, scenic landscape or local identity values of the significant vegetation;
- Include significant vegetation where possible into the open space/drainage network or within road reserves;
- Provide a street and lot layout; and/or lot sizes and shapes that will enable the proposed development to take place whilst also providing sufficient space (outside building platforms) on lots to enable significant individual trees or small stands of vegetation to be retained.

In light of the above environmental concerns, the aforementioned concerns regarding buffers to the sewerage treatment works and the lack of detail with respect to subdivision design and infrastructure provision as discussed elsewhere in this report, the proposal does not meet the aims or specific design specifications of DCP A5, and thus cannot be supported.

#### *A11-Public Notification of Development Proposals*

The proposal as submitted was advertised in the Tweed Link and notified to nearby and adjoining land owners for a period of 14 days from Wednesday 18 May to Wednesday 1 June 2016, in accordance with the advertising and notification requirements of DCP A11.

Council received five submissions from adjoining residents objecting to the application and one submission from the Gold Coast Airport Pty Ltd recommending the proposal be refused. These submissions are discussed in detail later in this report.

A15-Waste Minimisation and Management

DCP A15 aims to minimise the generation of construction waste and facilitate effective ongoing waste management practices.

No major concerns have been raised regarding construction waste beyond those discussed elsewhere in this report regarding potential site contamination. Conditions on any consent, were it to be granted, are considered sufficient to manage waste during construction and operational phases of the development.

A16-Preservation of Trees or Vegetation

Trees proposed for removal onsite qualify as prescribed vegetation under Section 1.3 of DCP A16, being:

- a. Locally indigenous vegetation (including palms and tree ferns) equal to or greater than five (5) metres in height;
- b. Locally indigenous vegetation (of any height) that occurs within the vegetation communities described as forest, woodland, heathland, shrubland, scrubland, sedgeland, fernland, forbland, rushland, mangrove, saltmarsh, seagrass, or wetland
- c. Trees (locally indigenous or otherwise) that have a trunk diameter of greater than or equal to 0.8 metres measured at 1.4 metres above the natural ground;
- d. Koala feed trees of the species *Eucalyptus robusta* (Swamp Mahogany), *E. tereticornis* (Forest Red Gum), *E. microcorys* (Tallowwood) and *E. propinqua* (Small-fruited Grey Gum), equal to or greater than five (5) metres in height;
- e. Threatened plant species, populations, or communities scheduled under the *Threatened Species Conservation Act 1995* or the *Environmental Protection and Biodiversity Conservation Act 1999*;

Section 3.4 of DCP A16 provides considerations for removal. The application failed to appropriately address 'Section 3.4 Vegetation removal considerations' with respect to:

- Trees or vegetation having significant ecological value or providing wildlife habitat
- Potential removal or damage to prescribed vegetation covered by the NSW *Threatened Species Conservation Act 1995*
- Potential clearing of prescribed vegetation that consist of Koala feed trees that is inconsistent with an approved Koala Plan of Management (being the *Tweed Coast Comprehensive Koala Plan of Management 2015*)

As such the proposed development has not satisfactorily addressed the provisions of the DCP A16

**(a) (iv) Any Matters Prescribed by the Regulations**

Clause 92(1)(a)(ii) Government Coastal Policy

The Coastal Policy aims to respond to the challenge of providing for population growth and economic development without putting the natural, cultural and heritage values of the coast at risk, particularly in the context of intense pressure for development in fragile coastal environments. It calls up the Precautionary Principle to support decision making relating to planning and development in the coastal zone. Whilst this does not require a 'no development' approach, it does require a risk adverse approach to decision making, especially where locational considerations are critical or where environmental impacts are uncertain but potentially significant.

Based on the information submitted to date for the proposed development, Council Officers are unable to confidently state that the proposal would not have significant impacts on the nearby SEPP 14 coastal wetlands within the Cobaki Creek and Broadwater due to stormwater discharge treatment levels, thus it is deemed unsatisfactory with respect to the provisions of the NSW Coastal Policy.

**(a) (v) Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),**

**Coastal Zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting)**

In recognition of the sensitivity of the Cobaki Broadwater, this plan provides an integrated approach to management of the waterway in accordance with the NSW Coastal Policy 1997 and all other relevant planning instruments.

A primary objective of this plan is to improve urban stormwater quality discharge by implementing a Stormwater Quality Improvement Device retrofitting strategy in existing priority areas and ensuring future development does not contribute further to the existing pollutant loads.

Stormwater generated from the site is proposed to be directed to Cobaki Creek, which supports SEPP 14 Coastal Wetlands (opposite the discharge point) and Key Fish Habitat (DPI 2009). The creek flows into the Cobaki Broadwater. The development design has failed to demonstrate how high value estuarine areas are to be conserved or enhanced in the long term.

Stormwater treatment proposed is not considered suitable in this regard, in that it appears it would contribute further to pollutant loads by discharging untreated runoff to the waterway.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

### Context and Setting

The site falls within an established urban area with mix of local uses including residential, industrial, service provision, infrastructure and recreation. The proposed residential subdivision of the subject site is unlikely to alter the existing overall land use character of wider locality given this assortment of present uses.

However, the site is heavily constrained with respect to development potential. It is low lying, susceptible to flooding and difficult to drain; mapped as bushfire prone; affected by Class 2 Acid Sulfate Soils; within the 30-35 Australian Noise Exposure Forecast (ANEF) contour for aircraft noise; contains identified preferred koala habitat, identified preferred koala food trees, identified Endangered Ecological Communities, significant Hollow Bearing habitat trees; has a high likelihood of occurrence of numerous threatened fauna species, and is in proximity to sensitive coastal wetlands in the Cobaki Broadwater. It has remained vacant since its creation with no development proposals submitted.

In the context of the above environmental site constraints that to date have not been appropriately addressed, the proposal is considered both undesirable and unacceptable.

### Construction Cost

As discussed earlier in this report, the site is within the 30-35 ANEF contour, and any future dwellings, should the subdivision be approved, would be subject to significant exposure to noise from overflying aircraft.

Future dwellings may be able to achieve the indoor sound levels required by Australian Standard AS2021-215 through noise attenuation measures such as double glazing, additional sealing, roof/ceiling and wall insulation; however in order for the attenuation measures to be effective, windows and doors must remain closed, creating a reliance on air conditioning which has flow on effects for energy efficiency and affordability. Concern is raised by the expected inflated construction costs and the resulting liveability of the estate and the residential amenity that will be afforded to any future occupants of the dwellings.

The applicant has provided estimates of the additional costs to construction as being from \$10,000 to \$20,000 depending on dwelling design, with an estimated \$500-\$900 extra per annum for increased electricity to run air-conditioning or mechanical ventilation. They have stated that the development would still deliver an affordable housing product for the Tweed because the additional costs are offset by significantly lower land values given the location of the site. Their full response can be read as Attachment 2 to this report.

Should any residential subdivision of this site be consented to, it is essential that stringent conditions be put in place requiring full compliance with the minimum indoor sound levels specified in Table 3.3 of AS2021-21015. It is also recommended that mandatory disclosure of aircraft noise impacts to perspective buyers be enforced, along with full disclosure of the unavoidable construction obligations which they would face, including potential costs.

### Resident Outdoor Amenity

The Gold Coast Airport has provided advice to Council that the assessment aircraft type that overflies the majority of Tweed Shire residential areas on a regular basis every day is the B737-800. The level of noise generated by this aircraft (90dB) is likely to adversely affect outdoor recreation activities and the enjoyment of outdoor living spaces. Given normal conversation is between 63-64 dB, the noise of the aircraft in this location essentially causes conversations to cease. This is considered an unacceptable outcome for a new residential subdivision, particularly one proposing low density residential development which requires provision of minimum landscaping and outdoor living areas.

Further, the Tweed is located in a sub-tropical region with a climate that encourages outdoor recreation in backyards and outdoor living areas for most of the year. The provision of measures to combat noise exclusively in the indoor environment does not support this lifestyle option.

### Local Amenity

In consideration of the size of the development, proximity to adjoining residential areas and submissions that have been received to date, it is considered that a Construction Site Management Plan shall be prepared by an appropriately qualified consultant which addresses amenity issues likely to result from construction works.

On-going use of the site for low density residential use is not likely to cause unacceptable impacts on local amenity.

### Noise

The subject application is for the creation of a 60 Lot Residential subdivision with road design to service the future lots which will be connected to existing residential road networks. While this will result in an increase in traffic to the area it is not likely to result in any unreasonable traffic noise impacts.

### Sediment and Erosion

The proposal recommends the following suitable amelioration measures to mitigate sediment runoff from the site during construction:

- Installation of sediment fences to intercept stormwater flows and collect suspended solid loads;
- Construction of diversion drains to direct stormwater away from disturbed areas;
- Provision of sediment ponds for the retention of stormwater allowing for sedimentation; and Establishment of designated construction rock pad/shake down entry and exit points.

### Access, Transport and Traffic

A Traffic report has been submitted, however is deemed insufficient. No consideration has been provided for the surrounding road network. The applicant proposes to transition the existing 10m wide pavement of Marian Street into a narrow road width of 6m, which is not consistent to the surrounding road network.

No swept path movements have been provided as part of the re-submission to indicate how service vehicles, garbage trucks and school buses can negotiate the subdivision when vehicles are parked on street.

The proposal is unacceptable in its current form with regards to internal road network.

### Existing Sewer Rising Main

The conceptual stormwater management plan does not take into consideration existing Council infrastructure located on the proposed development site nor downstream of the site. There is an existing sewer pump station and sewer rising main located within the land proposed to be used for overland flow. Lowering of the land to achieve drainage would require moving the existing sewerage pumping station and rising main. No alternative solution or relocation plans have been tabled.

### Flora and Fauna

#### *Endangered Ecological Communities*

The site is considered to support two vegetation communities representative of Endangered Ecological Communities (EEC) listed under the *Threatened Species Conservation Act 1995* being:

- i. *Swamp sclerophyll forest on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions*. Includes all units mapped in the EA
- ii. *Subtropical coastal floodplain forest of the NSW North Coast bioregion*. Includes more intact remnant areas contiguous and intergrading with the Swamp Sclerophyll Forest EEC

The proposed development design will involve the removal of 4535 m<sup>2</sup> of candidate EEC to enable filling of the site for flood immunity. Clearing of native vegetation is listed as a Key Threatening Process under the *Threatened Species Conservation Act 1995*.

The applicant failed to:

- Undertake a comprehensive assessment of vegetation communities on site having regard for the respective NSW Scientific Committee – Final Determination.
  - Perform an Assessment of Significance (7-part test) (made under section 5A of the *Environmental Planning & Assessment Act 1979*) on listed candidate Endangered Ecological Communities which may be affected directly or indirectly by the proposed development and associated activity.
-



- Provide a revised layout design and appropriate mitigation measures to avoid/minimise direct and indirect impacts on candidate endangered ecological communities

As such Council cannot be confident that obligations under Section 79C and Section 5A of the EP&A Act can be met.

#### *Threatened Species*

Based on previous records and habitat availability, the following listed threatened fauna species are considered to have a high likelihood of occurrence on site:

- Microchiropteran Bats including but not limited to
  - Yellow-bellied Sheath-tail-bat (*Saccolaimus flaviventris*)
  - Eastern Freetail-bat (*Mormopterus norfolkensis*)
  - Eastern Long-eared Bat (*Nyctophilus bifax*)
- Bush-stone Curlew (*Burhinus grallarius*)
- Little Lorikeet (*Glossopsitta pusilla*)

The applicant failed to:

- Undertake adequate survey for these species (other than Koala) in accordance with *Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities, Working Draft dated November 2004 Department of Environment and Conservation*
- Perform an Assessment of Significance (7-part test) (made under section 5A of the *Environmental Planning & Assessment Act 1979*) on those species identified above.
- Provide a revised layout design and appropriate mitigation measures to avoid/minimise direct and indirect impacts on threatened fauna species

The proposal involves the removal of all native habitats occurring on the subject site. Clearing of native vegetation and the removal of hollow bearing trees is listed as a Key Threatening Process under the *Threatened Species Conservation Act*.

Council cannot be confident that the proposal will not have a significant impact on threatened fauna species and those obligations under Section 79C of and Section 5A of the EP&A Act can be met.

#### Koala Habitat

With reference to the *Tweed Coast Comprehensive Koala Plan of Management* (TCCKPoM) the site occurs within the Tweed Heads Koala Management Area supporting:

- Remnant units of vegetation regarded as Preferred Koala Habitat (PKH); and
- Individual Preferred Koala Food Trees (PKFT) (*Eucalyptus tereticornis*) interspersed within an open paddock/maintained grassland

Subsequently, a Koala Habitat Assessment (KHA) and Koala Activity Assessment (KAA) were carried out in accordance with Section 5.8 Assessment of Koala Habitat. Upon review of the KAA the following elements were accepted:

- *Dwg. No KHA200 Vegetation Communities and Flora Map* and *Dwg. No KHA300 Koala Food Trees* in identifying onsite areas of Preferred Koala Habitat and individual Preferred Koala Food Tree locations for the purposes of the TCCKPoM
- Section 10 Offset Proposal– Preferred Koala Food Tree and Preferred Koala Habitat offset calculations based on site survey (area of habitat and number of trees) and TCCKPoM ratios

However, a Koala Offset Plan in accordance with Appendix C of the TCCKPoM was not included in the KHA.

Based on the results of the KHA and KAA the proponent was provided with the following advice as to development options:

1. Retention and protection of Preferred Koala Habitat and Preferred Koala Food Tree/s.
2. Offsetting generally in accordance with Section 10.1 and 10.2 of the KHA where options to avoid or mitigate impacts are deemed unachievable.
3. Propose a departure from the provisions set out in the TCCKPoM under Section 5.12 where it can clearly be demonstrated that '*a better ecological outcome for koalas is assured*'- the applicant was reminded that that any Koala offsetting measures determined in accordance with the TCCKPoM shall be considered separately to any amelioration/compensation measures required to satisfy Section 5A of the EP&A Act for other listed species or candidate Endangered Ecological Communities.

Council provided the applicant with contact details of landholders in ownership of potential offset receiving sites on the Tweed Coast where Option 2 or 3 was to be considered.

The applicant responded to Councils request for information on the 01 November 2016. The following was provided in respect to the TCCKPoM options:

- The development design was not significantly altered to allow for the retention and protection of Preferred Koala Habitat and Preferred Koala Food Tree/s on site; and
- Neither onsite or offsite (or combination of these) offsetting as a variation under section 5.12 was proposed.

On this basis the proposed development fails to comply with Part 5 of the TCCKPoM.

### Habitat Resource Trees

The site supports a high number of significantly sized native trees (greater than 800 mm diameter at breast height (dbh)) occurring as isolated individuals within a mosaic of managed grassland. These trees exhibit features such as

hollows/fissures comprising winter flowering species offering valuable habitat/feed resource opportunities for a suite of known and expected fauna species.

The proposal involves the removal of all habitat resource trees from the site.

*Australian Standard AS 4970-2009 Protection of trees on development sites* provides guidance for developers towards identifying opportunities for tree retention within parkland, widened road reserve verges and stormwater treatment areas where final site levels may be contoured to maintain existing natural ground levels around the structural root zones of trees to ensure long term health and viability.

The retention of any habitat resource trees would require a total redesign, along with major changes to filling and drainage patterns. No attempt at this has been made, thus the application has not adequately considered the impact on significant habitat and biodiversity values onsite.

**(c) Suitability of the site for the development**

Site History and Zoning

The subject site was formed as a result of Portion 108 being subdivided in 1917 to create 46 residential allotments, leaving a residue Portion of 108 (the subject land). The current title was issued in 1988 to formalise this residue portion, at which time it was zoned 2(c) Urban Expansion under the Tweed Local Environmental Plan (Tweed LEP) 1987. It retained its residential zoning status under Tweed LEP 2000 and subsequently under the current Tweed LEP 2014 as R2 Low Density Residential. The site has remained vacant since its creation with no development proposals submitted.

The transition from Tweed LEP 2000 to Tweed LEP 2014 was undertaken in response to the NSW Department of Planning's Standard Instrument Order 2006, which directed all Council's to prepare and submit a Local Environmental Plan using the standard instrument template. The underlying purpose was to standardise land use zones and terminology across all Councils and to ensure consistency in the language and meaning of provisions. During the transition there was limited opportunity for broader evaluation of the 'appropriateness' of current zonings on specific parcels of land that remained undeveloped.

Retention of zoning by virtue of transitioning to new planning schemes over time is not in itself an endorsement or acknowledgement of the appropriateness of the zone for the site or wider locality. There are numerous parcels of land subject to zonings that do not reflect the true capability of the land for a given use when measured against present day standards. The Tringa Street locality is one such example of an historic zoning anomaly that purports the use of land arguably well beyond its environmental capability. Notwithstanding, a zoning per se does not impose or create a legal entitlement to a land use or development intensity that is permissible only with development consent.

### Flora and Fauna

The proposed development design has not appropriately responded to the sites ecological features proposed mitigation measures are considered inadequate. As such it is considered that the proposal would result in unacceptable ecological impact and is therefore unsuitable for the site.

Alternative designs may be considered where:

- Those values are appropriately considered and afforded adequate protection and/or
- Appropriate impact amelioration and mitigation measures, as reflected in relevant planning policy are proposed and implemented

### Surrounding Land Uses and Development

#### *Proximity to Gold Coast Airport*

The Draft Gold Coast Airport Master Plan 2017 is on public exhibition until 30 January 2017. The Draft Plan establishes development requirements for the next five year period, consistent with a broad 20 year strategic plan.

Gold Coast Airport is Australia's fifth busiest airport and represents a major employment generator and contributor to the local economy, with significant growth in passenger numbers projected over the next 20 years. This growth will no doubt result in expansion of the airport support services sector and provide the opportunity to capture opportunities for development of land in close proximity to the airport for employment generating purposes.

The Draft Gold Coast Airport Master Plan 2017 identifies an ultimate maximum capacity runway length 366m longer than the present day runway, and the one which the current forecast passenger numbers are based on. Once the airport is developed to its ultimate practical capacity, the pressure on surrounding lands to be utilised for airport services will likely be even greater.

The Tweed Urban and Employment Land Release Strategy identified this projected trend in 2009, mapping the subject site and other surrounding sites as potential future employment land. The recently exhibited Draft North Coast Regional Environmental Plan has further highlighted the need for development of employment generating opportunities on land close to the airport.

Coupled with the issue of excessive exposure to aircraft noise, the likely increase in that exposure with further development of the airport's capacity, and the site being an excellent candidate for the provision of employment land in response to the projected airport growth and demand for such land, the subject site cannot reasonably be assessed as suitable for the proposed residential development.

Gold Coast Airport Pty Ltd's submission stated "*Due to the severe level of affectation of the site by aircraft noise, GCAPL considers that the site is entirely unsuitable for development of residential premises, and that the application should be refused and an alternative land use selected.*"

Finally, the Gold Coast Airport Draft Master Plan (on public exhibition) identifies an ultimate maximum capacity runway length 366m longer than the present day runway and that which long range (20 years) ANEF forecasted noise exposure levels are based on. Extension of the runway would allow aircraft to land further than where they currently land, thus being lower in the air when passing over head the nearby residential areas. Noise exposure forecasts are yet to be modelled for an extended runway; however it is not considered unreasonable to predict a widening of the current ANEF contours with more areas in the locality being exposed to louder and more disturbing noise levels. Thus adding to the caution that is required with determination of the current proposal for residential subdivision of the subject site.

#### *Proximity to Industrial Land*

Lot 2 DP 569304 is located immediately adjacent and to the north west of the subject site, sharing approximately 60m of boundary. It is zoned IN1 General Industry with approval to construct a 37 lot industrial subdivision in 1996 under S96/0049. The consent was legally commenced and construction certificate CC14/0507 was issued on 11/2/2015. The applicants are currently in discussions with Council regarding some minor details however commencement of construction is imminent.

Placing additional residential development in close proximity to a noisy and offensive land use such as Industrial land is not considered to be 'best practice subdivision design' as intended by the multiple strategic and statutory planning policies and guides applicable to the site.

#### *Proximity to Wastewater Treatment Plant*

The Tweed Heads Wastewater Treatment Plant (WWTP) and Council Depot site is located directly to the north, with plant and infrastructure separated from the boundary of the subject site by approximately 50m of vegetated land including the Hakea Drive unformed road reserve.

As discussed in the section of this report addressing Tweed Development Control Plan A5 – Subdivision Manual, the potential amenity issues for future residents resulting from this placement of conflicting land uses are not deemed acceptable.

#### Overall Suitability

The site is located immediately adjacent to industrial zoned land and a wastewater treatment plant; two conflicting land use types that have been assessed as presenting an unacceptable potential risk to the future amenity and liveability of residents of the proposed subdivision. Site drainage is proving to be problematic, and even if an engineering solution is achieved, the receiving waters of Cobaki Creek and Broadwater are highly sensitive SEPP 14 wetland areas.

The relevant Australian Standards deem the site to be unacceptable for residential development due to proximity to the Gold Coast Airport and the resulting exposure to noise from aircraft.

Council Officers have extensive concerns that residential subdivision of the subject site would result in an end product which is inconsistent with the overarching planning objectives and corresponding vision for growth in the Tweed, which are primarily to ensure quality residential development and to encourage development that incorporates the principles of sustainability in design, materials and lifecycle.

The various technical polices, guidelines and codes of Tweed Shire Council exist to guide development towards achieving high quality neighbourhoods that demonstrate functional efficiency, amenity and liveability in the context of the constraints and opportunities characteristic to a site.

Ultimately, Council is concerned that the proposed development would result social, environmental and economic issues attributable to a poor planning solution for the subject site in relation to land use conflicts, thus the ultimate conclusion is that the site is unsuitable for residential development.

**(d) Any submissions made in accordance with the Act or Regulations**

The application was advertised in the Tweed Link and notified to nearby and adjoining land owners for a period of 14 days from Wednesday 18 May to Wednesday 1 June 2016. Council received five submissions from adjoining residents, and one from the Gold Coast Airport Pty Ltd recommending the proposal be refused.

The issues raised in these public comments are outlined below. The submissions were forwarded to the applicant for consideration/response. No formal response to the submissions has been submitted. Council officer assessment of the issues raised in the submissions is provided.

**Adjoining landowner Submissions**

Objection

- *Concern for damage to the environmental qualities of the site (habitat for multiple native species of bird, mammal and frogs). Area should be protected.*

Council Officer Assessment

The application has been thoroughly assessed by Council Officers, with major concerns raised relating to environmental impact and habitat loss. These issues are discussed elsewhere in this report, and contribute to the reasons for refusal of the proposal.

Objection

- *Native trees on fence line give us shade in summer*

Officer Response

Whilst the trees in question may provide shade for the adjoining property during summer, they are located on the adjoining allotment and the neighbouring lots have no jurisdiction in relation to their retention. The owner does require approval to remove the trees, and in this case there are other issues (see previous comments) which are relevant, however provision of shade to adjoining properties does not form a reason to refuse approval of their removal.

Objection

- *Effect to ground water while construction is going on – subsidence etc.*

Officer Response

The application has been assessed by Council Officers with respect to construction impacts. Were the proposal to be approved, the site would be subject to engineering solutions to mitigate construction impacts.

Objection

- *Water runoff/site already floods in heavy downfalls*

Officer Response

The application has been assessed by Council Officers with respect to overland flow and retention and direction of stormwater. Were the proposal to be approved, the site would be subject to engineering solutions to mitigate runoff impact on adjoining properties, including filling and sculpting the site to direct all stormwater towards the dedicated legal point of discharge.

Notwithstanding, multiple concerns remain regarding the proposal as currently submitted in relation to stormwater quality and discharge into Cobaki Creek, as discussed elsewhere in this report.

Objection

- *Pollution due to increased traffic and noise at night once completed*

Officer Response

Were the development to go ahead, the result would be a typical residential area, with anticipated noise levels being of a scale and nature comparable to that which already exists in the area. It is noted that Council officers have assessed the proposal from a noise perspective and the development is considered to be acceptable subject to the application of appropriate conditions of consent.

Objection

- *Noise and disruption during construction*

Officer Response

Were consent to be issued, it would include standard conditions restricting construction hours and noise levels, and providing mitigating measures for noise generating activities. Construction noise is unfortunately a necessary component of development, however is regulated accordingly.

Objection

- *Impact of development on resale and value of surrounding properties.*

Officer Response

Were consent to be issued, the proposal would result in a standard residential development of new design. There are no foreseeable financial impacts for surrounding properties.

Objection

- *Excessive traffic movement needs to be avoided in Limosa Road – access to subdivision should be through both Tringa Street and Marion Street*

Officer Response

The subdivision plan proposes the construction of an internal road network, with access points to the external road network being both Tringa Street and Marian Street.

Objection

- *Proposed lot sizes (450 – 595) are inconsistent with land sizes in Tringa Street and Limosa Road, which average between 662 and 748 square metres. This will significantly devalue adjoining land in Tringa Street and Limosa Road.*

Officer Response

The Tweed Local Environmental Plan includes statutory development standards for minimum lot sizes for the subject site, being 450 square metres. The proposal complies with this standard.

Objection

- *No provision for green space in the form of a park or children's playground. At least 1000 square metres should be developed into green space to service the subdivision and surrounding properties.*

Officer Response

The proposal as originally submitted and advertised did not include a park. After discussions with Council Officers, the proposal was amended to include a public



park 5920 square metres in area, to be embellished with a playground, shelter and concrete pathways.

The application has been thoroughly assessed by Council's Natural Resource Management Unit, with major concerns raised relating to environmental impact and habitat loss. These issues are discussed elsewhere in this report, and contribute to the reasons for refusal of the proposal.

### **Gold Coast Airport Pty Ltd Submission.**

The full submission is included as Attachment 3 to this report.

#### Summary:

- *Application of interest to GCAPL owing to proximity of land to runway and consequential severe impact of aircraft noise on residents of locality.*
- *Inevitable outcome is complaints to the airport leading to agitation to change flight paths.*
- *Recognition of the adverse effects on health and enjoyment of lifestyle.*
- *Development on land in ANEF greater than 25 is 'unacceptable' under Australian Standards.*
- *Acknowledges primary objective of TLEP 2014 Clause 7.9 to 'prevent noise sensitive development in locations close to the airport'*
- *GCAPL considers that the site is entirely unsuitable for development of residential premises, and that the application should be refused and an alternative land use selected.*
- *Highlights that should residential development take place, it is essential that stringent conditions be imposed to reduce indoor design sound level in accordance with AS2021-2015.*
- *Comments on proposed mechanism: Mandatory disclosure of aircraft noise affectation and imposition of an obligation to ensure that the necessary acoustic attenuation will be included in dwellings.....would necessitate individual assessment by an acoustic engineer of architectural plans of each individual proposed dwelling, specification by the engineer of Rw values for each element of the building and post construction evidence of compliance. This multi-step methodology is complex, and while essential will clearly complicate and make more expensive the dwelling approval and construction process, coupled with the considerable greater than normal building construction costs.*
- *Further comments: indoor design sound levels can only be achieved through all doors and windows being closed, making necessary the inclusion of air-conditioning and mechanical ventilation. This represents an unsuitable and obviously unrealistic option in the locality's sub-tropical environment, where lightweight building materials and an indoor-outdoor lifestyle are generally preferred and advantageous.*
- *Highlights that proposed allotments are considerable smaller than those in surrounding locality. An increase in lot size, if it were to be approved, would have twofold advantage – bring the development more into character with the locality, and reduce the number of dwellings to be affected by aircraft noise.*

- *Requests that reference be made to the airport's Lighting Zone requirements. Should the development be approved construction of dwellings be subject to the Council's standard condition regarding reflective roof materials.*

#### Officer Response

Council Officers generally support the items raised and the overall reasoning of the Gold Coast Airport Pty Ltd's submission.

#### **(e) Public interest**

The issues considered in the assessment of this proposal are considered valid and contribute to the reasons for refusal. Approval of the proposal would set unwarranted precedent for subdivision and increased population densities within the unacceptable ANEF contour range, and would undermine the strategic intent and practical application of the publically exhibited and Council adopted Tweed Coast Koala Plan of Management. Therefore it is in the public interest for this application to be refused.

#### **OPTIONS:**

1. That Council refuse this application in accordance with the recommended reasons for refusal.
2. That Council defer determination and request additional information as detailed throughout this report.

Option 1 is recommended.

#### **CONCLUSION:**

The application as submitted is deficient in supporting information; however it is considered that sufficient detail has been submitted to determine that the nature of the proposal is unsuitable for the site. This unsuitability is reflected in the proposal's inability to adequately meet the aims and objectives of Council's primary statutory planning instrument and non-compliance with the applicable statutory and strategic framework, and in particular the proposals non-compliance with the Council endorsed Tweed Coast Koala Plan of Management. The proposed 60 lot residential subdivision is also considered unsuitable for the site on technical assessment and overall merit consideration, and is therefore recommended for refusal.

#### **COUNCIL IMPLICATIONS:**

##### **a. Policy:**

Corporate Policy Not Applicable

##### **b. Budget/Long Term Financial Plan:**

Not Applicable.

**c. Legal:**

The applicant has a right of appeal in the NSW Land and Environment Court if they are dissatisfied with the determination.

**d. Communication/Engagement:**

Not Applicable.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

- (Confidential) Attachment 1. Confidential Attachment Applicant's legal advice regarding the Tweed Coast Comprehensive Koala Plan of Management (ECM 4320829)
- Attachment 2. Applicant's additional information regarding affordability and construction costs (ECM 4320840)
- Attachment 3. Gold Coast Airport Pty Ltd Submission (ECM 4320841)
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**10 [PR-CM] Development Application DA16/0300 for a Mixed Use Development Including Child Care Centre, Medical Centres, Office Premises, Retail Premises, Food and Drink Premises, Gymnasium and Associated Earthworks at Lots 171-172 DP 1208112 No. 478-480 Casuarina Way, Casuarina**

**SUBMITTED BY: Development Assessment and Compliance**

Validms



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Civic Leadership
1.2	Improve decision making by engaging stakeholders and taking into account community input
1.2.1	Council will be underpinned by good governance and transparency in its decision making process

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### SUMMARY OF REPORT:

Council is in receipt of a development application that proposes a mixed use development including child care centre, medical centres, office premises, retail premises, food and drink premises, gymnasium and associated earthworks.

The development is proposed over two stages as follows:

- Stage 1 construction of the child care centre and all civil works associated with the project including construction of the car park, water, sewer and drainage infrastructure.
- Stage 2 construction of the commercial buildings

The following land uses are proposed:

- Child care centre (77 places with 11 staff - 761m<sup>2</sup> floor area)
- Two Offices premises (Tenancies 12 & 13 - 291m<sup>2</sup> floor area)
- Three Retail premises (Tenancies 4, 5 & 6 - 184m<sup>2</sup> floor area)
- Four Medical Centres (Tenancies 7, 8, 9 & 10 - 306m<sup>2</sup> floor area)
- Three Food and Drink Premises (Tenancies 1, 2 & 3 - 254m<sup>2</sup> floor area plus 118m<sup>2</sup> outdoor dining)
- Recreation facility (indoor) (Tenancy 11 - 366m<sup>2</sup> floor area)

The proposed hours of operation are:

- Child care centre – 6.30am to 6.00pm Monday to Friday
- Other commercial uses – 6.30am – 10pm seven days

The child care centre building is located on the northern aspect of the site comprising of three single storey wings in a triangular layout surrounding a central outdoor playspace. Along the southern boundary are three commercial one or two storey buildings of coastal character connected by covered walkways surrounding a courtyard and outdoor dining area.

Signage does not form part of the application.

Vehicular access is from Casuarina Way to the east with the car park which runs parallel to the southern boundary between the child care centre and commercial buildings that provides 79 car parking spaces which includes three accessible spaces in addition to one small rigid vehicle space.

The assessment of the application involved several amendments to the submitted proposal in order to address areas of non-compliance or unacceptable impacts including hours of operation, earthworks, drainage and easement interference. Further, on 21 September 2016 Council recommended withdrawal of the application or the application will be determined by way of refusal primarily due to the significant under provision of car parking involving a 48 car space shortfall. Council later agreed to accept further information which was reviewed and it was concluded that most of the outstanding issues were resolved or could be adequately addressed by way of condition.

However, the car parking assessment data warrants further discussion. To address the car parking shortfall, as car parking demand for medical centres is based on 'consulting room' numbers, the proponent resubmitted floor plans changing the proposal from 13 consulting rooms to seven, by effectively renaming the rooms from 'consulting rooms' to 'offices' with no change in floor area which can be seen in the following two plans.



**Part of Plan dated 8 June 2016 featuring 13 consulting rooms across 306m<sup>2</sup> and four medical centre tenancies.**



**Part of Plan dated 10 October 2016 featuring 7 consulting rooms across 306m<sup>2</sup> and four medical centre tenancies.**

This is significant with regard to the car parking demand assessment under Section A2 of Tweed Development Control Plan (TDCP) 2008. The proposed development including 13 consulting rooms resulted in the development having a shortfall of 48 spaces and a variation of 60% which is unacceptable. Comparatively, the proposed development with the same gross floor area but with only 7 consulting rooms resulted in the development having a shortfall of 21 spaces and a variation of 21%.

Council's Traffic Engineer concluded that the proposed 21% variation to the TDCP 2008 is acceptable and adequately justified by cross utilisation non-coinciding peak parking demand. However, it is noted that the justification is heavily reliant upon the medical centre only including seven consulting rooms across four tenancies and 306m<sup>2</sup> of floor area. As such, any approval will impose a condition to restrict the use of the medical centres to seven consulting rooms across the four medical centre tenancies.

The imposition of the abovementioned condition although significantly inconvenient for future tenants, is considered vital when considering traffic impact. Any increase in consulting room numbers by future tenants would potentially have undermining effects to car parking provision and therefore would be detrimental to the commercial operation of the subject development and potentially significantly impact traffic and access to the entire Casuarina Town Centre precinct given the proximity to the Tweed Coast Road connection and adjoining residential streets that would be inappropriately utilised for overflow parking.

The subject application is recommended for approval however is referred to Council for determination due to the nature and scale of the development and variation requested.

**RECOMMENDATION:**

**That Development Application DA16/0300 for a mixed use development including child care centre, medical centres, office premises, retail premises, food and drink premises, gymnasium and associated earthworks at Lots 171-172 DP 1208112 No. 478-480 Casuarina Way, Casuarina be approved subject to the following conditions:**

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan as amended in red:

- Plan No 03 - Site Plan Rev C prepared by Harley Graham Architects and dated 10 October 2016;
- Plan No DA2.00 Issue C - Floor Plan prepared by Local Office Architecture and dated 7 October 2016;
- Plan No DA3.00 Issue A - Elevations prepared by Local Office Architecture and dated 4 April 2016;
- Plan No 04 - Area and Uses Rev C prepared by Harley Graham Architects and dated 10 October 2016;
- Plan No 05 - Building 1 Rev C prepared by Harley Graham Architects and dated 10 October 2016;
- Plan No 07 - Building 1 Elevation Rev A prepared by Harley Graham Architects and dated 6 April 2016;
- Plan No 08 - Building 2 Rev C prepared by Harley Graham Architects and dated 10 October 2016;
- Plan No 10 - Building 2 Elevation Rev A prepared by Harley Graham Architects and dated 6 April 2016;
- Plan No 06 - Building 1 Section Rev A prepared by Harley Graham Architects and dated 6 April 2016;
- Plan No 09 - Building 2 Section Rev A prepared by Harley Graham Architects and dated 6 April 2016;

except where varied by the conditions of this consent.

[GEN0005]

2. The development is to be staged as follows:

**Stage 1** Construction of the child care centre and all civil works associated with the project including construction of the car park, water, sewer and drainage infrastructure.

**Stage 2** Construction of the commercial buildings.

Unless specified in each condition, the conditions of this consent apply to both stages.

[GEN0006]

3. The subject site has the following tenancies approved with the following restrictions:

Land use	Restriction
Child care centre	77 places with 11 staff with a GFA of 761m <sup>2</sup>
Offices premises	Tenancies 12 & 13 with a combined GFA of 291m <sup>2</sup>
Retail premises	Tenancies 4, 5 & 6 with a combined GFA of 184m <sup>2</sup>
Food or drink premises	Tenancies 1, 2 & 3 with a combined GFA of 254m <sup>2</sup> and 118m <sup>2</sup> of outdoor dining
Recreation facility (indoor)	Tenancy 11 with a GFA of 366m <sup>2</sup>

Land use	Restriction
Medical Centre	<p>4 separate medical centres with a combined GFA of 306m<sup>2</sup>;</p> <ul style="list-style-type: none"> <li>• Tenancies 7, GFA 165m<sup>2</sup> with four consulting rooms, three offices and two staff/storage rooms.</li> <li>• Tenancy 8 - GFA 56m<sup>2</sup> with one consulting room, one office, one staff/storage room.</li> <li>• Tenancy 9 - GFA 42m<sup>2</sup> with one consulting room, one office, one staff/storage room.</li> <li>• Tenancy 10 - GFA 42m<sup>2</sup> with one consulting room, one office, one staff/storage room.</li> </ul>

The medical centre tenancies are to strictly adhere to the number of approved consulting rooms listed above. The site does not have sufficient car parking to cater for additional consulting rooms to that detailed above. Any changes of use proposed to vary from the above require development approval and will be scrutinised in regards to onsite parking availability.

[GEN0007]

4. Advertising structures/signs to be the subject of a separate development application (where statutorily required).

[GEN0065]

5. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

6. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

7. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material. Should adjustments be required to the sewer manhole, then applications for these works must be submitted on Council's standard Section 68 Application to Alter Councils Water or Sewer Infrastructure application form accompanied by the required attachments and the prescribed fee. Works will not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.

[GEN0155]

8. Any business or premises proposing to discharge wastewater containing pollutants differing from domestic sewage must submit a Liquid Trade Waste Application Form to Council. The application is to be approved by the General Manager or his delegate prior to any discharge to the sewerage system. A Liquid Trade Waste Application fee will be applicable in accordance with Council's adopted Fees and Charges.

[GEN0190]

9. Structures proposed/identified within/over the easements on the land are not approved and are to be located external to the easement. No structures or part thereof may encroach into the easement. This includes (but is not limited to)



roofs, awnings or eaves, gutters and any part of the building, fences/ retaining walls and other services.

[GEN0255]

10. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

11. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]

12. This consent has approved the use of the tenancies as shown on Plan No 04 - Area and Uses Rev C prepared by Harley Graham Architects and dated 10 October 2016. This consent has levied car parking and developer contributions on this basis.

The kitchen fit out of the nominated food and drink premises is yet to be approved and must be the subject of a separate Development Application or Complying Development Application (as statutorily required) prior to issue of an Occupation Certificate for these tenancies.

[GENNS02]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

#### **13. Section 94 Contributions**

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

**A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.**

These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

#### **Stage 1**

#### **(a) Tweed Road Contribution Plan:**

---

278.4 Trips @ \$1395 per Trips \$233,020.80  
(\$1,145 base rate + \$250 indexation)  
(\$155,347.20 subtracted from total for commercial job creating  
developments)  
S94 Plan No. 4  
Sector7\_4

LCA4 - Casuarina: \$31,403.4  
278.4 trips at \$188 per trip  
(\$168.00 base rate + \$20.00 indexation)  
(\$20,935.60 has been subtracted from this total as this is deemed a  
commercial job creating development)

**Stage 2**

(a) Tweed Road Contribution Plan:  
448.587 Trips @ \$1395 per Trips \$375,467.40  
(\$1,145 base rate + \$250 indexation)  
(\$250,311.60 subtracted from total for commercial job creating  
developments)  
S94 Plan No. 4  
Sector7\_4

LCA4 - Casuarina: \$50,600.40  
448.587 trips at \$188 per trip  
(\$168.00 base rate + \$20.00 indexation)  
(\$33,733.60 has been subtracted from this total as this is deemed a  
commercial job creating development)

(b) Extensions to Council Administration Offices  
& Technical Support Facilities  
2.0324 ET @ \$1909.57 per ET \$3,881.01  
(\$1,759.90 base rate + \$149.67 indexation)  
S94 Plan No. 18

[PCC0215]

**14. Section 94 Contributions**

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

**Heavy Haulage Component**

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of a construction certificate. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

and:

**Prod.** projected demand for extractive material to be hauled to the site over life of project in tonnes

**Dist.** average haulage distance of product on Shire roads (trip one way)

**\\$Unit** the unit cost attributed to maintaining a road as set out in Section 7.2 (currently 5.4c per tonne per kilometre)

**Admin.** Administration component - 5% - see Section 6.6

[PCC0225]

15. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid for the relevant Stage of development and the Certifying Authority has sighted Council's "Certificate of Compliance" signed by an authorised officer of Council.

**BELOW IS ADVICE ONLY**

**Stage 1:**

<b>Water:</b>	<b>4.28 ET @ \$13,386</b>	<b>\$57,292.08</b>
<b>South Kingscliff Water Levy:</b>	<b>4.28 ET @ \$338</b>	<b>\$1,446.64</b>
<b>Sewer:</b>	<b>7.8 ET @ \$6,431</b>	<b>\$50,161.80</b>

**Stage 2:**

<b>Water:</b>	<b>13.9 ET @ \$13,386</b>	<b>\$186,065.40</b>
<b>South Kingscliff Water Levy:</b>	<b>13.9 ET @ \$338</b>	<b>\$4,698.20</b>
<b>Sewer:</b>	<b>12.22 ET @ \$6,431</b>	<b>\$78,586.82</b>

[PCC0265]

16. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for the approval of the General Manager or his delegate.

[PCC0465]

17. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

18. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.

[PCC0935]

19. Permanent stormwater quality treatment shall be provided in accordance with the following:

(a) The Construction Certificate Application shall detail stormwater management for the occupational or use stage of the development in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.

(b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.

(c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.

[PCC1105]

20. Disposal of stormwater by means of infiltration devices shall be carried out in accordance with Section D7.9 of Tweed Shire Councils *Development Design and Construction Specification - Stormwater Quality*.

[PCC1125]

**21. Stormwater**

- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.**
- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.**
- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:**
  - \* As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.**
- (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.**
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).**
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).**
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.**
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.**
- (i) All infiltration devices are to be designed to withstand loading from vehicles during construction and operation of the development.**
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.**

[PCC1135]

**22. A Construction Certificate application for works that involve any of the following:**

- connection of a private stormwater drain to a public stormwater drain**
- installation of stormwater quality control devices**

- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a Construction Certificate for subdivision works associated with this consent, the abovementioned works can be incorporated as part of the Construction Certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.

[PCC1145]

23. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

24. Medium density/integrated developments, excluding developments containing less than four attached or detached dwellings and having a Building Code classification of 1a, will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act, 2000 to be certified by an Accredited Certifier.

[PCC1185]

25. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a Construction Certificate.

[PCC1195]

26. Pursuant to Section 68 of the Local Government Act, 1993 an approved pre-treatment device (eg. grease arrestor, oil separator, basket traps) must be installed in accordance with Tweed Shire Council's Policy - Discharge of Liquid Trade Waste to Council's Sewerage System. Submission of detailed hydraulic plans and specifications indicating the size, type and location of pre-treatment devices and full details of drainage installations in accordance with AS 3500 shall be submitted to Council for approval along with a Liquid Trade Waste Application Form and all required information required therein. [PCC1265]
27. Three copies of detailed hydraulic plans shall be submitted with all Liquid Trade Waste Applications indicating the size, type and location of pre-treatment devices. All plumbing and drainage installations to these devices must comply with AS3500. [PCC1275]
28. If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first. Applications for these works must be submitted on Council's standard Section 68 Application to Alter Councils Water or Sewer Infrastructure application form accompanied by the required attachments and the prescribed fee. The arrangements and costs associated with any adjustment to water and wastewater infrastructure shall be borne in full by the applicant/developer. [PCC1310]
29. Prior to a construction certificate for Stage 2 being issued, a noise impact assessment undertaken by a qualified and practicing acoustic consultant shall be prepared and submitted to Council for the approval of the General Manager or his delegate. Such report shall include assessment and identification of noise impacts from the operation of the gymnasium, and recommend measures to mitigate those impacts on surrounding commercial and residential tenants. The recommendations of the report are to be carried out accordingly and addressed within the Construction Certificate drawings. [PCCNS01]
30. Prior to the construction certificate being issued, plans drawn to a scale of 1:50 detailing the following with regards to all food related areas shall be provided to Council's Environmental Health Officers for assessment and approval:
- a. Floor plan and sectional elevations in two directions
  - b. Layout of kitchens showing all equipment
  - c. All internal finish details including benches and work surfaces, floors, wall, ceiling and lighting
  - d. Hydraulic design in particular method of disposal of trade waste
  - e. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required
  - f. Servery areas including counters etc. [PCCNS01]

31. The proposed design of mechanical plant and equipment shall be reviewed by an acoustic consultant during the design phase to ensure that all required treatments as specified within the Environmental Noise Impact Report for Lot 171 DP 1208112 Casuarina Way and Grand Parade, Casuarina prepared by CRG Acoustics Pty Ltd dated 24 March 2016 (crgref: 16035 report and letter dated 30 June 2016) have been incorporated into the design. Written confirmation of compliance from the acoustic consultant shall be submitted to the satisfaction of Council's General Manager or delegate prior to the Construction Certificate being issued.

[PCCNS02]

32. The development shall be carried out in accordance with a Construction Noise Management Plan prepared in accordance with the recommendations of the Environmental Noise Impact Report for Lot 171 DP 1208112 Casuarina Way and Grand Parade, Casuarina prepared by CRG Acoustics Pty Ltd dated 24 March 2016 (crgref: 16035 report and letter dated 30 June 2016) and to the satisfaction of Council's General Manager or delegate.

[PCCNS03]

33. Prior to issue of a Construction Certificate for Stage 1 the applicant is to demonstrate that there has been the creation of a right of carriageway under Section 88B of the Conveyancing Act as follows:

- (a) Creation of a Right Of Carriageway over Lot 172 benefitting Lot 171 and burdening Lot 172 for the purposes of vehicular and pedestrian access to enable Lot 171 to use 172 for access purposes.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway shall make provision for maintenance of the right of carriageway by the owners.

[PCCNS04]

34. (A) Prior to issue of a Construction Certificate for Stage 1 the applicant is to submit to Council for approval by Council's General Manager or his delegate, a complete set of revised plans that are consistent throughout (including accurate levels and cross referencing between plans) and demonstrate changes to the approved plans nominated in Condition 1 showing the following amendments. These plans are then to be submitted with any Construction Certificate as the approved plans.

1. Earthworks and Drainage Easement

Any civil works or landscaping must not compromise the drainage purpose of the easement along the northwest of the site. Additionally, no planting is permitted within the drainage easement at the southwest of the site. Revised driveway plans are required showing levels from the eastern to the western boundary in addition to showing level changes to the drainage easement.

2. Access to Child Care Centre Waste Room.

The floor plan, elevations and proposed levels must be consistent.



3. Privacy screening along the northern windows of Building 1 (Tenancy 11) are to be proposed that mitigates overlooking into adjoining residences.
4. Landscaping Plans:
  - a. No landscaping works for the development must be proposed for within the road reserve. Plans must include the location of all proposed landscaping including ramps, steps, hand rails, retaining walls, planter boxes and all tactical indicators required under AS1428.1 which must be wholly within private property.
  - b. The plan must outline proposed planting containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species.
  - c. No retaining walls or proposed planting are to impede the drainage easement function. No trees or retaining in the drainage easement in the southwest corner of the site.
  - d. Any existing turf or infrastructure disturbed or damaged during construction must be rectified or replaced. Details with regard to compensatory works are required. The two trees to be removed for the driveway crossing will be replaced with 45L *Cupaniopsis Anacardiodes* along Grand Parade road reserve where no other trees exist. Details should include but not be limited to proposed plant types and species, plant size, extent of turfing, general landscape notes and maintenance requirements.
  - e. Any existing trees that are to remain must be clearly shown on the landscape plan with notes added about their protection during construction.

**(B) The Construction Certificate application is to include the revised plans required by Part A of this Condition.**

[PCCNS05]

#### **PRIOR TO COMMENCEMENT OF WORK**

35. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.  
[PCW0005]
36. The construction works in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (c) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
    - (ii) notified the principal certifying authority of any such appointment, and
    - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]
37. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.
- [PCW0225]
38. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 15 persons employed at the site. Each toilet provided must be:
- (a) a standard flushing toilet connected to a public sewer, or
  - (b) if that is not practicable, an accredited sewage management facility approved by the council
- [PCW0245]
39. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work

- and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

40. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

41. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

[PCW0985]

42. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCW1170]

#### **DURING CONSTRUCTION**

43. All proposed works are to be carried out in accordance with the conditions of development consent, approved management plans, approved construction certificate, drawings and specifications.

[DUR0005]

44. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council:

**Monday to Saturday from 7.00am to 6.00pm**

**No work to be carried out on Sundays or Public Holidays**

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

45. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

**A. Short Term Period - 4 weeks.**

$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

**B. Long term period - the duration.**

$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

46. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

47. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

48. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

49. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.

[DUR0415]

50. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.

[DUR0815]

51. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of an Occupation Certificate.

[DUR0995]

52. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from:

- Noise, water or air pollution.
- Dust during filling operations and also from construction vehicles.
- Material removed from the site by wind.

[DUR1005]

53. All walls in the food preparation and storage areas shall be of solid construction. For this purpose walls in such areas may be of masonry or stud wall construction. If stud wall construction is used then the wall shall be lined as a minimum with 9mm thick high impact resistant material eg. Villaboard or Versilux lining or other suitable material(s) approved by Council's Environmental Health Officer and tiled to a height of at least 2 meters.

Masonry walls where not tiled may be cement rendered to provide a smooth faced impervious finish up to the underside of the ceiling.

Metal stud wall framing in lieu of timber framing shall be used in areas where the walls and floor surfaces will be subjected to high levels of moisture or alternatively as directed by Council's Environmental Health Officer.

All penetrations of the wall surface in food preparation areas shall be effectively sealed to the satisfaction of Council's Environmental Health officer.

[DUR1495]

54. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices.

[DUR1505]

55. Windows and doors opening into food handling, preparation and storage areas shall be pest proofed in accordance with the provisions of Food Safety Standard 3.2.3.

[DUR1515]

56. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.

[DUR1545]

57. A floor waste connected to the drainage system shall be provided within 1.5 metres of the opening of the cool room.

[DUR1565]

58. During the course of the construction and fitout of the kitchen/food premises periodic inspections must be arranged with Councils Environmental Health officer to ensure compliance with all health related conditions of approval and respective legislation. [DUR1575]
59. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428. [DUR1685]
60. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428. [DUR1695]
61. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia. [DUR1705]
62. Pursuant to the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility. [DUR1725]
63. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works. [DUR1795]
64. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Occupation Certificate. [DUR1875]
65. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed. [DUR1905]
66. During construction, a “satisfactory inspection report” is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The

proponent shall liaise with Councils Engineering Division to arrange a suitable inspection.

[DUR1925]

67. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

[DUR1945]

68. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

69. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blown from the site.

[DUR2185]

70. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.

[DUR2205]

71. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate and NSW Department of Primary Industries - Water.

[DUR2425]

72. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection.

[DUR2445]

73. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

74. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

**75. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.**

[DUR2505]

**76. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.**

[DUR2525]

**77. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.**

[DUR2535]

**78. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.**

[DUR2545]

**79. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-**

- \* 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- \* 50°C in all other classes of buildings.

**A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.**

[DUR2555]

**80. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. The pre-treatment device service frequency will be approved as part of the Liquid Trade Waste Services Agreement and General Conditions of Approval.**

[DUR2595]

**81. A Liquid Trade Waste Services Agreement will be issued and a Liquid Trade Waste Approval Number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement**

[DUR2685]

**82. Council is to be notified, in writing, of any proposed changes to the wastewater pre-treatment devices.**

[DUR2765]

**83. Potential or actual acid sulfate soil shall not be disturbed without the prior written approval of the General Manager or delegate. Any such disturbance shall require the preparation and approval of an acid sulfate soil management plan.**

[DURNS01]

**84. The exportation or importation of fill or soil from or to the site must be in accordance with the provisions of the Protection of the Environment Operations**



Act (POEO) 1997 and the Office of Environment and Heritage “*Waste Classification Guidelines*”.

[DURNS02]

85. The exportation or importation of fill or soil from or to the site must be in accordance with the provisions of the Protection of the Environment Operations Act (POEO) 1997 and the Office of Environment and Heritage “*Waste Classification Guidelines*”.

[DURNS02]

86. Works in the vicinity of public infrastructure must comply with the following requirements;

- a) No portion of any structure may be erected within any easement for public infrastructure over the subject site. All structures shall be designed and sited such that all structure loads will be transferred to the foundation material outside of the zone of influence of any public infrastructure.
- b) Retaining walls are only permitted over the public sewer at the site boundaries. The structure must be designed to provide structural bridging over the pipe, as specified by Council, so as not to impose load on the pipe and to facilitate maintenance of the pipe without adverse effects on the wall's structural integrity and stability.
- c) Surface treatment over the sewer pipe shall be limited to soft landscaping, noninterlocking paving, asphalt or similar treatments as specified by Council officers, to allow ready access to the pipe for excavation. Council will not be responsible for the reinstatement of plantings, unauthorised structures or decorative surfacing in the vicinity of the pipe in the event of pipe excavation or other maintenance works.
- d) Any fencing erected across the sewer main shall be designed and constructed with removable panels and footings located at least 1.0 metres horizontally clear of sewer main.
- e) Trees and other landscaping that will grow to over one meter in height at maturity are not permitted within the sewer easement to prevent the tree roots intruding into sewer mains and internal sewer pipes. Landscaping within sewer easements shall be of a minor nature designed to ensure they do not damage or interfere with any part of the pipeline.

#### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

87. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

88. A noise management plan shall be prepared and submitted to the satisfaction of the General Manager or delegate which details how noise in association with childcare centre activities will be managed and controlled, so as to prevent the generation or emission of intrusive noise. The management plan shall consider

the recommendations of the Environmental Noise Impact Report for Lot 171 DP 1208112 Casuarina Way and Grand Parade, Casuarina prepared by CRG Acoustics Pty Ltd dated 24 March 2016 (crgref: 16035 report) and addendum (CRG Acoustics letter dated 30 June 2016), and be submitted and approved prior to the issue of the occupation certificate.

[POC0125]

89. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

90. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

91. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professionally painted in black numbers 75-100mm high.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

92. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

[POC0355]

93. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.

[POC0615]

94. The proprietor of the food premises shall provide appropriate notification to Council prior to commencement of operations by completing the "Application for Food Premises Registration" form available from [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) or alternatively by contacting Council on 02 6670 2400.

[POC0625]

95. The premises is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest

**Control Operator. A certificate of treatment is to be made available for Council inspection on request.**

[POC0635]

- 96. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the “satisfactory inspection report” issued by Council for all works required under Section 138 of the Roads Act 1993.**

[POC0745]

- 97. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications.**

[POC0755]

- 98. Submission to the Principal Certifying Authority, Certification for the stability of any retaining structures in excess of 1.2m erected on the site by a suitably qualified structural engineer.**

[POC0815]

- 99. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the “satisfactory inspection report” issued by Council for all s68h2 permanent stormwater quality control devices.**

[POC0985]

- 100. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.**

[POC1045]

- 101. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.**

[POC1055]

- 102. Prior to the issue of an Occupation Certificate a suitably qualified engineer shall provide certification for the car parking areas; stating that the car parking complies with AS2890 - Off Street car parking.**

[POCNS01]

- 103. Prior to issue of an Occupation Certificate for Stage 1, driveway works for the connection between Lots 171 and 172 are to be complete in accordance with the approved Site Plan.**

[POCNS02]

## **USE**

- 104. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.**

[USE0125]

- 105. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other**

mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]

**106. Hours of operation of the childcare facility are restricted to the following hours:**

- 6.30am to 6.30pm - Mondays to Fridays
- Children activity prior to 7.00am and after 6.00pm shall be restricted to indoors.

Hours of operation for all other commercial activities are restricted to the following hours:

- 6.30am to 10pm - Mondays to Sundays (7 days)
- Alfresco dining areas - 7am to 10pm

[USE0185]

**107. All deliveries to the premises are to occur only within the hours of 7.00am to 6.00pm Monday to Saturday and 8.00am to 6.00pm Sunday and Public Holidays, unless otherwise approved by Councils General Manager or his delegate. Urgent or medical related deliveries exempted.**

[USE0195]

**108. All externally mounted artificial lighting, including signage and security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.**

[USE0225]

**109. The servicing of waste facilities shall be limited to between the hours of 7.00am to 6.00pm Monday to Saturday and 8.00am to 6.00pm Sunday and Public Holidays.**

[USE0285]

**110. The development shall be carried out in accordance with the recommendations of the Environmental Noise Impact Report for Lot 171 DP 1208112 Casuarina Way and Grand Parade, Casuarina prepared by CRG Acoustics Pty Ltd dated 24 March 2016 (crgref: 16035 report) and Addendum letter dated 30 June 2016. This is in addition to the noise impact assessment report and recommendations as required to be approved under Condition 29.**

[USE0305]

**111. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003*, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval.**

[USE0835]

**112. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements.**

[USE0845]

113. All commercial/industrial/residential wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate.

[USE0875]

114. The disposal of all wash water, oil, grease or other pollutants from the business shall be disposed of to the satisfaction of Council's General Manager or his delegate as outlined in the Liquid Trade Waste Services Agreement and General Conditions of Approval.

[USE1055]

115. All bulk waste collection activities shall occur within the property boundary.

[USE1345]

116. The LAeq, 15 min noise level emitted from the premises shall not exceed the background noise level (LA90) in any Octave Band centre frequency (31.5Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence.

[USENS01]

117. All car parking throughout the site is to be made publically available at all times. There is to be no staff only parking signage (for example no 'Doctor only' signage).

[USENS02]

## **GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997**

### **1. Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

- a) At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

### **2. Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

- b) Fire hydrant/s are to be installed within the subject site to comply with AS 2419.1-2005 (which includes access) however any coverage must be shown to reach all the areas of the external perimeter of the buildings. The on-site fire hydrant/s system shall be designed and certified by a qualified hydraulic consultant for submission to the consent authority. The

provisions for public roads in section 4.1.3(1) of 'Planning for Bush Fire Protection 2006' in relation to parking are to be met where fire hydrant are located.

- c) Electricity and gas services are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

### 3. Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

- d) Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006', including the preparation of an emergency / evacuation plan consistent with the NSW RFS document titled 'A guide to developing a bush fire emergency management and evacuation plan'. A copy of the plan shall be provided to the consent authority and the local Bush Fire Management Committee prior to occupation of the development.

### 4. Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- e) Construction of the child care centre building shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

### 5. Landscaping

- f) Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

## REPORT:

**Applicant:** Newton Denny Chapelle  
**Owner:** 171 Casuarina Way Pty Ltd  
**Location:** Lot 171 & 172 DP 1208112 No. 478-480 Casuarina Way, Casuarina  
**Zoning:** B2 - Local Centre  
**Cost:** \$4,500,000

## Background:

### Proposal

Council is in receipt of a development application that proposes a mixed use development including child care centre, medical centres, office premises, retail premises, food and drink premises, gymnasium and associated earthworks.

The development is proposed over two stages as follows:

- Stage 1 construction of the child care centre and all civil works associated with the project including construction of the car park, water, sewer and drainage infrastructure
- Stage 2 construction of the commercial buildings.

The following land uses are proposed:

- Child care centre (77 places with 11 staff - 761m<sup>2</sup> floor area)
- Two Offices premises (Tenancies 12 & 13 - 291m<sup>2</sup> floor area)
- Three Retail premises (Tenancies 4, 5 & 6 - 184m<sup>2</sup> floor area)
- Four Medical Centres (Tenancies 7, 8, 9 & 10 - 306m<sup>2</sup> floor area)
- Three Food and Drink Premises (Tenancies 1, 2 & 3 - 254m<sup>2</sup> floor area plus 118m<sup>2</sup> outdoor dining)
- Recreation facility (indoor) (Tenancy 11 - 366m<sup>2</sup> floor area)

The child care centre building is located on the northern aspect of the site. The centre takes the form of three single storey post-modern wings in a triangular layout surrounding a central outdoor playspace. The materials utilised include a mix of brick and light weight cladding, low pitch skillion colorbond roofing with the design featuring articulation and splashes of colour enhancing interest to the inward oriented building.

Along the southern boundary are three contemporary buildings connected by covered walkways surrounding a courtyard and outdoor dining precinct. The two primary buildings are two storeys whilst the detached third building to the east is single storey; all of a coastal character featuring gabled ended roofs, expansive glazing, highlight windows and wrap around verandas.

Vehicular access is from Casuarina Way to the east with the car park which runs parallel to the southern boundary between the child care centre and commercial buildings that provides 79 car parking spaces which includes 3 accessible spaces in addition to one small rigid vehicle space.

The development is in association with the existing child care centre on Lot 172 for larger vehicle access requirements however the existing and proposed childcare centres are proposed to operate separately with no physical connection.

The proposed hours of operation are:

- Child care centre – 6.30am to 6.00pm Monday to Friday
- Other commercial uses – 6.30am – 10pm seven days

Signage does not form part of the application.

### **Site History**

Lot 171 is irregular in shape with frontage onto Grand Parade and Casuarina Way. Lot 171 adjoins low density residential allotments to the northwest, multi dwelling housing to the north east, an existing child care centre on Lot 172 to the east and a drainage reserve to the west that provides a buffer from Tweed Coast Road. Casuarina Shopping Village is located across Grand Parade to the south. Lot 171 is currently vacant.



**2015 aerial photograph of the subject site**

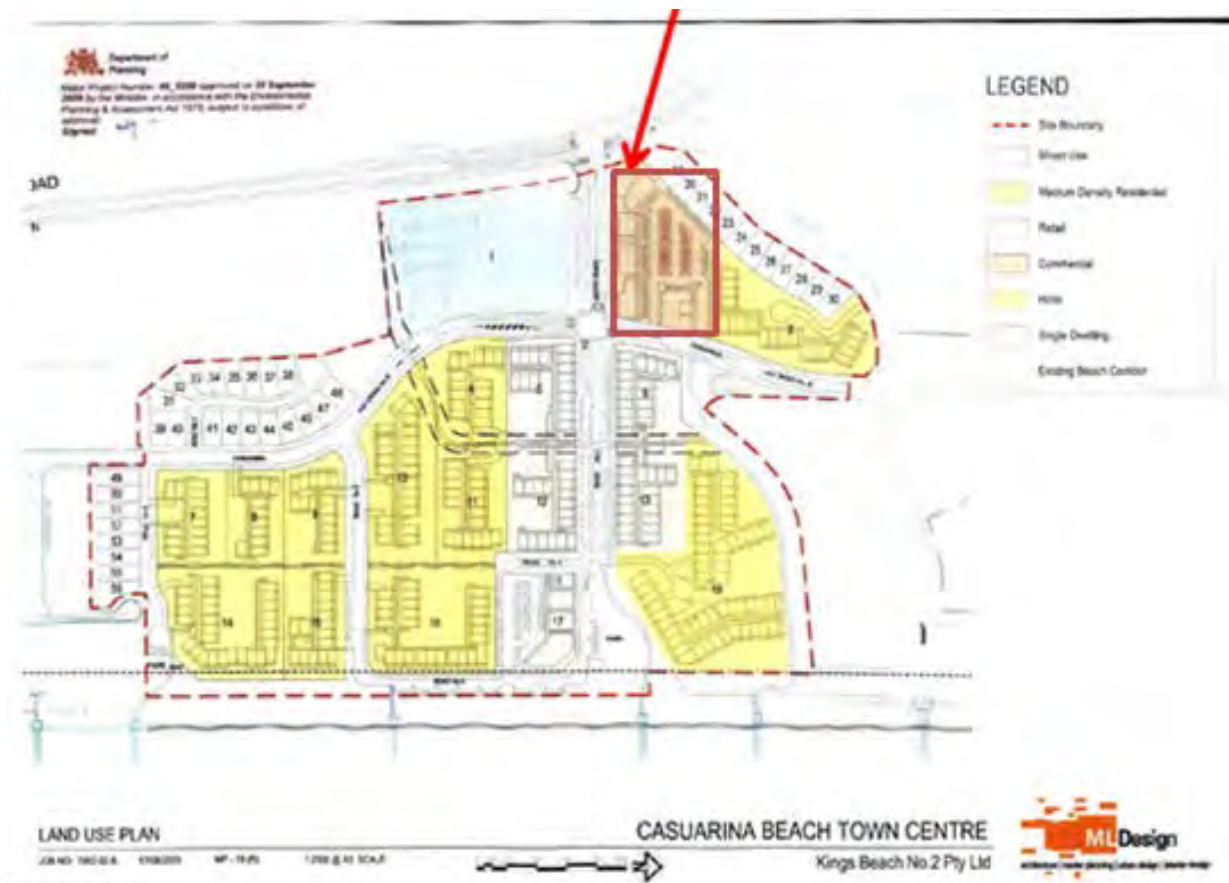
The lot was created pursuant to DA14/0270 which was for the construction of a childcare centre and two lot subdivision granted 19 September 2014. The application was subsequently amended 14 December 2015.

The subject site has the benefit of an approved Concept Plan issued by the NSW Department of Planning & Infrastructure (MP06\_0258 Casuarina Town Centre).



Accordingly a consent authority must not grant consent under Part 4 of the Act for any development within the approved Concept Plan area unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan (Clause 3B 2(d) of the Part 3A transitional arrangements under schedule 6A of the EP & A Act.

The approved Concept Plan is duplicated below and shows that the proposed development is to be located within approved Precinct 2 as shown:



**MP06\_0258 Approved Casuarina Town Centre Land Use Plan showing subject site for commercial use.**

Council notes the approved Concept Plan showed the subject site being utilized for commercial development specifically Precinct 2 was nominated for a potential office, medical centre, child care centre, community facilities etc.

The current application is considered to be consistent with the nominated Land Use for the proposed Precinct 2 and therefore meets the consistency test with the approved Concept Plan.

### **Application Assessment**

The subject application was placed on public exhibition for a period of 14 days and five submissions were received that are addressed elsewhere in this report. The proposal was referred to the NSW Rural Fire Service (RFS) as Integrated Development in accordance with Section 100B of the Rural Fires Act 1997. Further information was requested by the RFS

and the applicant's response subsequently satisfied their concerns and conditions of consent were provided from the agency. Also the application was referred to NSW Roads and Maritime Services with regards to the proposed signage which was later removed from the application.

Internally, the proposal was reviewed by Tweed Shire Council officers in the Building Services, Environmental Health, Development Engineering, Water, Traffic, Stormwater, Recreation Services and Waste Units. Approval of the application is recommended by these Units subject to the imposition of conditions on any consent issued as discussed in this report.

The following summarises the assessment of the proposal and the several issues that required resolution.

After lodgement, the proposal was referred to relevant officers and agencies for assessment and on 10 June 2016 Council requesting the following information from the proponent:

- Additional information related to car parking under provision;
- Additional detail regarding water and sewer infrastructure works;
- Additional information for Section 64 charges calculations (consulting room numbers and gym change room facility numbers);
- Additional details regarding cut and fill for the site;
- Amended plans or demonstration that landscaping or car parking proposed in the drainage reserves does not compromise their function;
- Revised plans that do not proposed landscaping works in the road reserve;
- Detailed signage plans;
- Acoustic concerns related to child care centre;
- Bushfire assessment report; and
- Response to matters raised in the submissions including 24 hour gym acoustic concerns.

Additional information was received 21 July 2016 which was subsequently assessed. Of note was that the traffic assessment continued to not provide consulting room numbers within the proposed four tenancies (306m<sup>2</sup> in floor area) of medical centre use. However, the proponent separately provided consulting room configuration for Section 64 calculation purposes.

On 21 September 2016 Council recommended that the application be withdrawn or the application will be determined by way of refusal based on the information already submitted. The primary reason for refusal was the significant under provision of car parking which involved a 48 car space shortfall.

Additional to the car parking issue, the following matters were still unresolved at that stage:

- Access conflicted with existing stormwater gully pit;
- Unresolved issue relating to earthworks and parking compromising drainage reserve function;
- Acoustic reporting did not address 24 hour gymnasium hours of operation;
- Landscaping works continued to propose works in the road reserve including ramps and tactical indicators;
- Child care centre access levels unresolved; and

- Advertising required based on new signage information provided.

Council accepted a request that an amended proposal be submitted which was provided 10 October 2016 with additional information received 26 October 2016.

The amended proposal included the following:

- Change in room configuration of medical centre from 13 consulting rooms to 7 and additional justification with regard to car parking provision from traffic consultants.
- Amended access to address conflict with existing stormwater gully pit.
- Removal of car parking from within the drainage reserve.
- Amended hours of operation of the proposed gymnasium to 6.30am to 10pm seven days per week.
- Signage is no longer part of the application.
- Revised child care centre plans to address access level issue.

After a review of the information provided 23 October 2016, it was concluded that most of the outstanding issues were resolved or could be adequately addressed by way of condition.

However, the car parking assessment and data that informed the car parking calculations warrant further discussion. The site provides 79 car parking spaces and therefore the development requires a variation of Tweed Development Control Plan (TDCP) 2008. It is noted that under TDCP 2008 Section A2 – Site Access and Parking Code, car parking demand for medical centres is based on proposed ‘consulting room’ numbers. Following are submissions from the proponent with regard to the proposed floor plans for the four tenancies that are nominated as medical centres.



**Part of Plan dated 8 June 2016 featuring 13 consulting rooms across 306m<sup>2</sup> and four medical centre tenancies.**



**Part of Plan dated 10 October 2016 featuring 7 consulting rooms across 306m<sup>2</sup> and four medical centre tenancies.**

It is noted that the proponent resubmitted floor plans in an attempt to justify the under provision of car parking. The resubmission of plans which changed the proposal from 13 consulting rooms to seven, involved no change in floor area associated with the medical centre use. The amendments involved primarily renaming the rooms from 'consulting rooms' to 'offices'. The demand for seven offices being required to facilitate the operation of seven consulting rooms within the businesses has not been demonstrated.

The difference in the above plans is significant with regard to predicted car parking demand assessment under Section A2. The proposed development including 13 consulting rooms resulted in the development having a shortfall of 48 spaces and a variation of 60%. Comparatively, the proposed development including 7 consulting rooms resulted in the development having a shortfall of 21 spaces and a variation of 21%.

As detailed elsewhere in this report, the car parking assessment of the proposal against Section A2 of TDCP 2008 considering advice from traffic consultant reporting concluded that the proposed variation to the TDCP 2008 with a shortfall of 21 car parking spaces is adequately justified by cross utilisation non-coinciding peak parking demand and therefore car parking on the site is considered acceptable if only seven consulting rooms are proposed.

Given the potential negative impact on accessibility that additional consulting rooms could have, a condition of consent is considered appropriate to restrict the development to a maximum of seven consulting rooms across the four tenancies (306m<sup>2</sup> of floor area) allocated that use. The implications for under provision of car parking to this development would have substantial traffic and access impacts to the wider Casuarina Town Centre precinct and adjoining residential developments.

This development application is referred to Council for determination due to the nature and scale of the development and variation requested.

**SITE DIAGRAM:**



**LOCALITY PLAN**

Lots 171-172 DP 1208112  
No. 478-480 Casuarina Way, Casuarina

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representation or warranties expressed or implied, concerning or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including interest) or consequential damage and costs, which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance only and is to be considered indicative and approximate only. It should not be used for survey or construction purposes and prior to any excavation or "dig below the flag" enquiries must be made by calling 1222. The information contained on this document remains valid for 120 days only from the date of supply.

**GDA**  Contract: 80 June, 2016  
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Tweed State Survey - MGA Zone 56  
Datum: GDA 84

City and Culture Centre  
3 Tamboque Road  
Mandurah NSW 2688  
PO Box 816  
Mandurah NSW 2484  
T: (02) 9875 2882 / (080) 282 872  
F: (02) 9870 2483  
W: www.tweed.nsw.gov.au  
E: planning@tweed.nsw.gov.au



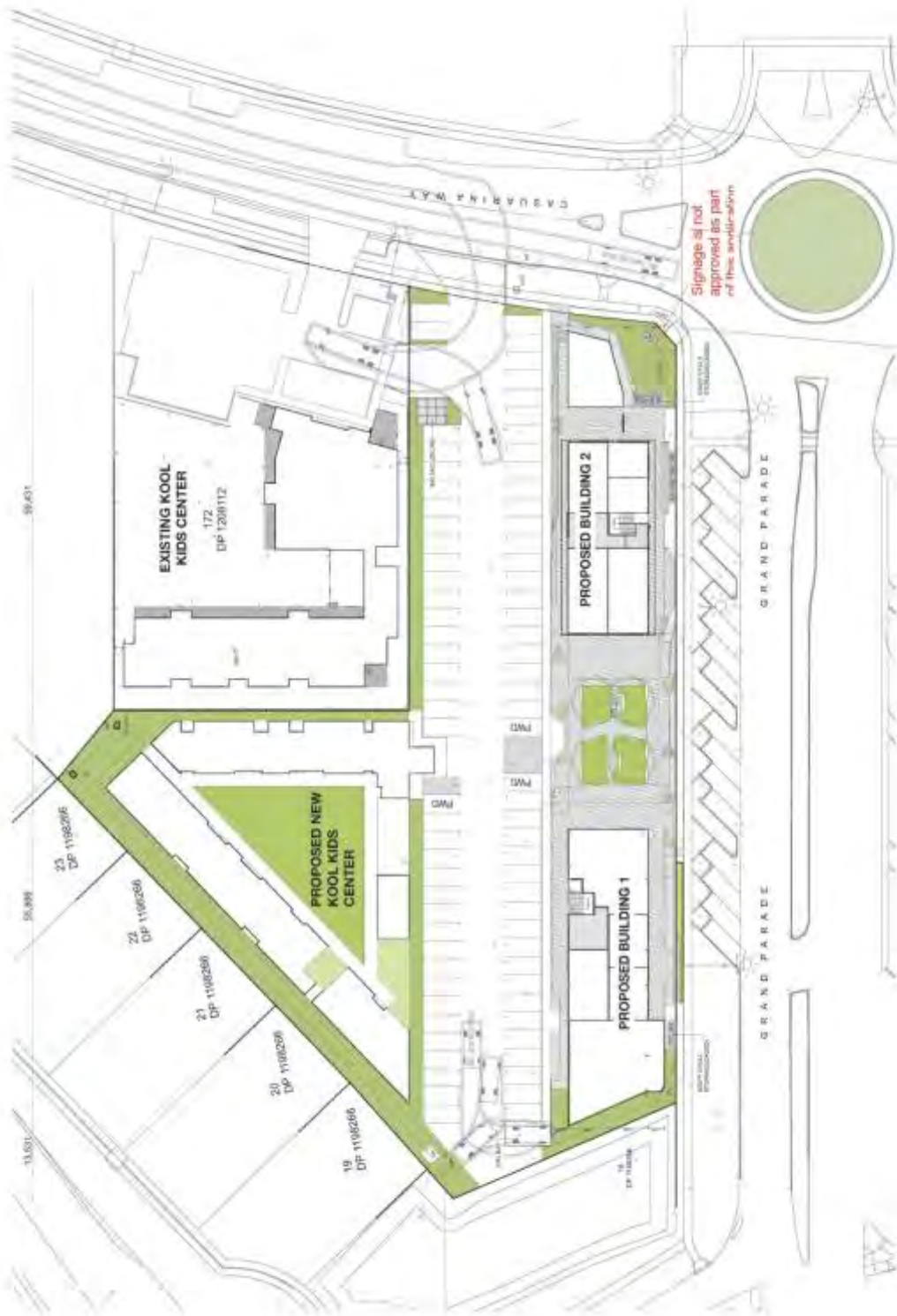
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Author: S. Sorell-GIS

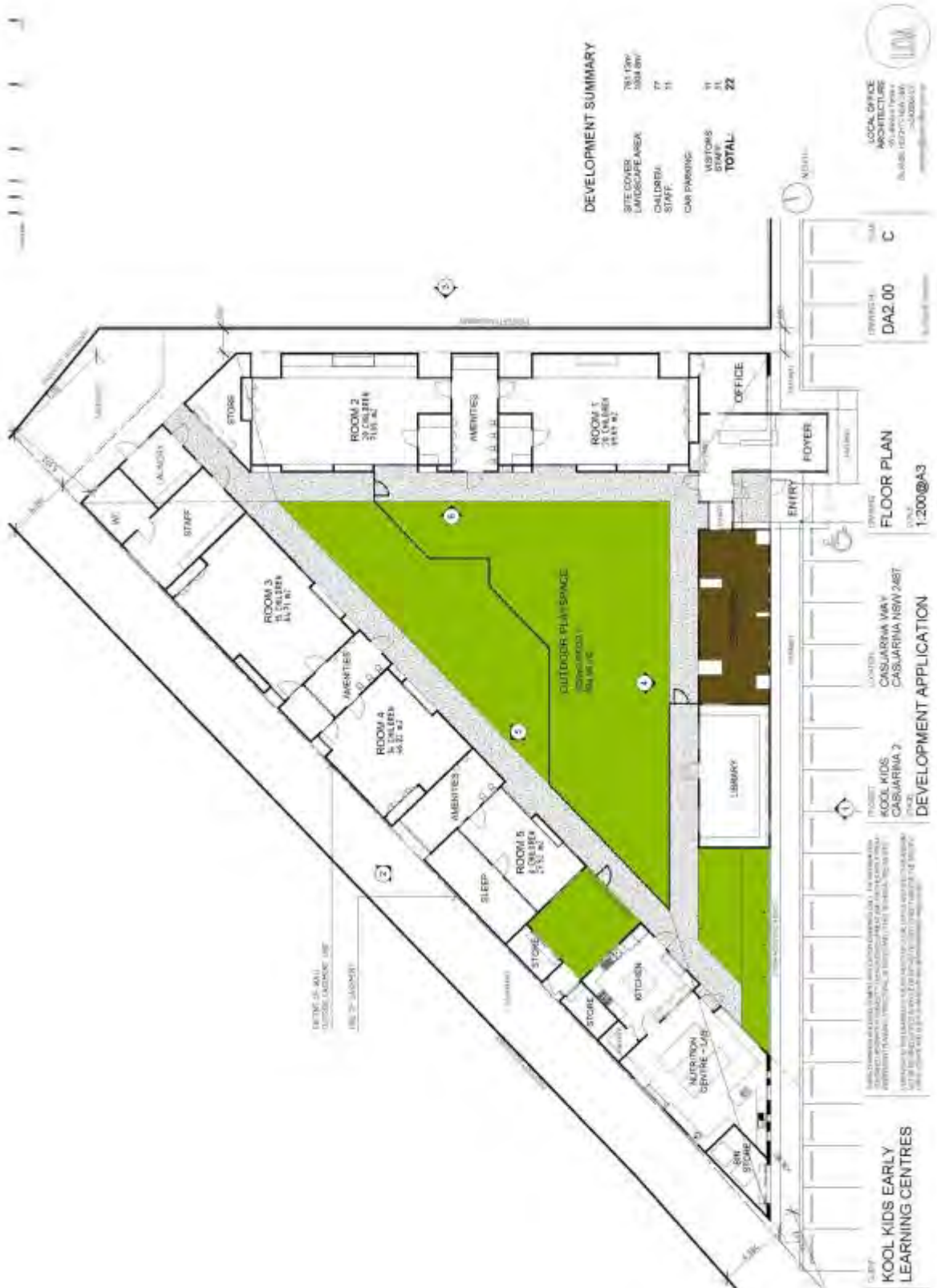
Date Printed: 30 November, 2016



DEVELOPMENT/ELEVATION PLANS:



<b>HARLEY GRAHAM ARCHITECTS</b> 1000 UNIVERSITY AVENUE, SUITE 1000, OAKLAND, CA 94612 TEL: (415) 778-1100 FAX: (415) 778-1101 WWW.HARLEYGRAHAMARCHITECTS.COM		PROJECT NO: 15000 A3 DA 03 C SHEET NO: 03 OF 03 DATE: 11/15/16	
CLIENT: HARLEY GRAHAM ARCHITECTS PROJECT: 15000 A3 DA 03 C LOCATION: 15000 A3 DA 03 C		SCALE: 1/8" = 1'-0" DATE: 11/15/16	
DESIGNER: HARLEY GRAHAM ARCHITECTS ARCHITECT: HARLEY GRAHAM ARCHITECTS ENGINEER: HARLEY GRAHAM ARCHITECTS LANDSCAPE ARCHITECT: HARLEY GRAHAM ARCHITECTS		PROJECT NO: 15000 A3 DA 03 C SHEET NO: 03 OF 03 DATE: 11/15/16	
<b>SITE PLAN</b> 1-5000 A3 DA 03 C			







### FLOOR AREAS

CAFE / RESTAURANT	350 m <sup>2</sup>
RETAIL/RETAIL	150 m <sup>2</sup>
MEDICAL PRACTICES	200 m <sup>2</sup>
OFFICES	291 m <sup>2</sup>
GYM	300 m <sup>2</sup>
<b>TOTAL</b>	<b>1400 m<sup>2</sup></b>



**HARLEY GRAHAM ARCHITECTS**  
 44 DUNDAS STREET WEST SUITE 1000 TORONTO ONTARIO M5G 1L8  
 TEL: 416-593-1111 FAX: 416-593-1112  
 WWW.HARLEYGRAHAMARCHITECTS.COM

UNLAWFUL USES	
1. Residential	2. Commercial
3. Industrial	4. Other

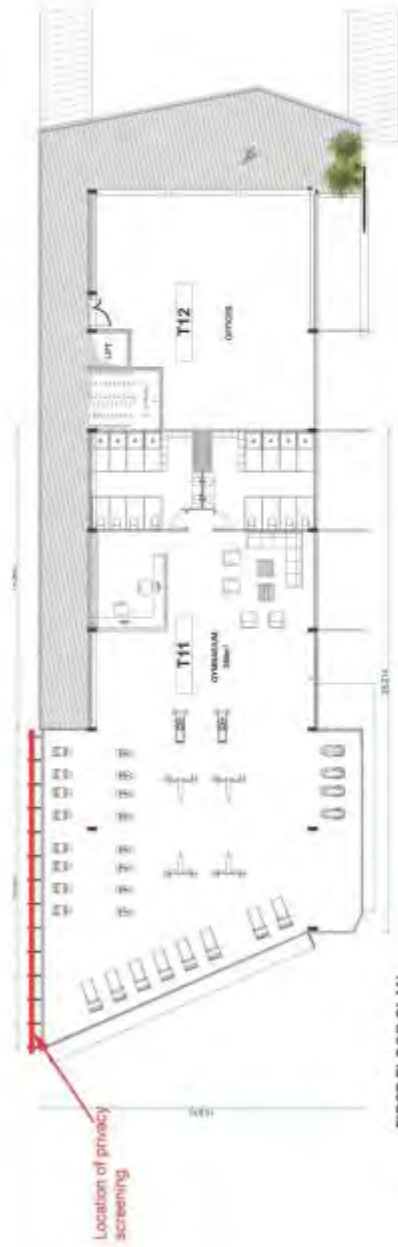
DEVELOPER'S INFORMATION	
DEVELOPER	PROJECT NAME
ADDRESS	ADDRESS

APPLICANT'S INFORMATION	
APPLICANT	PROJECT NAME
ADDRESS	ADDRESS

AREA AND USES	
AREA	USE
1500 A3 DA 04	C

APPROVALS	
APPROVED BY	DATE
APPROVED BY	DATE

# BUILDING 1



FIRST FLOOR PLAN



GROUND FLOOR PLAN

18  
DP 1198266

<b>HARLEY GRAHAM ARCHITECTS</b> 140-150 W. 10th Street, Suite 100 Anchorage, Alaska 99501 Phone: 907.561.1111 Fax: 907.561.1112 www.harleygrahm.com	MAILING ADDRESS: 140-150 W. 10th Street, Suite 100 Anchorage, Alaska 99501	BILLING ADDRESS: 140-150 W. 10th Street, Suite 100 Anchorage, Alaska 99501	TELEPHONE: 907.561.1111	PROJECT COLLOQUY: HARLEY GRAHAM ARCHITECTS	ADDRESS: 140-150 W. 10th Street, Suite 100 Anchorage, Alaska 99501	EXISTING W/VE EXHIBITS VIEW PLAN: 1/11/16 1/11/16	SHEET NO.: 001	SHEET TOTAL: 001 OF 001	DATE: 12/15/16	SCALE: AS SHOWN	DRAWN BY: J. HARRIS	CHECKED BY: J. HARRIS	PROJECT NO.: 18-0000	SHEET NO.: 001 OF 001

# BUILDING 1

- MATERIALS AND FINISHES:**
- WALL CLADDING: VERTICAL SPRUCE (W/NO CORNER) (SECTION)
  - CLADDING: PORTLAND
  - ROOF: CORRUGATED METAL (ROOF)
  - COLOUR: ANTIQUE
  - TRIMMER: HORIZONTAL TIMBER
  - COLOUR: NATURAL
  - CLADDING: TIMBER CLADDING (W/NO CORNER)
  - COLOUR: NATURAL
  - PLANTING: HORIZONTAL TRIMMER (SECTION)
  - COLOUR: NATURAL
  - FINISHES: BRICK, TERRAZZO CLADDING
  - COLOUR: NATURAL



WEST ELEVATION



EAST ELEVATION

Signage is not approved as part of this structure.



NORTH ELEVATION



SOUTH ELEVATION

<b>HARLEY GRAHAM ARCHITECTS</b> 100 JEFFERSON STREET, SUITE 101, WILLOWDALE, ONTARIO 416-490-1100   WWW.HARLEYGRAHAMARCHITECTS.COM	PROJECT NO: 16-01-01 DATE: 10/10/16 DRAWING NO: 16-01-01-01	PROJECT NAME: BUILDING 1 ELEVATION	CLIENT: HARLEY GRAHAM ARCHITECTS	ARCHITECT: HARLEY GRAHAM ARCHITECTS	DESIGNER: HARLEY GRAHAM ARCHITECTS	DATE: 10/10/16	SCALE: 1:200	SHEET NO: A3 DA 07	TOTAL SHEETS: 1



# BUILDING 2



<b>HARLEY GRAHAM ARCHITECTS</b> 100 UNIVERSITY STREET, SYDNEY NSW 1588 P.O. BOX 960, SYDNEY NSW 1588 PH: 61 61 9550 1111 FAX: 61 61 9550 1111 WWW.HGARCHITECTS.COM.AU		<b>REGISTRATION</b> ARCHITECTS NO. 10000 NO. 10000 NO. 10000		<b>SCALE</b> 1:200		<b>DATE</b> 15/12/16		<b>PROJECT</b> BUILDING 2		<b>SCALE</b> 1:200		<b>DATE</b> 15/12/16	
<b>PROJECT INFORMATION</b> PROJECT NO. 10000 PROJECT NAME: BUILDING 2 PROJECT ADDRESS: 100 UNIVERSITY STREET, SYDNEY NSW 1588 PROJECT CONTACT: HARLEY GRAHAM ARCHITECTS PROJECT CONTACT: 100 UNIVERSITY STREET, SYDNEY NSW 1588 PROJECT CONTACT: 61 61 9550 1111 PROJECT CONTACT: WWW.HGARCHITECTS.COM.AU		<b>CLIENT INFORMATION</b> CLIENT NAME: CASUAL CLIENT ADDRESS: 100 UNIVERSITY STREET, SYDNEY NSW 1588 CLIENT CONTACT: HARLEY GRAHAM ARCHITECTS CLIENT CONTACT: 100 UNIVERSITY STREET, SYDNEY NSW 1588 CLIENT CONTACT: 61 61 9550 1111 CLIENT CONTACT: WWW.HGARCHITECTS.COM.AU		<b>DESIGNER INFORMATION</b> DESIGNER NAME: HARLEY GRAHAM ARCHITECTS DESIGNER ADDRESS: 100 UNIVERSITY STREET, SYDNEY NSW 1588 DESIGNER CONTACT: HARLEY GRAHAM ARCHITECTS DESIGNER CONTACT: 100 UNIVERSITY STREET, SYDNEY NSW 1588 DESIGNER CONTACT: 61 61 9550 1111 DESIGNER CONTACT: WWW.HGARCHITECTS.COM.AU		<b>APPROVED AS PART OF THIS APPLICATION</b> APPROVED BY: [Signature] APPROVED DATE: 15/12/16		<b>APPROVED AS PART OF THIS APPLICATION</b> APPROVED BY: [Signature] APPROVED DATE: 15/12/16		<b>APPROVED AS PART OF THIS APPLICATION</b> APPROVED BY: [Signature] APPROVED DATE: 15/12/16		<b>APPROVED AS PART OF THIS APPLICATION</b> APPROVED BY: [Signature] APPROVED DATE: 15/12/16	

# BUILDING 2

- MATERIALS AND COLOURS:**
- WALL CLADDING / VERTICAL BRICK / PERFORATED BRICKS / LIGHT BROWN STONE
  - ROOF / TERRACE / TERRAZZO / POLISHED CONCRETE
  - TRIM / LAMINATE / TIMBER
  - GLAZING / TINTED GLAZING / CLEAR GLAZING / COLOURED GLAZING
  - FLOORING / RECYCLED / BAMBOO / SLIPPERY / POLISHED / NATURAL
  - SIGNAGE / BRICK / CONCRETE / METAL / WOOD



WEST ELEVATION



EAST ELEVATION



NORTH ELEVATION

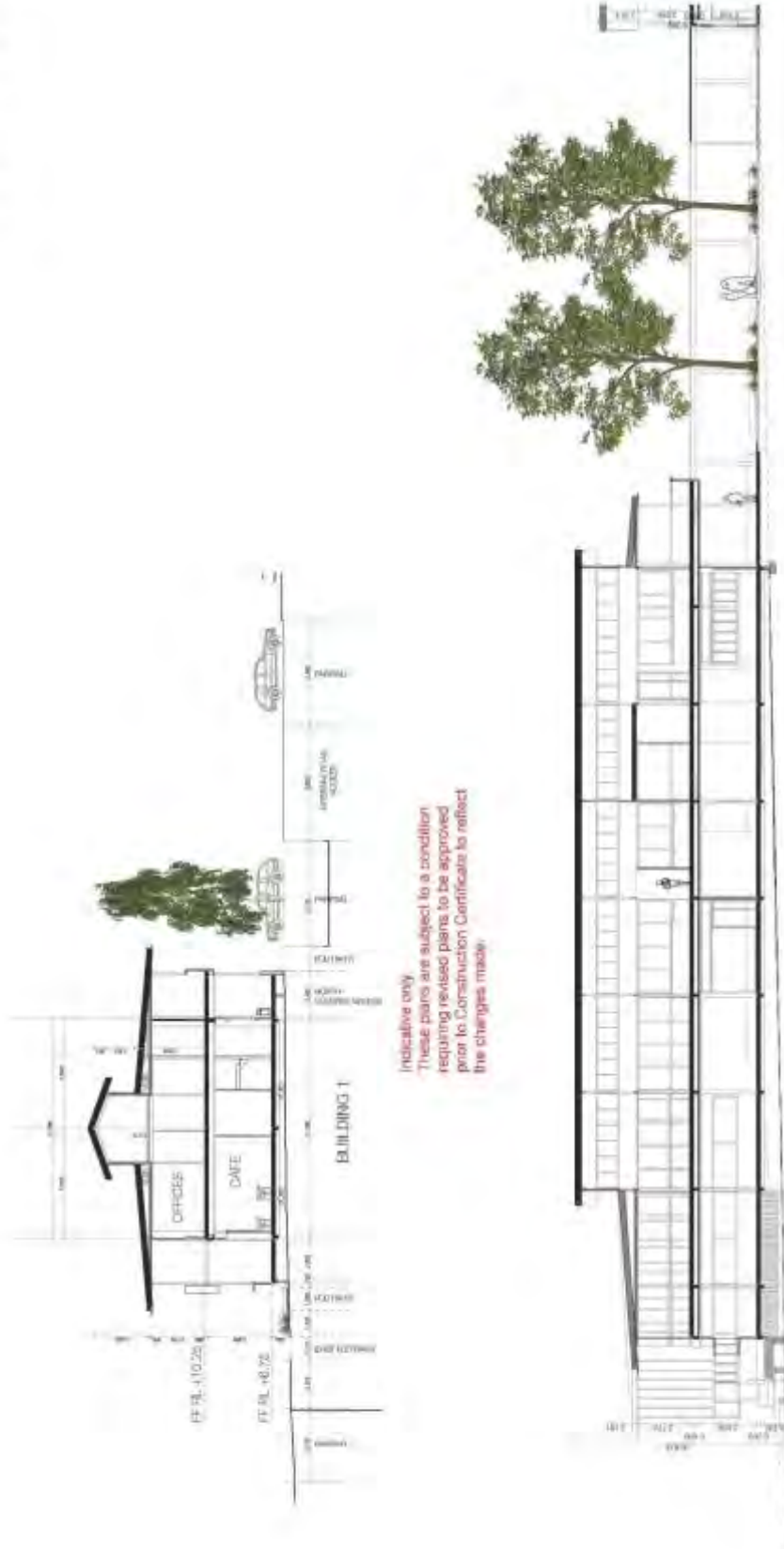
Signage is not approved as part of this application



SOUTH ELEVATION

<p><b>HARLEY GRAHAM ARCHITECTS</b>                  10/11 FORT STREET, SUITE 101, SYDNEY NSW 1580                  P: 02 9550 0011   F: 02 9550 0000                  www.harleygrahm.com.au</p>	<p><b>CLIENT:</b>                  SYDNEY CHILD CARE CENTRE</p>	<p><b>PROJECT LOCATION:</b>                  10/11 FORT STREET, SYDNEY NSW 1580</p>	<p><b>DATE:</b>                  15/12/16</p>	<p><b>SCALE:</b>                  1:200</p>	<p><b>PROJECT NO.:</b>                  HG-16-001</p>
	<p><b>REVISIONS:</b></p>			<p><b>APPROVED BY:</b>                  [Signature]</p>	
<p><b>BUILDING 2 ELEVATION</b></p>					
					<p><b>1:200 A3 DA 10 A</b></p>

# BUILDING 1



<b>HARLEY GRAHAM ARCHITECTS</b> <small>11/11 BROADWAY, SYDNEY NSW 2009          TEL: 02 9550 0000 FAX: 02 9550 0001          WWW.HARLEYGRAHAMARCHITECTS.COM.AU</small>		<small>© COPYRIGHT HARLEY GRAHAM ARCHITECTS          ALL RIGHTS RESERVED. THIS DOCUMENT IS THE PROPERTY OF HARLEY GRAHAM ARCHITECTS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED IN THE TITLE BLOCK. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF HARLEY GRAHAM ARCHITECTS.</small>		<b>ARCHITECT</b> A. G. G.	SHEET NO. 06/16	SHEET TOTAL 06/16	PROJECT NO. 15/16/0010	CLIENT UNIVERSITY OF WOLLONGONG	PROJECT NAME BUILDING 1 SECTION	SHEET NO. 06/16	DATE 15/12/16	SCALE 1:200	DRAWN BY A. G. G.	CHECKED BY A. G. G.	DATE 15/12/16
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**Considerations under Section 79C of the Environmental Planning and Assessment Act 1979:**

**(a) (i) The provisions of any environmental planning instrument**

**Tweed Local Environmental Plan 2014**

**Clause 1.2 – Aims of the Plan**

This Plan aims to make local environmental planning provisions for land in Tweed in accordance with the relevant standard environmental planning instrument under section 33A of the Act.

The particular aims of this Plan are as follows:

- (a) to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
- (b) to encourage a sustainable local economy and small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed,*
- (c) to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, built environment, and cultural heritage,*
- (d) to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*
- (e) to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*
- (f) to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,*
- (g) to conserve or enhance the biological diversity, scenic quality and geological and ecological integrity of Tweed,*
- (h) to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,*
- (i) to conserve or enhance areas of defined high ecological value,*
- (j) to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.*

The proposed application relates to a mixed use development in the form of a child care centre, commercial premises, medical centres and gymnasium located on appropriately zoned land. The proposed development is considered to be consistent with the aims of the plan.



Clause 1.4 – Definitions

Under this clause the proposed development would constitute a number of various development definitions, given its scope and elements proposed. These are detailed further below.

**Mixed use development** means a building or place comprising 2 or more different land uses.

**Child care centre** means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
  - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
  - (ii) private tutoring, or
- (i) a school, or
- (j) a service provided at exempt premises (within the meaning of Chapter 12 of the Children and Young Persons (Care and Protection) Act 1998), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

**Commercial premises** means any of the following:

- (a) business premises,
- (b) office premises,
- (c) retail premises.

**Office premises** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and

*regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.*

*Note. Office premises are a type of commercial premises—see the definition of that term in this Dictionary.*

**Retail premises** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) bulky goods premises,
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (m) timber yards,
- (n) vehicle sales or hire premises,

*but does not include highway service centres, service stations, industrial retail outlets or restricted premises.*

*Note. Retail premises are a type of commercial premises—see the definition of that term in this Dictionary.*

**Food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

*Note. Food and drink premises are a type of retail premises—see the definition of that term in the Dictionary.*

**Restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

*Note. Restaurants or cafes are a type of food and drink premises—see the definition of that term in the Dictionary.*

**Health services facility** means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital

**Medical centre** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

*Note.* Medical centres are a type of health services facility—see the definition of that term in this Dictionary.

**Recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

These development types are permissible with consent in the B2 Local Centre zone that applies to the subject site.

#### Clause 2.3 – Zone objectives and Land use table

The subject site is zoned B2 Local Centre. The objectives of the B2 zone are as follows:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To provide for tourism and residential opportunities that contribute to the vitality of the local centre.

The proposed development relates to a mixed use development in the form of a child care centre, commercial premises, medical centres and gymnasium which are all land uses that are permitted in the zone. The proposed development is considered to be consistent with the aims of the plan

Clause 4.1 to 4.2A - Principal Development Standards (Subdivision)

Subdivision does not form part of the proposal.

Clause 4.3 - Height of Buildings

The site is mapped as having a maximum building height of 13.6m. The application states the proposed development has a maximum building height of 10.938m and therefore Clause 4.3 is met.

Clause 4.4 – Floor Space Ratio

The site is mapped as having a maximum floor space ratio of 2. The site area is 6273m<sup>2</sup> with the proposal featuring 2164m<sup>2</sup>. This results in a Floor Space Ratio of 0.34 which therefore complies with this clause.

Clause 4.6 - Exception to development standards

No exceptions to development standards are proposed under Clause 4.6 as part of the subject application.

Clause 5.4 - Controls relating to miscellaneous permissible uses

No miscellaneous permissible uses are proposed as part of this development.

Clause 5.5 – Development within the Coastal Zone

This clause states that development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered the following:

- (a) *existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*
  - (i) *maintaining existing public access and, where possible, improving that access, and*
  - (ii) *identifying opportunities for new public access, and*

The subject application does not propose any amendments to existing public access to or along the coastal foreshore.

- (b) *the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*
  - (i) *the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
  - (ii) *the location, and*
  - (iii) *the bulk, scale, size and overall built form design of any building or work involved, and*

The proposed development is permissible on the subject site and is generally consistent with the prescribed development requirements as outlined throughout this report. As such the proposal is considered to be acceptable at this location.

*(c) the impact of the proposed development on the amenity of the coastal foreshore including:*

- (i) any significant overshadowing of the coastal foreshore, and*
- (ii) any loss of views from a public place to the coastal foreshore,*

The proposed development is located approximately 300m from the coastal foreshore and it therefore not considered to impact on the amenity of the foreshore by virtue of overshadowing or a loss of views. The subject application is considered to be acceptable having regard to the above considerations.

*(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*

The proposed development is not considered to compromise the scenic qualities of the coast as it represents an acceptable development on appropriately zoned land. Beyond this, the subject development is not considered to generate any specific opportunities to protect the visual amenity and scenic qualities of the coast due to its nature and scale.

*(e) how biodiversity and ecosystems, including:*

- (i) native coastal vegetation and existing wildlife corridors, and*
- (ii) rock platforms, and*
- (iii) water quality of coastal waterbodies, and*
- (iv) native fauna and native flora, and their habitats, can be conserved, and*

The proposal is to be undertaken on a land which has been previously cleared, in anticipation of the commercial development of this land. It is considered that the proposal will have a minimal impact on the local biodiversity or ecosystems in this regard.

*(f) the cumulative impacts of the proposed development and other development on the coastal catchment.*

The proposed development is not considered to result in an unacceptable cumulative impact on the coastal catchment given the sites zoning and the permissibility of the development at this location.

This clause goes on to further state:

*(3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:*

- (a) *the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and*

As outlined elsewhere in this report, the proposal will not impede or diminish the right of access of the public either to or along the public foreshore.

- (b) *if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

The subject development does not propose to dispose effluent by non-reticulated system.

- (c) *the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

It is noted that the application has been reviewed by Council's Development Engineering Unit with respect to stormwater, who has raised no concerns with respect to stormwater subject to the application of appropriate conditions of consent. It is considered that the subject application would be in accordance with the above controls, with no untreated stormwater being discharged to the sea, beach or the like.

- (d) *the proposed development will not:*

- (i) *be significantly affected by coastal hazards, or*
- (ii) *have a significant impact on coastal hazards, or*
- (iii) *increase the risk of coastal hazards in relation to any other land.*

The proposed development is considered to be acceptable having regard to coastal hazards as outlined above due to its nature, permissibility and the spatial separation between the site and coastal hazards at this location.

Having regard to the above assessment the proposal is considered to be acceptable with respect to the provisions of this clause.

#### Clause 5.9 – Preservation of Trees or Vegetation

The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation. With respect to this, it is noted that the proposed development site is vacant with no significant vegetation proposed for removal and as such, the proposal is considered acceptable having regard to the provisions of this clause.

#### Clause 5.10 - Heritage Conservation

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Tweed,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

The subject site is not located within a Heritage Conservation Area and is not within proximity of a Heritage Item and as such this clause is considered satisfied.

#### Clause 5.11 - Bush fire hazard reduction

The subject site is bush fire prone and the no bush fire hazard reduction is proposed as part of the application.

The application was considered to be Integrated Development under Section 91 of the EP&A Act and was forwarded to the NSW Rural Fire Service for comment in accordance with Section 100B of the Rural Fires Act given child care centres are considered a *special fire protection purpose*.

A Bushfire Threat Assessment Report was submitted and NSW Rural Fire Service have provided authority to the development subject to standard conditions of consent.

Having considered the bushfire hazard at the site, the proposal is considered acceptable with regard to Clause 5.11.

#### Clause 7.1 – Acid Sulfate Soils

The objective of this clause is *to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage*.

The subject site is identified as having Class 2 and 4 Acid Sulfate Soils and filling proposed. Council's Environmental Health Unit has reviewed the application and stated that due to the extensive sampling and disturbance across the site for the larger development, acid sulfate soil is unlikely to be a constraint for the proposed works. Therefore Clause 7.1 is considered satisfied.

#### Clause 7.2 - Earthworks

Earthworks and establishment of the drainage easement formed part of the Major Project Approval MP06\_0258 for the Casuarina Town Centre development, DA14/0270 for the construction of a childcare centre and 2 lot subdivision and Construction Certificate CC14/0565 for stormwater drainage, sewer, water reticulation for 2 lot subdivision.

The earthworks associated with the proposal involve a maximum cut of 1.4m in the south east corner of the site and filling up to 0.9m toward the western side of the site. Retaining walls are proposed in the south east corner at a maximum height of 1.5m and 400mm in height is proposed on the western boundary.

The objective of this clause is *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*

The clause states that before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following:

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) *the effect of the development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) *the source of any fill material and the destination of any excavated material,*
- (f) *the likelihood of disturbing relics,*
- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*
- (i) *the proximity to, and potential for adverse impacts on, any heritage item, archaeological site, or heritage conservation area.*

Council's Development Engineer has reviewed the proposal and raises no objection to the proposal in this regard subject to conditions of consent. The following comments were provided:

*Lot 171 DP 1208112 is a vacant grassed allotment gently sloping towards the west and Tweed Coast Road with at a gradient of approximately 2%. Levels on the site range from RL 8.3m and 6.7m along the eastern boundary to RL 5.3m on the western boundary near Grand Parade. The site has been previously filled as part of the overall Casuarina development.*

*The application proposes earthworks with maximum cut of 1.4m in the south east corner of the site and filling up to 0.9m along the western side of the site as per Diagram 7 – Earthworks Plan. It is noted that a small section of retaining wall is proposed in the south east corner at a maximum height of 1.5m. Another small section of retaining wall approximately 400mm in height is proposed on the western boundary.*



*The applicant has provided the following amended plans with earthworks sections to demonstrate that adjoining levels on properties surrounding the development are not impacted upon.*

*Section 1, 2 and 3 earthworks details provided on Technical Note dated July 2016 by Newton Denny Chapelle demonstrates that the boundaries of the adjoining road, adjoining properties and the existing childcare centre is not affected by the earthworks. The cross sections also show that no filling is proposed along the existing easement located in the north east alignment of the site.*

It is noted that Council's Stormwater Engineer has also reviewed the application and also has no objection to the proposal subject to conditions of consent, including the requirement for revised landscaping plans that remove retaining walls and planting that would interfere with the function of the drainage easements.

Overall, the application is considered acceptable in this regard and satisfies Clause 7.2.

#### Clause 7.5 - Coastal risk planning

The subject site is not identified as being within a coastal risk area on Council's Coastal Risk Planning Map and as such this clause does not apply.

#### Clause 7.6 - Stormwater Management

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.

Stormwater details have been provided as part of this application and reviewed by Council's Development Engineering Unit who have advised of the following in this regard:

#### ***Lawful point of discharge***

*The concept plan for the Casuarina Town centre issued by the Department of Planning required stormwater drainage for the area to be adequately sized and engineered for future development. Adjoining allotment Lot 18 DP 1198266 has been previously dedicated to Council as a stormwater infiltration basin. Therefore downstream stormwater mitigation has been provided for the development.*

*Lot 18 DP1198266 is considered the legal point of discharge for the development.*

*A stormwater management plan is provided in the engineering report prepared by Newton Denny Chapelle dated April 2016 as per Diagram 15 – Stormwater management. The plan shows internal drainage for the car parking areas treated prior to release into the infiltration basin on adjoining*

*Lot 18. No objections are raised to the plan, it is noted that the final sizing of drainage lines is to be determined at the detailed design phase (i.e. prior to issue of a construction certificate).*

*Existing interallotment drainage is located along the rear boundary of existing residential allotments to the north east of the site. Further information was requested from the applicant to ensure that the proposed earthworks did not affect the existing stormwater line or cause nuisance to the adjoining properties.*

*It is noted that the footprint of proposed building no. 1 and landscaping is located over an existing easement to drain water (easement located in the south west corner of Lot 171). Further information was requested in relation to the easement and the building located over the easement.*

*The applicant has realigned the exterior footprint of the building to be outside the stormwater drainage easement, which is considered acceptable to have the eaves of the building partially located over the easement. This is due to the eaves being approximately 2.5 stories above the ground and will allow sufficient access / clearance for Council machinery to maintain the stormwater infrastructure within the easement as per Diagram 16 – Stormwater easement*

It is noted that Council's Stormwater Engineer has also reviewed the application and also has no objection to the proposal subject to conditions of consent, including the requirement for revised landscaping plans that remove retaining walls and planting that would interfere with the function of the drainage easements.

Stormwater management measures catering for construction phase (erosion and sediment control) and operational phase have also been reviewed with no issues raised in this regard subject to the application of appropriate conditions of consent.

Given the above considerations, the proposal is considered acceptable with regard to Clause 7.6.

#### Clause 7.10 - Essential Services

This clause states that development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

(a) *the supply of water,*

The subject application has been reviewed by Council's Water Unit and Development Engineering Unit with respect to the above, with it being noted that adequate water supply could be provided to service proposal.

*(b) the supply of electricity,*

Electricity services are currently provided to the area. Appropriate conditions of consent shall be imposed to ensure that the applicant provides services in accordance with the standards of the supply authority.

*(c) the disposal and management of sewage,*

The disposal and management of sewage has also been reviewed by Council's Water and Development Engineering Units with it being determined that this can be adequately serviced through infrastructure available to the area. The proposal is acceptable in this regard.

*(d) stormwater drainage or on-site conservation,*

Stormwater management has been reviewed by Council's Development Engineering Unit and Roads and Stormwater Unit with the proposal being considered to be acceptable with respect to stormwater drainage subject to the application of appropriate conditions of consent.

*(e) suitable road access.*

Vehicular access to the development is to be provided to the site via a new 6m wide crossover to the Casuarina Way frontage which provides access to the at grade carpark. This is considered to be appropriate to service the development.

With respect to the above assessment against the provisions of this clause, it is considered that the proposed development would be acceptable from the perspective of essential services available to the site.

Having regard to the above assessment, the proposed mixed use development is considered to be generally in accordance with the provisions of the Tweed Local Environmental Plan 2014.

**State Environmental Planning Policies (SEPP)**

**SEPP No. 14 - Coastal Wetlands**

The aim of this policy is to ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State.

The western edge of the subject site is located within the 100m buffer for wetlands located adjacent to nearby Cudgen Creek which are mapped as subject to this SEPP. However the buffer does not form part of the policy.

The proposed development is not located within the affected areas and as such does not require assessment against the provisions of the SEPP and did not require referral to Director of National Parks and Wildlife Service.

SEPP No. 44 - Koala Habitat Protection

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

The subject site is vacant with no significant vegetation surrounded by a developing urban area. The subject site formed part of the Tweed Coast Koala Study Area and is not mapped to be potential koala habitat under the *Tweed Coast Comprehensive Koala Plan of Management* created in accordance with this SEPP.

Therefore, no further assessment is required and the provisions of SEPP 44 are considered satisfied.

SEPP No. 55 - Remediation of Land

The objectives of SEPP No. 55 is to provide a State wide planning approach to the remediation of contaminated land and to require that remediation works meet certain standards and conditions.

SEPP No. 55 requires a consent authority to consider whether land is contaminated and if contaminated, that it would be satisfied that the land is suitable, in its contaminated state (or will be suitable after remediation). Further, it advises that if the land is contaminated and requires remediation, that the consent authority is satisfied that the land will be remediated before the land is used for that purpose. In particular it is noted that this SEPP states that a consent authority must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Council's Environmental Health Unit assessed the application and with regard to contamination the following was advised.

*As per Condition B1 of Planning Project Approval MP06/0258,*

*“following clearing works, and prior to the commencement of earthworks or any construction activities, surface and full depth radiation investigations (to a minimum of groundwater level) shall be conducted across the whole development site including area in public ownership. The site shall be remediated prior to the commencement of construction of the site.*

*Prior to the issue of a Construction Certificate the Proponent shall submit to Council a Remedial Action Plan and a Hazardous Materials*

*Survey. Council will identify minimum remediation depths for both private and public open spaces. As a minimum, remediation should occur to a depth of 2 metres or below the lowest service infrastructure, whichever is the greater. The Remedial Action Plan must be accompanied by a statement from a site auditor accredited by the Environmental Protection Agency to issue state audit statements”.*

*A Site Audit Statement (Site Audit Number: 0103-1205) prepared by Marc Salmon of Easterly Point Environmental Pty Ltd dated 10 April 2014 for Lot 144 DP 1030322, part Lot 223 DP 1048494, part Lot 3 DP 1042119 advises that “based on the foregoing, the site is considered suitable for the following land uses in regard to radiological contaminants from former mineral sands:*

- Residential with accessible soil, including garden, and including sensitive uses such as day care centre and preschool; and/or*
- Residential with minimal opportunity for soil access; and/or*
- Park, recreational open space, playing field; and/or*
- Commercial/industrial”.*

*It is noted that this advice covers the subject site. Contamination is not considered a constraint for the proposed development.*

Given the above review, the provisions of SEPP No. 55 are considered satisfied.

#### SEPP No. 64 – Advertising and Signage

Although signage was proposed as part of the originally submitted application, the proponent requested that this aspect of the development be withdrawn (letter dated 10 October 2016) and as such no further assessment with regard to SEPP 64 is required.

#### SEPP No 71 – Coastal Protection

The subject development site is within the coastal zone at this location and as a result is subject to the provisions of SEPP No.71. Council is required to consider the matters under Clause 8 and the following comments are made for Council’s consideration.

#### *Clause 8 – Matters for consideration*

*(a) the aims of this Policy set out in clause 2,*

The proposal is generally in accordance with the aims of this policy.

*(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*

The proposal development will not alter or restrict the public's access to the foreshore reserve areas.

- (c) *opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*

It is not considered that this application offers any opportunities to provide new public access to the foreshore.

- (d) *the suitability of development given its type, location and design and its relationship with the surrounding area,*

The proposal is considered suitable, having regard to its permissibility in this area.

- (e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*

The proposal will not result in any detrimental impact on the coastal foreshore given its nature being for a residential subdivision and its spatial separation from the foreshore.

The proposed development is not considered to impact on the amenity of the coastal foreshore given its nature on appropriately zoned land. In particular there is considered to be no loss of views or overshadowing associated with this application.

- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*

This proposal is not considered to have any negative impact on the scenic qualities of the NSW coast.

- (g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*

The proposal is not considered to impact negatively animals or their habitats. The subject development site has been previously cleared in anticipation of further development, and as such the proposal will not impact on measures as identified above.

- (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats*

The proposal is not considered to have an adverse impact upon marine environments or habitats.

- (i) *existing wildlife corridors and the impact of development on these corridors,*

The proposed development is not considered to impact negatively on wildlife corridors given it is to be undertaken on a site previously cleared of significant vegetation.

- (j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*

The proposed development is not considered to have any significant impact of development on coastal processes and coastal hazards.

- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities,*

The proposal is not considered to cause any conflict between land-based and water-based activities.

- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*

The subject development is not considered to impact on any traditional Aboriginal cultural values.

- (m) *likely impacts of development on the water quality of coastal water bodies,*

The subject application is not considered to have any significant impact upon the water quality of coastal waterbodies.

- (n) *the conservation and preservation of items of heritage, archaeological or historic significance,*

It is not considered that the proposal impacts upon the conservation or preservation of any of the above items .

- (o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*

Not applicable to the subject application.

- (p) *only in cases in which a development application in relation to proposed development is determined:*

- (i) *the cumulative impacts of the proposed development on the environment, and*

This development is not considered to have a negative cumulative impact on the environment.

- (ii) *measures to ensure that water and energy usage by the proposed development is efficient.*

Although the subject development is not a Basix affected development and does not require certification with respect to water and energy efficiency, the subject application is considered to be acceptable in this regard.

SEPP 71 applies to land within the 'coastal zone' which is defined as having the same meaning as in the *Coastal Protection Act 1979*. The subject land is located within the coastal zone and the provisions of SEPP 71 therefore apply to the proposed development. The proposed development is consistent with the aims of SEPP 71, with the development considered to be an appropriate response to the location, subject to conditions of consent as outlined above.

### Conclusion

It is considered the proposed development does not compromise the intent or specific provisions of State Environmental Planning Policy No. 71 – Coastal Protection.

### SEPP (Infrastructure) 2007

#### *Clause 101 Development with frontage to classified road*

The subject site is separated from Tweed Coast Road by Lot 18 DP 1198266 which is a Council owned drainage reserve and does not have direct frontage onto Tweed Coast Road which is a Classified Road and therefore this clause does not apply.

#### *Clause 102 Impact of road noise or vibration on non-road development*

This clause applies to development for a child care centre that is on land in or adjacent to the road corridor for a freeway, a tollway or a transit way or any other road with an annual average daily traffic volume of more than 40,000 vehicles. Tweed Coast Road does not meet the prescribed volume and as such the clause does not apply.

#### *Clause 104 Traffic-generating development*

This clause states that the application may require referral to NSW Roads and Maritime Services (RMS) if the development meets the criteria outlined in *Schedule 3 Traffic generating development to be referred to the RTA*.

Column 2 of Schedule 3 outlines the size or capacity for any development to be referred whilst Column 3 outlines the size or capacity of different development types if the subject site has *access to classified road or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road)*.

In this instance, the site backs onto Tweed Coast Road which is a Classified Road however the access to the development is proposed from Casuarina Way



on the eastern boundary greater than 90m to Tweed Coast Road and therefore Column 3 does not apply. Additionally, the size or capacity of the development does not meet the criteria of Column 2 and as such, referral to the RMS and considerations of their comments is not required under Clause 104.

Given the above assessment of relevant clauses of SEPP Infrastructure 2007, the proposed mixed use development is considered to meet the provisions of this Policy.

SEPP (Exempt and Complying Development Codes) 2008

This Policy aims to provide streamlined assessment processes for development that complies with specified development standards by providing exempt and complying development codes for developments of minimal impact.

The development does not require assessment under this Policy however it is acknowledged that should any proposed changes or additional works to the development meet the relevant standards of the Policy, then the changes or works may not require future development consent by way of a Development Application.

**(a) (ii) The Provisions of any Draft Environmental Planning Instruments**

No Draft Environmental Planning Instruments are considered relevant to the development proposal.

**(a) (iii) Development Control Plan (DCP)**

Tweed Development Control Plan

Section A2-Site Access and Parking Code

As addressed in detail in the Application History, the proposal originally was not supported by Council officers due to the significant under provision of car parking. The proposal has been amended with the following assessment summarising recent submissions.

The development includes the provision of 79 car parking spaces (three of which are accessible), 20 bicycle parking, one SRV service space and turning area for HRV access which involves the site connecting with Lot 172 and the existing child care centre.

The following car parking rates apply to the relevant uses:

Use	TDCP 2008 Section A2 requirements
Child Care Centre	Customer parking ~ 1 space per 7.5 children Staff parking ~ 1 space per staff member 1 SRV (Small rigid vehicle) Bicycles – 1 per 4 staff (class 2)
Offices	Customer parking ~ included in staff parking Staff parking ~ 1 space per 50m <sup>2</sup> GFA 1 SRV required per 200m <sup>2</sup> GFA Bicycles ~ 1 per 200m <sup>2</sup> (class 2) GFA for employees
Shops (Retail)	Customer parking ~ 3.5 spaces per 100m <sup>2</sup> GFA Staff parking ~ 1 space per 100m <sup>2</sup> GFA 1 HRV per 1500m <sup>2</sup> GFA min 2 for supermarkets Bicycles ~ 2 per 100m <sup>2</sup> GFA up to 100m <sup>2</sup> GFA and thereafter at 1/200m <sup>2</sup> GFA (class 3)
Food & drink premises	Customer parking ~ 3.5 spaces per 100m <sup>2</sup> GFA (Gross Floor Area) Staff parking ~ 1 space per staff member at peak operating times 1 HRV (Heavy rigid vehicle) Bicycles ~ 1 per 50m <sup>2</sup> GFA (class 3)
Gym (recreation facilities indoor)	Customer parking ~ 5 spaces per 100m <sup>2</sup> GFA Staff parking ~ 0.5 spaces per staff member Bicycles ~ 1 per 4 for staff and 1 per 200m <sup>2</sup> GFA (3)
Medical Centre	Customer parking (GP)~ 3.2 spaces per consulting room Customer parking (specialist)~ 1.6 spaces per consulting room Staff parking ~ 1.6 spaces per consulting room for GP or specialist 1 HRV required per 10 consulting rooms Bicycles ~ 1 per 8 practitioners for employees (class 2) and 1 per 4 practitioners for visitors (class 3)

The following summarises the proposed land uses and car parking requirements:

Land use	Car spaces required under A2	Car spaces provided
Child care centre (77 places with 11 staff)	21.26	21.26
Offices premises (291m <sup>2</sup> floor area)	5.82	5.82
Retail premises – (184m <sup>2</sup> floor area)	8.28	8.28
Food or drink premises (254m <sup>2</sup> floor area with 6 staff proposed)	14.89	14.89
Recreation facility (indoor) (366m <sup>2</sup> floor area, 16 toilets and showers)	19.3	19.3
Medical Centre (306m <sup>2</sup> floor area, consulting room numbers**)	See discussion below**	9.45**
Total		79*

(The proponent's submission references 80 spaces which incorrectly included the Small Rigid Vehicle service space\*)

According to the plans, the development proposes 79 car parking spaces where the nominated land uses require 69.55 plus spaces for the medical centre. As shown above, under Section A2 of TDCP 2008, car parking demand for medical centres is based upon numbers of consulting rooms.

In the original application, Traffic Consultants, TTM Consulting stated that the number of consulting rooms proposed within the medical centre was not available, however the applicant provided plans (Technical Note by NDC dated July 2016) to Council showing that 13 consulting rooms are proposed.

\*\*Based on information provided by the applicant dated July 2016 where the medical centre proposed involves 13 consulting rooms, 57.6 parking spaces are required (based on 10 GPs and 3 specialist rooms). Therefore it is calculated that a total of 127.15 spaces are required to service the proposed development resulting in a shortfall of 48 spaces (127.15 – 79 spaces on site plan) and a variation of 60%.

\*\*Additional information provided by the applicant 10 October 2016 where the medical centre proposed only 7 consulting rooms, 30.4 parking spaces are required (based on 5 GPs and 2 specialist rooms). Therefore it is calculated that a total of 99.95 spaces are required to service the proposed development resulting in a shortfall of 21 spaces (99.95 – 79 spaces on amended site plan), a variation of 21%.

Council's Traffic Engineer has assessed information provided from Traffic Consultants, TTM Consulting which demonstrates how the provided parking will meet the anticipated demand. This was based on the development only including seven consulting rooms and the cross utilisation and non-coinciding peak parking demand. Council's Traffic Engineer provided the following comments:

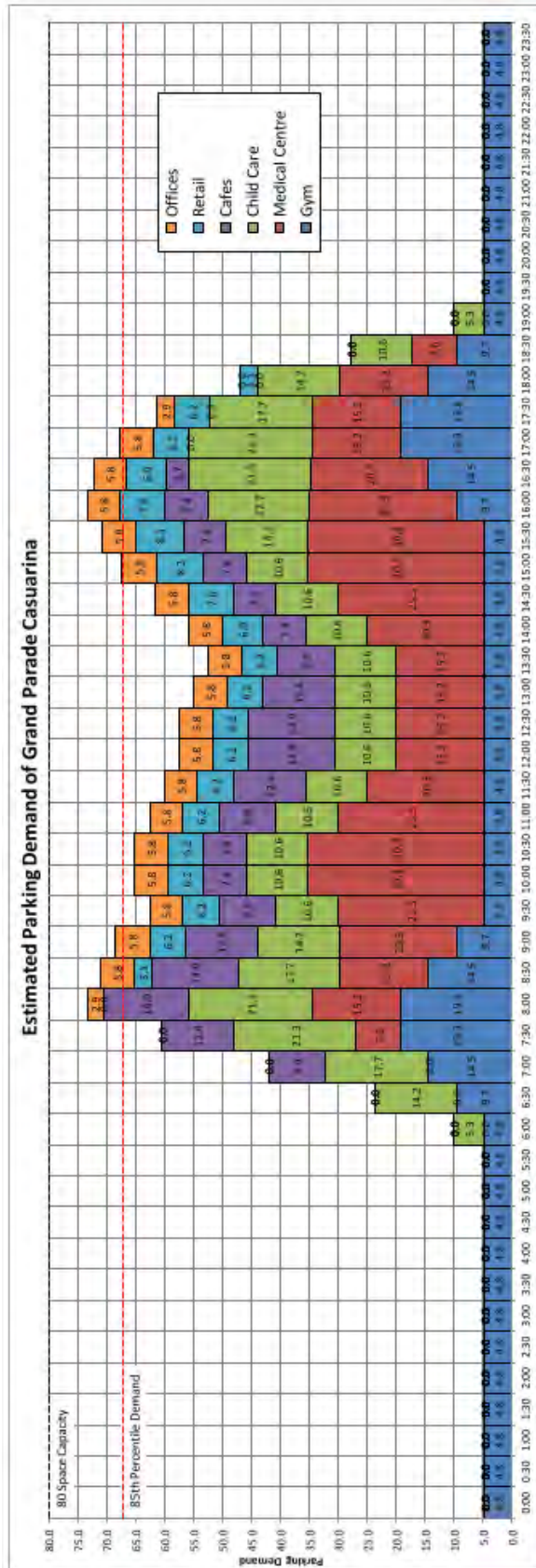
*The Medical Centre component has been reduced to 7 consulting rooms.*

*The applicant has provided data to determine the cross utilisation of parking for the site based on proposed uses and their associated peak parking demand. The report indicates that peak parking will occur 7:30am to 9:00am and 3:30pm to 5:00pm with an expected demand less than 75 spaces (80\* provided including SRV provision). The analysis is considered reasonable however there are some concerns in that future change of use for the site may result in parking shortage should there be coinciding peak parking demand.*

*The applicant has put forward that the adjacent child care centre whilst on a separate title will be managed by the same entity and the proposed vehicular link between the developments will allow for car park sharing between the sites. ... The applicant has provided swept path templates to show that a HRV can enter and leave the site (albeit entering the adjacent childcare centre's carpark) in a forward direction.*

*The applicant has noted that there are 16 parking spaces directly fronting the site on Grand Parade which were installed at when the road was constructed. Current demand is high for these spaces due to their ease of use for the Casuarina Shopping Centre, not due to parking shortage in the area as the Centre's car park is seldom beyond 25% full.*

*In summary, the proposed DA is some 21 parking spaces short according to DCP A2 and each proposed individual use. Given the cross utilisation non-coinciding peak parking demand, the applicant has provided a reasonable argument that the shortage would not result in an excess parking demand during peak times. However, the assumptions used in the analysis require further scrutiny before an approval is issued.*



Estimated Parking Demand of Grand Parade Casuarina Figure 3 within letter dated 26 October 2016 from TTM Consulting Pty Ltd.

Therefore, the proposed variation to the TDCP with a shortfall of 21 car parking spaces justified by cross utilisation non-coinciding peak parking demand is

accepted by Council's Traffic Engineer and overall the development is considered to satisfy Section A2.

However as discussed elsewhere, the proposed room configuration providing the parameters for the calculations warrant further discussion. The resubmission of plans changing the proposal from 13 consulting rooms to seven, involved no change in floor area associated with the medical centre use. The amendments involved primarily renaming the rooms from 'consulting rooms' to 'offices'. The demand for seven offices being required to facilitate the operation of seven consulting rooms within the businesses has not been demonstrated. Any approval would be conditional restricting the four tenancies to seven consulting rooms across the entire 306m<sup>2</sup> of floor area allocated that use.

#### Section A3-Development of Flood Liable Land

Council's Roads and Stormwater Engineer advised with regard to flooding that a only a small corner of the site is subject to the Probable Maximum Flood and as such the lot could be regarded as not flood liable with regard to assessing the development and as such, the proposal is acceptable in this regard.

#### Section A4-Advertising Signs Code

Although signage was proposed as part of the originally submitted application, the proponent requested that this aspect of the development be withdrawn and as such no further assessment with regard to Section A4 is required.

#### Section A7-Child Care Centres

This Section provides controls in relation to child care centre development.

Although the development is not proposed for within a Residential zone under TLEP 2014, it can be considered that the development is within a 'Residential Area' as the subject site borders onto land zoned R1 General Residential to the northwest and will be assessed as such, as follows:

##### *A7.2.1 Residential Areas*

- (a) *In residential zones Council shall strongly favour the location of child care centres adjacent to non-residential uses such as retailing uses (neighbourhood shopping centres), schools, community facilities and the like.*

The subject site and land to the east and south is zoned B2 Local Centre which at the time of assessment features Casuarina Town Centre shopping centre. An existing child care centre is located to adjoining land to the east which is also zoned B2. In this respect the proposal is considered acceptable.

- (b) *The development of child care centres on "infill" sites within low density residential areas shall not be favoured unless:-*

- (i) *The lot has a minimum area of 800m<sup>2</sup>, a 3.0 metre perimeter landscape buffer with adjacent properties and a minimum 1.8 metre high intervening fence.*

The subject site is over 6200m<sup>2</sup> with approximately 1700m<sup>2</sup> designated for the child care centre in addition to parking. A landscaped 4m buffer with adjacent properties to the northwest is proposed. It is noted that the landscaping within this buffer is limited due to the area being nominated an easement for drainage and sewer purposes. The setback of the development to the east is 1.5m however this is considered appropriate as an existing child care centre exists on the adjoining site which is also zoned B2 Local Centre. Further, 1.8m high fence exists along the boundary. As such, the proposal meets this clause.

- (ii) *The applicant can demonstrate that noise emanating from the use of the child care centre will not be detrimental to the amenity of adjacent residents;*

An acoustic report and further advice from CRG Acoustics was provided which was considered acceptable by Council's Environmental Health Unit and as such, the recommendations of the documents will be conditioned to be implemented in the event of a consent being granted. The child care development is oriented inward which is considered to minimise the impact to the amenity of the adjacent residents.

- (iii) *Car parking is provided in such locations that will minimise disturbance to adjacent neighbours by the frequent arrival and departure of cars;*

Car parking is onsite and is located on the southern side of the building, away from the boundary with residential allotments which is considered appropriate.

- (iv) *The overall traffic impact to the immediate neighbourhood is not detrimental to the amenity.*

The overall traffic impact is not considered detrimental to the amenity subject to conditions of consent and given the B2 zoning and commercial uses to the south.

- (c) *For new urban release areas there should be planned provision within a development control plan for a particular release area to locate child care centres immediately adjacent to retailing, commercial and community uses and which are essentially located to provide convenient access to the population served.*

The subject childcare centre is considered to be consistent with the Concept Plan for Casuarina Town Centre development.

Overall, the proposed child care centre is considered to be consistent with Section A7 of the Plan.

Section A11-Public Notification of Development Proposals

The application was considered notified development and on exhibition from Monday 9 May 2016 to Monday 23 May 2016 with adjoining neighbours notified by letter in accordance with Section A11. Submissions were received and are discussed within the submission sections of this report.

Section A13-Socio-Economic Impact Assessment

Socio-Economic Impact Assessment by Newton Denny Chapelle dated April 2016 was submitted as part of the original application. The report addresses the Table 1 Checklist and concludes that the development provides positive or neutral impacts to the nominated criteria. This report is considered acceptable and as such Section A13 is considered satisfied.

Section A15-Waste Minimisation and Management

This Section of the Plan aims to minimise the generation of construction/demolition waste and facilitate effective ongoing waste management practices consistent with the principles of Ecologically Sustainable Development (ESD).

The application included a *Site Waste Minimisation and Management Plan* prepared by NDC dated April 2016 which was reviewed by Council's Waste Management Unit who stated:

*The report adequately addresses waste management consideration through all phases of the development relating to construction and operation. No further comments required.*

As such, the development is considered acceptable with regard to Section A15.

Section A16-Preservation of Trees or Vegetation

The purpose of this Section of the DCP (Preservation of Trees or Vegetation) is to protect, insofar as it is reasonably possible, the biodiversity, amenity and cultural values of the Tweed Shire through the preservation of trees and vegetation.

The proposed development site is developed with no significant vegetation proposed for removal. It is noted that a large frangipani tree is proposed for relocation however the proposal is considered acceptable having regard to the provisions of this Plan.

Section A17 - Business, Enterprise Corridor and General Industrial Zone

As the site is zoned B2 Local Centre which is not one of the nominated business zones, this Section of the Plan does not apply to this application.

Section B5-Casuarina Beach

5.2.2 Urban design principles



The majority of these clauses were required to be addressed as part of MP06\_258 consent for Casuarina Town Centre. Dwellings do not form part of this proposal and therefore many controls do not apply. However, consideration has been given to the following:

- 16 *The fencing shall be provided on the boundary between the residential precincts and other development/land uses on the eastern boundary of the road reserve with the new Tweed Coast Road, the design of which shall take account of the potential for noise impact. Appropriate studies and designs shall be submitted with each development application for land adjoining that road. Dense landscaping immediately adjacent to this fencing to the west shall enhance the aesthetic effects of the fencing.*

A landscaped drainage reserve buffers the development from the Tweed Coast Road reserve. Acoustic reports were provided as part of the submission that considered road noise. Additional landscaping along the western boundary is proposed. Conditions of consent will require reviewed landscaping plans to ensure the works do not interfere with the drainage function of the easements and reserve. The development is considered to be in accordance with clause 16.

17. *The main retail and commercial centre shall be designed to ensure “adequately facing” retail and commercial development and thereby externalise the presentation of the various business operations to the maximum extent. This is particularly to take place on the eastern frontage of such developments.*

The development sufficiently faces Grand Parade and Casuarina Way and is acceptable in this regard.

### 5.3 Management of Infrastructure Provision

Similarly, the majority of these clauses were required to be addressed as part of MP06\_258 consent for Casuarina Town Centre.

The development does not have direct vehicular access from Tweed Coast Road and does not form part of Stage 1 of the Casuarina Town Centre development.

### 5.4 Management of Environmental Matters

The proposal is not in proximity to a sewerage pump station, is not affected by a dune management plan and is not nominated for public open space and therefore these clauses are considered satisfied.

Overall the proposal is not inconsistent with Section B5 and is considered acceptable in this regard.

Section B9-Tweed Coast Strategy

Section B9 relates to the northern end of the Tweed Coast. The Plan sets objectives for future development concentrating on public services and design principals. The Vision Statement for this district identified at Clause B9.3.2 is:

*To manage growth so that the unique natural and developed character of the Tweed Coast is retained, and its economic vitality, tourism potential, ecological integrity and cultural fabric are enhanced.*

As outlined elsewhere in this report, the proposal is considered consistent with the Concept Plan for the area and therefore complying with Clause B9.2.4.

The proposal is considered to be consistent with the clauses within B9.4 Urban Development Areas, Centres Hierarchy and Integrated Design.

The proposed development site is indicated as being a 'Future Urban Development Area' under the provisions of this DCP (Map 2- Structure Plan). Under this map, the subject area is also identified as being associated with a local centre, identified to the south of the site.

It is considered that the proposal is consistent with the Urban Centres Hierarchy in the provision of 1,500m<sup>2</sup> – 6,000m<sup>2</sup> of retail floor space within the Local Centre.

Further, the proposal is considered to be consistent with the clauses within B9.5 Vehicular and Pedestrian Access in that no advertising signs are proposed within the road reserve and no road realignment is proposed. Any consent will be conditioned to no permit landscaping or works within the road reserve and existing landscaping and cycleway connectivity is maintained consistent with this clause.

B9.6 Social and Physical Infrastructure Provisions discusses community facilities and states the following:

*Other community facilities provided by State Government, such as hospitals and healthcare facilities should be provided in suitable locations so that they can effectively service the district population. The co-ordination of planning with the relevant State Government authorities will be essential.*

*The provision of community facilities by Council, such as libraries, community centres and childcare facilities will need to reflect the hierarchy of Centres for the Kingscliff District. In keeping with Council's current policies, important community facilities should be located in accessible locations, preferably town centres.*

No objectives or controls address child care centres or medical centres specifically. However, the proposal is considered to be in accordance with the above, where the child care centre and medical centres are proposed for within a Local Centre in an accessible location reflecting the hierarchy of centres to effectively service the district population.

Overall, the proposed development is considered to be consistent with Section B9 of TDCP 2008.

**(a) (iv) Any Matters Prescribed by the Regulations**

Clause 92(1)(a)(ii) Government Coastal Policy

The subject land is within the coastal policy area affected by the *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*. The proposed development is consistent with the objectives, strategies and actions of the policy.

**(a) (v) Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),**

**Tweed Shire Coastline Management Plan 2005**

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The subject site is not located on the coastal foreshore and is not affected by coastal hazards.

**Tweed Coast Estuaries Management Plan 2004**

The Management Plan applies to the estuaries of Cudgen, Cudgera and Mooball Creeks. The subject site is within 100m to Cudgen Creek. It is considered that the proposal is not inconsistent with the aims and strategies of the Plan.

**Coastal Zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting)**

The subject site is not located within the Cobaki or Terranora Broadwater (within the Tweed Estuary), with this Plan therefore not relevant to the proposed development.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

Access, Transport and Traffic

The development includes the provision of 79 car parking spaces (three of which are accessible), 20 bicycle parking, one SRV service space and turning area for HRV access which involves the site connecting with Lot 172 and the existing child care centre. Vehicular access is from Casuarina Way. The subject site fronts the bus route and is less than 400m from the bus stop.

Although concerns were raised with regard to the proximity of the access to the Grand Parade/ Casuarina Way roundabout, Council's Traffic Engineer considers the access to be the most suitable and in the safest available location to service the site.

An assessment of the proposal against Section A2 – Site Access and Parking Code is detailed elsewhere in the report. This final assessment involved a variation to the TDCP 2008 as the development has a shortfall of 21 car parking spaces.

Council's Traffic Engineer concluded that the proposed variation to the TDCP 2008 is acceptable and adequately justified by cross utilisation non-coinciding peak parking demand. However, it is noted that the justification is heavily reliant upon the medical centre only including seven consulting rooms across four tenancies and 306m<sup>2</sup> of floor area. As such, any approval will impose a condition to restrict the use of the medical centres to seven consulting rooms across the development.

As outlined elsewhere in this report, the previous versions of the medical centre proposed 13 consulting rooms and as such, the imposition of the abovementioned condition although inconvenient for future tenants, is considered vital when considering traffic impact. For example, the earlier proposed 13 consulting room configuration would result in a car parking short fall of 48 spaces which is considered unacceptable.

Should future tenants wish to increase the intensity of the medical centre use, any increase in consulting room numbers would potentially have undermining effects to car parking provision and therefore would be detrimental to the commercial operation of the subject development and potentially significantly impact traffic and access to the entire Casuarina Town Centre precinct given the proximity to the Tweed Coast Road connection and adjoining residential streets that would be inappropriately utilised for overflow parking.

### Noise

An Environmental Noise Impact Report for Lot 171 DP 1208112 Casuarina Way and Grand Parade, Casuarina prepared by CRG Acoustics Pty Ltd dated 24 March 2016 (crgref: 16035 report) has been submitted with the original application.

The report considers onsite and offsite activities, road traffic noise impacts, and onsite construction and earthworks. Recommended acoustic treatments have been provided for the construction and operation phases.

The proposed hours of operation (as assessed under the noise report):

- Childcare – 6.30am to 6.00pm Monday to Friday
- Other commercial uses – 6.30am – 10pm seven days

The other commercial uses included the retail uses, cafes, gymnasium and medical centres.

Council's Environmental Health Unit reviewed the submission and generally had no objections. However, the application proposed a 24 hour gymnasium which was not addressed as part of this report. The report recommended that any additional hours of operation and specific uses will require separate development

consent and additional noise impacts will be considered at that time. This was not considered acceptable given the subject application did request approval for 24 hour use and many submissions raised the noise impact as a concern and as such, further information was requested in this regard.

The proponent subsequently provided an addendum to the Acoustic report (ref CRG Acoustics letter dated 30 June 2016) which solely addressed noise generated by the child care centre which is in addition to the existing child care centre. Further recommendations were provided to mitigate the noise impact particularly to the adjoining residential properties. These additional recommendations were supported by Council's Environmental Health Unit addressing child care noise concerns however, as the 24 hour use of the gymnasium had not been addressed and at that stage, Council could not support the proposal.

The proponent subsequently amended the proposal to reduce the hours of operation of the gymnasium to be as per the hours outlined in the Environmental Noise Impact Report dated 30 June 2016 being 6.30am to 10pm, seven days per week. This amendment has been accepted for consideration.

Considering the proposal with revised hours of operation and Acoustic Consultant reporting, Council's Environmental Health Unit considers the proposal acceptable with regard to noise impacts subject to conditions of consent that includes the implementation of the reported recommendations by CRG Acoustics which include (but not limited to) the following with regard to operation:

Proposed hours of operation:

- Childcare – 6.30am to 6.00pm Monday to Friday
- Other commercial uses – 6.30am – 10pm seven days
- Alfresco dining areas – 7am to 10pm

*Recommended Acoustic Treatments for Operational Phase* from Environmental Noise Impact Report dated 24 March 2016

*Based upon the adopted noise source levels, the following acoustic treatments and management principles are recommended to mitigate onsite activity noise emissions:*

- *Hours of Operation for the childcare centre be limited to between 6.30am to 6.00pm.*
- *Children activity prior to 7am should be restricted to inside the childcare centre.*
- *Waste collection and deliveries should be limited to the daytime period between 7am and 6pm.*
- *Provision of air-conditioning or sealed mechanical ventilation to the childcare library and MasterChef room to mitigate both onsite and offsite delivery activities.*
- *Construction of the 2.0m high acoustic barrier as detailed in Sketch 1 in Appendix A to mitigate onsite commercial / retail activity to the onsite childcare centre. Barriers are to be constructed above the finished ground and be free of gaps and holes. (This has been*

integrated into the submitted design located along the southern elevation).

- *Music inside the gym be limited to an average maximum level of 78 dB(A) Leq at 1m from any speaker in the facility.*
- *No speakers be located outside buildings.*
- *Alfresco dining areas be limited to use between 7am and 10pm.*
- *The gym be air-conditioned or have sealed mechanical ventilation to allow the northern, eastern and western windows to be kept closed.*
- *A detailed noise assessment of the gym should be undertaken once the tenant has been confirmed. The assessment should focus on noise transmission through the building structure to the medical centre and café / restaurant tenancies below and the adjacent office tenancy. The gym may require an acoustically isolated floor and rubber floor coverings at the free weights.*
- *Driveway and car parking areas be finished with surface coatings which prevent tyre squeal (an uncoated surface is acceptable).*
- *Drainage grating over trafficable areas be well secured to prevent rattling.*
- *Mechanical plant be designed and installed to comply with the noise criterion presented in Section 4.2. As final plant selection has not been completed, additional acoustic assessment/s should be undertaken once plant selections are finalised. Such assessments should be undertaken prior to Building Approval; and be conditioned within the Development Approval.*
- *To minimise noise impacts, onsite mechanical plant such A/C units and toilet exhaust vents should be located as far as possible from the future offsite residential dwellings immediately to the north and northwest and the existing childcare centre as possible.*

Further recommendations from CRG Acoustics Addendum Letter dated 30 June 2016:

- *Music outside at the central play space should not be played at levels above 70 dB(A) measured at 1m which is considered low level music only.*
- *Outdoor speakers should be directed to the east (i.e. towards the existing childcare centre) and located underneath the eaves / awning of the western building.*
- *Windows and external doors of the activity rooms should be kept closed when music is being played inside the room/s.*
- *Music should not be played at levels above 80 dB(A) measured at 1m which is considered low level music only.*
- *Windows and doors along the childcare centre building façades facing the offsite residential dwellings should be constructed of a minimum 6.38mm laminate or 6mm toughened glass (rather than standard 4mm glass) in acoustic grade frames with acoustic seals to provide a higher noise mitigation of indoor activity noise.*

The submissions are addressed in more detail elsewhere in the report.

### Lighting

Illuminated signage does not form part of the proposal and a lighting plan was not submitted with the application. Council considers that this issue can be addressed by way of condition with consent requiring all lighting to be shielded to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

### Flora and Fauna

The proposed development site has been previously cleared of all significant vegetation, with only grass remaining. As such, this application does not necessitate the removal of any significant vegetation. The proposal is therefore considered to be acceptable with respect to flora/fauna considerations.

### Context and Setting

The proposal is considered to be compatible with adjoining commercial land uses to the south and east and is considered to be appropriate for the subject site that is zoned B2 Local Centre.

The site borders land zoned R1 General Residential and it is considered that any impacts the development may have on the adjoining lot density allotments has been mitigated by building design and the inward oriented design of the child care centre and by way of conditions of consent including the implementation of acoustic report recommendations, limiting hours of operation and landscaping requirements. The development is considered acceptable in this regard.

### Landscaping – Integration with Council’s Road Reserve

Landscaping plans were submitted with the original application and Council’s Landscape Architect raised issues that were to be addressed requesting the removal of development works proposed within the road reserve including ramps, steps, retaining walls, planter boxes and tactical indicators.

Additionally it was advised that any new infrastructure must properly be integrated with existing infrastructure and any existing turf or infrastructure disturbed or damaged during construction must be rectified or replaced with landscaping work maintained at the developers expense for the first twelve months. Further, planting details were required with regard compensatory street tree planting in addition to extent of turfing, maintenance and protection requirements for road reserve works.

Landscaping plans were provided which did not address the items required with two separate additional requests and submissions. Additionally, the final plans were inconsistent with planting requirements related to works within the drainage reserves located to the south west and the north west of the site and proposing an inappropriate retaining wall along the section of the western boundary.

In conclusion, it is considered that these matters remain unrectified however such matters can be addressed by way of condition requiring compliant and consistent landscaping plans including the level of detail required to ensure compliance with Council Policy.

### Construction

The construction of the proposed development will be subject to standard amenity and hours of operation conditions being included on any consent issued. It is noted that Council's Building Unit and Environmental Health Unit have reviewed the application and recommended standard conditions of consent with respect to the construction phase of the proposed development.

The construction phase of the proposal will present some interruption to the ambience of the surrounding area, however this is temporary in nature and the amenity of the surrounding area can be adequately protected via appropriate conditions of consent.

### Food Premises

The applicant provides food for sale to children at the child care facility. Additionally, three food and drink premises are proposed within commercial tenancies for the purpose of food and drink premises. Council's Environmental Health Unit has advised that as limited food fitout detail has been provided and has recommended any consent to be conditioned accordingly. In the event of an approval, the conditions will be imposed to ensure compliance with the relevant legislation and Australian Standards and that further consent is required with regard to the fit out of the food and drink premises.

It is considered that matters related to food safety are satisfied.

### Accessibility

From review of the submitted plans, it appears that equal access would be available to the subject development. In any event, conditions of consent would be applied to ensure the relevant standards are met.

## **(c) Suitability of the site for the development**

### Surrounding Landuses/Development

The subject site adjoins low density residential allotments to the northwest, multi dwelling housing to the north east, an existing child care centre on Lot 172 to the east and a drainage reserve to the west that provides a buffer from Tweed Coast Road. Casuarina Shopping Village is located across Grand Parade to the south. The abovementioned developments and land uses are reflective of the Tweed Local Environmental Plan (TLEP) 2014 Land Zoning map below:





**Land Zoning Map for the subject site and surrounding area**

Consideration has been given to the impact the proposed uses within the development could have on the adjoining land uses with particular regard for the residential development to the northwest. As outlined elsewhere in the report impacts related to traffic, noise, lighting and visual impacts are considered to have been sufficiently mitigated.

The proposed development is considered suitable for the site by way of consistency with the zone objectives of TLEP 2014 that apply to the site and consistency with the approved Casuarina Town Centre Concept Plan issued by the NSW Department of Planning & Infrastructure (MP06\_0258).

#### Water Supply

A service connection point already exists for Lot 171 at the north east corner of the site. A 250mm DICL water main is located within the road reserve next to the lot in Casuarina Way.

The developer initially proposed to install a dead end 100mm water main within the property which was not supported by Council's Water Unit who have advised the following:

*A bulk water meter shall be installed at the boundary of Lot 171 and any internal water main requirements shall be private water infrastructure. Plans shall be amended to remove the proposed water main and show a bulk water meter within the property boundary which shall be sized by the developer to meet its fire fighting requirements as outlined within the BCA. Additional design detail is to be supplied at construction certificate stage for the development.*

*Although no associated amended plans are provided, the RFI technical note states that a bulk water meter will be provided at the boundary with a private internal system to service the development.*

Overall, the application has been reviewed by Council's Water and Development Engineering Units who have raised no concerns with respect to water supply for the proposal subject to conditions of consent.

### Sewer Reticulation

Sewer infrastructure is provided to the site by way of an existing sewer connection to the west site boundary. This infrastructure is located within a four metre wide easement along the northwest boundary and an easement of variable width along the northeast boundary. The applicant proposes to utilise the existing sewer connection to service this development proposal.

Council's Water Unit reviewed the proposal and have provided the following comments:

*The initial development proposal comprised aspects that did not conform to Council's Sewers – Work in Proximity Policy and development design specifications. It was also determined that the insufficient information was available to undertake a full and proper assessment of the proposed development.*

Subsequently, additional information was received and Council's Water Unit provided the following additional comments.

*The technical note response to the RFI states that no building structures are proposed within the sewer easement. Roof Plan DA2.50 Rev A has been provided as part of the RFI response to demonstrate that the extent of the building roof will be outside the easement line.*

*The RFI technical note presents sewer loading calculations and states the Peak Wet Weather Flow value is expected to be 5.3 L/s.*

In addition to the above, concern was raised with regard to the carpark and associated earthworks being proposed for within the water and sewer easement. Although revised plans have removed the car park from within the easement, sufficient detail including levels, have not been provided. As such, Council considers the proposal acceptable in this regard however will require plans with such detail prior to the issue of a Construction Certificate and if required, an application will have to be made for approval under Section 68 to alter Council's infrastructure. The proposal is therefore considered to be acceptable with respect to this matter.

### Topography

The subject site slopes gently east to west with a drainage reserve being located on the adjoining Lot 18 to the west. The proposed development is considered acceptable with regard to topography given the relatively flat nature of the site.

### Contaminated Land

Council's Environmental Health Unit assessed the application and with regard to contamination the following was advised.

*As per Condition B1 of Planning Project Approval MP06/0258, "following clearing works, and prior to the commencement of earthworks or any construction activities, surface and full depth radiation investigations (to a minimum of groundwater level) shall be conducted across the whole development site including area in public ownership. The site shall be remediated prior to the commencement of construction of the site.*

*Prior to the issue of a Construction Certificate the Proponent shall submit to Council a Remedial Action Plan and a Hazardous Materials Survey. Council will identify minimum remediation depths for both private and public open spaces. As a minimum, remediation should occur to a depth of 2 metres or below the lowest service infrastructure, whichever is the greater. The Remedial Action Plan must be accompanied by a statement from a site auditor accredited by the Environmental Protection Agency to issue state audit statements".*

A Site Audit Statement (Site Audit Number: 0103-1205) prepared by Marc Salmon of Easterly Point Environmental Pty Ltd dated 10 April 2014 for Lot 144 DP 1030322, part Lot 223 DP 1048494, part Lot 3 DP 1042119 advises that "based on the foregoing, the site is considered suitable for the following land uses in regard to radiological contaminants from former mineral sands:

- Residential with accessible soil, including garden, and including sensitive uses such as day care centre and preschool; and/or
- Residential with minimal opportunity for soil access; and/or
- Park, recreational open space, playing field; and/or
- Commercial/industrial".

It is noted that this advice covers the subject site. Contamination is not considered a constraint for the proposed development.

#### **(d) Any submissions made in accordance with the Act or Regulations**

The application was notified for a period of fourteen (14) days from Monday 9 May 2016 to Monday 23 May 2016. During this time, four submissions were received. Further, one late submission was received and considered. The proponent was given an opportunity to respond to the four submissions. Following is a summary and assessment of matters raised within the submissions.

#### Comments of support

*"We think that this proposed centre will be great for the area and will provide needed services to all residents. We purchased our land knowing it would be here so we are not opposing it overall. However as an immediate neighbour,*

*there are a number of items that are not explained in the submission that we would like some form of resolution to before it is approved...*

*"We are happy that the child care centres has an internal courtyard arrangement to try and remove noise issues."*

*"I like the design of the 2 mixed use buildings."*

#### Under provision of car parking

#### Objectors' comments:

- The lack of sufficient car parking will lead to people parking on Dianella Drive and reliance on public parking on Grand Parade
- *"The public parking on Grand Parade is well utilised throughout the day and I do not believe the proposed businesses can rely on these public parking spaces to be available."*
- The on-street car parking on Grand Parade is already heavily utilised and is not an appropriate alternative solution to the car parking issue.
- The overflow will park on Dianella Drive which is in walking distance and will impact existing residents.

#### Applicant's response:

*Reference should be made to the TTM technical response which addresses the proposed parking supply for the development within Attachment 1.*

#### Officer assessment:

Council's Traffic Engineer has considered the proposal and supportive documents in addition to the concerns raised within the submissions.

Overall, the submission is considered to address parking demand with the provision of 79 spaces and has provided data to support that the parking demands for the proposed land uses will be met.

Given the above, it is concluded that as car parking demand is met onsite and therefore the use of Dianella Drive for overflow car parking is unlikely, also given the inconvenient 150 metre distance from that area to the premises.

Further, should Grand Parade be impacted upon from the subject development, Council's Traffic Engineer advised the imposing a time limit to the on-street spaces could be considered.

#### Access

#### Objectors' comments:

- Concern was raised with regard to proximity of the driveway with the roundabout. *"Is a right turn out of the driveway possible?"* This would be a major traffic hazard.

- *“The proposed driveway access isn’t safe, given the volume of traffic navigating this section and with the proposed increase in population in the area.”*

Applicant’s response:

*The traffic impact assessment lodged with the Development Application by TTM states the proposed Casuarina Way access driveway requirements is compliant with AS2890.1.*

Officer assessment:

Council’s Traffic Engineer has advised that the proposed access onto Casuarina Way the most appropriate and safest location to service the subject site.

Noise

Objectors’ comments:

- 4m setback required under Section A7 Child Care Centres is not sufficient to mitigate noise impact.
- The noise impacts from the child care centre have not been addressed in the acoustic report.
- Music from the existing Kool Kids early learning centre which is approximately 20-50 metres from the existing dwellings is already impacting the residents.
- *“The addition of a second child care centre may negatively impact on the value of my home due to noise impacts.”*
- *“We assume that the childcare will have air conditioning but the location of the condensers is not shown in the DA.”*
- *“How will the noise of the gym be controlled?”*
- The noise impacts of the gym in any future assessment need to consider the residents as well as the other tenancies.
- *“The landscaping plan only shows small trees and shrubs being planted along our boundary which will not do anything to block noise.”*
- *“It is also interesting to note that CRG have recommended a solid 2 metre acoustic barrier along Tweed Coast Way to shield the childcare centre but there is not mention of such a barrier to protect our properties.”*

Applicant’s response:

*Reference should be made to the technical response from CRG Acoustics and the adopted ameliorative measures as provided within Attachment 5 of this submission.*

Noise impacts from the proposed gym are addressed elsewhere in the report.

Officer assessment:

As addressed elsewhere in this report, the application included an Environmental Noise Impact Report prepared by CRG Acoustics Pty Ltd dated 24 March 2016 in addition to an addendum to the Acoustic report dated 30 June 2016.

In addition to the acoustic consultants reporting, it is acknowledged that the design of the child care centre is inward oriented with the outdoor playspace located centrally and building openings to the northwest minimised without compromising the appearance and function of the building. It is considered that this design is consistent with the intent to mitigate impacts like noise, to the adjoining residential properties.

It was noted that CRG Acoustics concurred with the submissions with respect to the lack of noise attenuation that vegetated landscaping provides.

The reporting assessed onsite and offsite activities, road traffic noise impacts, noise generated from the existing child care centre, and onsite construction and earthworks and subsequently recommended a range of acoustic treatments to be provided for the construction and operation phases which Council's Environmental Health Unit have reviewed and consider acceptable in mitigating the impact and as such, if approved, any consent is required to implement the recommendations which included (but are not limited to) the following:

- *Proposed hours of operation:*
  - *Childcare – 6.30am to 6.00pm Monday to Friday*
  - *Other commercial uses – 6.30am – 10pm seven days*
  - *Alfresco dining areas – 7am to 10pm*
- *Children activity prior to 7am should be restricted to inside the childcare centre.*
- *Provision of air-conditioning or sealed mechanical ventilation to the childcare library and MasterChef room to mitigate both onsite and offsite delivery activities.*
- *No speakers be located outside buildings.*
- *Driveway and car parking areas be finished with surface coatings which prevent tyre squeal (an uncoated surface is acceptable).*
- *Drainage grating over trafficable areas be well secured to prevent rattling.*
- *To minimise noise impacts, onsite mechanical plant such A/C units and toilet exhaust vents should be located as far as possible from the future offsite residential dwellings immediately to the north and northwest and the existing childcare centre as possible.*
- *Windows and doors along the childcare centre building façades facing the offsite residential dwellings should be constructed of a minimum 6.38mm laminate or 6mm toughened glass (rather than standard 4mm glass) in acoustic grade frames with acoustic seals to provide a higher noise mitigation of indoor activity noise.*

Further, is noted that the noise generated by the gymnasium was not included in the reporting and as such, Council considers this impact appropriately addressed by way of a condition of consent which involves the requirement for additional

reporting that specifically addresses the gymnasium noise generation to be submitted to Council prior to the gymnasium commencing operation.

Overall, giving consideration for the development being located on appropriately zoned land, layout and design of the proposal, potential noise generating activities and recommendations by appropriately qualified consultants on the matter, as detailed elsewhere in the report, Council considers the development appropriate with regard to noise impacts subject to conditions of consent.

#### 24 hour gymnasium

#### Objectors' comments:

- *If a 24 hour gym is approved we will be woken at all hours with cars coming and going and by their doors opening and closing. I can clearly hear the ocean...the shopping centre cleaner with his leaf blower at 630am ... so how is sound to be mitigated/monitored to protect the residents who are trying to sleep 20 metres away.*
- The noise report failed to address the noise impacts of the 24 hour gym to the residents.

#### Applicant's response:

*Typically, 24 hour gyms apply industry recognised measures to reduce noise emissions from their premises, including:*

- *Background music be limited to a maximum level of 75 dB[A] at 1m from speakers.*
- *Free weight area floor be covered with a rubber mat system of a minimum of 15mm thick, to reduce impact noise should a barbell be dropped.*
- *External doors be kept closed at all times.*
- *Patrons be required to be considerate of neighbours, and avoid congregating outside the facility between 8pm and 7am. This should be included in the contract agreement with the patron, and will be a point covered in the induction when a patron begins membership.*
- *Weights bar be removed from use when Staff leave the premises.*
- *No group fitness training be undertaken in the facility outside the hours of 6am-7pm.*
- *No audible alarms be used to signal that door is unlocked after swipe key is applied.*
- *Background music be switched off when Staff leave the premises.*
- *Peak operating hours of 24/7 gyms which this firm is involved with are between 6am-8am and 6pm-8pm on a daily basis, hence late night utilisation does not generate large numbers of members outside these peak times.*

*The above measures would be applied as baseline operating measures for any future tenant.*

Subsequently, the proponent amended the proposal to reduce the gymnasium trading hours from 24 hours to 6.30am to 10pm seven days per week which is consistent with acoustic assessment provided.

Officer assessment:

Given the amended proposed hours of operation and the reporting provided from CRG Acoustics, the proposal is considered appropriate subject to conditions of consent which will include the implementation of the recommendations of the submitted acoustic reports which includes the requirement for additional reporting that specifically addresses the gymnasium noise generation to be submitted to Council prior to the gymnasium commencing operation.

Odour of Waster

Objectors' comments:

- The bin storage for the child care centre is near the residential boundary.

Applicant's response:

No response was provided

Officer assessment:

The design has been amended to orient the bin storage towards the carpark which is considered to minimise impact to the residents. Further, conditions of consent will be applied that ensures the amenity of the locality with regard to odours is preserved.

Visual privacy from gym

Objectors' comments:

- *The gym area at the top level of building 1 should have screens on its northern elevation to stop overlooking of adjacent residences in lot 19 and 20.*

Applicant's response:

*The gym may adopt screens or opaque windows on its northern windows to stop overlooking of adjacent residences in lot 19 and 20 if deemed appropriate by Council.*

Officer assessment:

It is acknowledged that a degree of overlooking will occur from the northern windows on the first floor of building 1 where the gymnasium is proposed. Vertical copper cladding sunshade devices are proposed along the western and northern windows however these are not considered to mitigate the privacy impact. Council considers the implementation of privacy screening along this section of the development appropriate and if approved, a condition is recommended.



## Building Form and Siting

### Objectors' comments:

- The child care centre design does not suit the coastal character of Casuarina Beach lacking roof overhangs with no relationship to adjacent uses. Could the nice articulated façade and materials of the other commercial buildings be applied to the child care centre?
- The elevation of the child care centre building to the residents is quite harsh with no eaves.
- Each building on the site has not responded to the slope of the site and has merely proposed cut or fill.
- The buildings and car park does not respond very well to the existing ground levels.
- Why is a retaining wall needed at the western end of the site?
- Access to the bin store does not work.
- *When we bought our land, we knew that there was to be a childcare centre, medical centre and mixed use commercial premises on lots 171 & 172, although plans at that stage showed it to be at the western end of the site. We would not have brought our land if we had known there was to be a second childcare centre directly behind us.*

### Applicant's response:

*The childcare centre has been designed to accord with the operating requirements of Kool Kids in addition to responding to the adjoining residential properties. To this end, the development is orientated towards the internal space of the commercial development so as to clearly delineate the entrance, whilst the building provides the primary acoustic screening to open play area and the adjoining residents.*

*The architecture of the buildings proposes an articulated and visually interesting form with lightweight materials and varying external finishes and colours employed which overall enhance the quality of built forms in the locality commensurate to the coastal vernacular found in the locality of the development.*

*The development also includes awnings at the building entrance and over the pedestrian pathway which breaks the building mass and provides weather protection.*

*The development of the child care centre is consistent with the Concept Plan approval [MP06\_0258] issued by the Department of Planning & Environment for the Casuarina Town Centre.*

### Officer assessment:

Council considers the design of the child care centre acceptable given the inward facing intent to minimise impact to the amenity of the adjacent residences. Further, the *articulated and visually interesting form with lightweight materials and varying external finishes and colours* is considered appropriate in this instance.

With regard to cut and fill, any consent will be conditioned to require additional information on the proposed earthworks and particularly with regard to the function of the drainage reserve which may improve the floor levels in their response to the site. This will result in the retaining wall to the west being revised if not removed.

The issue regarding the bin store access has been addressed in amended plans submitted changing the orientation of the room where the access is now to the south.

The proposed uses are considered to be in accordance with the Concept Plan approval MP06\_0258 for Casuarina Town Centre.

### Landscaping

#### Objectors' comments:

- No landscaping plan detailing species was submitted.
- Will the easement be landscaped with a variety of large shrubs plus small dense shrubs around the air conditioning units?
- Will any shading from landscaping be provided for the car park?

#### Applicant's response:

*The public submission raised concerns in respect to the lack of landscape detail for the proposal. This point is valid and as such in association with Council's RFI, more detailed landscape plans have now been prepared for the project and contained within Attachment 3.*

*The plan provides for the planting of vegetation within the setback between the child care centre and the existing residents whilst landscaping is also proposed within the car park area for screening purposes.*

#### Officer assessment:

A landscaping plan was submitted as part of the original and revised applications which subsequently provided more detail including proposed species.

However, the easement is limited in its capacity to be landscaped in the fashion requested given the infrastructure function the easement possesses. Landscaping is proposed within the easement and around the car park, however plans provided featured retaining walls in the easement and works within Council's road reserve which is not considered acceptable. To this end, any consent will be conditioned to require that further plans are to be provided to Council that satisfy other concerns in addition to the provision of acceptable landscaping within the easement that does not hinder the easement's function.

The proposal is considered conditionally acceptable with regard to landscaping.

### Lighting

#### Objectors' comments:

- *Where will the light poles to the carpark be located? There is no carpark lighting plan. ... Will the lights be left on all night?*
- Light spillage affecting the residents, particularly in relation to any car park flood lights.

#### Applicant's response:

The applicant did not provide a response.

#### Officer assessment:

Council considers that this issue can be addressed by way of condition with consent requiring all lighting to be shielded to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

### Lot 18 Drainage reserve, Stormwater Management and easements over Lot 171

#### Objectors' comments:

- Will access to the drainage reserve block be retained and will the land be maintained.
- *We are concerned that this easement area will not be safe.... How is this space intended to be maintained for safety? Will this be public accessible land? Will there be safety cameras?*
- Will the location of the carpark at the edge of the drainage pit or raising of the existing drainage grate compromise the drainage?
- Is the drainage arrangement able to cater for the higher post developed flow rates of stormwater?
- *Will the buildings have water tanks to capture and re-use roof water? Water reuse is part of Tweed Council Policy and will help to maintain landscape*

#### Applicant's response:

*The stormwater pit at the corner of Lot 19 is being maintained at its current level whilst the proposed car park is slightly elevated from the pit. Consequently, drainage from the car park is not designed to be directed to the existing pit with stormwater to be discharged directly into the adjacent attenuation basin. Accordingly, the capacity of the existing pit is not impacted by this proposal.*

*The buildings do not have water tanks to capture and re-use roof water. Notwithstanding this point, the proposed stormwater management adopted for the project satisfies Council's water quality and quantity design standards.*

#### Officer assessment:

The drainage reserve Lot 18 to the west of the site does not form part of the application and access will be retained. The easement along the northwest

boundary is for sewage and drainage whilst the easement to the southwest corner is for drainage. The easements are located on private property and their maintenance is the responsibility of the property owner.

The plans submitted since the above submissions no longer proposed the raising of the existing drainage grate however the final levels are to be determined. Nonetheless, any consent will be conditioned to require additional information on the proposed earthworks and landscaping particularly with regard to the function of the drainage reserve and easements. Council will need to be satisfied with stormwater management arrangements particularly with regard to peak flow rates and capture prior to the issue of a Construction Certificate.

#### Overprovision of recreation facilities in the area

##### Objectors' comments:

Concern that the proposed gym will create an over provision of recreation facilities in the area.

##### Officer assessment:

It is interpreted that the submission is concerned with market competition rather than recreation facilities like parks and sportsgrounds. It not the intent of the merit assessment in accordance with Section 79C of the Environmental Planning and Assessment Act 1979 (as amended) to minimise competition.

#### **(e) Public interest**

The proposed development is generally consistent with relevant environmental planning instruments and Council policy requirements. The proposal is considered suitable for the subject site, given its permissibility at this location. The subject site is zoned to provide a mixed use and medium density residential use which is considered to be provided by this development. As such the proposal is considered to be in the public interest.

#### **Section 64 and Section 94 Developer Contributions**

Developer Contributions in accordance with Council's Section 64 and Section 94 Plans apply to the development. Any approval will be conditioned that a certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council and that all Section 64 and Section 94 Contributions are paid prior to the issue of a Construction Certificate for each stage.

#### **OPTIONS:**

1. Approves the development application subject to recommended conditions of consent;  
or
2. Refuses the development application for specified reasons.

Council officers recommend Option 1.

**CONCLUSION:**

The proposed mixed use development is consistent with the approved Concept Plan for Casuarina Town Centre and is considered to make a positive contribution to the streetscape. The proposal is supported subject to the application of appropriate conditions of consent.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable

**b. Budget/Long Term Financial Plan:**

Not Applicable.

**c. Legal:**

If the applicant is dissatisfied with the determination of this application, they may appeal the decision to the Land and Environment Court.

**d. Communication/Engagement:**

Not Applicable.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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11 [PR-CM] Review of Determination of Development Application DA15/1064 for a Redevelopment of Waterslide Playground at Lot 1 DP 1014298 No. 1-3 Tweed Coast Road, Hastings Point

SUBMITTED BY: Development Assessment and Compliance

FILE REFERENCE: DA15/1064

Validms



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
  - 1.2 Improve decision making by engaging stakeholders and taking into account community input
  - 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
- 

### SUMMARY OF REPORT:

#### Updated Summary

Council at its meeting held Thursday 1 December 2016 resolved as follows:

**"RESOLVED** that the Review of Determination of Development Application DA15/1064 for a Redevelopment of Waterslide Playground at Lot 1 DP 1014298 No. 1-3 Tweed Coast Road, Hastings Point be deferred to the Council meeting of 15 December 2016 to further consider visual impact, noise, parking and examine issues raised by the community submissions."

The original report and recommendation have been reproduced below.

#### Original Summary

Council has received a request for a Section 82A Review of Determination for the refusal of a development application for the redevelopment of a waterslide playground for the subject property. The redevelopment includes the removal of two existing waterslides and the installation of two larger and longer enclosed slides. The proposed works are located to the northeast of the site, adjacent to the Tweed Coast Road site boundary.

The original application was lodged in December 2015 and Council resolved to refuse the development application at the Planning Committee meeting of Thursday 7 July 2016. It is noted that the officer recommendation was for a conditional approval. Council resolved to refuse the development application for the following reasons:

1. The proposed facility is considered an overdevelopment of the site and not in keeping with the low key village scale character.
-

2. Unacceptable noise impacts to surrounding residents and environment.
3. Unacceptable visual impacts along Tweed Coast Road and to the neighbours.
4. This larger proposal would necessitate the provision of the 30m Tweed Coast Road setback to be provided.
5. The lack of capacity to provide adequate vegetation screening.
6. The potential for the development to attract public use not strictly associated with the caravan park is not considered to be orderly and economic use of the land or supporting the welfare of the community.
7. Taking into account the large number of objections, the proposal is not considered to be in the public interest.

Under the provisions of Section 82A of the Environmental Planning and Assessment Act 1979 the applicant has requested that Council review this determination. The review of determination has been lodged and must be determined within six months of the original determination date (7 July 2016).

The provisions of the Environmental Planning and Assessment Act, 1979 require presentation of this review of determination to Council where the original application was determined by Council.

The request for the Review of Determination was received by Council on 16 September 2016. The applicant has advised that the plans for the development have been amended as part of this review. The height of the platform has been reduced from 8.5m to 8.2m and the plans now include 1.8m high noise barrier at the eastern side of the waterslide platform and to the access stairs. Furthermore, the colour of the slides have been altered to exclude bright colours. Otherwise the development is the same as that previously assessed by Council.

As part of the review of determination process the application was notified to surrounding properties and to persons who made submissions through exhibition of the Development Application. Through the exhibition of this application, approximately 194 public submissions have been received.

In addition, the applicant has provided a submission which contains the following:

- 1,322 letters of support from 'guests and the local community',
- 39 letters(containing 56 signatories) from residents of the Caravan park,
- 14 letters from business who rely on the viability of the Caravan Park; and
- 57 letters of support from Caravan Park staff.

A submission was also received from NSW Office of Environmental Heritage (OEH), however the matters raised in this submission were subsequently addressed by the applicant.

The submissions received have been addressed within the report below.

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The applicant has also indicated that '*Should the refusal of the application not be overturned with this 82A Review, the applicant will proceed to lodging an appeal against Council's refusal of the application.*' Therefore, the options contained in this report include the defending of any appeal lodged by the applicant in the Land and Environment Court.

The original development proposal was considered to be generally consistent with relevant environmental planning instruments and Council policy requirements. The development is considered to remain suitable for the subject site through this review of determination, given its permissibility at this location and its nature, being an ancillary component to the existing caravan park.

Conditional development consent of the application is recommended.

## **RECOMMENDATION:**

**That the Review of Determination of Development Application DA15/1064 for a redevelopment of waterslide playground at Lot 1 DP 1014298 No. 1-3 Tweed Coast Road, Hastings Point be approved subject to the following conditions:**

### **GENERAL**

**1. The development shall be completed in accordance with the Statement of Environmental Effects and the following plans identified as:**

- **Site Plan (Sheet S-1), prepared by EXPANDesign and dated 2 May 2016;**
- **Plan & Side Elevation, prepared by Swimplex Aquatics (undated), as amended in red;**
- **Front View, prepared by Swimplex Aquatics (undated), as amended in red;**
- **Design Drawing (Rev 4), prepared by Swimplex Aquatics and dated 5 February 2015;and,**
- **S82A Application for Reconsideration of Development of Development Application DA15/1064, prepared by the applicant (undated), as amended in red;**

**except where varied by the conditions of this consent.**

[GEN0005]

**2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**

[GEN0115]

**3. Landscaping within the waterslide playground area is to comply with the principles of Appendix 5 of 'Planning for Bushfire Protection 2006'.**

[GENNS01]

### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

**4. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species for the Tweed Coast Road Elevation at the proposed development is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. This plan is to demonstrate front**



setback landscaping providing mature vegetation trees and a bushy and green appearance to the street as per the requirements of Tweed Shire Council Development Control Plan Section B23 - Hastings Point Locality Based Development Code.

[PCC0585]

#### **PRIOR TO COMMENCEMENT OF WORK**

5. The erection of a building in accordance with a development consent must not be commenced until:
    - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
    - (b) the person having the benefit of the development consent has:
      - (i) appointed a principal certifying authority for the building work, and
      - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
    - (c) the principal certifying authority has, no later than 2 days before the building work commences:
      - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
      - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
    - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
      - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
      - (ii) notified the principal certifying authority of any such appointment, and
      - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]
6. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.
- [PCW0225]
7. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
    - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
    - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
    - (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or

demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

## **DURING CONSTRUCTION**

8. **Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council:**

**Monday to Saturday from 7.00am to 6.00pm  
No work to be carried out on Sundays or Public Holidays**

**The proponent is responsible to instruct and control subcontractors regarding hours of work.**

[DUR0205]

9. **All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).**

[DUR0375]

10. **Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.**

[DUR0395]

11. **The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.**

[DUR0405]

12. **It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.**

[DUR0415]

13. **All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Work Health and Safety Regulation 2011.**

**The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the Dangers of Lead" and the Workcover Guidelines on working with asbestos.**

[DUR0645]

14. **All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from:**

- **Noise, water or air pollution.**

- **Dust during filling operations and also from construction vehicles.**
- **Material removed from the site by wind.**

[DUR1005]

**15. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans.**

[DUR1045]

**16. All works shall be carried out in accordance with Councils Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works.**

[DUR1075]

#### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

**17. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).**

[POC0205]

**18. Prior to occupation the applicant or business operator is to be registered in Council's Public Swimming Pool Register and pay the appropriate fee under Council's schedule of fees and charges.**

[POC1095]

#### **USE**

**19. The development shall be carried out strictly in accordance with the general provisions and Part 6 Conclusions of the Noise Impact Assessment (Reference: ATP150204-R-NIA-02) prepared by ATP Consulting Engineers dated August 2016 unless varied by conditions of this consent to the satisfaction of the General Manager or his delegate.**

[USE0035]

**20. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.**

[USE0125]

**21. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.**

[USE0145]

**22. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.**

[USE0175]

23. Hours of operation of the water slide component of the water park are restricted to the hours between 8am and 6pm on any day, no entrance to or use of the water slides is permitted outside of these hours.

[USE0185]

24. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

[USE0225]

25. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.

[USE0245]

26. All plant and equipment installed or used in or on the premises:

- (a) Must be maintained in a proper and efficient condition, and
- (b) Must be operated in a proper and efficient manner.

In this condition, "plant and equipment" includes drainage systems, infrastructure, pollution control equipment and fuel burning equipment.

[USE0315]

27. The public swimming pool shall be operated in accordance with the Public Health Act 2010, Part 3 of the Public Health Regulation 2012 and the current NSW Health Public Swimming Pool and Spa Pool Advisory Document, NSW Ministry of Health 2012.

[USE0985]

28. Use of the water slide area shall be restricted at all times to permanent and temporary residents of the caravan park and their registered guests only. It shall not be open to the public.

A register is to be maintained detailing any guests who utilise the water play area, specifying the permanent/temporary resident of which they are guests of and the site no. of the permanent/temporary resident.

A copy of this register is to be submitted to Council for review by the General Manager or delegate upon request.

29. The noise barrier shall be constructed and maintained along the whole north-eastern side of the raised platform in accordance with the Noise Impact Assessment (Reference: ATP150204-R-NIA-02) prepared by ATP Consulting Engineers dated August 2016) to the satisfaction of the General Manager or his delegate.

30. **Public announcement (PA) systems, whistles or loud control devices and amplified music system shall not be used in association with the water play park.**
31. **The number of patrons permitted on the water park raised platform shall be restricted to one person per square metre to the satisfaction of the General Manager or his delegate. Whilst ever the water park is in use direct caravan park staff supervision shall be provided to ensure that this requirement is achieved.**

[USENS01]

**REPORT:**

**Applicant:** Ladehai Pty Ltd  
**Owner:** Ladehai Pty Ltd  
**Location:** Lot 1 DP 1014298 No. 1-3 Tweed Coast Road, Hastings Point  
**Zoning:** RE2 - Private Recreation  
**Cost:** \$650,000

**Background:**

Council at its meeting of 7 July 2016, resolved to refuse this development application for the redevelopment of a waterslide playground at 1-3 Tweed Coast Road, Hastings Point.

The application related to the removal of two existing waterslides and their replacement with longer enclosed slides with inbuilt slow down lanes. The proposed slides were larger in scale, with the overall development having a maximum height of 9.5m based on the submitted plans. A minor extension of the swimming pool is also proposed.

The waterslide area was to be located within the North Star Holiday Resort site and the development was stated as being in association with this development. The total area covered by the waterslide was approximately 160m<sup>2</sup>.



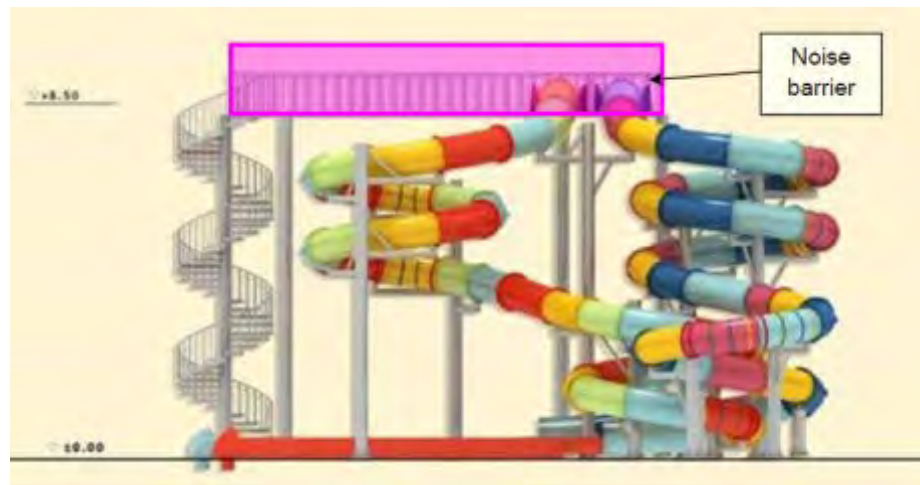
**Waterslide Development refused by Council**

Proposed Modification to Development

As part of this review the plans for the development have been amended by the applicant. The height of the platform has been reduced from 8.5m to 8.2m and the development now includes a 1.8m high noise barrier at the eastern side of the waterslide platform and to the access stairs. Furthermore, the colour of the slides have been amended to exclude bright colours. These amendments have been demonstrated on the below images. Otherwise the development is the same as that previously assessed by Council.



**Updated Waterslide Development (Noise barrier proposed and amended colour scheme)**



**Waterslide Development including Noise Barrier Location (from Noise Impact Assessment)**

### Site

The subject site is legally described as Lot 1 DP 1014298, known as No. 1-3 Tweed Coast Road, Hastings Point. The site mainly contains the North Star Holiday Resort and Caravan Park, although it is noted that there is also a service station to the east site boundary. The existing Approval to operate is for 179 Long Terms Sites, 136 Short Terms sites, 19 camp sites and 179 dwelling sites.

The site is bordered by road reserve to the east (Tweed Coast Road- a Classified Road) and south/south west (Creek Street). To the north and north-west the property borders Crown Land (Cudgen Nature Reserve).

The site is irregular in shape, with an area of 9.962 hectares and is relatively level.

This proposed development is to be located to the north-east of the site, in close proximity to Tweed Coast Road which borders the site at this point and the existing service station on site. The development is to be located adjacent to existing water play equipment on site.

Land to the south and east (across Tweed Coast Road) of the site is occupied by residential developments, comprising a mix of residential development types. It is noted that much of this land is zoned R3 Medium Density Residential.

### Development History

DA15/1064: redevelopment of waterslide playground. Refused 7 July 2016.

The reasons of refusal stated the following:

1. The proposed facility is considered an overdevelopment of the site and not in keeping with the low key village scale character.
2. Unacceptable noise impacts to surrounding residents and environment.
3. Unacceptable visual impacts along Tweed Coast Road and to the neighbours.
4. This larger proposal would necessitate the provision of the 30m Tweed Coast Road setback to be provided.
5. The lack of capacity to provide adequate vegetation screening.
6. The potential for the development to attract public use not strictly associated with the caravan park is not considered to be orderly and economic use of the land or supporting the welfare of the community.
7. Taking into account the large number of objections, the proposal is not considered to be in the public interest.

### Applicants Response to Reasons for Refusal

The applicant has provided a detailed response to the reasons of refusal. These are summarised below

**1. *The proposed facility is considered an overdevelopment of the site and not in keeping with the low key village scale character.***

*An “overdevelopment”, in Planning terms, is generally referred to as being a development that is too high or bulky for the site on which it is situated. Neither is the case in this instance.*

*The height of the waterslides does not exceed the 10m height limit contained within the Tweed LEP 2014. The development was carefully designed to ensure that the structure was compliant with the height limit which the Local Environmental Plan specifies is suitable for the Holiday Park site.*

*For the site of the waterslides, a 10m height limit is specified by the LEP. However, at the rear of the holiday park, the height limit is only 8.0m. This indicates that Council anticipates development up to 10m at the location of the waterslides, and that Council accepts that a 10m high development will not contravene the objectives of Clause 4.3 of the LEP. The platform height of the slides has been reduced to a height of 8.2m, and a 1.8m high noise barrier is proposed at the platform, resulting in an overall height of 10.0m.*

*The other issue to consider in relation to ‘overdevelopment’ is the bulk of the structure. In this instance, the waterslides are a relatively visually transparent development. The*



most 'solid' part of the development will be the stairwell, which is predominantly open with noise barriers on the eastern elevation, and the platform, which will have an open railing on three sides and a noise barrier with a height of 1.8m on the eastern side. The platform will have a length of 9.5m and will be sited with an angled setback to the Tweed Coast Road.

Furthermore, a structure can only appear 'bulky' if it is visible from a public area, which is not the case in this instance. The waterslides will be screened by the vegetation at the perimeter of the site which includes a dense planting of palm trees with heights of up to 15m. The established vegetation is 5m higher than the waterslide structure.

Given that the watersides are compliant with the 10m height limit for the site and as the development will not appear as being 'bulky' from any public area, the waterslides could not reasonably be considered to be an 'overdevelopment' of the site and cannot be considered to impact on the low-key village character of Hastings Point.

## **2. Unacceptable noise impacts to surrounding residents and environment.**

A Noise Assessment was provided with the initial Development Application. The Noise Assessment was considered by Council's Environmental Health Department who found the information satisfactory and conditions of approval were recommended requiring that the development be carried out in accordance with the provisions of the Noise impact Assessment.

It is assumed that this reason for refusal may have stemmed from complaints from nearby residents in the area who raised the issue of noise created by children using the proposed slides, rather than the usual issue of mechanical noise.

To address this issue and to allay residents' concerns, the application plans have been amended to include a noise barrier located at eastern facade of the platform the top of the slides, and along the eastern edge of the stairwell.

The Noise Impact Assessment has been updated and revised to include additional detail on the likely noise impact of children using the slides. Whilst not considered essential, the report now includes a recommendation that a 1.8m high noise barrier be constructed along the north eastern side of the raised platform, and that the number of patrons on the raised platform be restricted to approximately one person per square metre.

## **3. Unacceptable visual impacts along Tweed Coast Road and to the neighbours.**

This reason for refusal indicates that the Councillors were of the opinion that the structure would be highly visible from public areas including the Tweed Coast Road and neighbouring properties (assumed to be residential sites on the eastern side of the Tweed Coast Road).

However, information was provided to demonstrate that the existing landscaping will effectively screen the structure from public areas. The development application was accompanied by a photo montage, which has again been attached to demonstrate the likely visual impact of the structure.

*The colours of the structure have been amended so that the slides are blue and green. Reds and yellows will be avoided. The green and blue alternate colouring will assist in blending the structure into the existing colours of the vegetation and pool area.*

*A landscape consultant has also been commissioned to address the adequacy of the vegetative screen.*

*Accordingly it is submitted that the visual impact of the development to the general public and to nearby residential properties will be minimal due to the effectiveness of the existing landscaping at the site.*

**4. This larger proposal would necessitate the provision of the 30m Tweed Coast Road setback to be provided.**

*The above reason for refusal refers to a “30m” road setback requirement. It is not known where the 30m requirement originates from. Council’s DCP for Hastings Point refers to a requirement for a 10m wide landscaped buffer at the front of this site.*

*The DCP does not require a 30m landscaped setback, as referred to in the reason for refusal. The proposed development will maintain the existing landscaped setback which varies in width from 3.0m to 4.5m in width. The existing perimeter landscaping will not be reduced.*

*The development and site will achieve the objectives of the Hastings Point DCP of “ensuring a well landscaped front setback along the Tweed Coast Road” notwithstanding that the landscaped setback is currently less than the 10m recommended buffer. The density of planting and effectiveness of the mature vegetation in screening the development compensates for the existing, and proposed landscaped buffer being less than 10m wide. Accordingly this reason for refusal is unfounded and incorrect.*

**5. The lack of capacity to provide adequate vegetation screening.**

*A qualified landscape consultant was appointed to review the existing landscaping and to make recommendations on how the buffer could be improved to enhance landscaped screening.*

*The conclusion was that the existing landscaping at the site is highly appropriate for the location and provides an effective visual screen to the site and to the proposed development. It was recommended that the existing vegetation and management practices be maintained. No additional plantings were deemed necessary.*

**6. The potential for the development to attract public use not strictly associated with the caravan park is not considered to be orderly and economic use of the land or supporting the welfare of the community.**

*This issue was addressed in detail with the initial Development Application. All usage of the waterslides is strictly associated with the Holiday Park. There is absolutely no evidence that the water park is being used in any way not directly associated with the core operation of the Holiday Park.*

*This is an issue which would have been appropriately addressed by the recommended Conditions of Approval contained within the report from the Director of Planning and Regulation. Condition 27 of the draft conditions of approval required the following:*

- 27. Use of the water slide area shall be restricted at all times to permanent and temporary residents of the caravan park and their registered guests only. It shall not be open to the public. A register is to be maintained detailing any guests who utilise the water play area, specifying the permanent/temporary resident of which they are guests of and the site no. of the permanent/temporary resident. A copy of this register is to be submitted to Council for review by the General Manager or delegate upon request.*

*It is unreasonable to assume that the development will be operated in breach of conditions of approval.*

**7. Taking into account the large number of objections, the proposal is not considered to be in the public interest**

*The vast majority of the objections received were not from local residents. Council's acceptance and validation of their objections by refusing the application on the grounds of the "public interest" indicate that Council gives equal weight to tourist views on the proposal.*

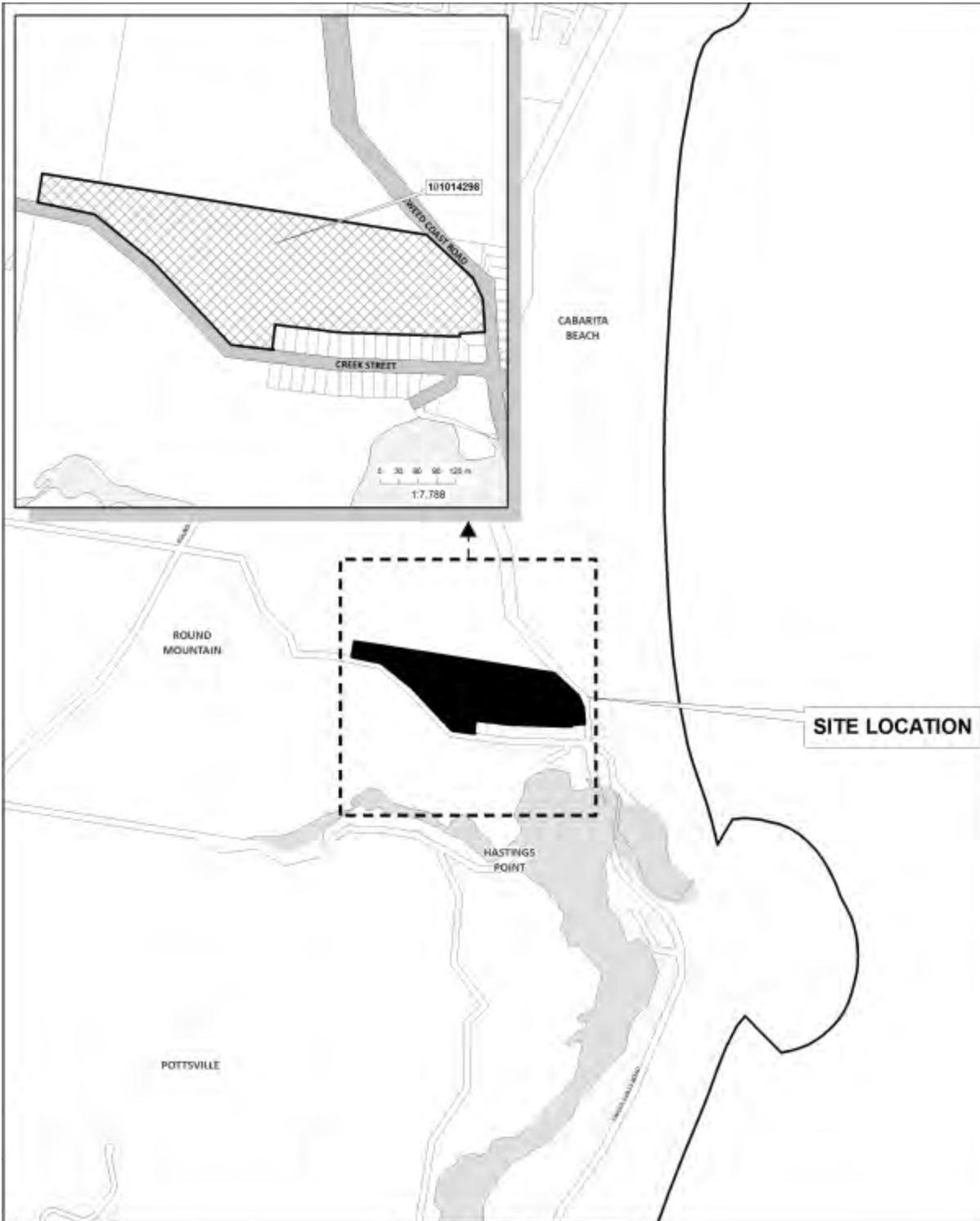
*The "public interest" is therefore taken to be the interests of both the local residents and the visiting public.*

*It is noted that the Council will notify this application for Review of the determination of the DA. The applicant will strongly encourage those people who have expressed their verbal support for the development also convey their support in writing to Council during the upcoming exhibition period.*

*Tourists who have stayed at the Holiday Park will be invited and encouraged to lodge submissions to Council. It is anticipated that the letters of support that Council will receive will far outnumber the objections.*

*There are enormous economic benefits to the general public from the operation of the park. The continued upgrading of the facilities at the park is required to ensure that the economic benefit continues. As such, the development will have direct economic benefits to the community and is therefore has significant "public interest" benefits.*

**SITE DIAGRAM:**

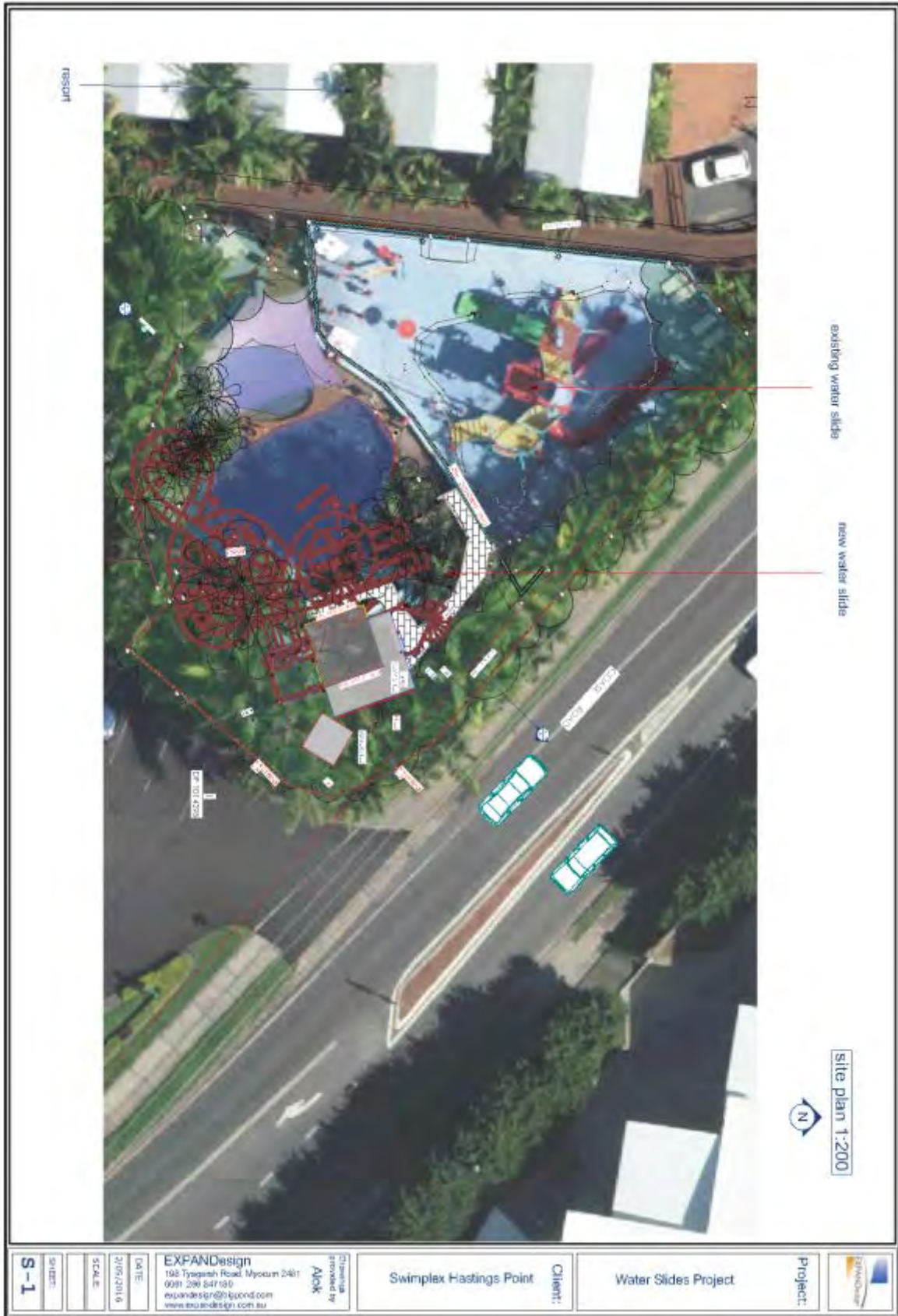


**Locality Plan**

Lot 1 DP 1014298  
No. 1-3 Tweed Coast Road, Hastings Point

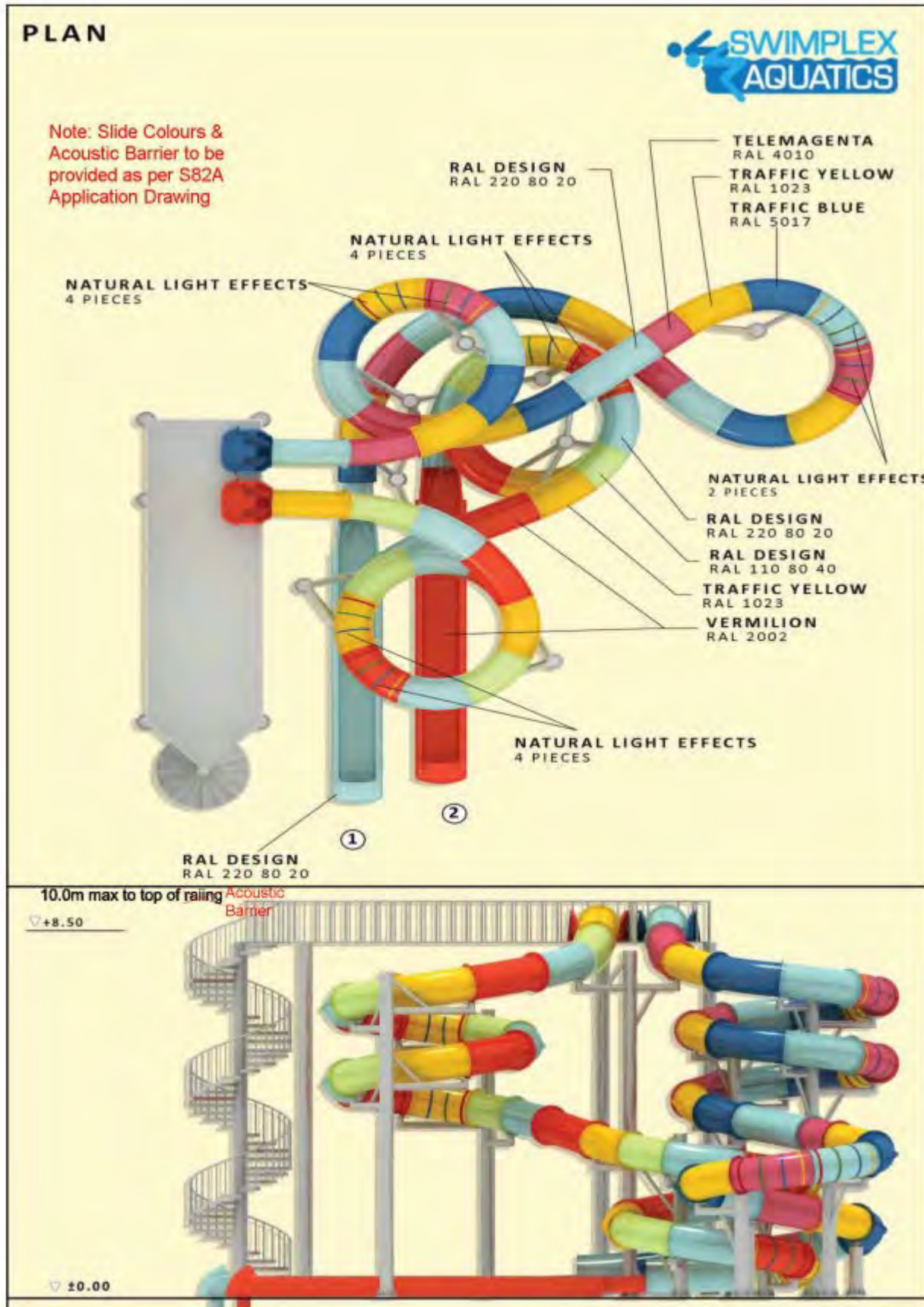
<p>Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representation or warranty as to the accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including interest or consequential damages) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general public and is to be considered indicative and approximate only. It should not be used for survey or information purposes and prior to any acquisition of land under a 'Buy Now' inquiry you should contact the Council. This information is provided on the condition that you shall not rely on it for the purposes of any legal proceedings.</p>	<p>Cadastral 20 June, 2016 © Land and Property Information (LPI) &amp; Tweed Shire Council Boundaries shown should be considered approximate only.</p>	<p>0 0 15 0 30m 7 15 000 © A4 Posttra 00 000 000 000 COPY DRAW - NOT FOR SALE</p>	<p>Clerk and Cultural Centre 3 Tarragullai Road Mullumbidgee NSW 2484 PO Box 876 Mullumbidgee NSW 2484 T (02) 6675 2400   1300 280 872 F (02) 6675 2428 W <a href="http://www.tweed-shire.gov.au">www.tweed-shire.gov.au</a> E <a href="mailto:planning@tweedshire.gov.au">planning@tweedshire.gov.au</a></p>	 <p><b>TWEED</b> SHIRE COUNCIL</p>
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DEVELOPMENT/ELEVATION PLANS:



S-1	CLIENT:	SCALE:	DATE:	EXPANDesign 198 Tyngsboro Road, Myccum 2481 0081 288 847 180 expandesign@hpoint.com www.expandesign.com.au	Client: Mick	Client: Swimplex Hastings Point	Project: Water Slides Project	Project: EXPANDesign









# Front View



Note: Slide Colours & Acoustic Barrier to be provided as per S82A Application Drawing



18/100 COB BETH BYRON ROAD  
 ROCK SPRING QUEENSLAND 4701  
 Tel: +61 7 5512 1000 Fax: +61 7 5512 1001  
 www.polinwaterparks.com.au  
 www.iaapa.com.au


**SWIMPLEX HASTINGS PROJECT**

Australia

**ALTERNATIVE 4**

Drawing Units	Metric
Paper Size	A3
Scale	1:1500
Drawn by	Aspen/Ally
Checked by	John/Ally
Approved by	John/Ally


NOTES:  
 1. See General Notes




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Drawing No: SWH-101  
 Rev: 04  
 Date: 15.10.2015

**Design Drawing**



+8.50  
 +0.00



**WATER SLIDES LIST**

\*Based on Polin Catalogue 2015

SLIDE NO.	SLIDE NAME	TYPE	HEIGHT	LENGTH	WIDTH	AREA	VOLUME
1	SLIDE 1	+	10.00	80.00	3.00	240.00	80.00
2	SLIDE 2	+	10.00	80.00	3.00	240.00	80.00



SB2A APPLICATION FOR RECONSIDERATION OF DEVELOPMENT APPLICATION DA 15/1064  
Redevelopment Of Waterside Playground  
At Lot 1 DP 1014296, No. 1 - 3 Tweed Coast Road, Hastings Point

Plans demonstrating Slide  
Colours & Acoustic Barrier



**Considerations under Section 82A of the Environmental Planning and Assessment Act 1979:**

**82A Review of determination**

- (1) *If the consent authority is a council, an applicant may request the council to review a determination of the applicant's application, other than:*
- (a) *a determination to issue or refuse to issue a complying development certificate, or*
  - (b) *a determination in respect of designated development, or*
  - (c) *a determination in respect of integrated development, or*
  - (d) *a determination made by the council under Division 4 in respect of an application by the Crown.*

Not applicable to the subject application. The development application is not a type referred to in (a) – (d) above.

- (2) *A council must, on a request made in accordance with this section, conduct a review.*

This review has been undertaken in response to a request made by the applicant.

(2A) *A determination cannot be reviewed:*

- (a) *after the time limited for the making of an appeal under section 97 expires, if no such appeal is made against the determination, or*
- (b) *after an appeal under section 97 against the determination is disposed of by the Court, if such an appeal is made against the determination.*

The above summaries that the review must be made within six months of determination of the Development Application. The Development Application was determined at Council's Planning Committee meeting of Thursday 7 July 2016 and therefore the 82A review must be finalised before 7 January 2017.

(3) *(Repealed)*

(3A) *In requesting a review, the applicant may make amendments to the development described in the original application, subject to subsection (4) (c).*

The applicant has made amendments to the development in the original application. The height of the platform has been reduced from 8.5m to 8.2m and the plans now include 1.8m high noise barrier at the eastern side of the waterslide platform and to the access stairs. Furthermore, the colour of the slides have been altered to exclude bright colours.

(4) *The council may review the determination if:*

- (a) *it has notified the request for review in accordance with:*
  - (i) *the regulations, if the regulations so require, or*
  - (ii) *a development control plan, if the council has made a development control plan that requires the notification or advertising of requests for the review of its determinations, and*

The application has been notified in accordance with Tweed Shire Council Development Control Plan Section A11- Public Notification of Development Proposals.

- (b) *it has considered any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan, as the case may be, and*

Submissions received during the exhibition period have been considered elsewhere in this report.

- (c) *in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same development as the development described in the original application.*

As outlined under (3A) above, the applicant has made amendments to the proposal by reducing the platform height and incorporating an acoustic barrier as well as removing bright colours from the slides. These are considered to be minor amendments and the development is substantially the same as that described in the original application.

*(4A) As a consequence of its review, the council may confirm or change the determination.*

The Section 82A review of determination has been referred to Council to confirm or change the determination of this application. It is recommended by Council officer that the determination be changed.

(5) *(Repealed)*

- (6) *If the council reviews the determination, the review must be made by:*  
(a) *if the determination was made by a delegate of the council—the council or another delegate of the council who is not subordinate to the delegate who made the determination, or*  
(b) *if the determination was made by the council—the council.*

As the determination of this application was originally made by (elected) Council, the review must also be made by Council in accordance with (b) above. As such, this has been reported to Planning Committee Meeting for the review to be made.

(7)–(9) *(Repealed)*

- (10) *If on a review the council grants development consent, or varies the conditions of a development consent, the council is entitled, with the consent of the applicant and without prejudice to costs, to have an appeal made under section 97 in respect of its determination withdrawn at any time prior to the determination of that appeal.*

Not applicable to the subject application.

(11) *(Repealed)*

- (12) *This section does not apply where a regional panel exercises a council's functions as the consent authority.*

Not applicable to the subject application.

**Considerations under Section 79C of the Environmental Planning and Assessment Act 1979:**

**(a) (i) The provisions of any environmental planning instrument**

**Tweed Local Environmental Plan 2014**

Clause 1.2 – Aims of the Plan

This Plan aims to make local environmental planning provisions for land in Tweed City Centre in accordance with the relevant standard environmental planning instrument under section 33A of the Act.

The particular aims of this Plan are as follows:

- (a) To give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,
- (b) To encourage a sustainable local economy and small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed,
- (c) To promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, built environment, and cultural heritage,
- (d) To promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,
- (e) To promote building design which considers food security, water conservation, energy efficiency and waste reduction,
- (f) To promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,
- (g) To conserve or enhance the biological diversity, scenic quality and geological and ecological integrity of Tweed,
- (h) To promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,

- (i) To conserve or enhance areas of defined high ecological value,
- (j) To provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.

The development relates to a use ancillary to the caravan park on site, and is considered to be generally consistent with the aims of the plan.

#### Clause 1.4 – Definitions

Under this clause the development would be defined as caravan park by virtue of being ancillary to the existing caravan park on the site. This is defined as follows:

**caravan park** means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

#### Clause 2.1 – Land use zones

The subject site is zoned RE2 Private Recreation.

#### Clause 2.3 – Zone objectives and Land use table

The objectives of the RE2 zone are as follows:

- To enable land to be used for private open space or recreational purposes
- To provide a range of recreational settings and activities and compatible land uses
- To protect and enhance the natural environment for recreational purposes.

The development is for an ancillary addition to an existing caravan park to provide improved facilities and amenities for residents and users of that park. The development is considered to accord with all of the zone objectives.

#### Clause 4.3 - Height of Buildings

The objectives of this clause include provisions to establish the maximum height for which a building can be designed and ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity. This clause states that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. In this instance the subject development area is identified as having a maximum building height of 10m (Control K) as identified on the building height map.

The development as originally lodged had a maximum height of 9.5m. It is noted that through the provision of a noise barrier and the slight lowering of the platform that the amended plans now demonstrate a 10m high structure.

In any event, this complies with the relevant building height control for this area. As such, the proposed development is considered acceptable with respect to this control.

#### Clause 4.4 – Floor Space Ratio

The subject site is not mapped as having any floor space ratio controls applicable to it under this clause. As such, this clause does not apply to the proposal.

#### Clause 5.5 – Development within the Coastal Zone

This clause states that development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered the following:

- (a) *existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*
  - (i) *maintaining existing public access and, where possible, improving that access, and*
  - (ii) *identifying opportunities for new public access, and*

The subject application does not propose any amendments to existing public access to or along the coastal foreshore.

- (b) *the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*
  - (i) *the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
  - (ii) *the location, and*
  - (iii) *the bulk, scale, size and overall built form design of any building or work involved, and*

The development is permissible on the subject site and is generally consistent with the prescribed development requirements as outlined throughout this report. As such the proposal is considered to be acceptable at this location.

- (c) *the impact of the proposed development on the amenity of the coastal foreshore including:*
  - (i) *any significant overshadowing of the coastal foreshore, and*
  - (ii) *any loss of views from a public place to the coastal foreshore,*

The proposed development is located approximately 160m from the coastal foreshore and it therefore not considered to impact on the amenity of the foreshore by virtue of overshadowing or a loss of views. The subject application is considered to be acceptable having regard to the above considerations.

- (d) *how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*

The proposed development is not considered to compromise the scenic qualities of the coast as it represents an acceptable development on appropriately zoned land. Beyond this, the subject development is not considered to generate any specific opportunities to protect the visual amenity and scenic qualities of the coast due to its nature and scale.

- (e) *how biodiversity and ecosystems, including:*

- (i) *native coastal vegetation and existing wildlife corridors, and*
- (ii) *rock platforms, and*
- (iii) *water quality of coastal waterbodies, and*
- (iv) *native fauna and native flora, and their habitats, can be conserved, and*

The proposal is to be undertaken on a land which has been previously developed. It is considered that the proposal will have a minimal impact on the local biodiversity or ecosystems in this regard.

- (f) *the cumulative impacts of the proposed development and other development on the coastal catchment.*

The proposed development is not considered to result in an unacceptable cumulative impact on the coastal catchment given the sites zoning and the permissibility of the development at this location.

This clause goes on to further state:

- (3) *Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:*

- (a) *the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and*

As outlined elsewhere in this report, the proposal will not impede or diminish the right of access of the public either to or along the public foreshore.

- (b) *if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

The subject development does not propose to dispose effluent by non-reticulated system.

- (c) *the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

It is considered that the subject application would be in accordance with the above controls, with no untreated stormwater being discharged to the sea, beach or the like.

- (d) *the proposed development will not:*

- (i) *be significantly affected by coastal hazards, or*  
(ii) *have a significant impact on coastal hazards, or*  
(iii) *increase the risk of coastal hazards in relation to any other land.*

The proposed development is considered to be acceptable having regard to coastal hazards as outlined above due to its nature, permissibility and the spatial separation between the site and coastal hazards at this location.

Having regard to the above assessment the proposal is considered to be acceptable with respect to the provisions of this clause.

#### Clause 5.10 - Heritage Conservation

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Tweed,  
(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,  
(c) to conserve archaeological sites,  
(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

A search of the proposed development site has been undertaken on the NSW Government Office of Environment & Heritage website through the Aboriginal Heritage Information Management System (AHIMS) tool which has identified that there are no Aboriginal sites recorded or Aboriginal places declared at or near the proposed development site. In this regard the proposal is not considered to impact negatively on the provisions of this clause.

#### Clause 5.11 - Bush fire hazard reduction

The land is bushfire prone and given the nature of the caravan park development on site (tourist use), the application previously constituted an S79BA referral to the Rural Fire Service. A response has been received providing a recommended condition of consent which would be applied to any consent issued.

#### Clause 7.3 – Flood Planning

The objectives of this clause are as follows:



- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
- (c) to avoid significant adverse impacts on flood behaviour and the environment.

This clause goes on to further state that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

With respect to the abovementioned matters, it is noted that the subject development site is mapped within the 1 in 100 year (Q100) and Probable Maximum Flood (PMF) level area and therefore consideration is required with respect to this clause.

In this instance it is noted that the proposal relates to the (non-habitable) development of a waterslide playground in an existing caravan park and as such would not be considered to raise any significant impacts with respect to flooding. Further assessment is provided with respect to flooding under DCP Section A3 elsewhere in this report.

Having regard to this, the proposal is considered to be in accordance with the provisions of this clause and would not result in an unacceptable development when assessed against the above criteria.

With respect to the above assessment against the provisions of this clause, it is considered that the proposed development would be acceptable from the perspective of essential services available to the site.

Having regard to the above assessment, the subject application is considered to be generally in accordance with the provisions of the Tweed Local Environmental Plan 2014.

### **State Environmental Planning Policies**

#### **State Environmental Planning Policy (SEPP) No. 21 - Caravan Parks**

The subject development relates to the development of a caravan park and as such the provisions of this SEPP are applicable to the assessment of this application. *The aim of this Policy is to encourage:*

- (a) *the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and*
- (b) *the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community, and*
- (c) *the provision of community facilities for land so used, and*
- (d) *the protection of the environment of, and in the vicinity of, land so used.*

The subject application is not considered to contravene the above objectives of this SEPP.

Under this SEPP a 'caravan park' means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

Part 8, subclause 1 of this SEPP outlines that 'development for the purposes of a caravan park may be carried out only with the development consent of the Council.'

With respect to this it is noted that the subject application relates to the provision of a water slide within the existing caravan park for which development consent is sought.

Part 10 of the SEPP outlines six matters to be considered by Councils as follows:

*10 Matters to be considered by Councils*

*A Council may grant a development consent required by this Policy only after it has considered the following:*

- (a) *whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence,*

It is considered that the land is suitable for use as a caravan park given the caravan park has been long established and operational at this location and would be in accordance with the land zoning.

- (b) *whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,*

It is noted that this application does not impact on the number of sites within the caravan park from that currently lawfully operating. In this regard, the subject application is not considered to have a significant impact on tourist accommodation in the locality..

- (c) *whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,*

The proposed development does not impact on the number or type of sites within the caravan park.

- (d) *whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park,*

The subject application in itself relates to the provision of facilities and services within the park. The proposal is considered to be acceptable with respect to the above.

- (e) *any relevant guidelines issued by the Director, and*

There are no specific guidelines by the Director General of Planning.

- (f) *the provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993.*

The proposal is considered to be consistent with the provisions of the Local Government Regulations.

The proposed development is considered to be in accordance with this policy and satisfies the provisions of this SEPP.

### **SEPP No. 55 - Remediation of Land**

The objectives of SEPP No. 55 is to provide a State wide planning approach to the remediation of contaminated land and to require that remediation works meet certain standards and conditions.

SEPP No. 55 requires a consent authority to consider whether land is contaminated and if contaminated, that it would be satisfied that the land is suitable, in its contaminated state (or will be suitable after remediation). Further, it advises that if the land is contaminated and requires remediation, that the consent authority is satisfied that the land will be remediated before the land is used for that purpose. In particular it is noted that this SEPP states that a consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The subject application has been reviewed by Council's Environmental Health Unit who has provided the following advice with respect to contamination:

*"The proposed development is located on a large block that is occupied a Holiday Resort and Caravan park and a service station. Service stations are defined as a potentially contaminating activity as set out in Schedule 1 of Tweed Shire Councils Contaminated Land Policy.*

*The applicant has considered contaminated land issues in the SEE. The SEE states 'The current application does not propose any change of use. The site has approval for use as a pool area with waterslides, and no change of use is proposed.' Previous works have been carried out in the proposed area (DA10/0839 - refurbishment of existing pool area and new water play equipment associated with the North Star Holiday Resort) without the requirement of a preliminary contaminated land investigation. A site visit indicates that the service stations are located at a distance of approximately 30m from the fence of the water park. Monitoring wells were observed on the site. Excavations proposed do not require dewatering.*

*Given the above information no further information is required."*

Having regard to the advice provided, the subject application is considered to be acceptable with respect to contaminated land.

### **SEPP No 71 – Coastal Protection**

The subject site is within the coastal zone (as per the NSW Government Coastal Policy 1997) and as a result is subject to the provisions of State Environmental Planning Policy No. 71. Council is required to consider the matters under Clause 8 and the following comments are made for Council's consideration.

#### **Clause 8 – Matters for consideration**

**(a) the aims of this Policy set out in clause 2,**

*The proposal is generally in accordance with the aims of this policy.*

**(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,**

*The subject application does not impact upon any public access way to the coastal foreshore. Furthermore, it is considered that the proposal does not offer any opportunity for a formal access way to be created or improved.*

**(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,**

*It is not considered that this application offers any opportunities to provide new public access to the foreshore.*

- (d) the suitability of development given its type, location and design and its relationship with the surrounding area,**

*The proposal is considered suitable, having regard to its nature (ancillary to existing caravan park) and permissibility in this area.*

- (e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,**

*The proposal will not result in any overshadowing of the coastal foreshore. In addition, it is not considered that the proposed structure would result in any significant loss of views from a public place to the coastal foreshore, given the spatial separation between the development and the foreshore.*

- (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,**

*This proposal is not considered to have any negative impact on the scenic qualities of the NSW coast.*

- (g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,**

*The proposal is not considered to impact negatively any animals or their habitats. The subject development site has been historically developed and cleared of significant vegetation.*

- (h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats**

*The proposal will not have an adverse impact upon marine environments or habitats.*

- (i) existing wildlife corridors and the impact of development on these corridors,**

*It is considered that there are no wildlife corridors impacted by the proposed development.*

- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,**

*The proposed development is not considered to have any significant impact of development on coastal processes and coastal hazards.*

- (k) measures to reduce the potential for conflict between land-based and water-based coastal activities,**

*The proposal is not considered to cause any conflict between land-based and water-based activities.*

- (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,**

*The subject development is not considered to impact on any traditional Aboriginal cultural values.*

- (m) likely impacts of development on the water quality of coastal water bodies,**

*The subject application is not considered to have any significant impact upon the water quality of coastal waterbodies.*

- (n) the conservation and preservation of items of heritage, archaeological or historic significance,**

*It is not considered that the proposal impacts upon the conservation or preservation of any of the above items.*

- (o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,**

*Not applicable to the subject application.*

- (p) only in cases in which a development application in relation to proposed development is determined:**

- (i) the cumulative impacts of the proposed development on the environment, and**

*This development is not considered to have a negative cumulative impact on the environment.*

- (ii) measures to ensure that water and energy usage by the proposed development is efficient.**

*The proposal is considered to be acceptable with respect to water and energy usage. It is noted that the development is to reduce water consumption in comparison to the existing water slides on site.*

### Conclusion

It is considered the proposed development does not compromise the intent or specific provisions of State Environmental Planning Policy No. 71 – Coastal Protection.

**SEPP (Infrastructure) 2007**

The subject application is located adjacent to Tweed Coast Road, which is a 'Main Road' classified road. Therefore, the subject application requires consideration under Division 17 Roads and traffic, Subdivision 2, Development in or adjacent to road corridors and road reservations, Clause 101, Development with frontage to classified road. The objectives of this clause are:

- (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

This clause goes on to further state that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied of the following:

- a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*

Vehicular access to the site is not proposed to be amended as part of this application. It is noted that the water play facilities form part of the existing caravan park on site.

- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) *the design of the vehicular access to the land, or*
  - (ii) *the emission of smoke or dust from the development, or*
  - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*

The subject development is not considered to interfere with the efficiency or ongoing operation of Tweed Coast Road in this instance given its nature as a replacement waterslide development.

- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The proposal is not considered to be sensitive to traffic noise/emissions etc. as per the above. The proposal is for a replacement to an ancillary waterslide development to the existing caravan park. In this manner, the proposal is not considered to be of any significant sensitivity to traffic noise/emissions etc.

Having regard to the above, the proposal is considered to be acceptable when considered against the requirements of SEPP Infrastructure.

**(a) (iii) Development Control Plan (DCP)**

Tweed Development Control Plan

Section A2- Site Access and Parking Code

The subject application proposes a water slide redevelopment within an existing caravan park site. Under this DCP, access and parking provisions are deferred to the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2000*. This Regulation provides for a vehicular parking requirement based on the number of sites within a caravan park. As the proposal relates only to the development of a water slide development, ancillary to the existing caravan park only, the proposal is not considered to necessitate an increase to parking provision or vehicular access on the site.

It is therefore considered that the existing access and parking provisions within the caravan park are acceptable to serve this development in this instance.

Section A3- Development on Flood Liable Land

The proposed development is located on land which is indicated as being flood liable and as such the provisions of DCP A3 apply to the site. The site is within the probable maximum flood (PMF) level area and also exhibits a design flood (1 in 100 year flood level) measuring RL 2.6m AHD. The subject site is also located on land identified as being within a low flow area.

This DCP contains specific provisions with respect to caravan park developments. The proposed development is not considered to be inconsistent with these controls. It is noted that the majority of these controls relate to the development of caravan sites. The proposal is not considered to result in any significant impacts with respect to the impediment of floodwater given the nature and scale of the development.

With respect to the PMF level, the following control is provided:

*Expansion of caravan park amenities and other non-habitable facilities permitted without consideration of PMF.*

Again, the subject application is considered to be acceptable having regard to the above as the water slide would constitute caravan park amenities.

It is considered that the proposed development is in compliance with this policy and it is unlikely that it would exacerbate flooding within the locality and it is thus considered that the development is consistent with the aims of DCP Section A3.

Section B23-Hastings Point Locality Based Development Code

An assessment of the proposed development against Section B23 has been undertaken with the proposal considered to generally comply with Section B23 of



the Tweed Development Control Plan. The site is situated within the Peninsula Street and the Northern Entry Precinct.



Peninsula Street and Northern Entry Precinct

#### Part 4 – Precinct Specific Strategies – Peninsular St and North Entry

The controls outlined for Caravan Parks under this precinct are as follows:

1. *The caravan park is to be retained for holiday accommodation and associated facilities.*

The proposal is consistent with this control, being a facility associated with the caravan park development currently on site.

2. *Fencing along Tweed Coast Road must be low and open to a maximum of 1.2 metre high.*

The subject application does not propose any amendments to the existing fencing along Tweed Coast Road which is considered acceptable.

Under Figure 4.6 Control Diagram, the proposed development area is identified as having a 10m landscape setback. In response to this the applicant has provided the following information:

*“Figure 3.7 which relates to Urban Vegetation identifies that the front of the site is an indicative area for urban vegetation. In response to this, it is reiterated that the waterslides have been very carefully designed to minimise any impact on the existing vegetation. The slides will wind around the vegetation rather than requiring clearing. The large palm trees at the front of the site area are an important feature of the site and will be retained. Only smaller golden cane palms and one triangle palm will require removal.”*

With respect to the above it is considered appropriate that a detailed landscape plan be provided (see Part 5 Visual Settings assessment below). A variation to the 10m requirement would be considered acceptable in this instance however, given the existing structure on site to be removed is within the 10m setback.

#### Part 5 Visual Settings

Under this section of the DCP, it is considered appropriate that that the subject site be assessed under section 5.9 'Northern Entry'.

The key characteristics of this view are:

- Contrast between dense coastal vegetation and then entering the settlement with buildings to both sides of the road.
- Houses set back behind dense and mature vegetation.

The controls of this visual setting are:

1. Prior to any alterations and additions, removal or addition of vegetation, new buildings and public domain improvements plans with photomontages must be submitted to council to demonstrate how this view may be impacted upon and measures to mitigate impacts.

*The submitted application included provision of a photomontage demonstrating the proposal from the northern entry. In this regard it is considered that the proposal would not result in an unacceptable visual impact to this area. While the proposal represents a tall structure, it is not considered to be bulky or have an unacceptable massing which would dominate this area in a negative manner.*

2. Front setback landscaping is to result in mature vegetation trees and a bushy and green appearance to the street resulting in buildings being dominated by vegetation

*While the submitted application does not propose significant vegetation buffer in accordance with this control, it is considered that, in the event of approval, a condition would be applied to any consent which requires landscaping to be provided in accordance with the above. The proposal is considered acceptable in this regard.*

3. Carparks are to be setback from the street front to allow for a generous landscaped area

*Not applicable to the subject application as no carparks are proposed or required to service this application.*

4. Commercial frontages must address the view corridor with active frontages. Large areas of bitumen and concrete and solid walls are not permitted. With any redesign of the service station it is to provide commercial building shop fronts along the street with parking behind to create a small main street arrangement.

*Not applicable to the subject application as this element of the DCP relates to the service station located to the south.*

5. Simplify the visual qualities of the road by redesigning large and unsightly signage, undergrounding power lines and repositioning urban facilities such as garbage bins to be less visually obtrusive.

*Not applicable to the subject application as the proposal does not relate to amending signage/powerlines etc. at this location.*

The proposal is considered to be acceptable having regard to the provisions of this DCP.

**(a) (iv) Any Matters Prescribed by the Regulations**

Clause 92(1)(a)(ii) Government Coastal Policy

The subject site is located within the area covered by the Government Coastal Policy, and has been assessed with regard to the objectives of this policy. The Government Coastal Policy contains a strategic approach to help, amongst other goals, protect, rehabilitate and improve the natural environment covered by the Coastal Policy. It is not considered that the proposed development contradicts the objectives of the Government Coastal Policy, given its permissible nature on a site identified for development works.

Clause 92(b) Applications for demolition

The subject application has been reviewed by Councils Building Unit who have provided recommended conditions of consent with respect to any demolition work to be undertaken on the site. No objections are raised with respect to this component of the proposed development.

**(a) (v) Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),**

**Tweed Shire Coastline Management Plan 2005**

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The primary objectives of the Coastal Management Plan are to protect development; to secure persons and property; and to provide, maintain and replace infrastructure.

The proposed development is not considered to impact upon that coastline with regard to demands and issues identified within the Plan for the whole of the Tweed coastline (Clause 2.4.1) including: recreation; water quality; heritage; land use and development potential; coastal ecology; and, social and economic demand. It is considered that the proposal represents an appropriate development on land zoned for recreational use. The proposal is generally consistent with the objectives of the Management Plan.

**Tweed Coast Estuaries Management Plan 2004**

This Management Plan applies to the estuaries of Cudgen, Cudgera and Mooball Creeks. It is noted that the proposed development is located approximately 300m from Cudgera Creek. The proposal is not considered to impact on the provisions of this management plan given the spatial separation from the creek.

**Coastal Zone Management Plan for Cobaki and Terranora Broadwater  
(adopted by Council at the 15 February 2011 meeting)**

The subject site is not located within the Cobaki or Terranora Broadwater (within the Tweed Estuary), with this Plan therefore not relevant to the proposed development.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

Context and Setting

The proposal is to be located within an established caravan park in close proximity to the east site boundary and Tweed Coast Road. The proposed development is located to a section of the site which is currently developed as a waterslide playground area. It is considered that generally the proposal is appropriate to the context and setting of the site having regard to its use as a caravan park.

The proposed use has been assessed against the relevant state, regional and local policies, with the development considered not to create an adverse impact on the natural or built environments.

Noise

It is noted that an **updated and revised** Noise Impact Assessment has been submitted as part of this application. This was reviewed by Council's Environmental Health Unit who have provided specific comment in relation to noise (summarised below):

*'A further updated and revised Noise Impact Assessment has been submitted to address point 2 of the refusal notice, being 'unacceptable noise impacts to surrounding residents and environment'. It is noted that the proposed construction of 2 water slides will be replacing 2 existing open slides and that currently the site has substantial existing water play activities and structures.*

*It is noted the purpose of the report was to consider the impact of the proposed waterslide modifications not necessarily the degree of existing intrusive noise or non-compliance from existing water park activities. The report concludes that implementation of the following mitigation measures will ensure that the proposed modifications do not adversely affect existing noise amenity. This is interpreted to mean that whilst there may not be an increase in noise received by residents from the water park modifications, the existing 11dB(A) exceedance may continue.*

*The stipulated mitigation measures are:*

- The hours of operation of the water park will be between 7.00am and 8.00pm, no entrance is to be admitted outside of these hours.
- No Public Announcement (PA) system, whistles or other loud control devices and amplified music system should be used.
- The combined sound pressure of all mechanical noise sources, including new and existing mechanical equipment, must not exceed 68dB(A)  $L_{Aeq,adj,(15min)}$  during daytime (7:00am-6:00pm) and evening (6:00pm-10:00pm), when measured at a setback distance of 1m and after allowing for any adjustments due to tonality. During night-time (10:00pm-7:00am), the combined sound pressure of mechanical equipment must not exceed 63dB(A)  $L_{Aeq,adj,(15min)}$ .
- 1.8m high noise barrier should be constructed on the raised platform at the top of the water slides. The recommended alignment and construction of the noise barrier is discussed in Section 5.2 of this report.
- Number of patrons on the raised platform should be restricted to approximately one person per square metre.

*Given the measured existing noise measurements and the amount of objections in relation to noise it is considered necessary that if approval were granted the hours of operation for the waterslide component of the water park be restricted to the hours 8:00am to 6:00pm 7 days a week. Furthermore, the above recommendations as specified in the report are to be conditioned.*

*Methodologies used to model and assess potential noise impacts from the proposed modifications have been done substantially in accordance with the NSW Industrial Noise Policy 1999. The complete report has been prepared in general accordance with the NSW Industrial Noise Policy and by a suitably experienced consultant (Senior Engineer – Acoustics) for the level of assessment required.*

*Given the above the proposal is considered adequate providing limiting conditions are applied”*

It is considered that the development would be acceptable having regard to potential noise impacts arising from the development, subject to the application of conditions of consent requiring that the proposal be undertaken in accordance with the provisions of the Noise Impact Assessment and the modified recommended hours of operation as stipulated by Council’s Environmental Health Unit (8:00am to 6:00pm 7 days a week).

Having regard to the above comments from Council’s Environmental Health Unit the application is considered to be acceptable in this instance.

### Use of Water Slides

The existing water play area and that proposed as part of this application are ancillary to the established caravan park use on this site. The submitted application advises that *“The waterslides are available for the use of patrons of the park only. To use the facility, people must be a resident or registered guest at the park.”*

It is noted that a number of submissions received (detailed further elsewhere in this report) during the exhibition of this review have indicated that *'Whilst the park currently operates as not open to the public this requirement is circumnavigated frequently.'*

Under the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005, Clause 124 states that "a caravan park or camping ground must not be used:

- (a) *for any commercial purpose other than a caravan park or camping ground or an associated purpose."*

From this, the water play area can only be operated ancillary to the established caravan park on site and cannot be used for any other (including independent) commercial purpose.

The applicant provided the below (summarised) information with respect to the use of the water park:

*"Our existing DA specifically requires that only 'registered patrons of resort are able to use the facility. This is controlled by all registered guests wearing a wrist band and only persons wearing a wrist band are permitted in the facility. Registration is only available to persons leasing an overnight site, or their registered guests. Sites are not leased on an hourly basis, and the minimum leasing period is one night.*

*Persons staying at the resort are issued with a coloured wrist band which permits entry to the park facilities. Each registered guest must also obtain a wrist band for identification.*

*Water park is directly associated with caravan park – standard occurrence for caravan parks to include waterslides as part of their pool facilities – e.g. Billabong Holiday Park Tweed Heads.*

*Council's proposal of "only persons staying at the caravan park are permitted to use the facility" is not supported. It is common practice for a guest's registered visitor to have the right to use the park's facilities. Many permanent residents of the park have grand-children visit and the proposed condition would prevent them from using the facility."*

Having regard to the above, it is considered appropriate that the use of the water slide area proposed as part of this application be limited to use by the following:

- Permanent residents of the caravan park;
- Temporary residents of the caravan park i.e. people registered as staying overnight at the caravan park with a park site allocated to them;
- Registered guests only of residents.

In order to ensure that this is the case, a condition is recommended to be applied to any consent issued in the following terms:

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- # Use of the water slide area shall be restricted at all times to permanent and temporary residents of the caravan park and their registered guests only. It shall not be open to the public.

A register is to be maintained detailing any guests who utilise the water play area, specifying the permanent/temporary resident of which they are guests of and the site no. of the permanent/temporary resident.

A copy of this register is to be submitted to Council for review by the General Manager or delegate upon request.

Subject to compliance with the above condition it is considered that the development would be operational in accordance with the requirements of a caravan park and would therefore be acceptable.

**(c) Suitability of the site for the development**

Flora and Fauna

Cudgen Nature Reserve borders the northern boundary of the subject site, while within close proximity to the south, there is land which is identified as a wetlands and littoral rainforest environmental habitat. Having regard to the high ecological value of surrounding land it is important to assess how any development may impact on these areas. The proposed water play equipment is located to the roadside boundary of the caravan park site, maintaining a distance in excess of 70m to Cudgen Nature reserve and over 230m to the wetlands and littoral rainforest environmental habitat.

Given the spatial separation between the proposed development and these surrounding environmental areas, as well as the fact that the development area is currently developed for the purposes of a waterplay area, it is concluded that the proposed development will not have an unacceptable impact on flora and fauna in the area.

**(d) Any submissions made in accordance with the Act or Regulations**

The Review of determination was notified to surrounding properties and to persons who previously made submission on the application for a period of 14 days from 19 October 2016 to 2 November 2016.

Through the exhibition of this application, approximately 194 public submissions have been received. Four of these were in support of the development with the remainder objecting to the development. In addition, the applicant has provided a consolidated submission which contains the following:

- 1,322 letters of support from 'guests and the local community',
- 39 letters(containing 56 signatories) from residents of the Caravan park,
- 14 letters from business who rely on the viability of the Caravan Park; and,
- 57 letters of support from Caravan Park staff.

A submission was also received from NSW Office of Environmental Heritage (OEH), however the matters raised in this submission were subsequently addressed by the applicant.

A summary of the issues is provided below, along with Council officer assessment where relevant.

### **Submission from NSW Office of Environmental Heritage (OEH)**

*We have reviewed the documents supplied and advise that, although we have no concerns about flooding, acid sulfate soils, estuary management, biodiversity or Aboriginal cultural heritage, we have identified an issue regarding car parking and management of the strategic fire advantage zones/asset protection zones between the Cudgen Nature Reserve and the North Star Holiday Resort & Caravan Park.*

*The OEH is aware of current unauthorised parking at the entrance gate of the resort's asset protection zone off Tweed Coast Road. This obstructs access to the established asset protection zone and has the potential to impede both management of the area and emergency responses. We are concerned that the proposed redeveloped waterpark will lead to an increase in such unauthorised parking at this gate. Hence, it is critical that this issue is addressed as part of the waterpark redevelopment.*

Further in this correspondence, the OEH advised that the applicant could contact them directly to address these issues. Subsequently, Council received advice from the OEH advising that *'OEH/NPWS notes that preliminary planning has commenced to address the issues raised under DA15/1064 with the APZ/ Strategic Fire Management Zones between Cudgen Nature Reserve and North Star. At this stage NPWS advises that they are satisfied with the progress.'*

Based on this, it is considered that the matters raised in the original submission have either been addressed or are being addressed. In any event, it is not considered that the proposal would warrant refusal based on the above.

### **Public Submissions of support**

Submissions of support have been provided both by the applicant and by members of the public directly to Council. In the main these submissions highlight the benefit of the development specifically and the Big 4 North Star Holiday Park on the surrounding area.

Of relevance to the merits of the development it is noted that many submissions advise that;

*'the waterslides will not be visually obtrusive, as they will be screened from the Tweed Coast Road by the existing palm vegetation at the perimeter of the site, and the slides will not create an unreasonable amount of noise.'*

And;



*'Facilities at BIG 4 North Star have always been of the highest standard. Management's commitment to continually value-add, upgrade and improve the resorts facilities and amenities has been paramount in ensuring loyalty and consumer satisfaction'*

As indicated in the quantity of these provided (over 1,400), there has been a significant level of support for the development demonstrated on Council records.

### **Public Submissions Objecting to the Proposed Development**

Many of the submissions received are provided on a variety of pro-forma objection letters or raise similar issues with respect to the proposal. These are summarised below:

#### Objection: Character of Hastings Point/Visual Impact of Development

*Development is not in keeping with a residential surrounding and the village Atmosphere or character that makes Hastings Point unique.*

*The structure is now 10m high and about 3 to 4m from the road which is well shy of the 10m setback stated in Hastings Point Development Control Plan. Regardless of what is or isn't over development, the slide certainly is not in the small village character that locals and visitors enjoy.*

*Ruin coastal village atmosphere/character/uniqueness/natural beauty appeal of Hastings Point*

#### Council Officer Assessment

The subject application relates to the redevelopment of a waterslide playground in an established caravan park. In this regard, it is not considered that the proposed development would result in an unacceptable impact on the character etc. of the village. It is a permissible form of development on appropriately zoned land and complies with the relevant building height controls. Refusal is not warranted based on this issue.

#### Objection: Noise Impacts

*The noise from the current water park can be very disturbing; although the sound barrier would help reduce slide noise the water play area needs to be addressed as a whole.*

*The inclusion of soundproof barriers to the platform and stairs is a welcome addition however given the noise that emanates from the water play area and that the palms along that frontage have thinned over time, extending such a barrier along the eastern wall of Sammy's Lagoon would greatly improve the situation for patrons and the public alike.*

*The amended Noise Report obviously recognises that noise is a bigger problem than first thought and one way to reduce that impact would be to reduce the*

*approved operating hours so residents know they won't have to listen to the park for 13 hours a day, seven days a week at any time in the future.*

#### Council Officer Assessment

Issues with respect to noise emanating from the proposed development are addressed in more detail elsewhere in this report. It is noted that Council officers have assessed the proposal from a noise perspective and the development is considered to be acceptable subject to the application of appropriate conditions of consent. These include a reduction in the allowable hours of operation to between 8:00am to 6:00pm (7 days a week).

#### Objection: Hours of operation

*The opening hours of 7am to 8pm or 13 hours per day, seven days a week seems excessive it would be far more reasonable to adopt the actual hours of operation as quoted in the original DA as being; 10,00am to 5.00pm from May to August and 8.00am to 5.00pm from September to April.*

*Proposed hours of 7am to 8pm seven days a week are excessive and would require flood lighting in winter if they were adopted.*

#### Council Officer Assessment

Following review of the proposal by Council's Environmental Health Unit, a condition is recommended to be applied to any consent which limits the hours of use of the waterslide to between 8:00am and 6:00pm.

#### Objection: Landscaping

*The palms cannot be relied upon for ongoing screening, they have disappeared or been thinned out over time and most sit outside the property on the footpath. They are not protected and can be cut down at any time without penalty.*

*Council asked for a landscape plan to help screen it from the road but with such a narrow setback and many existing structures within it there is very little room for any new planting. Most of the existing palms are on the strip of footpath between the fence and the property boundary. These palms remain at the mercy of the Council and the others remain subject to wild weather or anyone with a chainsaw.*

*The submitted plans do not demonstrate the existing palm trees or identify which need to be removed to facilitate the proposal.*

#### Council Officer Assessment

It is recommended that a condition would be applied to any consent requiring landscaping to be undertaken to the roadside elevation. The proposal complies with the relevant building height controls (10m at proposed development location) and is not considered to result in an unacceptable visual impact.

Objection: Setback from Tweed Coast Road

*A 10m high structure set back only 3m from the Tweed Coast Road boundary is an overdevelopment especially when located in a small village such as Hastings Point and when all other areas north of the bridge have been restricted to 8m. One wonders if it was an oversight to leave this area at 10m because there is very little land left to develop if a 10m setback is applied as it should be in accordance with Hastings Point DCP.*

*The development will be a visual distraction which could endanger motorists and pedestrians passing through the village from both directions*

Council Officer Assessment

As outlined elsewhere in this assessment, the proposal is compliant with the relevant height controls and is located to a similar position as the existing waterslide on site. As such, the proposal is not considered to constitute a overdevelopment of the site as identified above and the setback from Tweed Coast Road is considered to be appropriate. Further to this, it is noted that the proposed development has been assessed as not having an unacceptable impact of the operation of Tweed Coast Road under the SEPP (Infrastructure) assessment elsewhere in this report. It is considered that that the development is in fact set back a minimum of 7.7m from Tweed Coast Road. The proposal is considered to be acceptable having regard to these issues raised.

Objection: Parking/Traffic Impacts

*There will be an increase in traffic but no increased parking to accommodate those waterslide 'patrons' who aren't staying in the park.*

*Already an issue with parking/traffic congestion in the area. The proposed development will further exacerbate this.*

Council Officer Assessment

The proposal does not generate additional traffic/parking requirements, given it relates to an ancillary facility to an established caravan park on site.

Objection: Users of Waterslide

*If as suggested in the request for review it is mostly children who will use these slides it seems odd to make such a large investment and risk adverse impact on the towns amenity to serve the same clientele. It seems clear that a high percentage of users will be teenagers and adults introducing a different mix of noise, management and risk factors.*

*The current slides (slippery dips into a pool) are mostly used by young children. I believe the 8.2m climb makes that less likely and older children, teenagers and adults will form the majority of users. The noise report recommends one person per sq.m but their size of 12.75sq.m contradicts the dimensions of the platform at 28.5sq.m. It's not stated how restricting numbers will be controlled or whether it's*

*13 or 29 people involved but reducing the size of platform would make good practical and financial sense.*

Council Officer Assessment

The potential user of the waterslides is not considered to constitute a substantive assessment matter. The potential impacts as outlined above are better addressed as noise impacts, which has been undertaken elsewhere in this report. The above objections do not warrant refusal of the application.

Objection: Acoustic Barrier

*The barrier between 8m and 10m height will diminish the localities visual appeal and could also distract motorists.*

*Acoustic barrier is an unacceptable visual intrusion to the main entry and exit points of Hastings Point.*

Objection: Drawings Submitted

*No elevation drawings have been provided with the proposal*

*Plans do not show palm trees to be removed to achieve the proposed layout*

*Palms will continue to encroach on electricity wires and be removed*

Council Officer Assessment

The plans to which this objection relates were submitted as part of this application originally (including Landsurv Survey plan) and do not form part of the review of determination.

Objection: OHS Concerns

*Number of OHS issues around the proposal raised including number of lifeguards, safety of users, methods for controlling no. of users on platform.*

Council Officer Assessment

In the event of approval, conditions would be applied to any consent which respect to complying with the relevant Building Code of Australia provisions, as well as requiring a Construction Certificate for the development, thus addressing building/safety standards. Other considerations such as the number of lifeguards etc. are no a substantive planning merit consideration and would need to be considered at an operational level under the relevant legislation.

Objection

Use of the waterslide by members of the public not staying at the caravan park

Council Officer Assessment

As outlined elsewhere in this report, a condition of approval has been applied which restricts usage of the proposal to residents and their registered guests only. Proposal is considered to be acceptable.

Council Officer Assessment

The use of the proposed development would be limited to being ancillary to the caravan park on site, as identified elsewhere in this report. A recommended condition has been applied to ensure that this is the case. Proposal is considered to be acceptable subject to compliance with this condition.

Objection

*One business should not be entitled to change the look, feel and enjoyment of an entire community.*

Council Officer Assessment

The subject application is for the redevelopment of a waterslide playground and is not considered to result in a significant impact on the locality such as that raised in this submission. The application does not warrant refusal based on this issue raised.

Objection: Impact on Wildlife

*Impact on wildlife – not seen on adjacent bushland since existing water slides constructed – expansion will push them even further*

Council Officer Assessment

The proposal is considered to be acceptable having regard to flora and fauna impacts given its spatial separation from environmentally sensitive area in a developed caravan park.

Objection: Development to be relocated

*Development should be located elsewhere within the caravan park.*

Council Officer Assessment

This does not constitute a substantive assessment matter under this assessment. Council can only assess the development proposal submitted.

Objection: Visual Amenity

*Proposal has a negative on visual amenity to surrounding area. Visual impact/impact on streetscape/palm trees thinning and not adequate screening.*

*Size and scale of structure excessive.*

Council Officer Assessment

The proposal is considered to be consistent with the established use on the site to which it is located. Furthermore, a condition would be applied to any consent requiring landscaping to be undertaken to the roadside elevation. The proposal complies with the relevant building height controls (10m at proposed development location) and is not considered to result in an unacceptable visual impact.

Council Officer Assessment

The proposed platform is to be located over 25m from any surrounding residential development (being located across Tweed Coast Road). This is considered to provide an adequate building separation distance between developments and would not constitute an unacceptable impact with respect to visual amenity in an urban area which is zoned for the proposed development.

Objection: Proposal is Inconsistent with DCP B23

*Proposal is against the provisions of DCP B23 to retain the quiet family village character*

Council Officer Assessment

A detailed assessment has been provided against the requirements of DCP Section B23 elsewhere in this report. It is noted that the proposal is considered to be generally compliant with the requirements of this DCP. Refusal of the application is not warranted in this instance.

Objection: Property Values

*Decrease in neighbouring property values*

Council Officer Assessment

This does not constitute a substantive assessment matter under this assessment.

Objection: Lack of Notification

*I had to rely on other Hastings Point residents to inform me about this review and given my past interest in the matter would have appreciated notification from Council.*

Council Officer Assessment

The proposal was notified to nearby surrounding properties in accordance with the requirements of DCP Section A11 as well as to all persons who previously made a submission. The submitted application was not considered to warrant full advertisement nor was notification beyond that identified above deemed to be required in this instance.

### Conclusion

Having regard to the various issues raised through the submission period and addressed above, it is not considered that these would warrant refusal of the application.

It is noted that conditions of consent would be applied which would prohibit the use of the water slides by the public other than by residents and their registered guests as well as requiring that the Tweed Coast Road elevation to be landscaped in accordance with the DCP B23 requirements.

A recommended condition of consent would be applied which stipulates that the development complies with the requirements of the submitted Noise Impact Assessment.

It is further noted that the subject application relates to the replacing of an existing waterslide development, currently operational at this location.

#### **(e) Public interest**

The proposed development is generally consistent with relevant environmental planning instruments and Council policy requirements. The proposal is considered suitable for the subject site, given its permissibility at this location and its nature, being an ancillary component to the existing caravan park. As such the proposal is not considered to contravene the wider public interest.

#### **OPTIONS:**

1. Grants development consent subject to the recommended conditions of consent; or
2. Refuses the Review of determination and advises the applicant in writing of the determination and defend any appeal lodged by the applicant in the Land and Environment Court.

Council officers recommend Option 1.

#### **CONCLUSION:**

The above assessment is considered to demonstrate that the proposal is generally acceptable with respect to the appropriate legislative considerations. As such, it is recommended that the previous determination be reviewed and amended to a conditional approval.

#### **COUNCIL IMPLICATIONS:**

##### **a. Policy:**

Corporate Policy Not Applicable

##### **b. Budget/Long Term Financial Plan:**

Not Applicable.

**c. Legal:**

If the applicant is dissatisfied with the determination, they may appeal the decision to the Land and Environment Court.

**d. Communication/Engagement:**

Not Applicable.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**12 [PR-CM] Development Application DA02/1983.17 for an Amendment to Development Consent DA02/1983 for the Use of Property for Filming and Producing a Television Program at Lot 77 DP 755715 Dungay Creek Road, Dungay; Part Lot 74 DP 755715 No. 366 Dungay Creek Road, Dungay**

**SUBMITTED BY: Development Assessment and Compliance**

Validms



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
  - 1.2 Improve decision making by engaging stakeholders and taking into account community input
  - 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
- 

### SUMMARY OF REPORT:

Council is in receipt of a Section 96 (S96) Application to amend the Development Consent for the Granada Productions Pty Ltd T/AS ITV Studios site located at Dungay ('I'm a Celebrity Get Me Out of Here'), which is a survival reality format program set in a 'jungle' environment.

The original Development Application was approved on 20 December 2002. One of the original conditions was to time limit the development as the applicant at the time considered the activity would be completed by 1 June 2004 and consequently the development consent was time limited to that date.

Due to the success of the program internationally there have been opportunities for further productions and as such this is the seventh application that the applicant has submitted for an extension on the time frame. The last of these time limit extensions approved continued operations from June 2014 to June 2017. The current proposed extension is to time limit the consent to 1 June 2020, being a further 36-month extension.

This modification also seeks to amend the site layout plan to reflect the present requirements for site structures and improvements, these include, the configuration of temporary buildings in the support areas, and two permanent structures (a shed and a small retaining wall).

The proposed modification was advertised for a period of 14 days from 2 November 2016 to 16 November 2016. 11 submissions have been received in that period, 10 in opposition to the proposed extension (four from the same family), and one in support of the development. The contents of all of these submissions are discussed within this report.

A S96 Application is not an opportunity to re-visit the original assessment of the application. Council has an obligation to consider the modification being proposed (in this instance an extension of time and modifications to the site plans and structures) and determine whether the proposed modifications meet the S96 tests which is whether the proposed modification is of minimal environmental impact, and whether the modified development is substantially the same development for which consent was originally granted. Council must also have regard for any public submissions and the relevant provisions of 79C of the Environmental Planning & Assessment Act 1979.

The following report addresses these heads of considerations and concludes (despite the objections received) that the proposed extension of time and changes to the site plan can be considered as a S96 modification and that the broader economic impacts as a result of the continuation of the production are considered beneficial to the community and to the Shire as a whole. For example during the 2016 filming period alone the total spend on NSW local accommodation will be \$1,091,500, furthermore, during the current filming season the two main presenters have acknowledged their location as sunny Tweed Shire at least 6 times live during filming. In addition the show has closing credits that state "with thanks to Tweed Shire". This sort of local spend is crucial to the local economy and the positive international exposure to the beautiful environmental attributes of the Tweed could only assist our tourism industry.

Therefore the recommendation is for the extension in time and other changes to the consent to be granted subject to modified and further conditions (to refine onsite environmental management) as detailed further within this report.

#### **RECOMMENDATION:**

**That Development Application DA02/1983.17 for an amendment to Development Consent DA02/1983 for the use of property for filming and producing a television program at Lot 77 DP 755715 Dungay Creek Road, Dungay; Part Lot 74 DP 755715 No. 366 Dungay Creek Road, Dungay; Lot 93 DP 755715 No. 486 Dungay Creek Road, Dungay be approved subject to the following amendments to conditions:**

**1. Amend the Consent to state at the end:**

**The consent to expire on 1 June 2020.**

**2. Replace Condition 1C with Condition 1D which reads as follows:**

**1D. The development shall be completed in accordance with the original Statement of Environmental Effects and original approved plans except where varied by the following modifications and their modification reports and associated approved plans and professional reports:**

- **DA02/1983.02; except where varied by;**
- **DA02/1983.04; except where varied by;**
- **DA02/1983.05; except where varied by;**
- **DA02/1983.06; except where varied by;**
- **DA02/1983.07; except where varied by;**
- **DA02/1983.08; except where varied by;**

- DA02/1983.10; except where varied by;
- DA02/1983.12; except where varied by;
- DA02/1983.14; except where varied by;
- DA02/1983.16; except where varied by;
- DA02/1983.17;
  - Sheets 1- 5 Building Locations – Brown and Haan – dated 13/09/2016
  - Section AA – Access Road to Catering Area – Brown & Haan – dated 9/09/2015
  - The Site Management Plan (as submitted August 2010)
  - The Environmental Management Plan (EMP) dated September 2013 prepared by Ecosure;
  - The Habitat Restoration Plan (HRP) dated August 2016 prepared by Ecosure.

except where varied by the following conditions of this consent;

3. Replace Condition 1.3A with Condition 1.3B which reads as follows:

1.3B The applicant shall amend the Habitat Restoration Plan ('HRP') being Habitat Restoration Plan, for Granada Australia/ITV Studios, dated August 2016, prepared by Ecosure to:

- (a) Show an 'additional work area' on Map 5: Northern Management Zones consistent with that area identified on a plan previously submitted to Council and described as Figure 1. Management Zones, northern area including additional helipad area dated 09 February 2016 prepared by Ecosure
- (b) Detail restoration requirements within the 'additional work area' in Section 5 of the HRP with an objective to achieving site capture.
- (c) Show the following habitat restoration zones with boundaries identical to that shown in the previously approved (DA02/1983.16) *Habitat Plan Final Report for Granada Australia/ITV Studios dated July 2014 prepared by Ecosure*:
  - i. Zone 8 – Banana Dam (Map 5)
  - ii Zone 9 – Social Base (Map 6)
- (d) Amend 'Section 5.1.9 Zone 9 Social Base' to be identical to that described in the previously approved (DA02/1983.16) Habitat Plan Final Report for Granada Australia/ITV Studios dated July 2014 prepared by Ecosure

The amended HRP shall be submitted and approved by Council's General Manager or delegate prior to commencement of the first filming and production session in 2017 approved by this consent.

**Works are to be implemented in accordance with the approved amended Habitat Restoration Plan (unless otherwise modified and approved by Councils General Manager or delegate) to Council's satisfaction throughout the consent period and including final site remediation phase.**

**4. Insert new Condition 1.4 which reads as follows:**

**1.4 The applicant is to apply to the Department of Primary Industries (DPI) for a Controlled Activity Approval (CAA) for erosion and sediment control works to the instream pool structures within 60 days of this approval (DA02/1983.17). Such works are to be completed in accordance with any permit issued.**

**5. Insert new Condition 2.1 which reads as follows:**

**2.1 A Building Certificate is to be obtained in respect of the unauthorised building works – “new” steel shed. Building Certificate application BC16/0127 and Structural Inspection Certificate issued by Globe Consulting Pty Ltd dated 12 September 2016 are to be reviewed and determined to Council's satisfaction upon approval of DA02/1983.17.**

**6. Insert new Condition 2.2 which reads as follows:**

**2.2 The buildings nominated on the site plans as permanent structures will require Development Approval for a change of use from uses associated with filming activities to their intended future purpose. Development Consent must be obtained prior to them being used for uses other than filming purposes.**

**REPORT:**

**Applicant:** Granada Productions Pty Ltd T/A ITV Studios Australia Pty Ltd  
**Owner:** Mr Craig D Parker & Ms Ellen L Parker  
**Location:** Lot 77 DP 755715 Dungay Creek Road, Dungay; Part Lot 74 DP 755715 No. 366 Dungay Creek Road, Dungay; Lot 93 DP 755715 No. 486 Dungay Creek Road, Dungay  
**Zoning:** RU2 - Rural Landscape and 7(d) Environmental Protection (Scenic/Escarpment)  
**Cost:** Nil

**Background:**

Council is in receipt of a S96 Application to amend the subject Development Consent for the Granada Productions Pty Ltd T/AS ITV Studios site located at the upper end of Dungay Creek Road, Dungay ('I'm a Celebrity Get Me Out of Here').

Lots 74 and 77 are primarily zoned Rural Landscape RU2 within the current Tweed Local Environmental Plan (LEP) 2014 with a small part of Lot 77 zoned 7(d) Environment Protection Scenic Escarpment under Tweed LEP 2000 as a deferred matter. Lot 93 is zoned primarily 7(d) Environment Protection Scenic Escarpment, with a small portion in its south zoned RU2 Rural Landscape.

The following table details the long history of the subject application which started in December 2002 when the original application was approved with a condition to time limit the development as the applicant at the time considered the activity would be completed by 1 June 2004 and consequently the development consent was time limited to that date.

DA Number	Request	Specific Conditions
DA02/1983  Lodged 29/11/2002	<ul style="list-style-type: none"> <li>• Temporary use of subject land to June 2004</li> <li>• Use of an existing cleared paddock for car park area, catering facilities, cold rooms and amenities</li> <li>• Provision of a technical base being a modular building</li> <li>• Construction of filming platforms for a studio</li> <li>• Use of land adjacent to the creek as a camp area</li> <li>• Construction of scaffolding and swinging bridges for use by crew during production</li> <li>• Re-arranging existing rock in the creek to create small pool areas</li> <li>• Use of existing shed as site office and workshop</li> </ul>	Approved 20/12/2002  Lapses 1 June 2004
DA02/1983.02  Lodged 05/02/2003	<ul style="list-style-type: none"> <li>• Amend plans for proposed buildings, internal roads and tracks.</li> <li>• An additional suspension bridge in the vicinity of pool C.</li> </ul>	Approved 13/03/2003

DA Number	Request	Specific Conditions
DA02/1983.04 Lodged 27/05/2004	<ul style="list-style-type: none"> <li>Provide a new campsite, constructing a walk track and additional suspension bridge</li> </ul>	Approved 29/09/2003
DA02/1983.05 Lodged 27/05/2004	<ul style="list-style-type: none"> <li>Time extension from June 2004 to June 2005 (an extension of 12 months)</li> <li>Erection of a permanent (colorbond) shed</li> </ul>	Approved 07/07/2004 Lapses 1 June 2005
DA02/1983.06 Lodged 31/05/2005	<ul style="list-style-type: none"> <li>Time extension from June 2005 to June 2006 (an extension of 12 months)</li> </ul>	Approved 12/08/2005 Lapses 1 June 2006
DA02/1983.07 Lodged 31/10/2005	<ul style="list-style-type: none"> <li>Time extension from June 2006 to June 2008 (an extension of 24 months)</li> </ul>	Approved 16/12/2005 Lapses 1 June 2008
DA02/1983.08 Lodged 06/06/2006	<ul style="list-style-type: none"> <li>Condition to erect permanent shed granted under DA02/1983.05 be deleted as it was never constructed. Replaced with temporary building structures</li> <li>Disabled access be provided within 7 days if a person with a disability is employed</li> </ul>	Approved 19/07/2006
DA02/1983.10 Lodged 22/09/2006	<ul style="list-style-type: none"> <li>Approval for additional temporary portable buildings to be brought onsite for use during pre-filming and filming.</li> </ul>	Approved 13/10/2006
DA02/1983.12 Lodged 03/04/2007	<ul style="list-style-type: none"> <li>Time extension from June 2008 to June 2011 (an extension of 36 months)</li> <li>Amend conditions 34B and 34C to allow commencement of a Community Liaison Committee if deemed necessary by Council</li> </ul>	Approved 10/12/2007 Lapses 1 June 2011
DA02/1983.14 Lodged 27/08/2010	<ul style="list-style-type: none"> <li>Time extension from 1 June 2011 to 1 June 2014 (an extension of 36 months)</li> <li>Inclusion of environmental conditions relating to provision of a Habitat Restoration Plan and a Flora and Fauna Assessment report to Council prior to 2011 filming session commences</li> </ul>	Approved 10/12/2007 Lapses 1 June 2014
DA02/1983.16 Lodged 23/12/2013	<ul style="list-style-type: none"> <li>Time extension from 1 June 2014 to 1 June 2017 (an extension of 36 months)</li> </ul>	Approved 12/03/2014 Lapses 1 June 2017

DA Number	Request	Specific Conditions
CURRENT DA02/1983.17 Lodged 20/10/2016	<ul style="list-style-type: none"> <li>• Time extension from June 2017 to June 2020 (an extension of 36 months).</li> <li>• Amend the site layout plan to reflect the present requirements for site structures and improvements, these include, the configuration of temporary buildings in the support areas, and two permanent structures (a shed and a small retaining wall).</li> <li>• Applicant agrees to inclusion of Environmental Management Plan (EMP) with environmental matters to be resolved within the next compliance audit. i.e. additional restoration area to be established to compensate for the site that is being used during filming.</li> </ul>	As discussed in this report

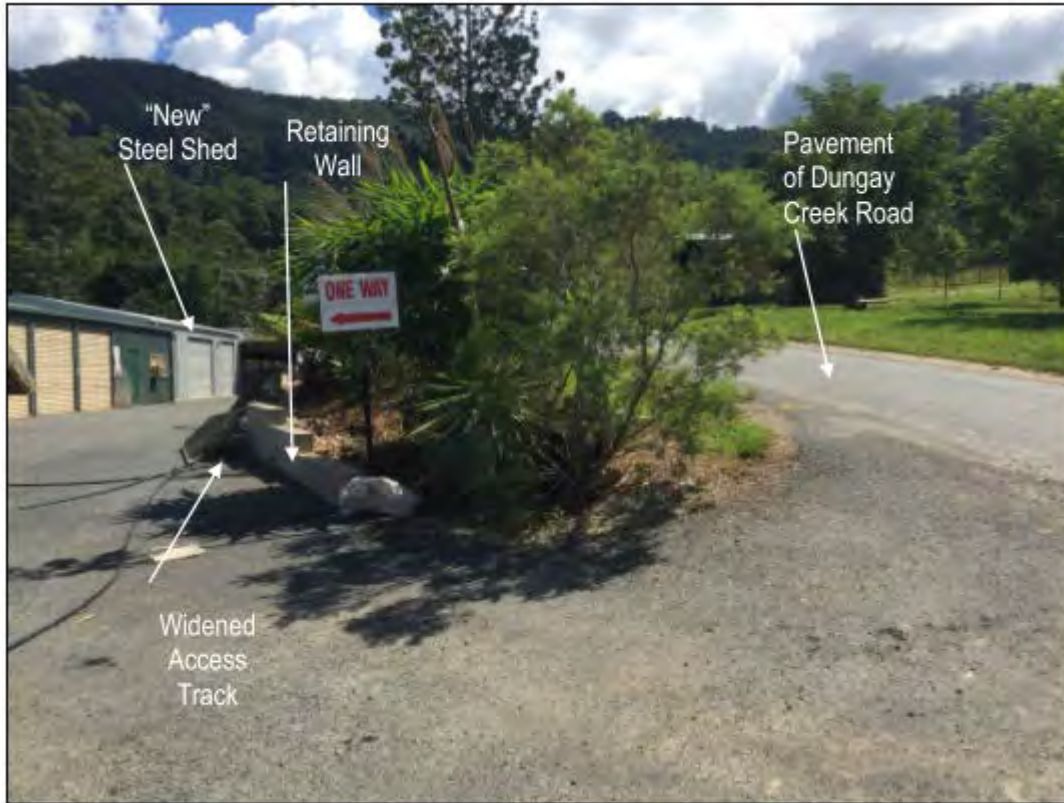
The current modification therefore has the following elements:

1. Extend the life of the consent for a further three years to enable filming and production to continue until 1 June 2020.
2. Modify the site layout plan to better reflect what structures are proposed to remain on the site at the completion of filming. The current site plan uses terminology such as "Permanent" "temporary" and "miscellaneous" and this is proposed to be changed to "Permanent" "temporary" and "short term filming" and adding clarifying notes to the modified plans such as:

*"suspension bridged and filming sets are temporary structures which will be removed from the site after completion of final filming"*

*"All tracks within the properties are to remain after completion of final filming for use by the respective landowners for property management and maintenance. Notwithstanding the foregoing, if tracks are not required by the respective landowner they will instead be subject to natural regeneration or otherwise remediated in accordance with our contractual obligations to the landowners (as applicable for each landowner). "*

3. Use of the "new" steel shed, widened access track and retaining wall – the new shed replaced an old termite ridden shed. At this time the access path to the shed was widened and the previous embankment was retained with a concrete block retaining wall. These works have already been undertaken and therefore this consent can only authorise the ongoing use of these structures moving forward. The shed will need a Section 149 Building Certificate to validate the construction standard (this can be conditioned), while the retaining wall has already obtained a S138 Under the Roads Act as it encroaches into the technical road reserve (although is quite separate to the official pavement of Dungay Creek Road), see photo below:



Use of the site to date has been for up to seven months of the year in three distinct activity modes:

- the **'pre-production'** period (up to 3 months) for the installation of temporary structures, site preparation and staff facilities;
- the **'production'** period (up to 3 months) with up to 600 staff working in shifts 24 hour per day; and
- the **'wrap up'** (about one month) when many of the structures and facilities are dismantled and de-rigged.

The intensity of activity and number of people on site varies between the three periods, with the production period of some twelve weeks being the most intensive.

For the remainder of the year (hibernation), there are a limited number of people accessing the site sporadically for maintenance purposes or environmental monitoring purposes. Due to the success of the program internationally there have been opportunities for further productions and as such this is the seventh application that the applicant has submitted for an extension on the time frame. The last extension of the approval lapses on 1 June 2017.

The proposed extension is to time limit the consent to 1 June 2020, being a further 36 month extension (3 years) on the previous 13 years' worth of extensions already granted.

The applicant advises that implementation of the proposed extension can be achieved by amending the final page of the Consent to state that the Consent will expire on 1 June 2017.

The applicant has also agreed to include an amendment to the Environmental Management Plan (EMP) for minor environmental matters to be resolved within the next compliance audit



(exotic species to be removed from the filming area) and an additional restoration area to be established outside of the filming area to compensate for the site that is being used during filming. Suitable conditions of consent have been recommended in this regard.



**AERIAL:**



SOURCE: Aerial Imagery taken May 2014 by ANM and LPI

**Aerial Imagery**  
 Lot 74 DP 755715, Lot 93 DP 755715, Lot 77 DP 755715  
 No. 366 Dungay Creek Road, Dungay

Disclaimer: While every care is taken to ensure the accuracy of the data, Tweed Shire Council does not warrant or accept any liability for any errors or omissions. The data is provided for information only and should not be used for any purpose other than that for which it was intended. The data is provided as a service to the community and is not intended to be used for any other purpose. The data is provided as a service to the community and is not intended to be used for any other purpose.

Catchment: 40 (approximate) 2010  
 © Land and Property Information (LPI)  
 & Tweed Shire Council  
 Boundaries shown should be considered approximate only.

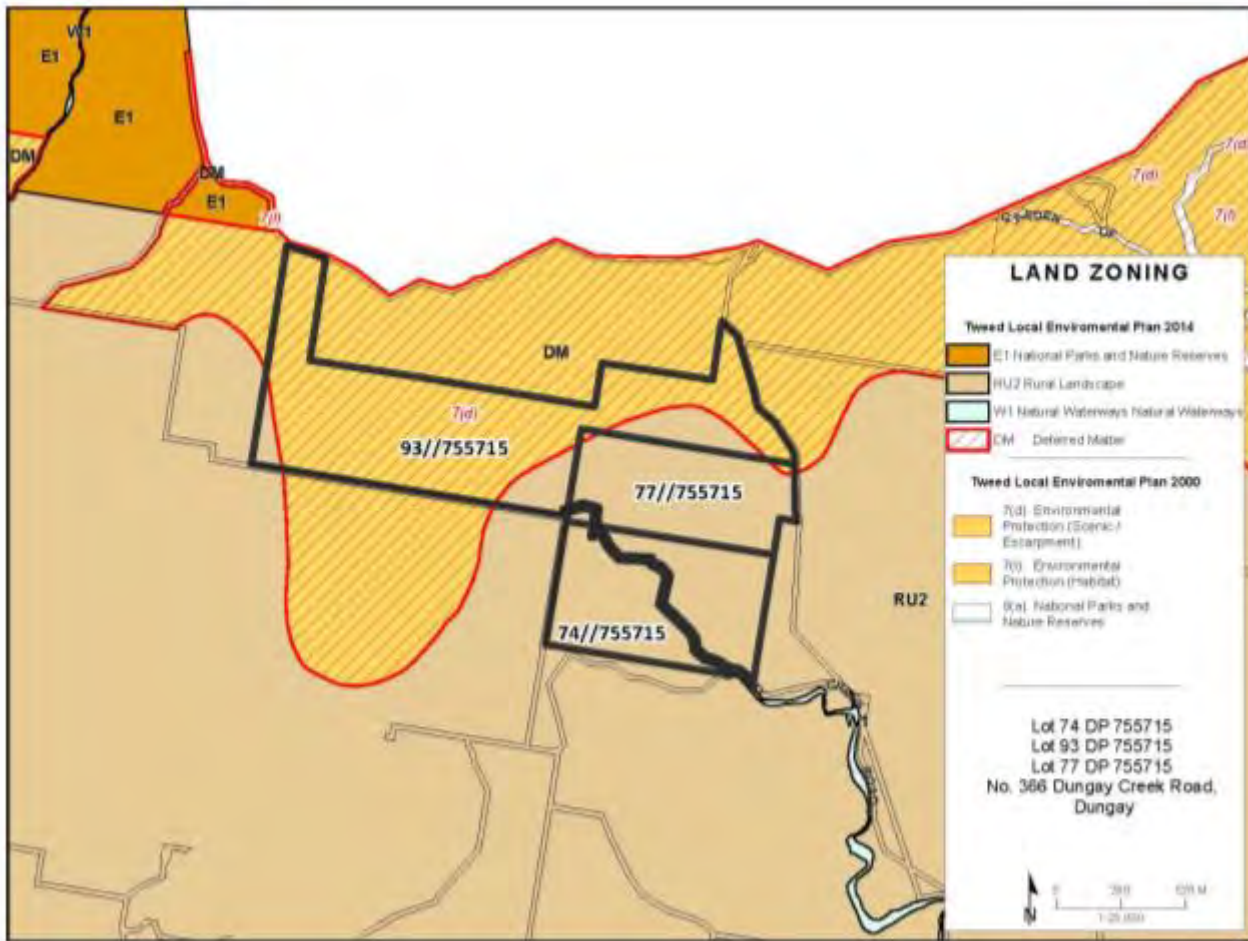
**Civils and Cultural Centre**  
 5 Tumbalong Road  
 Murwillumbah NSW 2484

**TWEED SHIRE COUNCIL**

PO Box 916  
 Murwillumbah NSW 2484

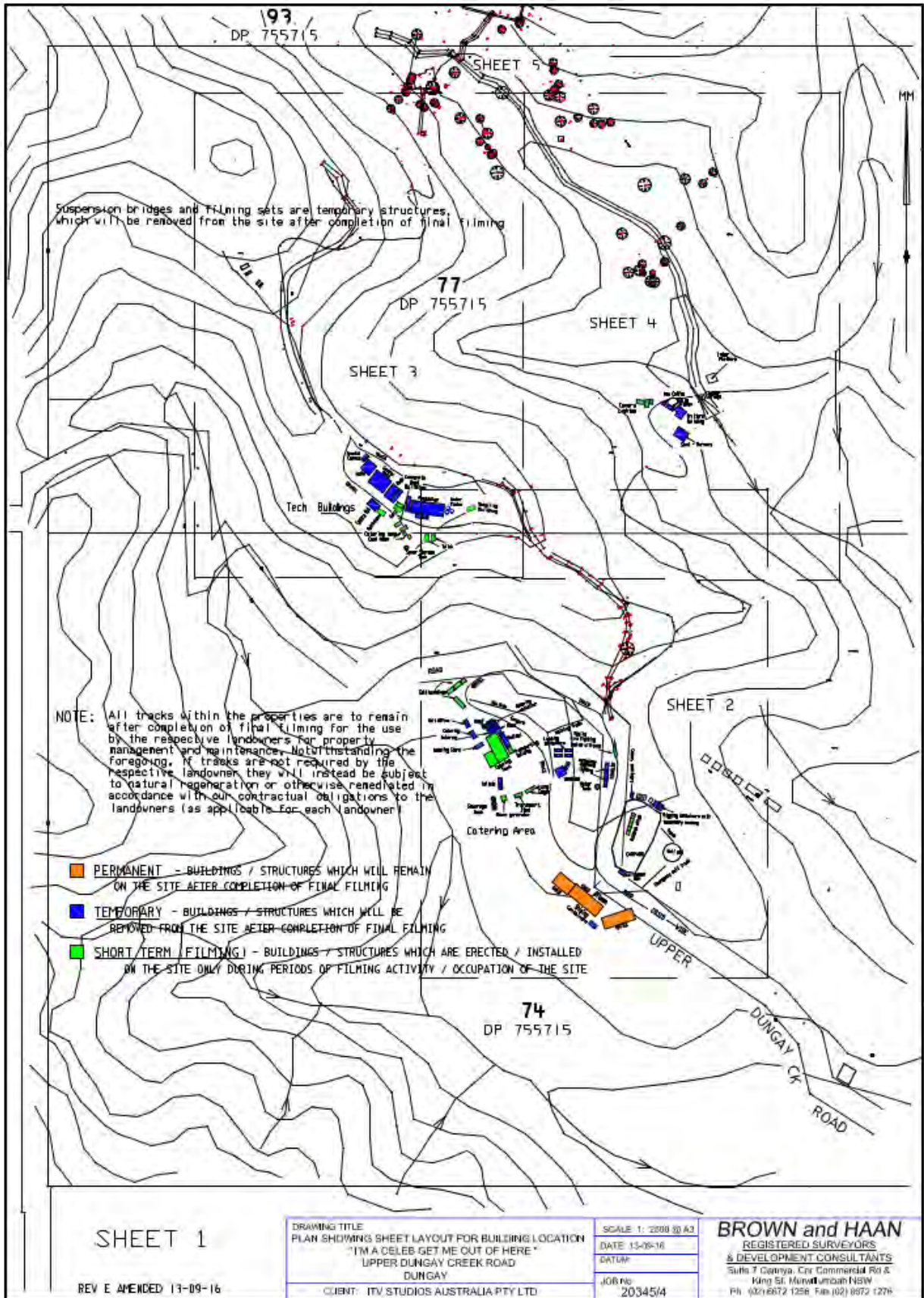
T 082 6470 6000 | 1800 000 010  
 F 082 6470 3430  
 W www.tweed.nsw.gov.au  
 E info@tweed.nsw.gov.au

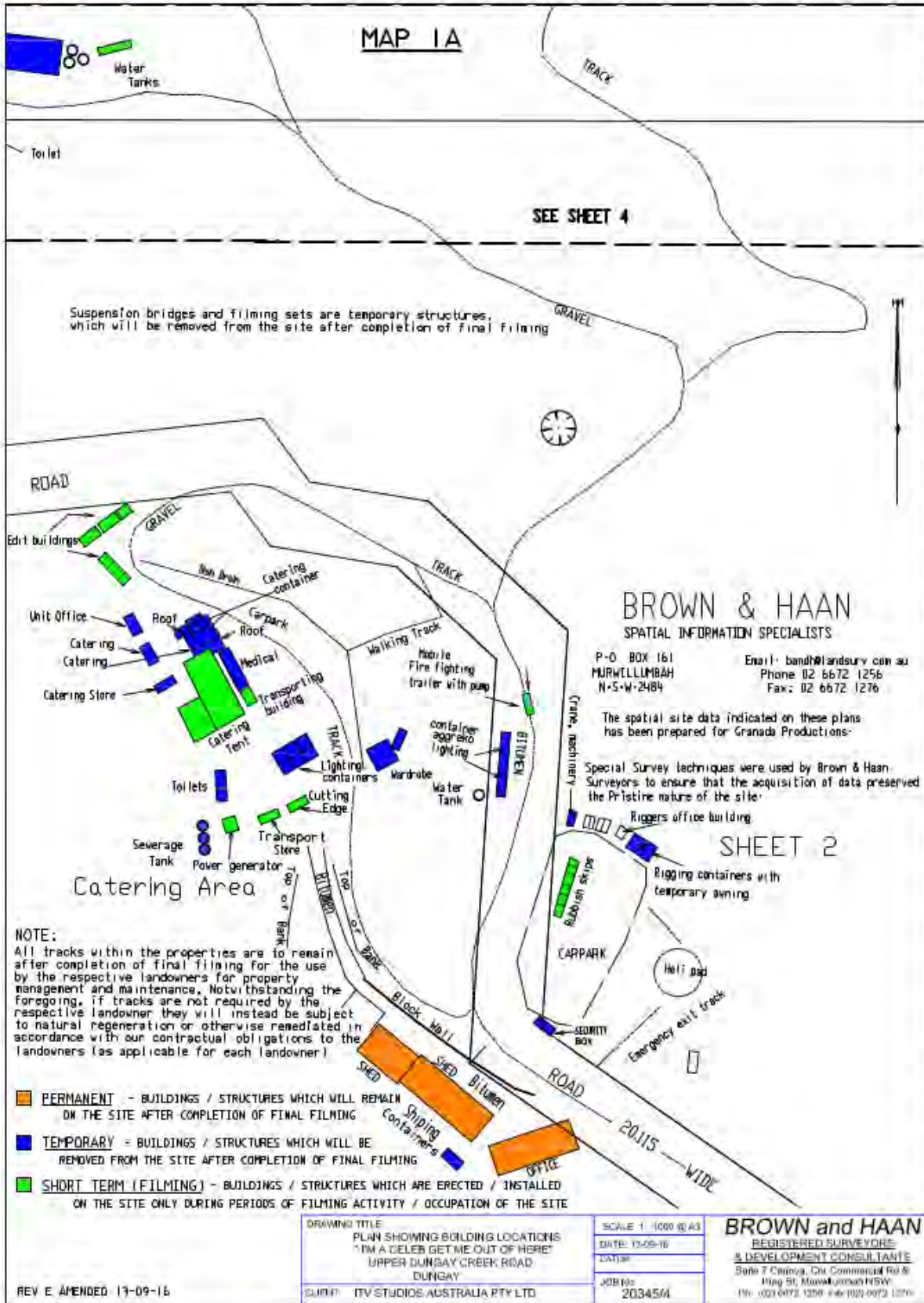
ZONING PLAN:



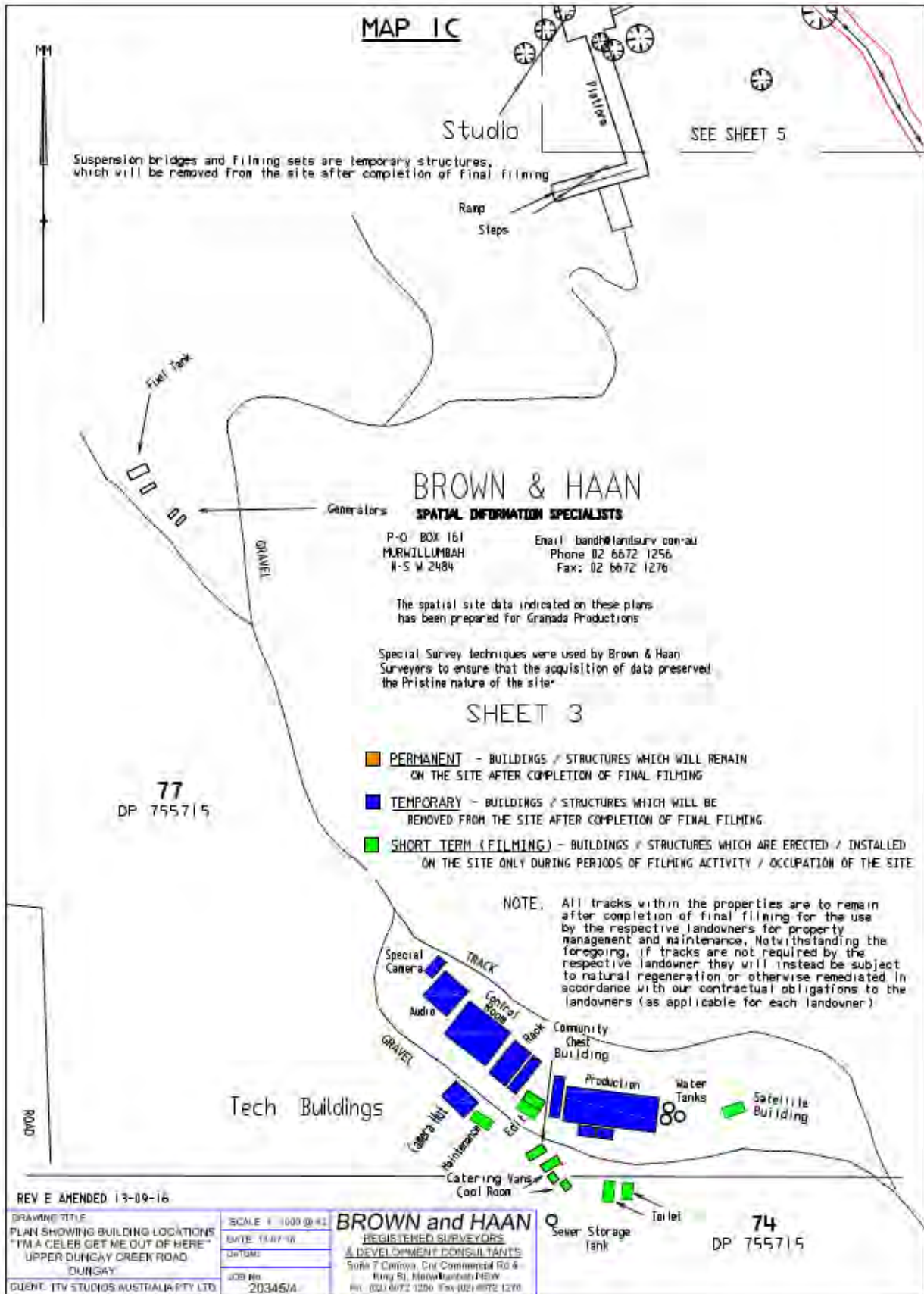


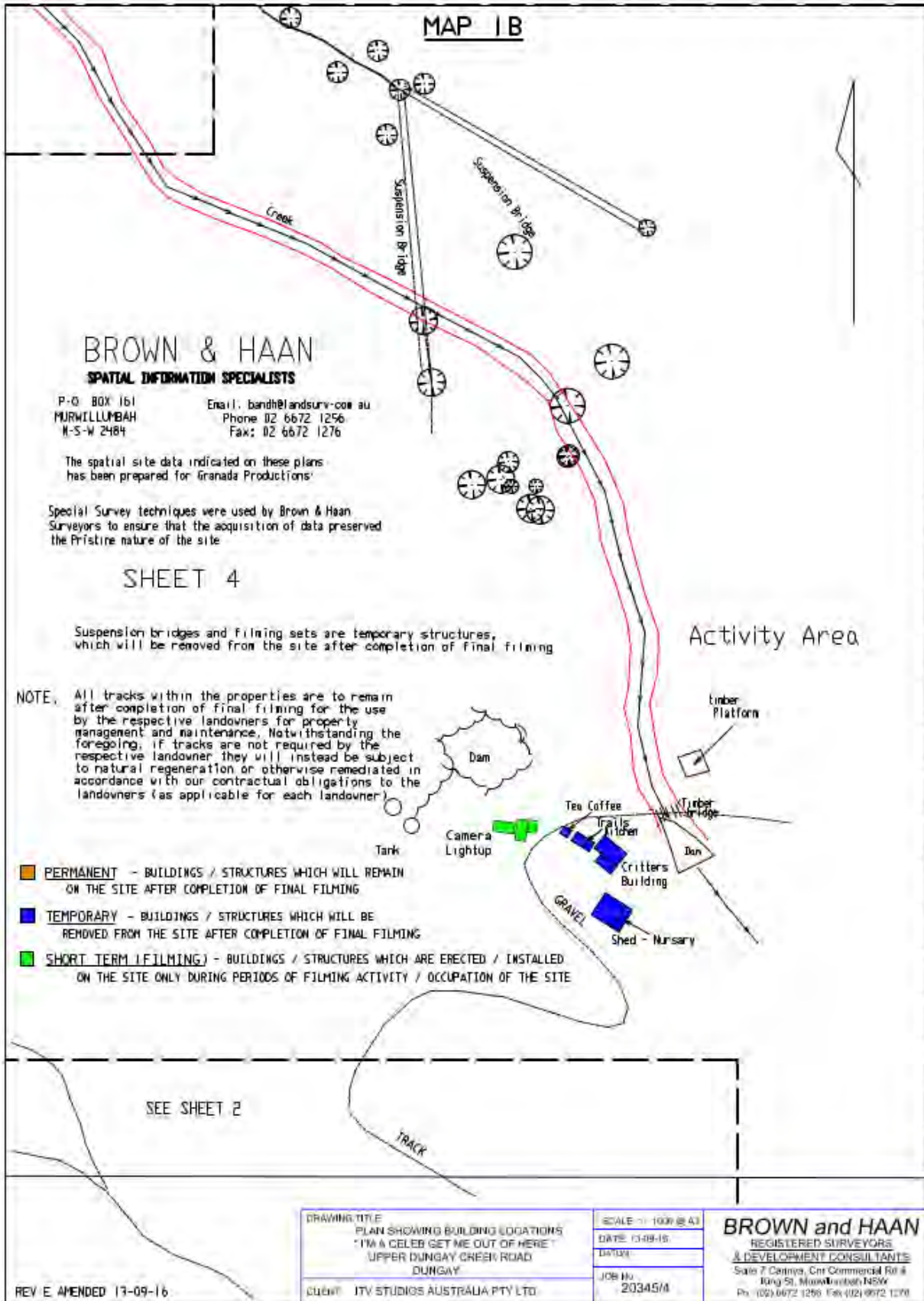
DEVELOPMENT PLANS:











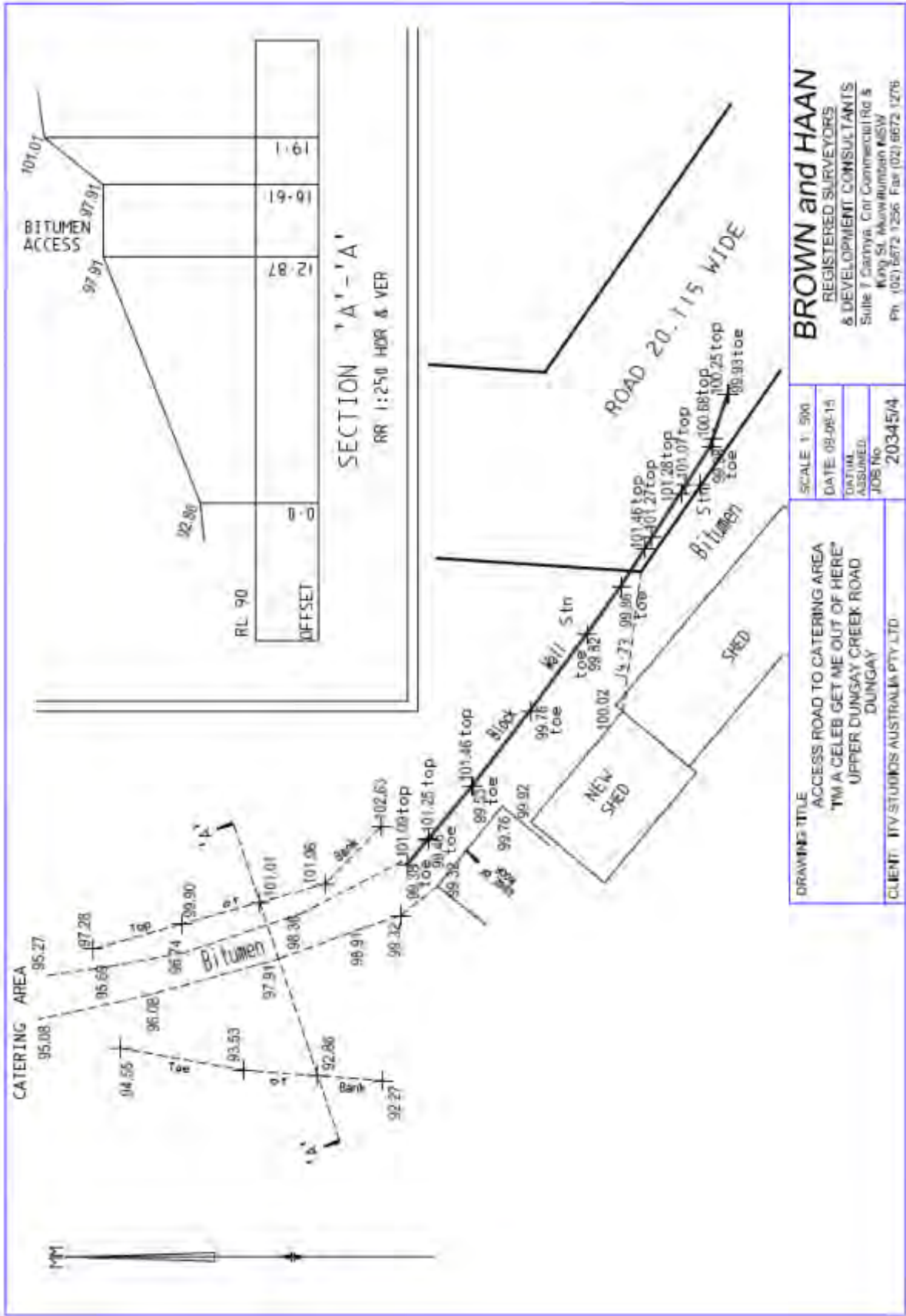




**DRAWING TITLE**  
 PLAN SHOWING BUILDING LOCATIONS  
 OVERLAYED ON AERIAL PHOTO  
 'I'M A CELER GET ME OUT OF HERE'  
 UPPER DUNGAY CREEK ROAD  
 DUNGAY  
 CLIENT: RV STUDIOS AUSTRALIA PTY LTD

LEVEL DATUM:	ROAD
DATE OF SURVEY:	1100 Approx (B 4)
DATE:	13-09-18
DRAWN:	GAW
CHECKED:	BG
CAD FILE No.:	203454

**BROWN and HAAN**  
 REGISTERED SURVEYORS & DEVELOPMENT CONSULTANTS  
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SCALE 1:500  
DATE: 09-06-14  
DRAFTER: ASSUMED  
JOB No: 20345/4

**DRAWING TITLE**  
ACCESS ROAD TO CATERING AREA  
'M' A CELEB GET ME OUT OF HERE'  
UPPER DUNGAY CREEK ROAD  
DUNGAY  
CLIENT: ITV STUDIOS AUSTRALIA PTY LTD



**CONSIDERATIONS UNDER SECTION 96 & 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**

Section 96 (1A) of the Act states that in order to grant consent, the consent authority must consider the following:

- “(a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:*
  - (i) the regulations, if the regulations so require and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations.”*

Furthermore, S96(3) states:

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.*

**Minimal Environmental Impact**

The applicant has noted that the proposed modifications are not expected to have any additional negative environmental impacts to that previously approved. It has been noted by Council in the previous modifications that potential operational issues arising from filming and production are managed, monitored and mitigated by way of the Site Management Plan (SMP), the Environmental Management Plan (EMP) and conditions of consent. The current modification is no different and as indicated in the report below will continue to use these measures.

The current application has three main elements for which consent is sought:

- 1. Extend the life of the consent for a further three years to enable filming and production to continue until 1 June 2020.**

The proposed extension to the life of the consent for a further three years is not considered to result in additional environmental impacts. The extension of timeframe will result in the need for extension of permits for the activity and the permits and conditions will ensure that the continued use of the site meets the environmental controls for the activity.

A new condition has been recommended to ensure that the applicant is aware of the obligation to apply to the Department of Primary Industries (DPI) for a Controlled Activity Approval for erosion and sediment control works to the instream pool structures which are nearing a failure point. However, The Office of Water in this

regard has said that it is not a major issue as the erosion is more a risk to the structure than the environment. The recommended conditions in this regard will ensure appropriate mitigation measures are in place.

The applicant has also agreed to include an amendment to the Environmental Management Plan (EMP) for minor environmental matters to be resolved within the next compliance audit (exotic species to be removed from the filming area) and an additional restoration area to be established outside of the filming area to compensate for the site that is being used during filming. Suitable conditions of consent have been recommended in this regard.

The proposed amendment is not considered to raise any additional environmental impacts. The proposed extension to the life of the consent is consistent with Council's determination of the previous S96 Applications to extend the life of the consent.

2. **Modify the site layout plan to better reflect what structures are proposed to remain on the site at the completion of filming. The current site plan uses terminology such as "Permanent" "temporary" and "miscellaneous" and this is proposed to be changed to "Permanent" "temporary" and "short term filming" and adding clarifying notes to the modified plans such as**

**"suspension bridges and filming sets are temporary structures which will be removed from the site after completion of final filming"**

**"All tracks within the properties are to remain after completion of final filming for use by the respective landowners for property management and maintenance. Notwithstanding the foregoing, if tracks are not required by the respective landowner they will instead be subject to natural regeneration or otherwise remediated in accordance with our contractual obligations to the landowners (as applicable for each landowner). "**

The site layout plan reflects the present requirement for site structures and improvements; being the "new" steel shed which has replaced an old farm shed damaged by termites and the widened access track and retaining wall.

The site layout plan also provides clarification notes on the nature of the structures. Permanent structures which are to remain on the site after completion of final filming; of which the "new" steel shed is to remain, temporary structures which will be removed from the site after completion of final filming and short term buildings and structures which are erected/installed on the site only during the periods of filming activity/occupation of the site.

The proposal to amend the site layout plan is not considered to raise any additional environmental impacts as the proposed permanent structures are all located near the existing house and could relate to the subject house lot (possibly as ancillary farm building/outbuildings/art studio etc.) associated with 366 Dungay Creek Road as shown diagrammatically below in plan and aerial. However the structures will require a change of use Development Application from buildings used in conjunction with filming to whatever future use the applicant is proposing the buildings to be used for, this modification has recommended suitable conditions in this regard.



- Use of the “new” steel shed, widened access track and retaining wall – the new shed replaced an old termite ridden shed. At this time the access path to the shed was widened and the previous embankment was retained with a concrete block retaining wall. These works have already been undertaken and therefore this consent can only authorise the ongoing use of these structures moving forward. The shed will need a Section 149 Building Certificate to validate the construction standard (this can be conditioned), while the retaining wall has already obtained a S138 under the Roads Act as it encroaches into the technical road reserve (although is quite separate to the official pavement of Dungay Creek Road)

The use of the “new” steel shed, widened access track and retaining wall are existing on the site as they were built without consent. The steel shed is currently used as an art/prop workshop and has replaced an old farm shed which was termite damaged. A building certificate is required to validate the construction standard the steel shed. A condition has been recommended in this regard.

The access path to the shed was widened at this time and the previous embankment was retained with a concrete block retaining wall. The retaining wall has already obtained a S138 under the Roads Act as it encroaches into the technical road reserve. However this is not uncommon in rural areas and could easily be removed in the future if necessary. Council’s Engineering Unit have visited the site before issuing the S138 Approval and were satisfied with the location and standard of the works undertaken.

The proposal to permit the use of the shed and obtain a S138 for the retaining wall is not considered to raise any technical or environmental impacts.

### Overall Flora and Fauna Review

The use and associated activities currently operate under three approved management plans (Environmental Management Plan, Habitat Restoration Plan and the Site Management Plan - attached) to ensure biodiversity values are not negatively impacted by activities associated with the film production.

The proponents have engaged an environmental management consultancy to:

- Carry out site inspections
- Undertake habitat restoration works
- Conduct site auditing and quarterly monitoring
- Prepare quarterly environmental management compliance reports
- Prepare annual habitat restoration reports

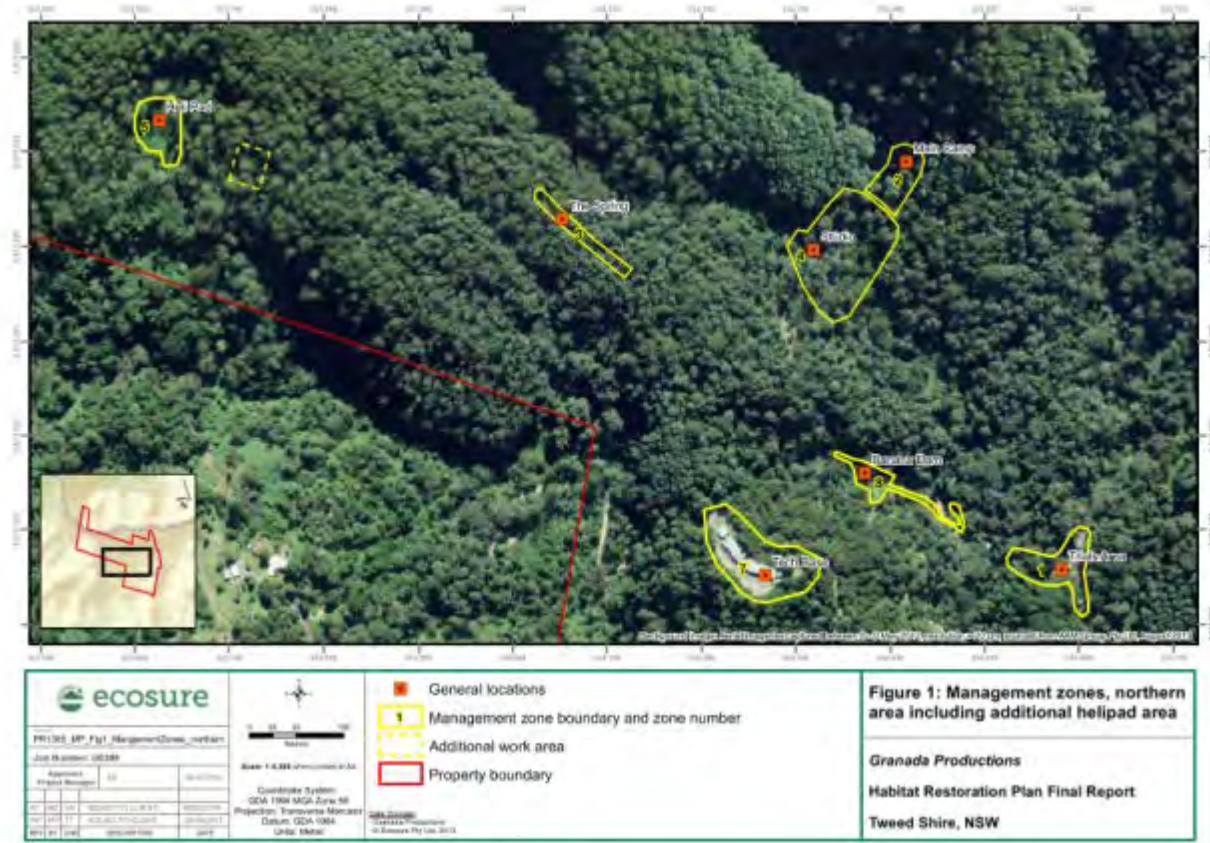
During the more recent 3 year time period all works have been undertaken generally in accordance with the approved plans. No significant impact on biodiversity values has been reported by the environmental management consultancy or the proponent during this time period. Notwithstanding the applicant has been reminded of minor non-compliance with the Environmental Management Plan that could, if left unattended, result in potential cumulative impact on the integrity of the sites ecological values (for example use of non exotic species in the filming area). Outstanding issues have been identified in the most recent November 2016 Compliance Report. These matters will need to be resolved prior to the next scheduled quarterly compliance audit to ensure that activities are being undertaken in accordance with the conditions of consent.

No specific changes to the approved Environmental Management Plan or reporting requirements are considered necessary based on the proposal to extend the time period

The applicant specifically submitted a revised Habitat Restoration Plan to correspond to the extended timeframe for filming and by virtue, the completion of restoration works. However due to a mapping error upon review this document reduced restoration areas rather than increasing restoration works as part of this Section 96 Application.



Throughout the assessment process for this application negotiation with the applicant has resulted in adoption of the recommended condition to ensure the habitat restoration areas as approved by the previous DA02/1983.16 are upheld with one additional area to compensate for the extended proposed 3 year extension. The additional restoration area is near helipad 2 in the north western part of the site and will benefit from weed restoration works until such time as the filming areas can be restored to their natural state (see below image showing additional area).



This is considered to be a reasonable outcome pending full restoration of the site at the completion of the consent/filming period. To ensure these outcomes the following condition is recommended as part of this consent:

*Replace Condition 1.3A with Condition 1.3B as follows:*

*1.3B The applicant shall amend the Habitat Restoration Plan ('HRP') being Habitat Restoration Plan, for Granada Australia/ITV Studios, dated August 2016, prepared by Ecosure to:*

- a. *Show an 'additional work area' on Map 5: Northern Management Zones consistent with that area identified on a plan previously submitted to Council and described as Figure 1. Management Zones, northern area including additional helipad area dated 09 February 2016 prepared by Ecosure*
- b. *Detail restoration requirements within the 'additional work area' in Section 5 of the HRP with an objective to achieving site capture.*

- c. *Show the following habitat restoration zones with boundaries identical to that shown in the previously approved (DA02/1983.16) Habitat Plan Final Report for Granada Australia/ITV Studios dated July 2014 prepared by Ecosure:*
  - i. *Zone 8 – Banana Dam (Map 5)*
  - ii. *Zone 9 – Social Base (Map 6)*
- d. *Amend ‘Section 5.1.9 Zone 9 Social Base’ to be identical to that described in the previously approved (DA02/1983.16) Habitat Plan Final Report for Granada Australia/ITV Studios dated July 2014 prepared by Ecosure*

*The amended HRP shall be submitted and approved by Council’s General Manager or delegate within 90 days of the approval for DA02/1983.17.*

*Works are to be implemented in accordance with the approved amended Habitat Restoration Plan (unless otherwise modified and approved by Councils General Manager or delegate) to Council’s satisfaction throughout the consent period and including final site remediation phase.*

### **Substantially the Same Development**

Section 96(1A) of the Act relating to modifications involving minimal environmental impact states:

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) *it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) *it has notified the application in accordance with:*
  - (i) *the regulations, if the regulations so require, or*
  - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*



The applicant has provided an assessment of case law in respect to S96 and ensuring that the modified development is 'essentially or materially' the same as the (currently) approved development (Moto Projects (No. 2) Pty Ltd v North Sydney Council (1999) and 'substantially the same development' (Wolgan Action Group Incorporated v Lithgow City Council (2001)).

The following key principles have been applied:

- *The comparison is undertaken at a general level rather than between detail;*
- *The question is whether the development as a whole is essentially or materially the same development;*
- *If the impacts of the modifications are minor, the modified development is more likely to be essentially or materially the same development; and*
- *It is relevant to consider the magnitude of any physical changes to the development and any changes to the use of the land.*

The SEE advises that, having regard to the fact that operational details of the development will not change and the key principles discussed above, the threshold question is satisfied on the basis that:

- *'The development as a whole, being for filming and producing a television program, will remain unchanged.*
- *The proposed modifications will not alter the statutory or policy compliance of the proposal, create any other material difference and do not give rise to any significant environmental impacts.*
- *The siting, bulk and scale of the buildings essentially remain the same.*
- *The likely impact of the modification is minor.*
- *No changes to the nature, scale, intensity and operational details of the development will occur.*

The SEE states that the proposed modification will not represent a radical transformation of the originally approved development and that the proposed modification to the consent will represent substantially the same development as the development for which the consent was originally granted.

It is generally considered that as the proposed S96 Application does not seek any alterations to the operation on the subject sites that the proposal may be defined as substantially the same development to that originally approved. It is noted however that the original application intended that the activity would be completed in June 2004. The activity has now been in operation for fourteen years and the granting of approval of the current S96 Application will result in an additional three years with the consent expiring in June 2020. The question may be asked whether the activity therefore remains 'temporary' in nature and therefore whether it may be classified as substantially the same development.

The assessment undertaken for the previous S96 Applications advised the following:

*"The proposed activity is not being modified by the changes. The development will still be "temporary" in nature (in that it is a time limited consent) and the site will still be required to be remediated. The recommended conditions of consent will require a*

*Habitat Restoration Plan, with works to be implemented in accordance with the approved Habitat Restoration Plan throughout the consent period.*

*The proposed modifications are considered to satisfy the key principles for determining the threshold requirements. It is not considered that a 36 month extension changes the nature of the development and as such the proposed modifications are considered to be acceptable, subject to the proposed additional conditions of consent."*

On the basis of the above and given the S96 Application currently before Council does not propose any modifications to the activity itself, it is considered that the proposal may still be deemed as substantially the same development and approved, subject to the amended and additional conditions of consent.

### **Concurrence or Integrated Authority Consultation**

The Act provides for consultation with state government authorities in the event that conditions to be amended are those imposed by or of interest to such agencies.

The activity operates under a Part 3A Permit under the Rivers and Foreshore Improvement Act 1948. The time frame extension does mean that permits will need to be extended, however, none of the conditions of consent are proposed to be removed and as such formal consultation in relation to the proposed amendment is not required. Despite not being required to formally consult with the Department of Primary Industries (Office of Water), the NSW Office of Water has been advised of the proposed S96 Application to further extend the activity for an additional three years and did not wish to provide any comment with this regard, other than to say that:

*My site inspection this afternoon was in relation to erosion caused by one of the instream pool structures. It had been modified beyond the original approval. I have advised Granada that it must be returned to the original design and that a Controlled Activity Approval must be obtained before works commence. Unfortunately it's too risky to commence works now so nothing will happen until next August. It's not a major issue through, the creek is very steep in this location so the sediment mobilised by the erosion wouldn't be much above background levels (the erosion is more a risk to the structure than the environment) All water use approvals seem to be in place.*

Accordingly, a new condition of consent has been recommended as part of the recommendation for approval to ensure the applicant is aware of this obligation.

In addition the application was forward to the NSW Fisheries as a courtesy (as there was no obligation to send the application in a statutory sense) to see if they had any commentary on the proposed modification. No comments have been received in response.

### **Advertising and Consideration of Submissions**

The proposed amendment was notified for a period of 14 days from Wednesday 2 November 2016 to Wednesday 16 November 2016.

During this period Council received eleven submissions from local residents. Ten of these were in the form of objections (four of which were from the same family) and the objections

generally focused on the extension of time component of the application. There was one letter of support for the development all of which are addressed below:

Nature of objection	Response
<p>Permissibility</p> <p><i>Legality of modifications without restrictions or controls to DA02/1983</i></p> <p><i>This was meant to be a temporary approval</i></p> <p><i>Use of temporary buildings for 15 years. How are these buildings considered temporary?</i></p>	<p>The existing consent was issued in December 2002 and remains valid by virtue of the provisions of Environmental Planning And Assessment Act 1979.</p> <p>Specifically any valid application can apply under Section 96 to have the terms (conditions) of that consent modified with the consent of the consent authority subject to the application meeting the tests of Section 96 and 79C of the Environmental Planning And Assessment Act 1979.</p> <p>Whilst the original application sought approval for use of the site for one year and the application was conditioned to a one year time period the application has been lawfully modified since.</p> <p>This report has undertaken the statutory assessment required under the legislation. And if Council were of the view to modify the consent as recommended it is considered that this would be a lawful determination.</p>
<p>Traffic</p> <p><i>Increased traffic (and noise) including mini bus and crew vehicles</i></p> <p><i>Huge volumes of transport vehicles, cranes and heavy machinery</i></p> <p><i>It is too dangerous to walk on the road</i></p> <p><i>High beams at night</i></p>	<p>This application seeks an extension of time from 1 June 2017 to 1 June 2020 with other minor modifications, none of which change or affect traffic to that previously experienced.</p> <p>It is acknowledged that the continued operation of the filming will mean the traffic experienced over the past 14 years will last for another three years approval is given.</p> <p>However, The modification meets the substantially the same development tests which will not see an increase in traffic to that previously approved and the Site Management Plan (SMP) monitors, manages and regulates the number of trips that are made to the site with use of mini buses to ferry staff onto the site and daily number of delivery trucks that come onto the site. As noted by one of the residents of Dungay Creek Road there is use of 'guide cars' for large delivery trucks as Granada acknowledge the risk to residents.</p> <p>The SMP also regulates the speed limits and have erected at the beginning of Dungay Creek Road and at the top of Dungay Creek Road (near the entrance to 366 Dungay Creek Road) alerting drivers to the speed limits imposed.</p> <p>To reduce high beams at night, cones and/or witches hats are placed at certain locations along Dungay Creek Road as a reminder to employees and contractors not use high beams around residences that are positioned particularly close</p>

Nature of objection	Response
	<p>to the road.</p> <p>These mitigation measures are all in place to minimise disturbance to residents as much as possible. However, there is an impact to local residents which has been deemed an acceptable impact over the years and hence why the application has been extended over the years.</p> <p>There has been no recent incidents in regards to traffic or road safety that would warrant a change to the past assessments and hence the current application for an extension on traffic grounds is supported.</p>
<p>Local residents have had enough</p> <p><i>Ongoing inconvenience and stress</i></p> <p><i>Our lifestyle has been impacted upon</i></p> <p><i>Change to the nature of a rural environment</i></p> <p><i>Increased noise as a result of production activities</i></p> <p><i>The annoyance of constant requests from the press for interviews</i></p> <p><i>Residents have had no benefit from this operation</i></p> <p><i>There is additional road side rubbish (alcohol bottles and cans)</i></p> <p><i>The Tweed Link often promotes “we care about what you think” yet this application continues to get extensions despite public opposition.</i></p>	<p>It is acknowledged that local residents are impacted up to seven months of the year. The three distinct activity nodes are pre-production (up to 3 months), production (up to three months with up to 600 staff working in shifts 24 hours per day) and wrap up (up to one month). The production period of some twelve weeks is the most intensive. Granada has permission under the SMP to operate for seven months.</p> <p>However mitigation measures are in place to reduce the impact that residents will encounter during this timeframe:</p> <ul style="list-style-type: none"> <li>• Granada inform the residents through letters or scheduled visits indicating scheduled times and dates and a telephone number to contact if they have any questions or complaints.</li> <li>• Other mitigatory measures include placing cones or witches hats at certain locations along Dungay Creek Road as a reminder to employees and contractors not use high beams around residences that are positioned particularly close to the road.</li> <li>• Additional use for maintenance with limited staff on site is permitted. However, these visits are small in frequency and the number of staff involved with permission being sought from the site’s landowners. These visits involve essential maintenance and environmental compliance purposes.</li> <li>• Granada believes that maintenance visits are necessary particularly if flood damage should occur onsite, maintaining the suspension bridges to prevent any damage to the trees and any other environmental issues that could impact upon the site and/or land owners further downstream.</li> </ul>

Nature of objection	Response
	<ul style="list-style-type: none"> <li>• Granada also attempts to turn away any unwanted press so as to ensure that the privacy of the residents is maintained as much as possible.</li> </ul> <p>Granada does have an impact on the local community due to their overall presence in the community. Granada have stated that they have tried to have a positive impact on the community and below are a few examples of the positive benefits that Granada make:</p> <ul style="list-style-type: none"> <li>• As noted by one resident of Dungay Creek Road, the residents have benefitted in the past from the filming of the reality show in the area. For example during and after the ex-cyclone Oswald event of 2013, Granada assisted in the refill of washed away areas of the second causeway and clearing the first after the storm.</li> <li>• Granada also assisted in loaning generators to residents to restore electricity to their homes while electrical repairs were being completed by the electricity supplier.</li> <li>• To control roadside rubbish Granada took on litter patrols along the Dungay Creek Road during the pre-production and production phases. In addition no alcohol is kept on site for use by the crew to both limit rubbish and ensure good behaviour.</li> </ul> <p>Tweed Shire Council is concerned with the needs of the community. This Section 96 application is being assessed in accordance with 79C of the Environmental Planning And Assessment Act 1979. The issues raised by the objectors need to be balanced against the broader social and economic benefits of which are considered beneficial to the Shire as a whole.</p>
<p>Noise</p> <p><i>Helicopter activity</i></p> <p><i>Sleep deprivation</i></p>	<p>The site is most active during the production phase and there is ongoing maintenance and security in the remaining months of the year. The SMP provides mitigation measures to minimise the noise that filming could generate. One such area is the number of helicopter trips that are permitted.</p> <p>Council's Environmental Health Officer reviews the scheduled number of helicopter trips during the 'production' phase and any minor changes are assessed and considered before being approved. For the 2016 filming period the number of helicopter trips do not exceed the SMP allocation. The only changes were to the times which the residents were informed of. The</p>

Nature of objection	Response
	<p>helicopter trips occur during day time hours.</p> <p>Granada through the SMP is required to ensure that mitigation measures are adhered to such as informing residents of scheduled times and events, traffic safety measures, limiting movement of vehicles through carpooling or using mini buses to placing cones and or witches hats at certain locations along Dungay Creek Road as a reminder to employees and contractors not use high beams around residences that are positioned particularly close to the road.</p> <p>As indicated above, Granada attempt to minimise the impact of activity by instructing staff and contractors to not use high beams at night, implementing speed limits and limiting helicopter trips to day time hours.</p>
<p>Economic Impact for Tweed Shire</p> <p><i>No economic benefit to Tweed Shire</i></p> <p><i>Lack of promotion of the Tweed Shire</i></p>	<p>The economic impact for Tweed Shire has been noted in the past with reference made to upgrading Dungay Creek Road, resident specific donations and school donations. However, at a localised level within Murwillumbah and other areas in the Tweed Shire, the applicant has indicated that staff members utilise the facilities and services that are on offer; such as dining out, shopping or accommodation requirements. Please refer to the applicant's response and the letter in support of this Section 96 application below.</p> <p>Since filming began in November 2016 for the 2016 season, Tweed Shire has been referenced in six episodes of the opening sequences by Ant and Dec the presenters of the show. The producers have also included a 'with thanks to credit to 'The Tweed Shire''.</p>
<p>Reduction in creek flows due to extraction</p>	<ul style="list-style-type: none"> <li>• Water extraction licences and monitoring is the responsibility of the DPI – Water. Appropriate licences have been obtained and extraction operated in accordance with licence conditions.</li> <li>• Water-quality is monitored and reported on a quarterly basis from 8 sites in accordance with the approved Environmental Management Plan (EMP). From review of environmental compliance reports there has not been any significant change in water quality since the approval of the EMP in September 2013.</li> <li>• Dissolved oxygen has at times been recorded at below the ANZECC Guideline limits yet this may be attributed to natural daily fluctuations. No evidence of significant algal growth or instream plant decomposition often affecting demand for dissolved oxygen has not be reported.</li> <li>• The application has been referred to the DPI-Water and DPI – Fisheries for comment. No</li> </ul>

Nature of objection	Response
<p>Impact on riparian fauna and flora</p> <p>Impact on threatened species and endangered ecological communities from increase in human movement, noise and lighting</p>	<p>objections were received.</p> <ul style="list-style-type: none"> <li>• A Flora and Fauna Assessment Report (F&amp;FAR) detailing locations of recorded threatened flora and fauna species and management actions to ensure impacts are avoided has been approved. Actions are reflected in the approved Environmental Management Plan (EMP)</li> <li>• A Habitat Restoration Plan (HRP) has been approved works have been progressing generally in accordance with the plan around activity areas. A condition has been imposed to expand these areas and ensure appropriate maintenance rotations are maintained.</li> <li>• The management measures detailed in the F&amp;FAR, EMP and HRP to be sufficient to ensure biodiversity values are not impacted during the production periods.</li> <li>• There are no significant non-compliance incidents. Notwithstanding the applicant has been reminded of specific low level non-compliance with the Environmental Management Plan that could, if left unattended, result in potential cumulative t impact on the integrity of the sites ecological values. Outstanding issues have been identified in the most recent November 2016 Compliance Report. These matters will need to be resolved prior to the next scheduled quarterly compliance audit to ensure that activities are being undertaken in accordance with conditions of consent.</li> <li>• Council are not aware of any incidents involving native fauna handling onsite since 2013.</li> <li>• With implementation of management measures prescribed in the approved F&amp;FAR, EMP and HRP, NRM are satisfied that the proposal would not have a significant negative impact on threatened species or endangered ecological communities</li> </ul>
<p>Lack of independent environmental management and monitoring</p>	<ul style="list-style-type: none"> <li>• The applicant has engaged a respected and suitably qualified environmental consultant to undertake monitoring and reporting in accordance with the EMP. EMP auditing is undertaken on a quarterly basis, reports are forwarded to Council. Annual habitat restoration monitoring reports are prepared by the same consultant and forwarded to Council for review. Council will maintain commitment to review of the compliance reports.</li> <li>• Council has undertaken and will continue to undertake a minimum of two inspections per annum to ensure compliance with the EMP and clarify any issues raised in the compliance reports. Council are not aware of any significant non-compliance incidents. Notwithstanding the</li> </ul>

Nature of objection	Response
	<p>applicant has been reminded of specific non-compliance with the Environmental Management Plan that could, if left unattended, result in potential cumulative impact on the integrity of the sites ecological values. Outstanding issues have been identified in the most recent November 2016 Compliance Report. These matters will need to be resolved prior to the next scheduled quarterly compliance audit to ensure that activities are being undertaken in accordance with conditions of consent.</p>
Impact of helicopters on Koala behaviour	<ul style="list-style-type: none"> <li>• Council has reviewed the IAC 16 Chopper Movements – V3 – as of 10/11/2016 schedule and consider that movement would unlikely have a significant effect on Koala behaviour given:               <ul style="list-style-type: none"> <li>○ Irregularity and low frequency of trip movements</li> <li>○ All trips are proposed during daylight hours outside active Koala feeding times</li> </ul> </li> </ul> <p>The helipad is established, no preferred habitat is to be removed to enable helicopter landing</p>
Impact of activities on water quality, quantity and instream ecology	<ul style="list-style-type: none"> <li>• Water-quality is monitored and reported on a quarterly basis from 8 sites in accordance with the approved Environmental Management Plan (EMP). From review of environmental compliance reports Council is not aware of any significant change in water quality since the approval of the EMP in September 2013.</li> <li>• Dissolved oxygen has at times been recorded at below the ANZECC Guideline limits yet this may be attributed to natural daily fluctuations. No evidence of significant algal growth or instream plan decomposition often affecting demand for dissolved oxygen has not be reported.</li> <li>• The application has been referred to the DPI-Water and DPI – Fisheries for comment. No objections have been received.</li> </ul>
Concerns about water quality	<ul style="list-style-type: none"> <li>• Water-quality is monitored and reported on a quarterly basis from 8 sites in accordance with the approved Environmental Management Plan (EMP). From review of environmental compliance reports NRM is not aware of any significant change in water quality since the approval of the EMP in September 2013.</li> <li>• Dissolved oxygen has at times been recorded at below the ANZECC Guideline limits yet this may be attributed to natural daily fluctuations. No evidence of significant algal growth or instream plan decomposition often affecting demand for dissolved oxygen has not be reported.</li> </ul>



Nature of objection	Response
	<ul style="list-style-type: none"> <li>The application has been referred to the DPI-Water and DPI – Fisheries for comment. No response has been provided to date.</li> </ul>
Concerns about weed colonisation	<ul style="list-style-type: none"> <li>A Habitat Restoration Plan (HRP) has been approved works have been progressing generally in accordance with the plan around activity areas. A condition has been imposed to expand these areas and ensure appropriate maintenance rotations are maintained.</li> </ul>
Lack of consideration for the environment and 7(d) zone  Impact on threatened flora and fauna including Koala	<ul style="list-style-type: none"> <li>Only the Heli Pad is positioned within the 7(d) Environmental Protection (Scenic Escarpment) zone.             Helicopter movement would not have a significant affect in wildlife behaviour. No habitat is to be removed to enable landing. The area is subject to ecological restoration activity in accordance with the HRP.</li> </ul>

The one letter of support for the modification states as follows:

*"I, XXXX, am writing in support of the above S96 Modification. I have examined it and I know the site and affected area well. I wish to add my observations and knowledge of past operations. My support of this modification is obvious as I am a property owner and have submitted a signed Owners Consent Form with the application. I feel this puts me in a good position to detail actions by ITV that Council staff and elected Councillors may not be aware of.*

*Since 2003, Granada Productions now ITV from the UK, Australia, and Germany have been filming a reality TV show using land at the end of Dungay Creek Road. They have developed into a good corporate neighbour, one fully aware of the impact their production has on this rural community. Aware that you will mostly be hearing from those opposed to the application I would like to provide examples of their accommodation and support of our area. Information that only a landowner might be able to attribute to ITV. I recognize these staff when I see them dinning or shopping in Murwillumbah and Tweed or when working and driving along Dungay Creek Rd. I meet with corporate staff on site and am an active participant in land use and traffic issues. I also thank many other residents who have worked cooperatively with ITV for a better outcome for all residents.*

*Infrastructure Works*

- Sealed Dungay Creek Rd : Prior to ITV starting in the area ITV sealed (paved) Dungay Creek Road up to and including passage through their site at 366 Dungay Creek Rd.*
- Installed Traffic Mirrors : Soon after starting traffic mirrors were erected along the stretch of road down from 361.*
- Improved Creek Crossing : In 2011 ITV spent \$176,000 rebuilding the creek crossing of Dungay Creek Road at the intersection with the Dawes property (Dawes Crossing).*
- Funded Tree Planting : ITV has funded the planting of native trees to minimize view of their traffic and operations. The quality of this planting above 361 Dungay Cr Rd was such that council identified it with a conservation rating.*
- Funded Wildlife Signs : ITV has paid to erect wildlife protection signs, along the road.*

*Traffic, Noise, and Rubbish*

- Traffic Plan: ITV was required to submit a traffic plan and may have daily traffic records available for Council to address this application. They have worked with council to improve traffic issues over time. I have always found them open to ideas.*
- Guide Cars for Large Delivery Trucks : Granada recognizes the risk to residents and provides guide cars for their deliveries using large trucks.*

3. School Bus Accommodation : ITV staff are aware of the times our local school buses use Dungay Creek Rd. Thru the site, Security Staff manage traffic so the buses can pass and turn around unimpeded. Along the road crew buses pull off the road to wait for school bus passage.
4. Offsite Parking: Several years ago, ITV secured offsite parking at Sanderson's along Campbells Rd. Just last year traffic was reduced by xx%. Staff are ferried in groups minimizing traffic and parking.
5. Reduced ITV Employee Speed Limits: Per a previous S96, ITV employees have a lower speed limit than that of the public. This reduces noise and addresses issues of walkers, bicyclists, etc. using this road. Leaving the site, the limit is 30km until reaching the creek crossing at Dawes Creek and then increasing to 50km down Dungay Creek Rd to the Tomewin Rd. Council has just recently set a 60km limit for the entire road. Previously parts of the road were easily driven at 80km.
6. Monitoring of Employee Driving Speeds: ITV's Security Staff, using radar guns, routinely monitor the driving speed of their employees along Dungay Creek Rd. Their policy is to terminate driving privileges of anyone violating their limits which are less than Council Limits. I have witnessed many such "monitoring events".
7. Road Rage by Residents: Prior to Council's establishment of the 60km limit and given the much lower speed limit for ITV employees there was at least 1 "road rage" incident where a resident became quite angry with a slow traveling ITV employee thinking it purposefully provocative. Now ITV corporate employees often pull over when they see residents being held up.
8. Helicopter Noise: To accommodate our adjacent neighbor helicopter pilots have been instructed to not fly over their property but rather approach and depart from the opposite side of the valley. A helicopter is used each year to deploy and remove a filming crane in preference to tree removal needed if a track and vehicle was to be used. Helicopters often initially land contestants and film the country side for opening and closing footage.
9. Removal of Road Rubbish: In the last few years ITV has begun their season at Dungay with a rubbish clean up along the road. I walk the road year around and have not noticed any difference in road rubbish between the time ITV is present and not. Most of the rubbish is fast food container/packaging and alcohol containers. Since ITV provides employees free meals on site and has a no alcohol policy it is unlikely to be employee rubbish. Perhaps unlike other residents I recognize the staff involved in these clean ups and have verified it is funded by ITV.

*Corporate Giving:*

1. Murwillumbah Scout Group : ITV has made charitable gifts to the local Scout Group annually since 2011.
2. Dungay PS and P&C : Over the years Dungay Public School and its P&C have received charitable gifts or money paid for short term hire of equipment. Tours have been arranged for the Students.
3. Wollumbin High School and P&C : Again, over the years ITV have funded works at the high school and donated money to the P&C. Excursions to the site by Digital Media Students has been offered.

*Dispute Resolution:*

1. Letter Drop Off : Every year ITV mails or drops off a letter to residents with times and dates of important traffic events and a number to call if they have any questions or complaints.
2. Personal phone calls and visits: Onsite supervisory staff or ITV Australia and Germany staff routinely visit key residents to work with them on contentious issues or just have a friendly visit.
3. Responses to social media: Last year a resident was venting on social media about headlight disturbance and noise. When ITV found out they approached the resident to mediate a resolution and to see if they were at fault. Later the resident commented on social media that ITV was kinder to her than others commenting to her posts. Others had criticized her calling her selfish, noting most homes have road noise and reminding her they knew people that worked there. I was surprised by the lack of support for her complaints but note others were in support.

*Emergency Responses :*

1. Road- Causeway Maintenance and Repair : During ex-Cyclone Oswald and its aftermath in 2013 ITV was a model of how business can help a local community in time of need. I have attached the letter written to then Mayor Longland describing their actions. They were proactive in hiring

equipment from Sanderson's to try to keep the first causeway on Dungay open and later purchased substrate and hired Sanderson's to refill washed away areas of the second causeway and clear the first after the storm. They opened our road days before Council could have given the devastation in the Tweed.

2. Loaning Generators to Residents: Again during the aftermath of Ex-Cyclone Oswald in 2013 ITV lent locals (not owners of the site) generators to restore some electricity to their homes.
3. Tree and debris Removal: In the last few years, extreme wind events have taken down trees blocking Dungay Creek Rd. Again, ITV released its staff to clear the road for all and were even seen clearing tree debris in a private paddock at 200 Dungay Cr Rd and in pull-out areas not affecting traffic flow.
4. High Water Events: ITV monitors weather events and ensures safe passage of their vehicles during impending high water events. This allows residents to observe and make their own decision of safe passage over the 3 causeways. Security and Unit staff are out along the road assisting traffic.

#### *Land Use and Sustainability Practices:*

Items pertaining to my property in which I have compared my observations with the management plans submitted with this S96 modification.

1. Flora and Fauna Monitoring: Ecosure has been employed to tag flora identified as endangered, found on our portion of the site. I read their reports and work closely with ITV to make sure Ecosure's recommendations are carried out. I feel fortunate, that with Tweed Shire Council required Flora and Fauna reports, so much more is known about my property. Bird surveys, bat recordings and other methods have located Albert's Lyrebirds, Koalas, Little Bentwing Bat and others listed by NSW Endangered Species Act. As landowner, I am committed to protecting their habitat into the future and were not aware of many previously.
2. Water Quality Monitoring : Ecosure monitors water quality year around and I regularly see them.
3. Weed Management and Tree Planting : Again, during my personal inspections I note ITV is controlling the spread of Devil's Fig. Palm and tree planting is offsetting lantana incursion and it is also declining
4. Decommissioning and Site Rehabilitation : As a beneficiary of 3 biodiversity/bush regeneration grants and a Tweed Shire Land for Wildlife member I am committed to my "patch". I feel confident that contractual obligations between ITV with its property owners will leave the land better than they found it. Council staff should be contacted to verify their satisfaction that best practice site dressing with local plants. I am contacted personally prior to any tree or tree limb removal. We have an agreement that when trees are removed for health and safety, additional same species are planted. Net effect on my property is a slowing of lantana spread and good control of Devi's Fig.
5. Recycled Set Materials : One nearby resident is willing to accept used set materials from ITV, lessening what goes to the tip and would be willing to take more. This may be one item with room for improvement.

#### *Employment of Locals and "Shopping Local"*

Though ITV has submitted a detailed economic analysis I also want to share some of my experiences with locals who value their employment opportunities at Dungay. Over the years I have met many folks as I wait with my son on site for the school bus.

1. Banora Resident . A subcontractor with Aggreko mentioned how he loves his time at Dungay as he can go home to his family every evening. This contrasts with his work at the World Cup Soccer Games in South Africa or the more recent London Olympics.
2. Security Staff . Again, a local resident was very happy for local employment. I found interesting that his "other" employment sources included armed security work on vessels or oil platforms in the "Pirate Zone" off Somalia.
3. Tweed Residents in the "Film Industry". When I joined a Dungay Pubic School site visit I noted how many workers said hi to students they knew. I was unaware of the professional staff working in the film industry that call the Tweed home.
4. Local employment . Each year I meet more locals through Scouts or school who mention to me how they appreciate the seasonal employment ITV provides.
5. Use of Small Local Businesses : I recognize vehicles of local electricians, local equipment rental firms, road building and maintenance companies, and food vendors. Really, too many local small

businesses to mention. I see non-local ITV staff eating and shopping in town. Perhaps my property owner status allows for that recognition as I visit multiple times daily.

6. Student Employment : Production runners have been local Uni students taking a break to make very good money (lots of overtime) during a short period.
7. Shopping : My favorite story is shopping at Murwillumbah Foodworks behind a quick shop by ITV. Several shopping carts later with a tab over \$1200 (value shared by an amazed checkout clerk). This type of story is retold by other vendors who appreciate that ITV can and does shop local.
8. Shopping Recommendations : ITV accommodates non-local employees and provides them with information on where to find various items. Again, shopping locations in Tweed Heads and service providers in Murwillumbah are listed.

I urge Council to take a balanced look at ITV's activities along Dungay Creek Rd. I recommend a site visit and conversations with locals employed by ITV and businesses in Murwillumbah. I submitted these comments to assist in a well informed and balanced approach to the presence of ITV in this rural area. If Council can work with ITV in any areas of improvement that would be preferred by myself and perhaps local workers and businesses benefitting from their location here. I have listed many examples of their willingness to be a GOOD CORPORATE NEIGHBOUR."

The applicant was provided with a copy of these submissions and has provided the following response for Council's consideration:

<b>APPLICANTS RESPONSE TO SUBMISSIONS</b>	
<b>ISSUE</b>	<b>RESPONSE</b>
<b>1. Site Operations</b>	
(i) Traffic Volume:	<p>Granada acknowledges that there is an increase in traffic when the site is in use for the production generally. Granada endeavours to manage traffic in a manner that best mitigates any negative impacts.</p> <p>In 2016, Granada has successfully achieved a 50% reduction in the overall number of local vehicles entering site. We are open to looking at ways we can ensure that vehicle volume is kept to the minimum absolutely necessary.</p> <p>The larger semi-trailer sized vehicles are limited to 5-7 trucks per day for no more than 8 days in total from the start of preproduction for the UK show until the end of production of the German show when the site enters into hibernation. While 24/7 traffic is in operation for certain limited periods, truck deliveries only occur during daylight hours. The journeys to deliver timber and other materials are limited to three per month and the catering deliveries are no more than five per week. As such, we believe that the impact of truck movements is low.</p> <p>Granada management practices are set out in the <b>attached</b> copy of the Transport Policy document. Granada also notes that it manages traffic in accordance with its SMP obligations including the <b>attached</b> extract regarding traffic.</p> <p>Granada monitors the daily number of delivery trucks and staff vehicles coming to the site and follows the management measures in the SMP. In particular, Granada:</p> <ol style="list-style-type: none"> <li>(a) has introduced the car park for crew on Campbell's Road (Sanderson's - which can accommodate up to 50 cars);</li> <li>(b) instructs staff that they must car pool and use the car park; and</li> <li>(c) implements a bus service to and from site, which has been reduced to ensure bus trips do not exceed that required by staff need.</li> </ol>

<b>APPLICANTS RESPONSE TO SUBMISSIONS</b>	
<b>ISSUE</b>	<b>RESPONSE</b>
	<p>Other properties and land uses also contribute towards additional traffic on Dungay Creek Road.</p>
(ii) Excessive Traffic Speed:	<p>Granada agrees that no-one should exceed the speed limit and it continues to address this concern, including with increased signage and regular surveillance by the security staff.</p> <p>Surveillance includes the use of a radar speed gun. We conduct speed radar checks and those that are found to be driving over the speed limit lose their right to drive into site or they are penalised by missing a day's work. Granada has stopped specific employees from driving to site during the last production period due to speed infringements. Over the last two years we have only penalised crew in this manner four times.</p> <p>All Granada crew and suppliers are briefed regarding lower road speeds for our workers and the need to be courteous to residents and pull over if a resident wishes to overtake.</p> <p>On occasion the feedback from the community has been that residents think that our drivers drive too slowly.</p> <p>We implemented a system from 2016 whereby we place a large 'G' sticker on the back of our vehicles so that residents could readily identify our vehicles that may be going slower than other vehicles. The transport team started with this system for the German series in 2015 and we continue to employ it for the UK show in 2016.</p> <p>In accordance with the SMP, signs are erected alerting drivers to the speed limits imposed such as at the top of Dungay Creek Road (near the entrance to 366 Dungay Creek Road).</p>
(iii) Traffic Behaviour:	<p>Granada ensures that its contractors contact our Security personnel prior to their arrival on site so that they can arrange an a pilot car to escort them from the bottom of Dungay Creek Road to site and then back down Dungay Creek Road on the return journey.</p> <p>Granada has placed cones or witches hats at certain locations along Dungay Creek Road as a reminder to employees and contractors not to use high beams around residences that are particularly close to the road.</p> <p>Granada policy is now is that no one driving on Dungay Creek Road can use high beams and instead must use standard headlights the entire distance. This policy has been in place for two years.</p> <p>Granada notes that in some submissions to Council the members of the community have expressly referred to how courteous our drivers are.</p>
(iv) Timing of Site Operations:	<p>Granada has permission under the SMP to use the site for seven months in total comprising:</p> <ul style="list-style-type: none"> <li>• up to three months for Pre-production;</li> <li>• up to three months for Production; and</li> <li>• up to one month for De-rigging or 'Wrap'.</li> </ul> <p>However, we use less than our SMP allocation and always endeavour to keep site use to a minimum. For the 2016/17 filming</p>

<b>APPLICANTS RESPONSE TO SUBMISSIONS</b>	
<b>ISSUE</b>	<b>RESPONSE</b>
	<p>season, we have used:</p> <ul style="list-style-type: none"> <li>• less than two months of Pre-production time (59 days);</li> <li>• less than three months of Production time (79 days); and</li> <li>• less than one month of De-rigging time (23 days).</li> </ul> <p>In addition, we note that the 24 hours per day/7 days per week operation of the site is limited to four weeks maximum for the UK show and three weeks maximum for the German show.</p>
(v) Helicopter Movements:	<p>Granada manages helicopter movements in accordance with its SMP obligations including the <b>attached</b> extract regarding helicopters. Among other things, helicopters are instructed to engage in unnecessary hovering or circling.</p> <p>For the 2016/17 filming season, we have used much less than our allocated number of trips, comprising the following:</p> <ul style="list-style-type: none"> <li>• <b>6 November 2016:</b> 4 trips.</li> <li>• <b>11 November 2016:</b> 2 trips.</li> <li>• <b>12 November 2016:</b> 4 trips.</li> <li>• <b>15 November 2016:</b> 2 trips.</li> </ul> <p>Helicopter pilots have been instructed to not fly over residents' properties but rather approach and depart from the opposite side of the valley. Unfortunately, Granada is aware that media outlets chartered certain helicopters to hover in an effort to take aerial photographs of the filming site. While we regret this activity it was not directly caused by Granada and we are aware that a complaint was made directly to the helicopter charter company in this regard.</p>
(vi) Temporary Buildings:	<p>We note that a number of temporary buildings are permitted to be left on site between filming seasons. This does not derogate from the fact that they are fundamentally temporary in nature as they will be removed when Granada decommissions the site and leaves permanently.</p> <p>In our modification application we have provided greater clarity to Council regarding those temporary buildings that can remain on-site during hibernation and those that must be removed and re-installed for each filming season by noting the difference in the 'key' or 'legend' to the survey plans annexed to our application.</p>
(vii) Chemicals:	<p>All chemicals and fuels on site are logged and risk-assessed by our on-site Health and Safety team who ensures they are stored in the appropriate vessels and accordingly documented.</p> <p>In addition, Granada engages Ecosure Pty Limited to monitor Granada's compliance obligations set out in its Environmental Management Plan (<b>EMP</b>) and Habitat Restoration Plan (<b>HRP</b>). Those obligations include a requirement that all fuels, oils and chemicals are banded in order to contain and manage possible spills and leaks. Granada has engaged Ecosure to undertake regular compliance monitoring in accordance with the EMP since 2008.</p> <p>By way of background, this compliance monitoring is undertaken pursuant to the EMP and is informed by flora and fauna surveys carried out in 2011, and by the resulting Flora and Fauna Assessment Report prepared by Ecosure. Vegetation restoration works also occur on site, according to the specifications of the HRP</p>

<b>APPLICANTS RESPONSE TO SUBMISSIONS</b>	
<b>ISSUE</b>	<b>RESPONSE</b>
	<p>and prepared by Ecosure. The vegetation works are reported on separately to these compliance visits.</p>
<p>(viii) Granada's Operations are No Longer Temporary in Nature and the Value of the Overall Site Build Has Increased:</p>	<p>Granada's proposed modification application remains with respect to a time-limited approval therefore the development consent still relates to a temporary use. This is correct notwithstanding that Granada has been granted a number of modification applications from the time that the original development consent was approved.</p> <p>We note that the value of the estimated costs of the development are not a relevant factor for determining a modification application under section 96 of the Environmental Planning &amp; Assessment Act 1979.</p>
<b>2.</b>	<b>Environmental Impacts</b>
<p>(i) Bore Use:</p>	<p>There are two bores on site which belong to one of the landowners. Granada holds valid licences to collect and use as much as 5 mega-litres per annum from the bores. However, we use much less than that allocation each year and in some years as low as half the permitted allocation.</p> <p>We understand that the bores are deep enough that drawing from the aquifer does not affect the water table and, accordingly, does not in turn affect the level of Dungay Creek. The first bore was built in 2002/2003 and is approximately 65 metres deep and its case is grout-sealed. Contamination of the bore water from surface or shallow water sources has never been detected. The second bore was commissioned in 2009 as a back-up but has never been used for servicing our site notwithstanding that it is tested annually for its reliability.</p> <p>A representative from the Office of Water (NSW Department of Primary Industries), Mr Patrick Pahlow, visited site on 11 November 2016. Mr Pahlow made the observation to Granada at this inspection that our bore use does not affect the water table and creek level. Granada understands that the Office of Water had received complaints from local residents regarding Granada's activities affecting the creek level and their finding was that it was not in fact caused by Granada's use of bore water. Mr Pahlow has indicated to Granada that the creek level is due to erratic but minimal amounts of rainfall over the recent years.</p> <p>We do not pump water out of Dungay Creek.</p>
<p>(ii) Water Quality of the Creek:</p>	<p>Granada engages Ecosure to assess (inter alia) several waterways on the Granada site, including Dungay Creek and Ecosure advises in relation to other environmental issues with respect to the creek:</p> <ul style="list-style-type: none"> <li>(a) every two weeks during the Production Period;</li> <li>(b) at the commencement of Pre-production Period and then every month during that period;</li> <li>(c) during the De-rigging Period; and</li> <li>(d) twice during the Hibernation Period.</li> </ul> <p>As part of Ecosure's compliance monitoring, Ecosure carry out water quality monitoring of physico-chemical parameters of the waterways and report on the findings as part of its environmental compliance reports. Ecosure observes the general condition and health of the waterways as part of its compliance visits. Additional key focus</p>

<b>APPLICANTS RESPONSE TO SUBMISSIONS</b>	
<b>ISSUE</b>	<b>RESPONSE</b>
	<p>areas of the reporting are sediment and erosion control.</p> <p>Ecosure provide Granada with reports after each inspection which includes recommendations that are to be addressed by Granada. Ecosure's reports are sent direct to Council and Council is regularly informed regarding water quality on site as a result of these reports. In the last Compliance Report from Ecosure to Council for the 3 November 2016 site visit, Ecosure noted in particular that:</p> <p>"Water quality testing did not indicate any significant results that require further investigation. Turbidity and DO [dissolved oxygen] were marginally outside guideline limits, however these readings are typical of the site and are not associated with Granada's activities."</p> <p>There have been no reported cases of elevated sediment concentrations in the Creek based on the monitoring undertaken. The "muddy coloured water", (turbidity) observed in one submission, could have emanated from a number of potential sources other than the Granada site and is, according to Ecosure, naturally higher after heavy rainfalls.</p>
(iii) Creek Pesticide Incident:	<p>Following the spraying of pesticides by a contractor engaged by Granada in 2007 which resulted in distress to and death of native crayfish, Granada immediately contacted the Department of Environment and Climate Change (DECC) and Tweed Water to notify them of what appeared to be an environmental incident. After a detailed investigation, the DECC successfully prosecuted the contractor who conducted the spraying.</p>
(iv) Damage to Wildlife:	<p>In accordance with the SMP and to overcome concerns about fauna, signs have been erected at the beginning of Dungay Creek Road and at the top of Dungay Creek Road (near the entrance to 366 Dungay Creek Road) alerting drivers to the speed limits imposed and also to the presence of native species along the road.</p> <p>Ecosure conducts regular compliance monitoring while Granada is on-site pursuant to the EMP to identify any issues or areas for improvement. Reports from each compliance visit are provided to Granada and Tweed Shire Council.</p> <p>Overall, Granada has caused very limited impacts on native flora and fauna with most activities occurring in already cleared areas such as Social Base and B-tank or in areas where there has been minimal disturbance to vegetation in order to retain the green backdrop required for filming. The endangered ecological community has been identified on the site and is included in the EMP. Granada is aware of the requirements to protect these areas of high ecological value and avoids any activities in these areas that would negatively impact in native species.</p> <p>As mentioned above at paragraph 2(ii), Granada regularly carries out water quality testing and does not believe that its activities have had an impact on ecological communities in waterways downstream from the filming site. Granada makes minimal use of the waterways on site and adjacent areas for its activities</p>



<b>APPLICANTS RESPONSE TO SUBMISSIONS</b>	
<b>ISSUE</b>	<b>RESPONSE</b>
(v) Use of Animals in Trials and Challenges:	<p>All animals used in the making of the program are sourced from professional animal suppliers and are used lawfully, in accordance with the Code of Practice for Animals in Film and Theatrical Performance and in consultation with the RSPCA (NSW). The production staff that have contact with animals are trained – as part of their induction process – in relation to animal welfare issues and relevant NSW legislation including the Prevention of Cruelty to Animals Act and the National Parks and Wildlife Act.</p> <p>No fauna from the site is used in the making of the program. No endangered or protected species are used in the making of the program. The live animals used are limited to invertebrate species or otherwise species that would not contravene the Prevention of Cruelty to Animals Act and the National Parks and Wildlife Act.</p>
(vi) Planting of Exotic Plant Species and Spread of Invasive Species such as Madeira Vine, Devils Fig, Camphor Laurel and Lantana:	<p>As mentioned above at paragraph 2(iv), Granada has very limited impacts on native flora and fauna with most activities occurring in already cleared areas.</p> <p>Ecosure's environmental scientists regularly visit the site while Granada are present to provide advice and minimise impacts on the natural environment. The reports which summarise Ecosure's findings from each compliance visit are submitted to Granada and Tweed Shire Council.</p> <p>Granada also adheres to its HRP for the site which has been approved by Tweed Shire Council. Ecosure's bush regeneration team conduct bush regeneration works on the site in high use areas treating exotic weeds to encourage native vegetation regeneration. Through Ecosure's bush regeneration work on-site invasive, exotic weeds such as Madeira Vine are treated and monitored for any regrowth.</p>
(vii) Rubbish on side of the road:	<p>No alcohol is kept on site for use by the crew and Granada believes that it is unlikely that its crew are throwing empty beer bottles out of car windows as drinking whilst working (even on the drive to or from work) would put them in breach of their employment contracts and they would be counselled accordingly.</p> <p>Granada has staff whose job it is to conduct a regular litter patrol along the length of Dungay Creek Road during the Pre-production and Production Periods.</p>
(viii) Lack of independent monitoring:	<p>Ecosure monitor Granada's compliance with its obligations in its EMP and HRP.</p> <p>Ecosure is one of Australia's largest fully certified environmental consultancies. Ecosure is compliant with international Environment (ISO 14001:15), Quality (ISO 9001:15) and Australian Safety (AS/NZS 4801) standards.</p> <p>Council will note that Ecosure has been frank and transparent with its reporting and has noted points of non-compliance in its reporting to Council from time to time.</p>
<b>3.</b>	<b>Community Benefits &amp; Effects</b>

<b>APPLICANTS RESPONSE TO SUBMISSIONS</b>	
<b>ISSUE</b>	<b>RESPONSE</b>
(i) Granada has Exaggerated the Economic Benefits	<p>Granada spends approximately \$21,000,000 in Australia each year. It certainly does not get spent overseas.</p> <p>This expenditure includes:</p> <ul style="list-style-type: none"> <li>• Approximately \$13,000,000 spent annually with 90 or more local businesses located in the Tweed Shire that supply various goods and services to the program including landscaping equipment, cranes, petrol, fruit and vegetables, steel, tools, graphics, printing, recycling and waste disposal, agriculture products, arborist services, hardware, timber and earthworks, to name but a few; and</li> <li>• Employment of approximately 80 or more local residents in various departments including the Art, Transport, Technical and Camera departments.</li> </ul> <p>At least 32 of these crew have been employed on the show for five years or more.</p> <p>We accommodate many visiting UK and German crew in Tweed Shire-located accommodation including:</p> <ul style="list-style-type: none"> <li>• Twin Towns, Tweed Heads.</li> <li>• Kingscliff Beach Hotel, Kingscliff.</li> <li>• Mantra Gunnamatta Avenue, Kingscliff.</li> <li>• The Beach Resort, Cabarita.</li> <li>• Murwillumbah Motor Inn, Murwillumbah.</li> </ul> <p>This total spend of this accommodation component is approximately \$1,100,000 per annum.</p>
(ii) Lack of promotion of the Tweed Shire Region	<p>This year we have listened and done more to promote the Tweed Shire. The program's presenters have said they are live from the Tweed Shire six times this series and we now give a "with thanks to" credit to The Tweed Shire in our end credits.</p> <p>We are happy to do more to promote this but at the same time we are conscious that some residents may not wish us to encourage tourists in search of the filming site.</p>
(iii) Causeway and Other Public Improvements	<p>Granada undertook to make a contribution to the upgrade of Dawes Crossing. This project was fully funded by Granada (\$167,000 + GST) in 2011. The design was approved by Council and also the Department of Primary Industries (Fisheries and Aquaculture). Granada was not ultimately responsible for the final design.</p> <p>Prior to commencing its filming operations, Granada sealed and paved Dungay Creek Road up to and including 366 Dungay Creek Road. It also installed traffic mirrors along the stretch of road down from 361 Dungay Creek Road.</p> <p>Many people along Dungay Creek Road have acknowledged to Granada that the bitumen road has been a benefit to the local community.</p>
(iv) Public Giving	<p>Granada's donations to local schools, scout groups and other examples of financial support are outlined in its Economic Impact Statement.</p>

<b>APPLICANTS RESPONSE TO SUBMISSIONS</b>	
<b>ISSUE</b>	<b>RESPONSE</b>
	<p><i>Further to this, Granada is committed to giving back to the local community that has kindly accommodated it for the past 15 years. To that end, if Granada secures approval for its modification application, it will donate \$50,000 per year towards community causes such as arts grants and educational assistance in local schools.</i></p> <p><i>We would welcome community input as to how this would be most effectively spent.</i></p>
(v) Intrusions from Press & Paparazzi	<p><i>Our security team on site monitor and politely turn away any unwanted Press and Paparazzi who attempt to access private property. We deliberately do not refer to the town of Murwillumbah so as not to encourage unwanted Press and Paparazzi although we do note in one of the responses that we should consider doing more to encourage tourists to the area.</i></p>

## 8.0 SITE MANAGEMENT PLAN

### 8.1 TRAFFIC

TOPIC	TRAFFIC
Person Responsible	Unit Manager/Site Manager reporting to Line Producer, Granada Productions, Murwillumbah
Objective	To ensure that traffic safety and efficiency is not compromised by the development.
Management Measures	<ol style="list-style-type: none"> <li>1. The original contribution for Dungay Creek Road which was used in the form of road sealing to the subject site.</li> <li>2. Installation of convex mirrors where road geometry obscures vision.</li> <li>3. Road speed signage to be erected along Dungay Creek Road indicating legal speed limit.</li> <li>4. Signage to be erected on the site indicating internal speed limit, 10 km/hr.</li> <li>5. All vehicle deliveries to be scheduled from 7.00 am through to 7.00 pm, Monday to Saturday, including buses during the Pre-Production Period and the Production Period. Buses carrying staff will not be restricted during the Production Period.</li> <li>6. Site Management is to liaise with Council's Road Safety Officer to ascertain if any other safety measures are required within 7 days of Production.</li> </ol>
Monitoring	Monitoring of number of daily delivery trucks and number of staff vehicles per shift.
Reporting	<p>Record is to be kept by entry security of the number of delivery trucks/ vehicles entering the property on a daily basis that identifies arrivals and departure times</p> <p>Record is to be kept by entry security of the number of staff vehicles at the site following the commencement of every new shift.</p> <p>Report required if requested by Tweed Shire Council Community Liaison Committee.</p>
Identification of incident or failure	Vehicles recorded exceeding internal road speed.
Corrective Action	Warnings given to staff to comply with internal speed limit. If any more than three (3) warnings are given, drivers are suspended from activities with vehicles.
Commitment	Management will ensure that a warning system is in place for staff and that delivery trucks/vehicles are within acceptable hours.

8.5 **USE OF HELICOPTER**

TOPIC	USE OF HELICOPTER
Person Responsible	Unit Manager/Site Manager reporting to Line Producer, Granada Productions, Murwillumbah.
Objective	To manage helicopter use so that the development does not adversely impact on the amenity of the locality.
Management Measures	<ol style="list-style-type: none"> <li>1. Confine hours of helicopter use to daylight during the Production Period, unless in the case of emergency. All other times are limited to 7am to 7pm Monday to Saturday and no flights on Sundays.</li> <li>2. No unnecessary hovering or circling by helicopters. Idling whilst stationary or on the ground will be limited to warm-up and cool-down immediately prior to take-off or after landing for safety purposes only.</li> <li>3. Except for pre-approved use set out in point 4, the use of a helicopter in association with any activity under development consent DA 02/1983 is not permitted without the prior approval of the Director of Environment &amp; Community Services (Condition 36 DA 02/1983).</li> <li>4. The Director Environment &amp; Community Services hereby grants pre-approval for the use of helicopters subject to the following: - <ol style="list-style-type: none"> <li>(a) in accordance with other management measures and use between 8am and 6pm during the filming period of the Production Period which will be up to four (4) weeks maximum number of 4 trips per day with a maximum of 12 trips in any 7 day period (1 flight in and 1 flight out is equal to 2 trips).</li> <li>(b) once a week use between 8am and 6pm Monday through to Saturday excluding Sunday during the non-filming period of the Production Period which will be up to eight (8) weeks.</li> </ol> </li> </ol>
Monitoring	Helicopter usage (landing time, on ground and departure times) to be logged per activity.
Reporting	Report to Tweed Shire Council Community Liaison Committee if requested. Review of the pre-approved use at point 4 to be considered if requested by the Tweed Shire Council Community Liaison Committee.
Commitment	All helicopter use will be advised to Tweed Shire Council Director of Environment & Community Services at least 24 hours prior to use. Helicopter routes will be pre-planned to minimise noise or disturbance to adjoining properties.

**Applicants General Comments**

*In considering the Section 96 Application and the amount of weight to be given to the submissions, it should be noted that the project provides significant social and economic benefits to the broader community as addressed in the Section 96 Application and in particular, the Economic Impact Statement annexed to the Town Planning Report.*

*We submit that these wider benefits, together with the significant measures undertaken to date to manage and mitigate potential adverse impacts, adequately address the reasonable issues raised by objectors and therefore, in the circumstances, Council's approval of the modification is considered to be sustainable and in the public interest.*

**Applicants General Comments**

*I'm A Celebrity GMOOH Transport Policy - 2016*

*The transport policy is in place to ensure that we continue in our efforts to reduce the number of vehicles travelling up Dungay Creek Road to site and to ensure that the vehicles that are on site are managed to ensure local traffic safety.*

**Reducing Vehicles on Dungay Creek Road**

*To ensure the reduction of vehicles travelling up Dungay Creek Rd a car park is open at Sanderson's Crane Yard on Campbell's Road (just off Dungay Creek Road).*

*This car park houses approximately 50 cars mainly belonging to local employees. From this car park crew will either pool into one vehicle for the remainder of their journey or catch the regular site bus once it is running.*

**Road Signage**

*Convex Mirrors have been installed on Dungay Creek Road where road geometry obscures vision.*

*Dungay Creek Road is a public road and therefore Granada cannot erect speed restriction signs, however, at inductions crew are advised of the recommended speeds along Dungay Creek Road which are:*

<i>From site to 2nd causeway</i>	<i>30 kph</i>
<i>2<sup>nd</sup> causeway to main road</i>	<i>50 kph</i>

*Drivers speed will be checked intermittently during the production by Granada and individuals concerned disciplined, up to including suspending their ability to drive crew vehicles if necessary.*

*On site the speed limit is 10 kph and signs will be erected on site indicating this.*

*If any staff member is warned more than twice for non-compliance with the internal speed limit, the driver will be suspended from activities with vehicles / or lose a day's pay.*

**Hours of Work**

*Hours of construction work on site will be 0700 - 1900 during the pre-production period and times of crew travelling to and from work will be scheduled around this. During the Production period this is not restricted but hours of work will be monitored and kept to the minimum necessary.*

**Truck Deliveries & Large Equipment**

*Up to and including 3<sup>rd</sup> October (when QLD & NSW are on same time zones)*

*During Pre Production and Production periods all deliveries should be scheduled between the hours of 7:00 am and 7:00 pm, Monday to Saturday. Whenever possible it should also be requested that deliveries are made between 0900 am and 1430 pm or 1615 pm and 1900, therefore avoiding the school bus which runs up Dungay Creek Road at the following times;*

*NSW bus times:*

<i>High School Bus</i>	<i>0800</i>
<i>High School Bus</i>	<i>1600</i>

*From 4th October NSW enters day light saving and Site will operate on QLD Time Zone (Note: site will be closed on Labour Day – 3rd Oct).*

*Therefore according to Site school buses will run at the following times. As above we will try wherever possible to schedule deliveries around this however, if a delivery is coming from NSW they will still be operating on the times given above. QLD based companies will be asked to deliver after 0800 am until 1330 or 1515 pm to 1800.*

*School holidays are from Friday 26<sup>th</sup> September until Monday 9<sup>th</sup> Oct so buses will not be running in this period.*

**Applicants General Comments**

QLD time:

High School Bus 0705

High School Bus 1500

If a large piece of equipment such as a crane/earth mover are being delivered or large trucks are being driven to site then we request that the supplier notifies the Unit department in order that a lead vehicle can be arranged to guide it up Dungay Creek Road and safely onto site and also off site.

**Granada Buses**

During Pre Production buses will only run between 0700 and 1900. Frequency of bus trips will be monitored and reduced where possible at non-peak times. Work rosters are subject to change, but we aim to run hourly buses over a 24 hr period with exceptions around busy times when either an overflow bus is scheduled or a half hourly bus slotted in as required.

**Movement of Stock**

Granada will arrange for personnel to manage traffic when Dungay Creek residents need to move stock across the road or up and down the road from one paddock to another.

**Liaising with Council**

Granada will liaise with Council's Road Safety Office to ascertain if any other safety measures are required within 7 days of Production.

**Monitoring**

Record is to be kept by front gate / entry security of the number of delivery trucks/ vehicles entering the property on a daily basis that identifies arrivals and departure times

Record is to be kept by front gate / entry security of the number of staff vehicles at the site following the commencement of every new shift.


Report required if requested by Tweed Shire Council Community Liaison Committee.

In addition to the response raised to the matters raised within the submission, ITV advises the following concerning the positive economic benefits from the production occurring in Tweed Shire (the full economic report is attached).

**Total yearly spend in Tweed Shire**

Description	Expenditure (\$)		
	IAC15	IBES10	Total
Wages and Salaries	7,131,532	2,910,312	10,041,844
Accommodation	997,294	911,186	1,908,480
Rent	200,000	100,000	300,000
Set Building	116,031	31,596	147,627
Food	18,133	8,881	27,014
Petrol	92,134	39,026	92,134
Solo Waste	27,784	16,692	44,476
Equipment	189,039	38,879	227,919
Other	189,477	83,259	272,736
<b>Total</b>	<b>8,961,424</b>	<b>4,139,831</b>	<b>13,062,229</b>

\*For 25<sup>th</sup> August 2015 to 23<sup>rd</sup> February 2016  
Source: Granada Productions Pty Ltd



Crew Utilising Hotels in Tweed Shire

<b>Hotel</b>	<b>Total Crew Numbers</b>	<b>Total Nights</b>	<b>Total Spend 2016</b>
<b>Mantra Twin Towns</b> Corner of Griffith & Wharf Street, Coolangatta, Tweed Heads, NSW 2485	123 crew accommodated	4336 nights' accommodation	\$400,000
<b>Tweed Ultima</b> 24 Stuart Street, Coolangatta, NSW 2485	98 people accommodated including 2 x main presenters	3101 nights accommodation	\$277,000
<b>The Beach Resort Cabarita</b> 2-6 Pandanus Parade, Cabarita Beach, NSW, 2488	7 people accommodated including 2 x main presenters	205 nights accommodation	\$60,000
<b>Murwillumbah Motor Inn</b> 17 Byangum Road, Murwillumbah, NSW, 2484	9 people accommodated including 2 x main presenters	30 nights accommodation	\$3,000
<b>Peppers Salt Resort &amp; Spa</b> Bells Blvd, Kingscliff, NSW 2487	28 people accommodated including ITV2 presenters	1295 nights accommodation	\$170,000
<b>Paradiso</b> 78 - 80 Marine Parade, Kingscliff, NSW, 2487	23 people accommodated including ITV2 presenters	1800 nights accommodation	\$178,000
<b>Cotton Beach</b> Celerywood Drive & Casuarina Way, Casuarina, NSW 2487	1 people accommodated including ITV2 presenters	35 nights accommodation	\$3500
<b>GRAND TOTAL</b>			<b>\$1,091,500</b>

Local Tweed Shire crew information

Approximately 80 Tweed Shire residents are employed on IAC of which 22 people reside in Murwillumbah/Dungay.

Of these crew members, at least 32 have been employed on the show for 5 years or more.



Details of local crew roles below:

<i>Name</i>	<i>Position</i>	<i>Approx. Years of Employment</i>
<b>ART</b>		
XXXX	Labourer	1
XXXX	Trade Assistant	15
XXXX	Greens Assistant	2
XXXX	Trade Assistant	2
XXXX	Labourer	2
XXXX	2IC Greens	10
XXXX	2IC Art Director	15
XXXX	Trade Assistant	1
XXXX	Carpenter	11
XXXX	Food & Equipment Manager	3
XXXX	Greens Assistant	3
XXXX	Trade Assistant	15
XXXX	Trade Assistant	8
XXXX	ITV 2 Assist Floor Manager	4
XXXX	Food & Equipment Manager	2
XXXX	Labourer	1
<b>Cameras</b>		
XXXX	Trials Jib Assistant	
XXXX	Camera Operator	15
XXXX	Camera Operator	15
<b>Celebrity Chaperone</b>		
XXXX	Assistant Producer	1
XXXX	Assistant Producer	4
<b>Challenges</b>		
XXXX	Challenges Runner	2
<b>XXXX</b>		
XXXX	Logger	1
<b>XXXX</b>		
XXXX	PA	2
XXXX	PA – site relief	15
XXXX	Walk In & Offsite Runner	2
XXXX	Walk In & Greenmount PA	3
XXXX	Walk in Runner	1
XXXX	Walk in Runner	1
XXXX	Walk in Runner	1
XXXX	Walk in Runner	1
<b>PSC Audio</b>		
XXXX	Audio	12
XXXX	Assistant	5

<i>Name</i>	<i>Position</i>	<i>Approx. Years of Employment</i>
<b>XXXX</b>		
XXXX	Studio Elex / System Tech	10
XXXX	Build Assistant / Trials	6
XXXX	Build Assistant / Trials	6
XXXX	LX Build Labourer	6
<b>UNIT</b>		
XXXX	Senior Site Facilities	7
XXXX	Day Site Facilities	3
XXXX	Junior Site Facilities	1
XXXX	Casual Day Site Facilities	5
XXXX	Junior Trials Assistant	5
XXXX	Casual Night Shift Assistant	3
XXXX	Night Shift Manager	6
XXXX	Night Shift Assistant	4
<b>Transport</b>		
XXXX	Driver	7
XXXX	Driver	2
XXXX	Driver	1
XXXX	Driver	1
XXXX	Driver	1
XXXX	Driver	13
XXXX	Driver	2
XXXX	Driver	8
XXXX	Driver	5
XXXX	Driver	3
XXXX	Driver	6
XXXX	Driver	2
XXXX	Driver	3
XXXX	Transport Assistant	1
XXXX	Driver	10
XXXX	Driver	7
XXXX	Driver	3
XXXX	Driver	1
XXXX	Driver	1
XXXX	Driver	9
XXXX	Driver	1
XXXX	Driver	4
XXXX	Driver	5
XXXX	Driver	4
XXXX	Driver	3
XXXX	Driver	2
XXXX	Driver	3

<i>Name</i>	<i>Position</i>	<i>Approx. Years of Employment</i>
XXXX	Driver	5
XXXX	Driver	1
XXXX	Driver	4
XXXX	Driver	2
XXXX	Driver	2
XXXX	Driver	3
XXXX	Driver	10
XXXX	Driver	4

### Tweed Shire charitable donations

- *Murwillumbah Scout Group: Granada has made charitable gifts to the local Scout Group annually since 2011.*
- *Dungay PS and P&C: Over the years Dungay Public School and its P&C have received charitable gifts or money paid for short term hire of equipment.*
- *Tours have been arranged for the Students to visit the site as part of environmental studies in showcasing how an international TV industry works.*
- *Wollumbin High School and P&C: Granada have funded works at the high school and donated money to the P&C.*
- *Excursions to the site by Digital Media Students, has also been conducted.*
- *Wedgetail Retreat Hospice donation.*
- *We will continue to donate to at least two charities or organisations each year.*

### Shops & Services we use in Tweed Shire

<i>A&amp;G Creighton</i>	<i>Advanced Tree Location</i>	<i>Advances Alarms Tweed</i>
<i>Alchemist Factory</i>	<i>All Home Price PLG</i>	<i>Alpine Meats</i>
<i>Aralumbin Nursery</i>	<i>Aussie Fasteners Pty Ltd</i>	<i>Australian Functional Ingredients</i>
<i>Bambi's Coffee Shop</i>	<i>Battery World Tweed Heads</i>	<i>Berrigans Road Nursery</i>
<i>BGL Operations Pty Ltd</i>	<i>Bi-Rite Electrical Pty Ltd</i>	<i>BOC Ltd</i>
<i>Border Blinds, Shutters &amp; Awnings</i>	<i>Border Locksmiths Pty</i>	<i>Bray Park Fuel &amp; Mechanical</i>
<i>Brim Concrete Pty Ltd</i>	<i>Brown &amp; Hann</i>	<i>Budds Mitre 10</i>
<i>Bungalow Farm</i>	<i>Bunnings Group Ltd</i>	<i>Burringbar Rainforest Nursery</i>
<i>Caltex Australia Petroleum</i>	<i>Campbell's Produce</i>	<i>Chillingham Mini Diggers</i>
<i>Cloud Office Supplies</i>	<i>Coastal Plastics</i>	<i>Coles Murwillumbah</i>
<i>Craig Taylor Electricity Pty Ltd.</i>	<i>Crystal Creek Flowers</i>	<i>D&amp;L Custom Cabinets</i>
<i>DAC Planning Pty Ltd</i>	<i>Design By Yohann</i>	<i>Dinki Di Discounts</i>
<i>Diversified Machining &amp; Fabric</i>	<i>Edens Landing</i>	<i>Energetic Greens</i>
<i>Fresh Picked Tomatoes</i>	<i>Good Karma Farmer</i>	<i>Goodyear Autocare Tweed Heads</i>
<i>Gorilla Gear</i>	<i>Greenmount Timber</i>	<i>Greg Malpp &amp; Paul Hession Pharmacy</i>
<i>Hakka Hire</i>	<i>Handyware Pty Ltd</i>	<i>Hardings Earth Moving</i>
<i>Hayes Steel Pty Ltd</i>	<i>Hutchinsons Furniture &amp; Carpet</i>	<i>K L Willott</i>
<i>Kenreach</i>	<i>King Street Medical Centre</i>	<i>Kingscliff Hire &amp; Landscape</i>
<i>Kirra Dive</i>	<i>Larkin Electrical Pty Ltd</i>	<i>Light Source Creative</i>
<i>Luffys Glass</i>	<i>Luxury Paints</i>	<i>Main Street Medical Centre</i>
<i>Marrison Hydraulics</i>	<i>Mental Metal</i>	<i>MTF / NRG</i>
<i>Murwillumbah Hire P/L</i>	<i>Murwillumbah Landscape Supplies</i>	<i>Murwillumbah Mower &amp; Chainsaw</i>

		Centre
<i>Murwillumbah Physiotherapy</i>	<i>Murwillumbah Tree Service</i>	<i>Murwillumbah Vet Clinic</i>
<i>Naven Supplies Pty Ltd</i>	<i>Nimbin Candles</i>	<i>NR Signs</i>
<i>Nullum Physiotherapy</i>	<i>O'Connors Carrying Service</i>	<i>Office Choice Murwillumbah</i>
<i>OI Outdoorism</i>	<i>Pacific Bitumen</i>	<i>Palm Park Wholesale Nursery</i>
<i>Peter Thompson</i>	<i>Print Spot Printing &amp; Design</i>	<i>Queen Street Medical Centre</i>
<i>RJ &amp; W Sandercok</i>	<i>Santos Organics</i>	<i>Scales Seafood</i>
<i>Shade-Tech</i>	<i>Solo Resource Recovery</i>	<i>Stephen Brims</i>
<i>Studio Kite</i>	<i>Super Amart Pty Ltd</i>	<i>Taylor's Corner Service Station</i>
<i>The Australian Essential Oil Company</i>	<i>The Mouse Man</i>	<i>The Reject Shop</i>
<i>Tradetools Regional Pty Ltd</i>	<i>Tropical Fruit World</i>	<i>Tweed Coast Cleaning</i>
<i>Tweed Coast Pool Care</i>	<i>Tweed Crane Hire Pty Ltd</i>	<i>Tweed Seaports Pty Ltd</i>
<i>Uki Sawmill</i>	<i>Viva Energy Australia</i>	<i>Williams Group Australia</i>
<i>Wollumbin Street Medical Centre</i>	<i>Work 'n' Country Gear Murwillumbah</i>	

*In addition to show spend, crew who are accommodated spend on local activities, health and beauty, entertainment and shops within the Tweed Shire.*

## **Section 79C of the Environmental Planning & Assessment Act 1979**

### Section 79C(1) (Evaluation)

#### **(1) Matters for consideration—general**

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

*(a) the provisions of:*

- (i) any environmental planning instrument, and*
  - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) any development control plan, and*
  - (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
  - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
  - (v) any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)),*
- that apply to the land to which the development application relates,*

*(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

*(c) the suitability of the site for the development,*

(d) any submissions made in accordance with this Act or the regulations,

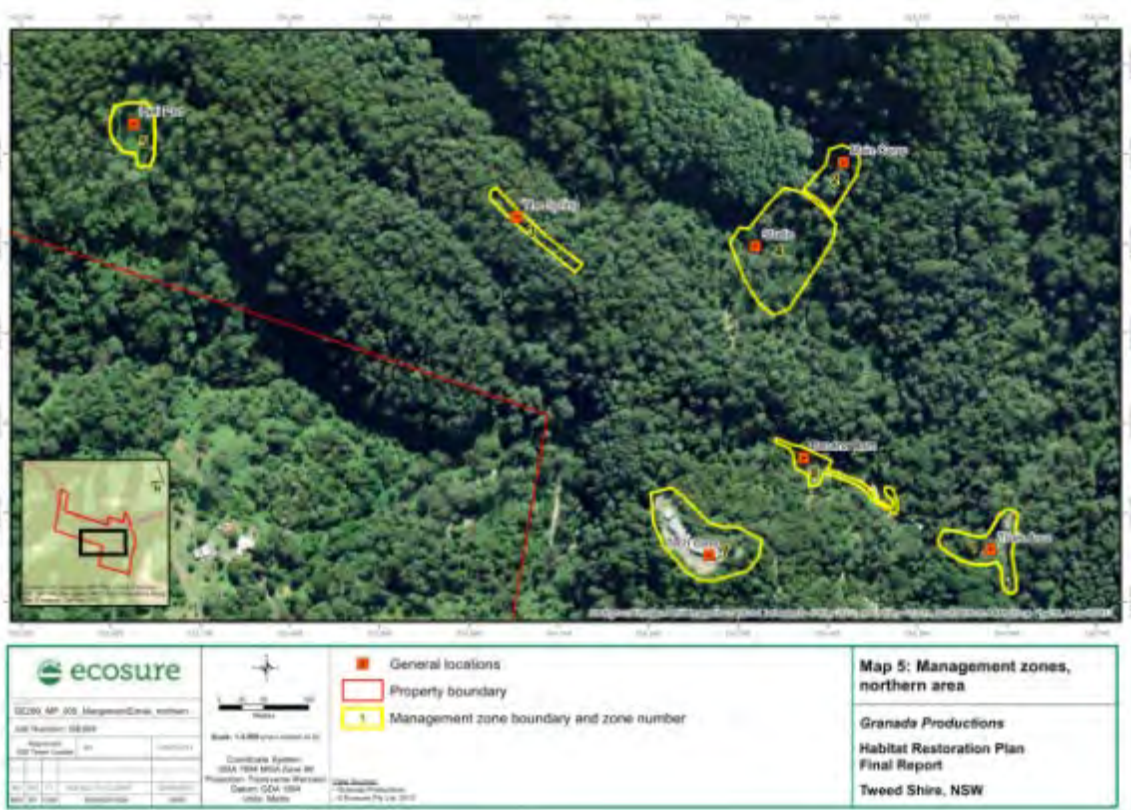
(e) the public interest.

Comment:

The subject site is affected by both Tweed LEP 2000 and Tweed LEP 2014.

The original assessment of the application assessed the use as an innominate land use and under Tweed LEP 2000 the application was considered against the original 1(a) Rural and 7(d) zone objectives.

Today LEP 2000 only applies to the 7(d) portions of the site which affect the helipad No. 2 site only as shown below in the western part of the site:



The subject application makes no changes to the helipad area however there is a condition requiring additional restoration works which would result in a better ecological outcome which would be entirely consistent with the 7(d) zone objectives and Clause 26 which both state as follows:

*Primary objectives*

- to protect and enhance those areas of particular scenic value to the area of Tweed, minimise soil erosion from escarpment areas, prevent development in geologically hazardous areas, and maintain the visual amenity of prominent ridgelines and areas.

*Secondary objective*

- to allow other development that is compatible with the primary function of the zone.

**26 Development in Zone 7 (d) Environmental Protection (Scenic/Escarpment)**

(1) **Objective**

- *to ensure that the development of land within Zone 7 (d) minimises soil erosion and will preserve or enhance the scenic quality of the land and the locality.*

(2) *Unless it is exempt development, a person must not clear vegetation from, excavate or erect a building on land within Zone 7 (d) except with development consent.*

(3) *Consent must not be granted to the erection of a building on land within Zone 7 (d) unless the consent authority is satisfied that:*

- (a) *the scale, height and location of the building, and*
- (b) *the colour, type and reflectivity of materials to be used,*

*will preserve or enhance the scenic quality of the land and the locality.*

All other parts of the filming activities occur within LEP 2014 land zoned RU2 Rural Landscape.

**Tweed Local Environmental Plan 2014**

**Clause 1.2 – Aims of the Plan**

The aims of this plan as set out under Section 1.2 of this plan are as follows:

- (1) *This Plan aims to make local environmental planning provisions for land in Tweed in accordance with the relevant standard environmental planning instrument under section 33A of the Act.*
- (2) *The particular aims of this Plan are as follows:*
  - (a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
  - (b) *to encourage a sustainable, local economy, small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed Shire,*
  - (c) *to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, the built environment, and cultural heritage,*
  - (d) *to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*
  - (e) *to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*
  - (f) *to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,*
  - (g) *to conserve or enhance the biological diversity, scenic quality, geological and ecological integrity of the Tweed,*



- (h) *to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,*
- (i) *to conserve or enhance areas of defined high ecological value,*
- (j) *to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.*

The proposed amendment of the approved filming activity at the subject site by increasing the number of years that filming is allowed to occur at the subject site is not an opportunity to revisit the entire application but rather only consider the amendment being sought. Given the application before Council does not seek to extend their development footprint or increase the nature of their operation. The daily operational and environmental management measures in place are considered robust and sufficient to adequately manage the site in a coordinated and compliant manner. It is considered that the proposed extension and other minor amendments to the development are consistent with the aims of the Plan and will specifically encourage local economic gains and promote international awareness of the natural attributes of the Tweed region.

It is therefore considered that the proposed development is consistent with the aims of the Tweed LEP 2014. As such the proposed amendment to the original development is recommended for approval in this instance.

#### Clause 2.3 – Zone objectives and Land use table

The RU2 Rural Landscape zone objectives are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To provide for a range of tourist and visitor accommodation-based land uses, including agri-tourism, eco-tourism and any other like tourism that is linked to an environmental, agricultural or rural industry use of the land.*

As outlined above, the proposed application does not increase the physical footprint associated with the filming activities. The application seeks to extend the life of an existing consent. Therefore despite the Tweed LEP being amended since 2002 when the original consent was granted Section 109B of the Environmental Planning & Assessment Act 1979 applies and states that:

- (1) *Nothing in an environmental planning instrument prohibits, or requires a further development consent to authorise, the carrying out of development in accordance with a consent that has been granted and is in force.*
- (2) *This section:*
  - (a) *applies to consents lawfully granted before or after the commencement of this Act, and*
  - (b) *does not prevent the lapsing, revocation or modification, in accordance with this Act, of a consent, and*

(c) *has effect despite anything to the contrary in section 107 or 109.*

(3) *This section is taken to have commenced on the commencement of this Act.*

So long as there is an existing development consent in force s109B of the EP&A Act authorises the carrying out of the development in accordance with that consent. The subject Section 96 Application would be amenable to modification in accordance with Act under Section 96 by operation of section 109B(2)(b).

This report demonstrates that the application meets the S96 tests and furthermore due to the temporary nature of the filming application the subject application meets the zone objectives.

### **Tweed Development Control Plan**

#### **A2-Site Access and Parking Code**

The proposed application is monitored under the site management plan for all traffic related activities. This S96 proposed no changes to this element of the proposal.

#### **A11-Public Notification of Development Proposals**

The proposed S96 application was advertised in accordance with this section of the Development Control Plan. Submissions have been received and considered in relation to the proposed amendment. These submissions are addressed in this report.

### **Public Interest**

As is demonstrated in the above report Granada Productions are a well-run organisation who has agreed to comply with all of the recommendations of Council staff to date. The provision of the Site Management Plan and Environmental Management Plan provides Council with the opportunity to ensure that any ongoing potential impacts of the activity can be satisfactorily mitigated.

Although the issue of repeated extension of time is of concern to some local residents, the proposed conditions of consent relating to this application are considered to result in an acceptable outcome in terms of traffic management, noise, and flora and fauna matters. The social/economic benefits of the proposal must also be taken into consideration in terms of balancing any negative issues raised by the development. The proposed extension of time is therefore not considered to be in conflict with the broader public interest and is accordingly recommended for approval.

### **OPTIONS:**

1. Approve the S96 Application in accordance with the recommendation.
2. Refuse the S96 Application.

Council officers recommend Option 1.



**CONCLUSION:**

The original assessment of the application concluded by providing that:

*"The subject land is considered to be suitable for the proposed development. The environmental attributes of the site have made it desirable as a location for the proposed filming. These attributes are valued by the applicant and as such will be protected through environmental management measures within a plan for the site.*

*The remediation of the land following completion of the development will be of benefit. It is considered that the addition of activity in the Dungay Creek area will be able to be undertaken in a manner to limit nuisance to other residences."*

These comments are still concurred with and furthermore the economic impacts as a result of the continuation of the production are considered beneficial to the community and to the Shire as a whole. Subsequently, this application is recommended for approval.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable

**b. Budget/Long Term Financial Plan:**

Not Applicable.

**c. Legal:**

Should the applicant be dissatisfied with the determination they have a right to appeal the decision in the Land & Environment Court.

**d. Communication/Engagement:**

Not Applicable.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1.	Site Management Plan (ECM 4335325)
Attachment 2.	Environmental Management Plan (ECM 4335326)
Attachment 3.	Habitat Restoration Plan (ECM 4335327)
Attachment 4.	Economic Impact Assessment (ECM 4335338)

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## REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

### 13 [CNR-CM] RFO2016090 Air-conditioning Systems Maintenance Services for Tweed Shire Council for a Period of Two Years

**SUBMITTED BY:** Recreation Services

Valid



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
  - 1.3 Delivering the objectives of this plan
  - 1.3.2 Council will seek the best value in delivering services
- 

### SUMMARY OF REPORT:

Request for Offer RFO2016090 Air-conditioning Systems Maintenance Services for Tweed Shire Council for a Period of Two Years was called to engage a qualified and certified air conditioning firm to provide servicing, troubleshooting and repairs to a variety of air-conditioning plant in Council buildings and facilities spread throughout the Shire for a period of two years with an option to extend the contract for a further two years.

At the time of closing three Offers were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report and Offer Evaluation Scoresheet included as **CONFIDENTIAL ATTACHMENTS 1 and 2** respectively. The recommendations are based on the evaluation.

### RECOMMENDATION:

**That in respect to Contract RFO2016090 Air-conditioning Systems Maintenance Services for Tweed Shire Council for a Period of Two Years:**

1. Council awards the contract to L.E.N. Enterprises Pty Ltd (ABN 27 000 724 809 and ACN 000 724 809) for the amount of \$243,515.93 (exclusive of GST).
2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at finalisation of the contract.

3. **ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:**
- (d) **commercial information of a confidential nature that would, if disclosed:**
    - (i) **prejudice the commercial position of the person who supplied it, or**
    - (ii) **confer a commercial advantage on a competitor of the council, or**
    - (iii) **reveal a trade secret.**

## REPORT:

### Offer Background

Request for Offer RFO2016090 Air-conditioning Systems Maintenance Services for Tweed Shire Council for a Period of Two Years was called to engage a qualified and certified air conditioning firm to provide servicing, troubleshooting and repairs to a variety of air-conditioning plant in Council buildings and facilities spread throughout the Shire for a period of two years with an option to extend the contract for a further two years.

### Contract Scope

The contract provides a 24/7, one hour response time and alarm monitoring for over 400 items across 46 Council facilities. This covers all related air conditioning equipment from the large chiller units with air handling systems to split systems and all associated control gear.

Since the previous contract period, numerous new facilities have been added including:

- Tweed Heads Administration Office (THAO)
- Murwillumbah Museum
- Tweed Regional Aquatic Centre (TRAC) Murwillumbah
- Murwillumbah Community Centre (Knox Park)
- Banora Point Waste Water Treatment Plant (WWTP)
- Cemetery facilities including the cremation cool storage facility.
- Tyalgum Water Treatment Plant (WTP)
- Mooball WWTP
- IT server rooms in THAO and Murwillumbah Civic Centre
- Art Gallery MOAC facility

A high quality response service is critical to minimise risks across these facilities, some of which are highlighted below:

- IT server rooms: failure of the air conditioning will shut down the servers and close all business systems for council operations
- Art Gallery: failure of the air conditioning will cause damage to art works and failure to manage the display environment will prohibit access to state and national exhibitions being shown in the facility
- TRAC: the heat pumps provide the required water temperatures and a critical for winter operations as well as year round operation for hydrotherapy pool. Additionally the dehumidification equipment in Murwillumbah TRAC ensures longer building life by minimising condensation on chlorides on steel structures which would accelerate corrosion.
- Administration Offices: Failure of Air-conditioning will result in poor and untenable working environments. The contract also manages a sterilisation system in the ducting to reduce risk and exposure to air borne pathogens, spores etc
- Auditoria and Community spaces: Effective Climate control is a part of the functional requirements of these facilities and directly impacts their utilisation
- Crematorium Cool room: Required under the Health Act.
- WWTP and WTP control rooms: Climate control required for the control equipment and electronics.
- Libraries: required as a functional requirement and to maintain the library book stock in good condition

### Request for Offer Advertising

Offers were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. The Request for Offers was advertised from 20/09/2016 in the Sydney Morning Herald. The Request for Offers was also advertised in the Brisbane Courier Mail and Gold Coast Bulletin and on Council's website.

Offer submissions closed at 4.00pm (local time) on 19 October 2016 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah.

### Offer Addendums

There was one Notice to Bidders issued before close of Offer. Notice to Bidders No.1 was issued to advise Bidders that the Summary of Price Schedules was to include the price for two years.

### Offer Submissions

At the closing time for Offer submissions, the Tender Box was opened and three Offers were recorded as below:

Bidder	ABN
L.E.N. Enterprises Pty Ltd	27 000 724 809
RCR Haden Pty Ltd	59 000 694 173
SAE Group Pty Ltd	34 143 698 864

### Offer Evaluation

An Offer Evaluation Plan was developed based on the premise that competitive Offers were to be received and scored against specific evaluation criteria in order to select the best value Offer.

Council's Offer Evaluation Panel was made up as follows:

Position
Contracts Engineer
Essential Services Officer
Coordinator Recreation and Building Assets

Offers were evaluated based on the criteria noted in the table below which were also listed in the Conditions of Offering.

Criterion	Document Reference	Weighting (%)
Assessed Offer Price (as adjusted)	Schedule 5.9	45
Relevant Experience, Capability and General Performance History	Schedules 5.4 & 5.10	40
Management Systems (WH&S, Quality and Environmental)	Schedule 5.5, 5.6 & 5.7	5
Local Content	Schedule 5.8	10
	<b>Total</b>	<b>100</b>

The details of the price and non-price evaluation are shown on the Offer Evaluation Report and Offer Evaluation Scoring Sheet. A copy of the Offer Evaluation Report and Offer Evaluation Scoresheet are included as ATTACHMENTS 1 and 2 which are CONFIDENTIAL in accordance with Section 10A:

- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret

The information identifies the Bidder in relation to the Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of the Bidder in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Offer.

**OPTIONS:**

1. Council awards the contract to L.E.N. Enterprises Pty Ltd (ABN 27 000 724 809 and ACN 000 724 809) for the amount of \$243,515.93 (exclusive of GST).
2. Accepts an alternative Bidder for RFO2016090.

**CONCLUSION:**

Council awards the Contract RFP2016090 to L.E.N. Enterprises Pty Ltd (ABN- 81 168 035 498, ACN- 168 035 498) for \$243,515.93 (Exclusive of GST) as detailed in the offer evaluation report confidential **Attachment 1** for RFO2016090 Air-conditioning Systems Maintenance Services for Tweed Shire Council for a Period of Two Years.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

The Offer invitation and evaluation have been conducted in accordance with the provisions of:

- The Local Government Act 1993 and the NSW Local Government (General) Regulation 2005
- Council's Procurement Policy v1.6

**b. Budget/Long Term Financial Plan:**

Provision for the RFO2016090 Air-conditioning Systems Maintenance Services for Tweed Shire Council for a Period of Two Years is included in the 2016/2017 Budget and is consistent with previous budgets for this service.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*(Confidential)* Attachment 1. Offer Evaluation Report (ECM 4321237)

*(Confidential)* Attachment 2. Offer Evaluation Scoresheet (ECM 4321208)

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14 [CNR-CM] RFO2016162 Ground Maintenance of Bilambil Sports Fields

SUBMITTED BY: Community and Cultural Services

Valid



Supporting Community Life

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**LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

2	Supporting Community Life
2.3	Provide well serviced neighbourhoods
2.3.6	Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities

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**SUMMARY OF REPORT:**

Request for Offer RFO2016162 Ground Maintenance of Bilambil Sports Fields was called to engage suitably qualified and experienced organisation/s to provide mowing and ground maintenance including turf wicket preparation services for Bilambil Sports Fields Complex for a period of 24 months (two years).

At the time of closing four offers were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. The recommendations are based on the evaluation.

**RECOMMENDATION:**

**That, in respect to Contract RFO2016162 Ground Maintenance of Bilambil Sports Fields:**

- 1. Council awards the contract to Clarks Professional Sportsground Maintenance PTY LTD (ABN 93 102 799 324) for the amount of \$149,090.91 (exclusive of GST).**
- 2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at finalisation of the contract.**
- 3. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
  - (d) commercial information of a confidential nature that would, if disclosed:**
    - (i) prejudice the commercial position of the person who supplied it, or**
    - (ii) confer a commercial advantage on a competitor of the council, or**
    - (iii) reveal a trade secret.**



**REPORT:****Offer Background**

This Offer has been called to engage suitably qualified and experienced organisation/s to provide mowing and ground maintenance including turf wicket preparation services for Bilambil Sports Fields Complex for a period of 24 months (two years).

**Offer Advertising/Distribution**

The Offer was invited in accordance with the provisions of the Local Government Act 1993, the NSW Local Government (General) Regulation 2005 and the Tendering Guidelines for NSW Local Government. The Offer was officially advertised on Tuesday 20 September 2016 in The Sydney Morning Herald and also on 19 September 2016 in the Tweed Link.

**Offer Submissions**

Offer submissions closed at 4.00pm (local time) on 12 October 2016 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah. At the closing time for Offer submissions, the Tender Box was opened and four offers were recorded as below:

<b>Bidder</b>	<b>ABN</b>	<b>Offer (incl GST)</b>
Clarks Professional Sportsground Maintenance PTY LTD	93 102 799 324	Confidential Information
Green Options Pty Ltd	59 002 456 797	
Premier Greenkeeping Services	39 655 672 461	
Sports Turf Services PTY LTD	49 105 789 295	

**Offer Evaluation Panel**

Council's Offer Evaluation Panel was made up as follows:

Supervisor Parks
Engineer Contracts
Unit Coordinator Recreation Services

**Evaluation Criteria**

Offers were evaluated based on the criteria noted in the table below which were also listed in the Conditions of Offer:

<b>Criterion</b>	<b>Document Reference</b>	<b>Weighting (%)</b>
Value for Money (Normalised Offer Price) (Mandatory but Chairperson sets weighting)	Schedule 2 & 3	40
Financial Details and Capacity	Schedule 4	Yes/No Item
Previous and Current Works (Experience)	Schedule 4	5
Project Management (Key Personnel)	Schedule 5	5
Methodology and Work Program (Time)	Schedule 6	10
WHS and Risk Management	Schedule 7	10
Environmental Management	Schedule 7	10
Quality Management	Schedule 7	10
Proposed Subcontractors (Experience)	Schedule 8	Yes/No Item
Company Insurances	Schedule 9	Yes/No Item

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Criterion	Document Reference	Weighting (%)
Sustainable Procurement	Schedule 10	Yes/No Item
Local Content (Mandatory 10% per Policy) (Development of Local Business/Industry)	Schedule 11	10
Innovation	All Schedules	
	Total	100

### Evaluation Summary

The details of the price and non-price evaluation are shown on the Offer Evaluation Report and Offer Evaluation Scoring Sheet. A copy of the Offer Evaluation Report and Offer Evaluation Scoring Sheet are included as ATTACHMENTS 1 and 2 which are CONFIDENTIAL in accordance with Section 10A:

- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret

### Evaluation Discussion

The highest evaluation score represents best financial and service level outcome for Council. Clarks Professional Sportsground Maintenance Pty Ltd achieved the highest overall assessment score and is therefore deemed as the most advantageous option for Council.

### OPTIONS:

1. Award the contract RFO2016162 to Clarks Professional Sportsground Maintenance PTY LTD (ABN 93 102 799 324) for the amount of \$149,090.91 (exclusive of GST).
2. Award the Contract to a different Bidder, including reasons for this course of action.
3. Decline to accept any of the Offers, including reasons for this course of action.

### CONCLUSION:

It is recommended that Clarks Professional Sportsground Maintenance Pty Ltd (ABN 93 102 799 324) be awarded the contract. Clarks Professional Sportsground Maintenance Pty Ltd achieved the highest overall assessment score and is therefore deemed as the most advantageous option for Council.

### COUNCIL IMPLICATIONS:

#### a. Policy:

The Offer invitation and evaluation have been conducted in accordance with:

- Local Government Act 1993 and NSW Local Government (General) Regulation 2005
- Council's Procurement Policy v 1.6

#### b. Budget/Long Term Financial Plan:

Provision for RFO2016162 is included in the 2016/2017 and 2017/2018 Budgets.

#### c. Legal:

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*(Confidential)* Attachment 1. RFO2016162 - Offer Evaluation Report (ECM 4312694)

*(Confidential)* Attachment 2. RFO2016162 - Offer Evaluation Worksheet (ECM 4312706)

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**15 [CNR-CM] Extension of Contract for the Management of Stotts Creek Resource Recovery Centre**

**SUBMITTED BY: Waste Management**

Valid



## Supporting Community Life

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Supporting Community Life
2.3	Provide well serviced neighbourhoods
2.3.4	Provision of high quality, best practice, solid waste disposal with energy recovery, and improving resource recovery practices and infrastructure which meets health and environmental requirements and projected demand

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### SUMMARY OF REPORT:

The contract for management of the Stotts Creek Resource Recovery Centre is due to expire on 31 December 2016. Council was undertaking a procurement process to arrange for a new contract to replace the current arrangement when the NSW Environment Protection Authority (EPA) released a discussion paper proposing substantial changes to the *Protection of the Environment Operations Act 1997*.

The proposed changes to the Act will significantly impact the new contract if adopted as proposed, meaning that Council could not, in good faith, award a new contract knowing that the arrangement would likely need to be varied substantially two months into a seven year term.

This report is provided to update Council on the tender process and to recommend an interim course of action to ensure the new contract is awarded once there is better clarity and certainty about State Legislative requirements.

### RECOMMENDATION:

**That Council:**

- 1. Delegates authority to the General Manager to negotiate a six month extension of the current contract with Solo Resource Recovery (EC2013-139) for the Management of Stotts Creek Resource Recovery Centre until 30 June 2017 at an upper value of \$800,000.**
- 2. Gives the General Manager delegated authority to approve variations up to \$150,000.**

## **REPORT:**

Council advertised open tenders (RFO2016-129) to engage a suitably qualified contractor to undertake the Management of the Stotts Creek Resource Recovery Centre (SCRRC) for a period of seven years on 15 October 2016. The current Contract (EC2013139) is due to expire on 31 December 2016. Tenders were due to close on 30 November 2016.

On 21 October 2016 the NSW EPA released a Consultation Paper (New minimum standards for managing construction and demolition waste in NSW) for comment, detailing significant proposed changes to the Protection of the Environment Operations (POEO) Act and Waste Regulation.

The proposed changes to the POEO Act and Regulation include:

- Extensive amendments that will require Council to inspect, sort, process and test demolition waste and soils,
- Providing Council with the ability to use sorted fines (fill) as an exempt landfill cover,
- Making it an offence for site operations to export waste for disposal and or processing if that site has an approval for the same activity with capacity to accept that type of waste, and
- Removal of the Proximity Principle which Council has been relying on to export waste from site without having to pay the NSW Waste Levy on the exported waste.

A report was put to the Council meeting of 17 November 2016 outlining the proposed changes and the impact these will likely have on Council's SCRRC operations.

The changes have impacted the tender process by potentially changing the method of operation at the SCRRC. The specification that was provided in the original tender may need to be modified significantly depending of what is eventually adopted, and this has led Council to put the tender on hold until such time that certainty can be provided for tenderers.

As a result, Council will need to make provision for interim arrangements. It is proposed that negotiations be undertaken with the current contractor to amend the term of the contract for the operation of the site to allow this to now finish on 30 June 2017, an extension of six (6) month at a value of approximately \$800,000. This would allow the consultation on and the amendments to the POEO Legislation to be finalised and adopted, with the changes proposed to commence on 1 March 2017.

The specification for RFO2016-129 would then be reviewed to see if it requires amendment to comply with the revised legislation, and the tender process would then be recommenced. A report on the procurement process will be put to a future meeting of Council for consideration once the procurement process has been finalised.

## **OPTIONS:**

1. Council has the option to accept the recommendation to extend Contract EC2013139 to 30 June 2017.
2. Council may alternatively choose to not extend the current contract, and either readvertise the current RFO or alternatively put in place interim arrangements for the management of the site.

**CONCLUSION:**

The current contract for the Management of the Stotts Creek Resource Recovery Centre is due to expire on 31 December 2016. A procurement process was being undertaken to arrange a replacement contract (RFO2016129).

That process has now been put on hold as the EPA has proposed amendments to the POEO legislation that would significantly change how the SCRRC would need to be managed and operated.

It is in Council's interest to extend the current Contract EC2013139 by six months to 30 June 2017 to provide the time necessary to gain greater certainty as the legislative changes to the POEO Act are due to take affect from 1 March 2017 if adopted.

Following the amendment of the Act the specification for RFO2016129 will need to be reviewed to ensure any impacts of the changes are incorporated into the service specification in the tender and a revised tender would then be advertised for the operation of the facility which incorporates the amended operating conditions.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable.

**b. Budget/Long Term Financial Plan:**

The cost of operations has been provided for in the approved 2016 / 2017 budget.

The cost of the Contract for the six month extension period would be approximately \$800,000.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

Not Applicable.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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16 [CNR-CM] Aquatic Hire Licenses

SUBMITTED BY: Recreation Services

Valid



Supporting Community Life

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**LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

2	Supporting Community Life
2.3	Provide well serviced neighbourhoods
2.3.6	Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities

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**SUMMARY OF REPORT:**

Request for Offer RFO2016127 Licence to conduct a non-motorised aquatic hire business was called to receive Expression of Interest submissions from organisations wishing to attain a licence to operate a non-motorised aquatic hire business at three available locations; Jack Evans Boat Harbour, Cudgen Creek (Kingscliff) and Cudgera Creek (Hastings Point) for a 3 year period. These businesses hire out non-motorised recreational water craft such as canoes, paddleboards, windsurfers and the like.

At the time of closing eight Offers were received from six Bidders, comprising of four Offers for the Jack Evans Boat Harbour licence site and two each for the Cudgen Creek and Cudgera Creek licence sites.

**RECOMMENDATION:**

That, in respect to RFO2016127 Licence to conduct a non-motorised aquatic hire business:

1. Council determines its preferred option.
2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret.

**REPORT:**

**Offer Background**

Request for Offer RFO2016127 Licence to conduct a non-motorised aquatic hire business was called to receive Expression of Interest submissions from organisations wishing to attain a licence to operate a non-motorised aquatic hire at three available locations; Jack Evans Boat Harbour, Cudgen Creek (Kingscliff) and Cudgera Creek (Hastings Point) for a 3 year period. These businesses hire out non-motorised recreational water craft such as canoes, paddleboards, windsurfers and the like.

**Request for Offer Advertising**

The Request for Offer was advertised from 11 October 2016 to 2 November 2016 in the *Gold Coast Bulletin*, the *Tweed Daily News*, the *Tweed Link* and on Council’s eTender website.

The Request for Offer included a time frame of reporting to Council in December 2016 with the intention of entering into a license agreement in May 2017. The rationale for this time frame is that in the event that an incumbent licensee was unsuccessful, they were afforded reasonable notice to wind down their operation and make alternate arrangements. This also allowed for potential new licensees to make preparations for commencing operations.

**Offer Submissions**

At the closing time for Offer submissions eight Offers were received from six Bidders, comprising of four Offers for the Jack Evans Boat Harbour licence site and two each for the Cudgen Creek and Cudgera Creek licence sites. Offers were recorded as below:

<b>Bidder</b>	<b>Location(s) bid for</b>	<b>ABN</b>
Peter Sloan T/As Caldera Kayak and Paddle Board Experience	• Hastings Point (Cudgera Ck)	57 270 121 883
Paramount Adventure Centres	• JEBH	Not provided
JM Stand Up Paddle Company	• Kingscliff (Cudgen Ck) • Hastings Point (Cudgera Ck) • JEBH	1 21 51 61 8870
Paula & Damon Kloots	• JEBH	89 997 371 828
Watersports Guru	• Kingscliff (Cudgen Ck)	81 688 676 030
Big Trev’s Watersports Tweed Heads	• JEBH	No ABN (sole trader)

**Offer Evaluation**

Offers were evaluated based on the criteria noted in the table below which were also listed in the Conditions of Offering.

<b>Criterion</b>
Proposed intended use of the licensed area is in accordance with the Contract conditions
Demonstrated capability to perform the Services as specified
Relevant experience with contracts/services of a similar nature
Knowledge of local area and conditions



<b>Criterion</b>
Safety record
Understanding of and ability to work with/contribute to local community networks
Environmental performance and local content
Offered Licence Fee

**Price:**

Please refer to Confidential Attachment A.

**Non-Price Criteria:**

The responses to the non-price criteria are summarised in the tables below:

<b>Caldera Kayak and Paddle Board Experience</b>		
	<b>Assessment Criteria</b>	<b>Comments</b>
1	Proposed intended use of the licensed area is in accordance with the contract conditions	Yes
2	Demonstrated capability to perform the services as specified	<ul style="list-style-type: none"> <li>• Has successfully operated hire service from Cudgera Creek since 2003 with no issues.</li> <li>• Holds RMS Hire &amp; Drive License</li> <li>• Services offered:                             <ul style="list-style-type: none"> <li>○ Kayak &amp; Stand Up Paddle Board Hire (hourly, half day and full day)</li> <li>○ Guided Kayak &amp; Stand Up Paddle Board Estuary Tours</li> <li>○ Private and group lessons</li> </ul> </li> </ul>
3	Relevant experience with contracts/services of a similar nature	<ul style="list-style-type: none"> <li>• Has successfully operated hire service from Cudgera Creek since 2003.</li> <li>• Has worked positively with Council on environmental initiatives and water based activities</li> <li>• No issues have arisen during this time</li> </ul>
4	Knowledge of local area and conditions	<ul style="list-style-type: none"> <li>• In addition to operating the hire service, undertakes kayak and stand up paddle board (SUP) eco adventures along Cudgera Creek so has a thorough understanding of local area and conditions.</li> <li>• Demonstrates a very sound knowledge of local area</li> </ul>
5	Safety record	<ul style="list-style-type: none"> <li>• No safety incidents</li> <li>• Safety policy and procedures in place.</li> <li>• Has assisted with several unrelated water safety incidents in the local area</li> </ul>

<b>Caldera Kayak and Paddle Board Experience</b>		
	<b>Assessment Criteria</b>	<b>Comments</b>
6	Understanding of and ability to work with/contribute to local community networks	<ul style="list-style-type: none"> <li>• Over the 14 years of operation has worked with a broad range of local and community groups and organisations including: <ul style="list-style-type: none"> <li>○ South Passage Adventure Under Sail</li> <li>○ Hasting Point Marine Studies Centre</li> <li>○ Tweed Shire Council</li> <li>○ Big4 North Star Holiday Resort</li> <li>○ Adventure Education</li> <li>○ NRA Services</li> <li>○ Pottsville Bait &amp; Tackle</li> <li>○ In2Surf Surf School</li> <li>○ Tweed Coast Surf School</li> <li>○ Watersports Guru</li> <li>○ Tweed Valley Wild Life Carers</li> <li>○ Clean Up Australia Day</li> <li>○ World Environment Day</li> </ul> </li> <li>• Has worked with carers for children at risk in the Tweed area providing kayaks and other related activities.</li> <li>• Has donated time and equipment to charities like Camp Quality and gift vouchers of kayak &amp; paddle board hire and tours for fundraisers for the Big4 North Star Holiday Resort to raise money to support Camp Quality.</li> <li>• Provides first-aid and assistance to the general public at and around the operating area, tourist information weather information, and promotes "take 3 for the sea" and helps keep Cudgera Creek Park clean and tidy.</li> <li>• Has previously held 'Clean Up the WaterWays' events with its team, providing creek clean ups a number of times per year.</li> </ul>
7	Environmental performance and local content	<ul style="list-style-type: none"> <li>• Has developed and implemented an environmental policy, supplemented by an environmental management system.</li> <li>• Promotes "take 3 for the sea" and helps keep Cudgera Creek Park clean and tidy.</li> <li>• Has previously held 'Clean Up the WaterWays' events with its team, providing creek clean ups a number of times per year.</li> <li>• Runs a variety of environmental education programs</li> </ul>

<b>JM Stand Up Paddle Board Company</b>		
	<b>Assessment Criteria</b>	<b>Comments</b>
1	Proposed intended use of the licensed area is in accordance with the contract conditions	Yes
2	Demonstrated capability to perform the services as specified	<ul style="list-style-type: none"> <li>Operating SUP hire and instruction business since 2009. Currently operating at Currumbin Creek and Tweed River (Seagulls)</li> </ul>
3	Relevant experience with contracts/services of a similar nature	<ul style="list-style-type: none"> <li>Operating SUP hire and instruction business since 2009. Currently operating at Currumbin Creek and Tweed River (Seagulls)</li> <li>Provides rental, training, group SUP fitness and SUP yoga</li> <li>Engages with Gold Coast City Council to provide Stand Up Paddle boarding to the Gold Coast's Active and Healthy Program and Active and Healthy School Holiday Program.</li> </ul>
4	Knowledge of local area and conditions	
5	Safety record	<ul style="list-style-type: none"> <li>No safety incidents</li> <li>Certification of WHS Management with to AS/NZS SO 480</li> <li>Academy of Surfing Instructors accredited</li> </ul>
6	Understanding of and ability to work with/contribute to local community networks	<ul style="list-style-type: none"> <li>Partners with Nerang PCYC to provide SUP activity days for local youth.</li> <li>Partners with private companies such as Lorna Jane to operate SUP activity days.</li> <li>Supported Active National Day, Gold Coast 2010 hosted by Lorna Jane (Byron Bay) at Currumbin Beach with SUP lessons to improve women's access to and engagement in a healthy and active lifestyle.</li> <li>Currently engages in sessions for special needs children and adults through Gold Coast Sport and Recreation.</li> <li>Will seek to provide similar services and partnerships at the Tweed locations.</li> <li>Commenced talks with Mike Crawley, Director of Lifesaving at Cudgen Headland Surf Life Saving Club in regards to hiring members for water safety.</li> <li>Also is offering to provide a Scholarship per location if securing these Licences. Under the Scholarship, the Surf Life Saving Club will pick one teenage member and JM Stand Up Paddle Company will pay for them to become an ASI qualified Stand Up Paddle instructor.</li> <li>Engaged Cabarita-based Rees International tourism</li> </ul>

<b>JM Stand Up Paddle Board Company</b>		
	<b>Assessment Criteria</b>	<b>Comments</b>
		consultancy to increase its marketing and engage with China and Asia and increase inbound tourism to the Tweed.
7	Environmental performance and local content	<ul style="list-style-type: none"> <li>Complies with Academy of Surfing Instructors (ASI) Environmental Impact (Natural and Social) Policy and complies with the ASI Environmental Risk Management Register.</li> <li>The ASI Environmental Impact and Risk Management Register and process has been established based on Australian Standard AS/NZS ISO 31000:2009.</li> <li>Company demonstrates its commitment to sustainability, energy efficiency and greenhouse gas reduction through sourcing and procurement of materials. Suppliers of assets, including boards and kayaks, are selected on criteria that include sustainable practices.</li> </ul>

<b>Big Trev's</b>		
	<b>Assessment Criteria</b>	<b>Comments</b>
1	Proposed intended use of the licensed area is in accordance with the contract conditions	Yes
2	Demonstrated capability to perform the services as specified	<ul style="list-style-type: none"> <li>Has been operating hire service at Jack Evans Boat Harbour for 15 years.</li> <li>Holds RMS Hire &amp; Drive License</li> <li>Offers kayaking, paddle boarding, kids' activities, aqua tube, environmental educational program, Swap Screen Time for Green Time programs, green exercise, team building/workplace wellness sessions, community engagement programs.</li> </ul>
3	Relevant experience with contracts/services of a similar nature	<ul style="list-style-type: none"> <li>Services include kayak hire, stand-up paddle board hire and tuition, 2 and 4 seat paddle boat hire and catamaran hire, VU boards.</li> <li>Has worked positively with Council on water based activities use at JEBH in an area of high use.</li> </ul>
4	Knowledge of local area and conditions	<ul style="list-style-type: none"> <li>Has been operating service in Jack Evans Boat Harbour for 15 years.</li> <li>Demonstrates extensive knowledge of the local water conditions and water based activities in the area.</li> </ul>
5	Safety record	<ul style="list-style-type: none"> <li>No incidents.</li> <li>Has policies and procedures.</li> </ul>
6	Understanding of and ability to work with/contribute to local community networks	<ul style="list-style-type: none"> <li>Multiple letters of support from local community groups and individuals</li> <li>Letter of commendation from Tweed Valley Wildlife</li> </ul>

<b>Big Trev's</b>		
	<b>Assessment Criteria</b>	<b>Comments</b>
		<p>Carers for assistance provided to local fauna.</p> <ul style="list-style-type: none"> <li>• Provides first aid to recreational users, residents and tourist manly from oyster cuts climbing the rocks</li> <li>• Clean up Australia Day, supervises and organise site, each year it gets bigger. Provides a BBQ and acoustic musicians playing to thank our Tweed Heads Volunteers.</li> <li>• Bungalwena Health, Northern NSW Local Health District Bungalwena Goori Walk a Mile. Help set up, pack up and donate passes and take part in the proceedings.</li> <li>• VMR Point Danger helped with Paddle Boats, Kayaks and Raft Races and donates prizes for the very worthy cause.</li> <li>• Tweed Heads and Coolangatta Surf Club – tadpole and nipper Christmas parties at the Harbour. Club Junior Presentation Days and also help with the set up and safety and donate to this Heritage Surf Club.</li> <li>• Rainbow Bay SLSC – looks after nipper presentations, team bonding board training and donates.</li> <li>• Tweed Seabird Rescue - when birds in distress calls Sea Bird Rescue and works together to solve issues.</li> <li>• Currumbin Community Special School - fun water BBQ day with special needs kids and also special need adults and teenagers with their carers on a regular basis to enjoy the watersports equipment. Some have been coming for years as a part of their exercise and rehabilitation support.</li> <li>• Duranbah Grommets have fun days and BBQs when waves are too big.</li> <li>• Raise for Region: Currently producing a CD of local professional musicians for upcoming festive season with all procedures to Tweed Heads Hospital.</li> </ul>
7	Environmental performance and local content	<ul style="list-style-type: none"> <li>• Site supervisor for Tweed Heads Clean Up Australia Day for 15 years</li> </ul>

<b>Water Sports Guru</b>		
	<b>Assessment Criteria</b>	<b>Comments</b>
1	Proposed intended use of the licensed area is in accordance with the contract conditions	Yes
2	Demonstrated capability to perform the services as specified	<ul style="list-style-type: none"> <li>• 7 years of operating water sports of the highest standard at Cudgen Creek, a further 6 years in other Tweed locations.</li> <li>• Holds RMS Hire &amp; Drive License</li> </ul>

<b>Water Sports Guru</b>		
	<b>Assessment Criteria</b>	<b>Comments</b>
		<ul style="list-style-type: none"> <li>• Has worked positively with Council on environmental initiatives and water based activities</li> <li>• No issues have arisen during this time</li> </ul>
3	Relevant experience with contracts/services of a similar nature	<ul style="list-style-type: none"> <li>• 13 years of operating water sport activities</li> <li>• Director and facilitator of Teambuilding Guru and GreenX.</li> </ul>
4	Knowledge of local area and conditions	<ul style="list-style-type: none"> <li>• Operated from Cudgen Creek for 7 years</li> <li>• Before that owned, lived and worked in Tweed operating Kirra Dive.</li> <li>• Sat on the board of Destination Tweed, Kingscliff Chamber of Commerce, Tweed, Coastal Committee, Rotary Club, Kingscliff locality plan and many more</li> </ul>
5	Safety record	<ul style="list-style-type: none"> <li>• Minor incidents requiring first aid.</li> <li>• WHS systems in place</li> </ul>
6	Understanding of and ability to work with/contribute to local community networks	<ul style="list-style-type: none"> <li>• Employing local staff.</li> <li>• Donate \$1000s of dollars each year to charities.</li> <li>• Provides free water sports for those that can't afford it.</li> <li>• Creates environmental educational programs for customers to educate them on the importance of our shire to stay green and clean.</li> <li>• At the heart of everything they do it's about connection, they don't hire water sports equipment, they create an environment where people can connect to themselves, others and the natural environment through safe and fun activities.</li> <li>• Since operation began have supported almost every school, SLSC, charity appeal, fundraiser, environmental program on the Tweed.</li> <li>• Have donated thousands of dollars in cash to local initiatives through their team building programs.</li> </ul>
7	Environmental performance and local content	<ul style="list-style-type: none"> <li>• Includes environmental management plan.</li> <li>• Has website <a href="http://www.macs-cares.org">www.macs-cares.org</a>, an initiative of Watersports Guru, to educate their customers on the importance of the local environment.</li> <li>• Engage local schools and corporate companies to plant trees both on the estuaries and dunes.</li> <li>• Offer discounts if people pick up rubbish and run marine education programs for school curriculums.</li> <li>• Employ marine biologists and environmental scientists to help improve their business development practices.</li> </ul>

<b>Paramount Adventures</b>		
	<b>Assessment Criteria</b>	<b>Comments</b>
1	Proposed intended use of the licensed area is in accordance with the contract conditions	Yes
2	Demonstrated capability to perform the services as specified	<ul style="list-style-type: none"> <li>Stand-up paddle board hire and lessons, kayaking hire and lessons, adventure training programs, school group programs, corporate programs, church and social group programs.</li> <li>Also see the location as an excellent training facility for their instructor training courses.</li> </ul>
3	Relevant experience with contracts/services of a similar nature	<ul style="list-style-type: none"> <li>22years of experience in providing adventure based programs, courses and learn to paddle sessions.</li> </ul>
4	Knowledge of local area and conditions	<ul style="list-style-type: none"> <li>22years of experience operating on the Gold Coast.</li> <li>Presently operating a abseiling and climbing business on the Point Danger Cliffs.</li> <li>Also have conducted learn to surf lessons on the local beaches</li> </ul>
5	Safety record	<ul style="list-style-type: none"> <li>No incidents</li> <li>WHS system in place</li> </ul>
6	Understanding of and ability to work with/contribute to local community networks	<ul style="list-style-type: none"> <li>Has a large contact list of groups and schools that have presently and in the past contracted us to deliver programs.</li> <li>Clients travel from Byron Bay through to the northern end of the Gold Coast to participating in our sessions.</li> <li>We also work with international students and tourists as well as tour groups from Victoria.</li> <li>We are keen to work with local businesses and presently have arrangements with local scouts and girl guide groups as well as church youth groups,</li> <li>We also offer discounted rates to not for profit organisations and other charity based</li> </ul>
7	Environmental performance and local content	<ul style="list-style-type: none"> <li>Policy of "leave no trace", meaning that after they access sites they leave them in as best condition as possible.</li> </ul>

<b>Paula and Damon Kloots</b>		
	<b>Assessment Criteria</b>	<b>Comments</b>
1	Proposed intended use of the licensed area is in accordance with the contract conditions	Yes
2	Demonstrated capability to perform the services as specified	<ul style="list-style-type: none"> <li>SUP and kayak hire, provision of a small SUP dock (to attach to existing anchor in JEBH which previous Licensee used for paddle boats) to facilitate safe and enjoyable SUP yoga classes, provision of floating sunbeds to hire for sun-baking out on the water.</li> </ul>



<b>Paula and Damon Kloots</b>		
	<b>Assessment Criteria</b>	<b>Comments</b>
3	Relevant experience with contracts/services of a similar nature	<ul style="list-style-type: none"> <li>Stand up paddle board and kayak lesson and hire business since 2015</li> </ul>
4	Knowledge of local area and conditions	<ul style="list-style-type: none"> <li>Aware that the JEBH is quite a shallow, tidal area of water located in the north eastern area of Tweed Heads.</li> <li>Having been a Tweed Shire rate payer over the past 18 years, they are extremely aware of the area and current use of the area.</li> </ul>
5	Safety record	<ul style="list-style-type: none"> <li>No incidents</li> <li>WHS procedures in place</li> </ul>
6	Understanding of and ability to work with/contribute to local community networks	<ul style="list-style-type: none"> <li>Will continue to work with local community groups to enable the site and facilities to be accessible by all demographics, eliminating an issue of affordability.</li> <li>Currently work with St Vincent De Paul, Fred's Place, Tumbulgum Community Association and local business' fundraising events to provide vouchers, raffle prizes, discounts and complementary passes. This contribution would continue and be expanded upon should their Offer be successful.</li> </ul>
7	Environmental performance and local content	<ul style="list-style-type: none"> <li>Have an environmental management system.</li> </ul>

As comparative summary of the pros and cons of the competing bids per site is provided in the following tables:

<b>Jack Evans Boat Harbour (JEBH)</b>		
<b>Operator</b>	<b>Pro's</b>	<b>Cons</b>
Big Trevs	<ul style="list-style-type: none"> <li>Greater offering of hire equipment than other submissions. Only operator that includes hire of 2 and 4 seat paddle boats and catamarans.</li> <li>15 years at the site has developed a broad range of community connections and the submission demonstrated a very high level of community support.</li> <li>Sustained operations at the site prior to the redevelopment when it had fewer visitations and also through the JEBH construction period.</li> </ul>	<ul style="list-style-type: none"> <li>Equipment appears 'tired'.</li> <li>Limited 'values-add' such as broader program offerings.</li> <li>Less sophisticated systems and operations than others.</li> </ul>



<b>Jack Evans Boat Harbour (JEBH)</b>		
<b>Operator</b>	<b>Pro's</b>	<b>Cons</b>
JM Stand Up Paddle Company	<ul style="list-style-type: none"> <li>• Experience with similar operations at Currumbin Creek.</li> <li>• ASI accredited to teach SUP.</li> <li>• Has demonstrated capacity to foster relations with community groups and willingness to support community based organisation.</li> <li>• Highest monetary offer.</li> </ul>	<ul style="list-style-type: none"> <li>• Less experience than some other operators.</li> <li>• Connections are Gold Coast based.</li> </ul>
Paramount Adventure Centres	<ul style="list-style-type: none"> <li>• Broad range of adventure offerings to supplement hire business</li> <li>• 22 years' experience</li> </ul>	<ul style="list-style-type: none"> <li>• Experience largely based on running adventure courses and programs as opposed to equipment hire.</li> <li>• Lesser monetary offer</li> </ul>
Paula and Damon Kloots	<ul style="list-style-type: none"> <li>• Local to the Tweed</li> </ul>	<ul style="list-style-type: none"> <li>• Limited experience, only 24 months experience in hire operations.</li> <li>• Limited demonstrated experience working with community groups and other organisations.</li> <li>• Lowest monetary offering</li> </ul>

<b>Cudgen Creek (Kingscliff)</b>		
<b>Operator</b>	<b>Pro's</b>	<b>Cons</b>
JM Stand Up Paddle. Company	<ul style="list-style-type: none"> <li>• Experience with similar operations at Currumbin Creek.</li> <li>• ASI accredited to teach SUP</li> <li>• Has demonstrated capacity to foster relations with community groups and willingness to support community based organisation</li> </ul>	<ul style="list-style-type: none"> <li>• Connections are Gold Coast based.</li> <li>• Proposes various initiatives with local Surf Club, but no established relationships.</li> <li>• Has applied for 3 locations and would require additional staff.</li> </ul>
Watersports Guru	<ul style="list-style-type: none"> <li>• 7 years' experience at this location</li> <li>• Extensive established relationships and membership with local community organisations</li> <li>• Numerous value add programs and offerings</li> <li>• Sound environmental education and management ethos</li> </ul>	<ul style="list-style-type: none"> <li>• Nil</li> </ul>

Cudgera Creek (Hastings Point)		
Operator	Pro's	Cons
JM Stand Up Paddle Company	<ul style="list-style-type: none"> <li>• Experience with similar operations at Currumbin Creek.</li> <li>• ASI accredited to teach SUP</li> <li>• Has demonstrated capacity to foster relations with community groups and willingness to support community based organisation.</li> <li>• Highest monetary offer</li> </ul>	<ul style="list-style-type: none"> <li>• Connections are Gold Coast based.</li> <li>• Proposes various initiatives with local Surf Club, but no established relationships.</li> </ul>
Caldera Kayak and Paddle Board Experience	<ul style="list-style-type: none"> <li>• Operated business from site for 13 years.</li> <li>• Also offers eco-tours of the estuary.</li> <li>• Extensive local; knowledge and relationships with local community groups and organisations.</li> <li>• Sound environmental ethos and emphasis on environmental education in programs.</li> </ul>	<ul style="list-style-type: none"> <li>• Lesser monetary offering.</li> </ul>

**Discussion:**

While there is some disparity in the licence fees Offered for JEBH and Cudgera Creek sites, the quantum of income to Council produced by these licences is relatively insignificant. This being the case, the offer of a Bidder should be considered more in terms of providing a community service than being an income-generator for Council. Having these hire facilities at these sites is also a mechanism for managing the number of similar operations that can operate from the coastal waterways.

The decision for Council then may be framed in terms of 'which bid provides the best outcome for the community?'

Another consideration with regards to the existing Licence holders is that they have built a business at these sites during periods where the population and therefore potential customer base was significantly less. As their business is on public land, the investment made in developing the business is not a saleable asset and therefore this investment will be to the benefit of the successful Bidder, should the Licence be awarded to a new provider.

With consideration to these factors and the high level of community satisfaction demonstrated for the existing licence holders, the options presented to Council will be to award the Licences to the existing Licence holders, award the Licences to an alternative Bidder, or refuse all Offers.

**OPTIONS:**

That Council:

1. Awards a licence to Big Trev's to operate a non-motorised aquatic hire business at Jack Evans Boat harbour for a 3 year period commencing 1 May 2017.

Or

Awards a licence to another of the Bidders to operate a non-motorised aquatic hire business at Jack Evans Boat harbour for a 3 year period commencing 1 May 2017.

Or

Rejects all Offers in response to RFO2016127 to operate a non-motorised aquatic hire business in Jack Evans Boat harbour.

2. Awards a licence to Watersports Guru to operate a non-motorised aquatic hire business at Cudgen Creek, Kingscliff for a 3 year period commencing 1 May 2017.

Or

Awards a licence to another of the Bidders to operate a non-motorised aquatic hire business at Cudgen Creek, Kingscliff for a 3 year period commencing 1 May 2017.

Or

Rejects all Offers in response to RFO2016127 to operate a non-motorised aquatic hire business in Cudgen Creek, Kingscliff.

3. Awards a licence to Caldera Kayak and Paddleboard Experience to operate a non-motorised aquatic hire business at Cudgera Creek, Hastings Point for a 3 year period commencing 1 May 2017.

Or

Awards a licence to another of the Bidders to operate a non-motorised aquatic hire business at Cudgera Creek, Hastings Point for a 3 year period commencing 1 May 2017.

Or

Rejects all Offers in response to RFO2016127 to operate a non-motorised aquatic hire business in Cudgera Creek, Hastings Point.

**CONCLUSION:**

The provision of a licence to operate a non-motorised aquatic hire business from the three locations does not represent a significant income opportunity for Council at this point in time. Accordingly, the decision on who may be best to offer a licence to will be largely based on the provision of the best outcome for the community based on non-price criteria.

The current Licence holders have built the business at these sites over many years which has also provided them the opportunity to develop relationships with numerous local organisations. A number of the other Bidders also demonstrate a capacity to operate a successful business at these locations and develop community relationships.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

The Offer invitation has been conducted in accordance with the provisions of Council's Procurement Policy.

**b. Budget/Long Term Financial Plan:**

Licence fee income varying dependent upon which bid is successful.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*(Confidential)* Attachment 1. Offer prices for the three locations (ECM 4337945)

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## REPORTS FROM THE DIRECTOR ENGINEERING

### 17 [E-CM] Building Better Regions Fund - Infrastructure Projects Stream

SUBMITTED BY: Director

Valdms

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## Strengthening the Economy

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

3	Strengthening the Economy
3.1	Expand employment, tourism and education opportunities

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### SUMMARY OF REPORT:

On 23 November 2016 the Australian Government announced the release of the program guidelines for the new Building Better Regions Fund. This Fund will invest \$297.7 million over four years in infrastructure projects and community investments to create jobs, drive economic growth and build stronger regional communities into the future. The infrastructure stream of this round of funding will close 28 February 2017.

This report recommends that Council resolve to submit the Northern Rivers Rail Trail – Tweed Section and Kennedy Drive Interchange projects for this Round of funding, with Knox Park Amenities and Entry Plaza to be considered as a substitute or alternate project.

### RECOMMENDATION:

That Council:

1. Submits two applications for funding under the Building Better Regions – Infrastructure Stream being:
  - a) Northern Rivers Rail Trail (Tweed Section) project.
  - b) Kennedy Drive Interchange project.
2. Seeks an urgent letter of commitment from the NSW State Government for matching funding for the Northern Rivers Rail Trail (Tweed Section) for inclusion with its application, which closes 28 February 2017.
3. Promotes the Community Investment Stream through Destination Tweed, community associations, environmental groups, not for profit organisations and business chambers.

## REPORT:

### Background

On 23 November 2016 the Australian Government announced the release of the program guidelines for the new Building Better Regions Fund (BBRF).

The BBRF will invest \$297.7 million over four years in infrastructure projects and community investments to create jobs to drive economic growth and build stronger regional communities into the future.

Grants are available through two funding streams; Infrastructure Projects and Community Investments.

- Infrastructure Projects Stream will support projects which involve the construction of new infrastructure, or the upgrade or extension of existing infrastructure that provide economic and social benefits to regional and remote areas.
- The Community Investments Stream will fund community building activities including, but not limited to, new or expanded local events, strategic regional plans, and leadership and capability building activities. These projects will deliver economic and social benefits to regional and remote communities.

The Department of Industry, Innovation and Science's AusIndustry Business Grants Hub is responsible for administering the program on behalf of the Department of Infrastructure and Regional Development (this includes grant application, enquiries and project management activities).

Program Guidelines, the application form, contact details for enquiries, and other programme information is attached to this report and is also available for their web site at [www.business.gov.au/bbrf](http://www.business.gov.au/bbrf).

The Building Better Regions Fund was previously known as the National Stronger Regions Fund (NSRF).

Last year in NSRF round 2 of the NSRF Council was successful in securing a grant of \$9.8 million towards the \$21 million Protection & Revitalisation of Kingscliff Foreshore Project.

In Round 3 of the NSRF Council submitted an application for the Tweed Stage of the Northern Rivers Rail Trail with a grant value of \$6.4 million. This application was unsuccessful. Council officers have received feedback from the Department that the application was unsuccessful as we were unable at the time to obtain commitment from the NSW State Government for matching funding. The Department has advised that they would accept "*a letter of commitment from the State Government in a future application*". Given that the poles and wires funding will soon be available it is considered appropriate that the NRRT project be resubmitted as a BBRF project.

### BBRF – Infrastructure

The BBRF Infrastructure stream will open for applications on 18 January 2017 and close on the 28 February 2017. Successful projects must be commenced 12 weeks from the

execution of the funding agreement. The guidelines identify that to be successful the projects must score highly against the following criteria;

- the economic benefit your project will deliver to the region during and beyond the construction phase;
  - the social benefit your project will deliver to the region during and beyond the construction phase;
  - the value for money offered by your project;
  - the project delivery - your capacity, capability and resources to carry out the project.
- 
- Grants are between \$20,000 and \$10 million;
  - Project must be completed by 31 December 2019
  - Grant funding will be up to 50% of eligible project costs
  - Evidence of co-funding to be provided
  - Project must not have commenced at time of application
  - Two applications per Council per round are permitted. It is recommended that Council consider two projects for consideration in this round.

### Northern Rivers RDA

The Chair, the Honourable, Mr Don Page and new Chief Executive Officer, Mr Alex Smith, of Regional Development Australia (RDA) Northern Rivers presented to the June 2016 NOROC meeting and made a request for councils to identify their top 3 "shovel ready" projects for inclusion in a review by RDA Northern Rivers that will identify the top ten regional priorities and projects.

As a result of this request Council resolved at its meeting on 21 July 2016 the following:

*"... that Council prioritises the list for submission to Regional Development Australia Northern Rivers for consideration of inclusion in the region's top ten projects for funding consideration as follows:*

<i>Project</i>	<i>Ranking</i>
<i>Northern Rivers Rail Trail</i>	<i>\$13.04m</i>
<i>Tweed Valley Way Riverbank Stabilisation</i>	<i>\$9m</i>
<i>Clarrie Hall Dam Raising</i>	<i>\$64m</i>
<i>All Access Playground Ebenezer Park</i>	<i>\$2.64m</i>
<i>Kennedy Drive Interchange with the Pacific Highway</i>	<i>\$6m</i>
<i>Renewable Energy Projects</i>	<i>\$6.1m</i>
<i>Stage 2 Arkinstall Park</i>	<i>\$28m</i>
<i>Stage 2 Kirkwood Road</i>	<i>\$38.4m</i>

"

### Project Status Summary

The following table lists the projects and their current status in terms of detailed design and approvals.

<b>Project</b>	<b>Estimate of Cost</b>	<b>Concept Design</b>	<b>Detailed Design</b>	<b>Planning Approvals</b>
Northern Rivers Rail Trail	\$13.04m	Yes. - Detailed	Stage 1 to TRAG complete and remainder could be produced in stages to allow construction to continue	A Part V planning approval is required Approval 98% complete for Stage 1 to the TRAG
Clarrie Hall Dam Raising	\$64m	Yes. - Concept	No.	A Part V and EIS required and several supporting studies required some preliminary studies commenced.
Tweed Regional Accessible Playground and Park Tweed Heads (Ebenezer Park)	\$2.64m	Yes. - Concept	No. Could be progressed relatively quickly	A Part V required. Previously exempt Development
Arkininstall Park Stage 2	\$28m	Yes. - Concept	No.	A Part V required Other studies and consultation completed
Kirkwood Road and Pacific Highway Interchange Ramps - Stage 2	\$38.4m	Yes - Detailed	No. Road design completion straight forward but bridge over motorway design complex and time consuming as RMS input and approval required	Planning Approvals issued
Tweed Valley Way Riverbank Stabilisation	\$9m	No. But Locations of works identified	No. Could be progressed relatively quickly	A Part V application/s required but fairly straight forward
Kennedy Drive Interchange with Pacific Highway Upgrade	\$6m	Yes. - Concept only	No. Design process is involved as RMS would need to be consulted	A Part V required
Renewable Energy Project	\$6.1m	No (Except Item 7 which is funded).	Not commenced (Except Item 7)	May require Part V approval depending on design
Knox Park Amenities and Entry Plaza	\$1m	Yes - completed.	Not commenced by relatively straight forward.	Part V approval is required.



None of the listed projects currently has the status of "shovel ready" (able to start construction) and are all in progress towards being ready for construction.

Since Council resolved its position in July 2016 and in light of the current criteria for this funding and projects that Council could provide matching funding in its Forward Delivery Program, Council could also consider making application for the Knox Park Amenities and Entry Plaza at a value of \$1million, with matching funding of \$500,000. Further details are listed below.

The following table lists the projects in order of their current "construction readiness" based on progress to date on designs and approvals and degree of difficulty to finalise outstanding components to achieve construction readiness.

<b>Project</b>	<b>Estimate of Cost</b>
Northern Rivers Rail Trail	\$13.04m
All Access Playground Ebenezer Park	\$2.64m
Tweed Valley Way Riverbank Stabilisation	\$9m
Kennedy Drive Interchange with the Pacific Highway	\$6m
Stage 2 Arkinstall Park	\$28m
Stage 2 Kirkwood Road	\$38.4m
Clarrie Hall Dam Raising	\$64m
Renewable Energy Projects	\$6.1m
Knox Park Amenities and Entry Plaza	\$1m

## **PROJECT DETAILS**

### **1. Northern Rivers Rail Trail – Tweed Stage**

#### **Project Summary**

The Tweed stage of Northern Rivers Rail Trail involves the re-development of 24 kilometres of disused rail corridor from Murwillumbah to Crabbes Creek creating a shared use Rail Trail. The Tweed segment is seen as a core component of the Northern Rivers Rail Trail as it will connect the regional centre of Murwillumbah with the villages of Stokers Siding, Burringbar, Mooball and Crabbes Creek.

Stage 1 from Murwillumbah Station to the Tweed Regional Art Gallery is completed in terms of detailed design and the planning application is nearing finalisation.

The Rail Trail would attract valuable tourism to the area and the increase in visitor numbers will sustainably assist in growing the regional economy, increase employment opportunities and improve the socio-economic wellbeing and physical environment of the Northern Rivers community. The Rail Trail would also facilitate active transport and recreation options for residents.

#### **Project Scope**

The works to complete the Rail Trail would take three main stages and be undertaken over a two year period. The first stage is the preparation of the Rail corridor which involves clearing the current overgrown rail line, removal of rails, rotten timbers and rehabilitation of stormwater drainage systems. A detailed inspection, survey and final design will then be prepared. Stage two involves the formation of the Rail Trail where the Trail itself will be defined by forming pavements, sealing and forming links to adjacent villages and attractions.

Tunnels and bridges will also be retrofitted or rehabilitated to ensure suitability for pedestrians and cyclists. Lastly, the Trail is then prepared with interpretive signage, furniture and fencing. Local volunteer organisations will assist with bush regeneration.

Council intends to complete design of the project in-house using Council's Design Unit and deliver construction through an external contractor managed by Council's Infrastructure Delivery Unit. Council has extensive policies and procedures in place to manage all aspects of the project.

### Budget Summary

Estimated Expenditure		
Prepare rail corridor	\$1,713,208	
Form rail trail	\$10,126,169	
Install trail furniture, signage and fencing	\$1,196,161	
<b>Total Expenditure</b>		<b>\$13,035,538</b>

### Concept Design



### Planning and Environmental Approvals

The NRRT-Tweed Stage would be assessed under Part 5 of the EP&A Act to determine whether the proposal is likely to have a significant impact on the environment. The assessments listed below would be included into a Review of Environmental Factors (REF) report.

Stage 1 approval application is 98% complete and could readily be finalised.

Specific assessments that are likely to be required to support the REF (in addition to general impact assessments) are summarised in the table below.

<b>ASSESSMENTS</b>	
<b>Required Assessment / Approval</b>	<b>Responsibility / Comment</b>
Preliminary Aboriginal Cultural Heritage Assessment (Due Diligence Assessment)	Prepared by TSC Design Unit
Statement of Heritage Impact (SOHI)	Prepared by an external Heritage Consultant
Preliminary Site Investigation (Contaminated Land)	Prepared by TSC Design Unit
Flora and Fauna Assessment	prepared by TSC Design Unit
Noise and vibration Management Plan	prepared by TSC Design Unit
Aquatic habitat assessment (to support Fisheries permit application for proposed waterway crossings)	prepared by TSC Design Unit
Assessment of Commonwealth matters of National Environmental Significance	prepared by TSC Design Unit
<b>PERMITS / LICENCES / APPROVALS</b>	
NSW Fisheries Permit	Required for any works within bed and banks of a waterway
NSW Land and Property Management Authority – Short-Term Licence	For works within a Crown Land waterway (subject to further detailed design)

In Round 3 of the NSRF Council submitted an application for the Tweed Stage of the Northern Rivers Rail Trail with a grant value of \$6.4 million. This application was unsuccessful. Council officers have received feedback from the Department that the application was unsuccessful as we were unable at the time to obtain commitment from the NSW State Government for matching funding. The Department has advised that they would accept "*a letter of commitment from the State Government in a future application*". Given that the poles and wires funding will soon be available it is considered appropriate that the NRRT project be resubmitted as a BBRF project.

## **2. Clarrie Hall Dam Raising**

### **Project Summary**

A study has been undertaken by NSW Public Works to determine the optimum size of Clarrie Hall Dam. It determined the optimum size of the dam was 43,000 ML based on raising the dam wall height by 8.5m to a dam wall height of 70m AHD.

The secure yield of the raised Clarrie Hall Dam has been estimated by NSW Urban Water Services after undertaking stream flow estimation for both present flows and flows adjusted for climate change, and modelling the behaviour of the dam within licenced operating conditions. The modelling estimated the 2030 secure yield as 22,700ML/a. The raised Clarrie Hall Dam would be able to provide adequate water supply to Tweed Shire until approximately 2046.

Cost estimates for the dam have been prepared by NSW Public Works. Those estimates were amended to include environmental assessment, project management and contingency for preconstruction.

As many of the factors influencing the cost of raising Clarrie Hall Dam are known, there is a higher degree of certainty with the cost estimates and there is only a small probability they could increase relative to other options. The estimated cost of all pre construction and construction activities is \$64,000,000.

As the dam already exists there would be little or no additional operating costs for the raised dam.

### Project Scope

On 10 December 2015 Council resolved that:

*"Based on the information currently available, Council adopts the raising of the wall of the Clarrie Hall Dam as the preferred option for future water security and proceeds with the planning approval and land acquisitions phase for the project."*

To progress the planning of the raising of the dam a number of separate activities need to be completed. They include:

- Flora and Fauna studies to inform the environmental assessment of the project
- Cultural Heritage studies to inform the environmental assessment of the project
- Environmental Flow studies to inform the environmental assessment of the project
- Survey to inform the concept design
- Seismic studies to inform the concept design
- Hydrological studies to inform the concept design
- Geological studies to inform the concept design
- Concept design to inform the environmental assessment of the project
- Risk assessments and costings

Land acquisitions are currently being negotiated with affected land owners.

At the conclusion of the above studies and concept design, a planning application will be prepared and submitted seeking approval for construction.

### Budget Summary

Estimated Expenditure		
Concept Design and all associated studies, acquisitions, Planning application Detailed Design and Construction	\$64,000,000	
<b>Total Expenditure</b>		<b>\$64,000,000</b>

Dams are infrastructure and are eligible under BBRF and a strong business case that demonstrates the dam's economic and social benefits would be required. However the \$10M cap on grant funding and the criteria to have the project completed by December 2019 result in this project being unsuitable for an application under this round of funding. Based on advice from the Deputy Prime Minister's Office, the BBRF appears the most suitable grant program for this project in future rounds.

This is because the objective of the alternative National Water Infrastructure Development Fund is to invest in new or augmented supplies that support regional economic growth and development and not to provide urban and potable water supplies which are the responsibility of state governments. The criteria of this fund specifically aim to avoid cost shifting in that regard.

It is recommended that Council proceeds on its dam acquisition and design brief and make application through future rounds of the BBRF

### **Planning and Environmental Approvals**

The preliminary works described above will form the basis of a Part V Planning application including an Environmental Impact Statement (EIS) for the project.

### **3. Tweed Regional Accessible Playground and Park Tweed Heads** (Ebenezer Park)

#### **Project Summary**

This project is for the construction of a regional park and playground based on universal design principles that enable full accessibility and social inclusion to all members of the community regardless of age, ability or circumstances. The site for the Accessible Playground and Park is Coral Street, Tweed Heads.

The Tweed Regional Accessible Park and Playground was identified as a project under the 7 Year Plan and assigned baseline funding of \$350,000 in the Long Term Financial Plan.

The development of the Concept Design and securing grant funding for the project is an Action in the Access and Inclusion Plan 2014-2018.

The draft Concept Design was prepared by Plummer and Smith, Landscape/Art/Design in 2015.

#### **Project Scope**

The Tweed Regional Accessible Playground and Park will be designed and constructed using the principles of universal design providing access and inclusion for all members of the community as well as for visitors to the area. The Accessible Playground and Park will provide facilities, play spaces and recreational environments that cater to the needs of people with a range of physical and cognitive challenges. This means the inclusion of connecting and continuous pathways, outdoor furniture, shade and other fittings such as drinking fountains, play equipment, landscape features and both natural and constructed sensory elements specifically designed for universal accessibility. Due to the accessible design people with a range of abilities will be able to enjoy the park and play experience with their families and friends in an inclusive environment. The site will allow for the inclusion of active and passive spaces, children's play and areas for older visitors.

#### **Budget Summary**

The project can be delivered in two stages with the overall construction estimated at \$2.64m. Life cycle costs for the project have been estimated for a ten year period going forward starting at \$64,920 for 2016/2017 financial year.

## Estimated Expenditure

Stage 1	\$1,580,303	
Stage 2	\$402,465	
Design/approvals/fees contingency	\$134,400	
Contingency	\$530,000	
<b>Total Expenditure</b>		<b>\$2,640,000</b>

(\*Estimate Jan 2016 plus extra 10% added for time lag to delivery)

As noted above Council current budget for this project is \$350,000 meaning that any park design would be limited to \$700,000 as a stage.

## Concept Design



**EBENEZER PARK** access + play

## Planning and Environmental Approvals

The proposal is permissible under Part V of the Environmental Planning and Assessment Act 1979. Specifically, the proposal would require a Part V Application including Review of Environmental Factors (REF) report as per Division 12 (Parks and other public reserves), Clause 65 (3) of the State Environmental Planning Policy (Infrastructure) 2007. Council's Development Assessment Unit would be the determining authority.

An exempt development memo for an all access park upgrade at the site was issued in 2014. However, the amenities facility and the parking were not included as part of the project scope. These additional elements trigger a new Part V process and application



On file is a letter of support from NSW Crown Lands (dated April 2014) given the land is Crown Land, and a note regarding support for the proposal by the Tweed Aboriginal Advisory Committee (AAC).

#### **4. Arkinstall Park Stage 2**

##### **Project Summary**

The site is located in Tweed Heads, on the junction of Cunningham Street and Oxley Street (partially a paper road) and is bounded by Kirkwood Road extension on the southern site. The western side of the site is bounded by residential properties, reserve, and the Lindisfarne Anglican School.

Council has been engaging with the community since 2002 to plan for the delivery of regional level recreation facilities across the Shire. A key recommendation identified in the initial strategies included the development of Arkinstall Park, Tweed Heads as a regional sports hub for the Shire. The subsequent layers of planning have continued to refine the concept and master plan as outlined below.

2002: Tweed Shire Open Space Infrastructure Policy:

2002: Contribution Plan 26 – Shirewide/Regional Open Space:

2005: Regional Sport and Recreation Facilities Plan:

2008: Feasibility and Master Plan Study for Proposed Regional Sports Complex at Arkinstall Park - Tweed Heads.

2015: Arkinstall Park Stage 2 Feasibility Study and Concept Plan

This project will provide improved regional level sporting facilities in Arkinstall Park, primarily providing facilities for higher levels of competition, such as enabling state level competitions for netball, and providing a regional tennis facility which complies with the facility requirements identified by Tennis Australia/NSW. Future stages will provide regional football and indoor facilities. The project will provide improved parking on site, and recreation facilities for families.

A program of use was developed based on the demand assessment and financial projections developed based on this program and suggested fees. The program as proposed will result in a total of 351,360 participants and spectator visits per year.

The facilities offered in the centre will cater to a broad cross section of the community fulfilling wide ranging community needs and catering to a broad range of interest groups, special needs, demographic and socio economic profiles.

Demographic analysis identified the trend toward an aging population in the Tweed Shire. This is reflective of the social trend identified in the Tweed Youth Strategy (Tweed Shire 2013) that a high proportion of young people leave the Tweed Shire when they reach 18 to access employment, study and other opportunities.

A regional sport centre presents an opportunity to engage this age group with participation and employment opportunities in coaching, training or facility management. In addition, the aging demographic triggers demand for indoor programs and social activities that are affordable and close to home.

Stage 1 of the project has been completed and has included such features as netball building and court upgrades, new tennis building, lighting and courts and construction of formalised car parking and access roads.

### **Scope of Project**

The scope of this project encompasses project delivery planning, detailed design and Part V approvals

In 2014/2015 council undertook a feasibility study and concept plan process for stage 2 of the Arkinstall Park Regional Sports Centre which includes:

A multi-purpose indoor facility with the following components:

- Three sprung timber floor courts suitable for regional competition level basketball, futsal and indoor netball.
- One equivalent court purpose-built for gymnastics including training pits provided for all vaulting and parallel beam training. Also used for activities such as parkour, indoor rock climbing, diving training etc.
- Two multi-purpose rooms to cater for group fitness and spin activities, or be a social space directly associated with the soccer pitch No 1.
- A dedicated gymnasium, to cater for cardio and weight training/ fitness.
- A crèche/occasional care space has been provided for, including outdoor play space.
- A centre operated sports administration area, as well as independent sports offices for local sport programming or club admin.
- A precinct managed cafe which can cater for both stadium (indoor) and outdoor patrons.
- Spectator seating (telescopic stadia seating) in both the gymnastics hall and sports hall to cater for both training and competition usage.
- Associated break out areas to assist with event marshalling or game day competitions. These break out spaces can cater for both indoor and outdoor events.
- Future expansion area (to the south) for at least 1 additional court and gym space.

An outdoor football spectator venue and associated spaces with the following components:

- Four grass pitches suitable for regional competition level soccer- football, (to FIFA 2014 pitch standards) to serve rugby league, rugby union and touch football.
- Under cover seating at 300 seats at pitch no. 1. 200 at pitch no. 2 and 100 at pitch no. 3 and 4.
- Provision for State and regional matches for amateur competition i.e. state youth championships.
- A separated 'soccer' dedicated canteen and amenities (located between pitches 2 and 3 to minimise distance of travel to the stadium).
- Civic hub/piazza at the frontage of the stadium connects the soccer precinct to the northern Tennis and Netball Precinct.
- Family BBQ area amongst shaded landscaped area.
- Team and spectator covered seating for all soccer pitches.



- Landscape buffer to all adjacent properties is a minimum depth of 15m.
- Car park has an additional 240 spaces in the east and 61 spaces to the north.
- Court expansion space to the south.
- Sport lighting to 250 lux is proposed to the southern 3 pitches. No lighting will be provided to pitch No. 4 to ensure no light spread (pollution) to the adjoining residential properties to the west of soccer pitch No. 4.
- External storage zones have been provided to all individual soccer pitches.

### Concept Design



### Budget Summary

All funds in Section 94 Contribution Plan 26 Shire wide Regional Open Space were committed to the recently completed Stage 1 of the project. The Plan is reliant on contributions received from development (primarily residential) and is unlikely to have sufficient funds to complete the works listed below, with significant grant funding.

<b>Estimated Expenditure</b>		
Upgrades to 3 sports fields, including turf, spectator facilities and lighting, other external works	\$7,518,000	
Sports Stadium/ multi-purpose indoor facility	\$13,470,000	
Environmental Sustainable Design	\$630,000	
Contingency	\$2,151,000	
Professional and Authority Fees	\$2,330,450	
<b>Total Expenditure</b>		<b>\$28,100,100</b>

Given Section 94 funds were fully expended for Stage 1 Council is not in a position at this time to provide matching funding as required by the Grant criteria.

### **Planning and Environmental Approvals**

All works identified as deliverables in Stage 2 are Permissible without Consent under the State environmental planning policy 'Infrastructure' 2007, Division 12 Parks and Other Public Reserves, Clause 65. This means that the project falls under Part V approval of the EP&A Act.

<b>Planning Approval</b>	<b>Additional Reports</b>	<b>Status</b>
EPA Act Part V Approval		Approval Required.
	Feasibility & Master Plan Study	Completed.
	Stakeholder & Community Consultation	Undertaken as part of Master Plan Study. Community engagement Undertaken as part of Stage 1.
	Cultural Heritage Assessment	Undertaken as part of Stage 1.
	Environmental Assessment	Undertaken as part of Stage 1.

## **5. Kirkwood Road and Pacific Highway Interchange, Ramps Stage 2**

### **Project Summary**

This project was identified as part of the 2006 Lower Tweed Heads Pacific Highway Traffic Master Plan.

Council has completed construction of Stage 1 being the eastern section of the Kirkwood Road project. This includes the eastern Kirkwood Road extension, eastern interchange, south bound on ramp and south bound off ramp completed in 2013 at a cost of approximately \$18m funded by Council and the RMS.

Stage 2, being the western section of the Kirkwood Road project which includes the east west highway overpass, northbound off ramp, western interchange and the Kirkwood Road link to Fraser Drive remains unfunded at this time and is the subject on this report.

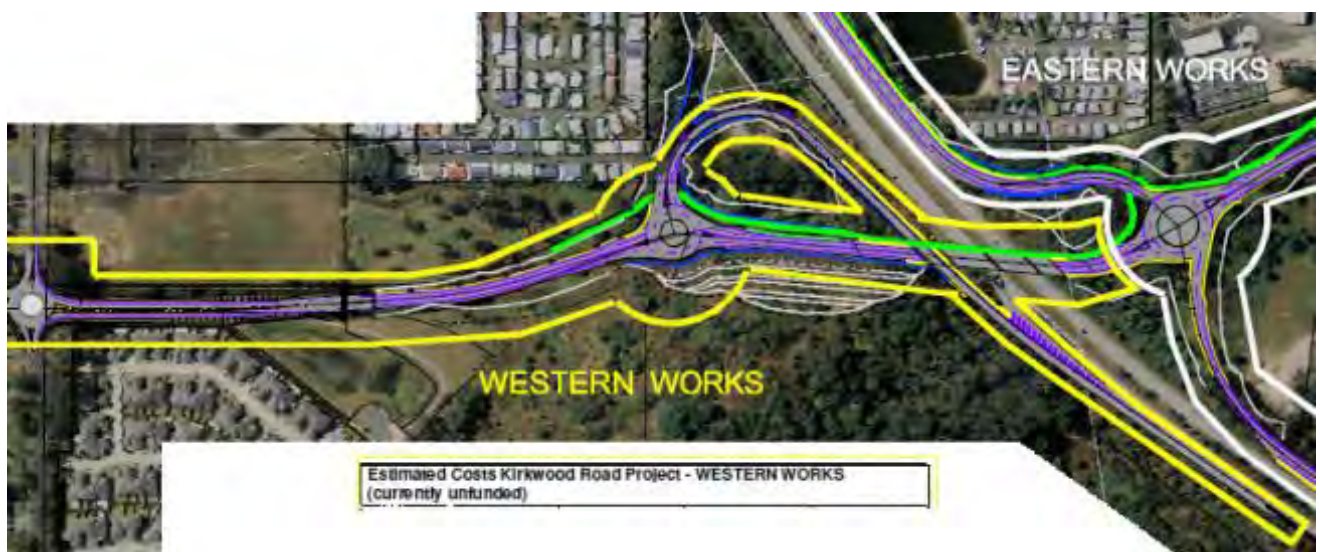
Stage 3 involves the construction of dual service roads between Kirkwood Road and Kennedy Drive parallel to the Highway which completes the ultimate road configuration identified in the Masterplan. This work has been separated from the Stage 2 above as no design has been completed or approvals obtained.

There are significant benefits in constructing the full east west Kirkwood Road and interchanges project, these benefits include; providing commuters with alternative routes for access/egress to/from the Pacific Highway, subsequent reductions in traffic flow along Dry Dock Road and Kennedy Drive east of the Pacific Highway and alternative access to the South Tweed Heads Business District.

### Scope of Project

This project will provide Council with a progressive transport link in its future transport system. An additional benefit of the project will be that it provides further incentive for progressive development of the South Tweed Heads area whilst catering for the anticipated population growth of the Tweed.

### Concept Plan



### Budget Summary

The Regional Development Australia (RDA) funding request would be for the Stage 2 Western Section Only.

#### Estimated Expenditure

Western Section Stage 2	Upper Estimate	
Estimated Cost based on Conceptual Design	\$28,003,000	
Finalise bridge design and construction technique risk	\$6,500,000	
Rock anchors and geotechnical support of major cutting risk	\$3,900,000	
Remove and remediate unsuitable ground	\$975,000	
<b>Total Expenditure</b>		<b>\$38,403,000</b>

\*Original estimate from 2011 report has been increased by 30%

Council would entirely exhaust its Tweed Road Contribution Plan (TRCP) funding in providing matching funding to this project and would still fall short in the order of \$18million as the Federal Government will provide a maximum of \$10 million funding. Therefore, this project is unable to proceed to a grant application.

### Planning and Environmental Approvals

The Kirkwood Road Project including Stage 1 and Stage 2 from Fraser Drive west of the Pacific Highway to Minjungbal Drive to the east and highway on and off ramps was approved subject to conditions on the 19 May 2011 (Approval Reference PTV10/0032). Project approval was pursuant to Part 5 of the *Environmental Planning and Assessment Act 1979*. A summary of Approval details, including associated permits to disturb Aboriginal Cultural Heritage, are provided in Table 1 below.

**Table 1: Summary of project approvals and permits**

Planning Approval	Approval Type	Status
Environmental Planning and Assessment Act, 1997 (EP&A Act)	Part 5 Assessment including Review of Environmental Factors (REF) Report	Project approval (Stage 1 and Stage 2) issued 19 May 2011 (reference: PTV10/0032)
NSW National Parks and Wildlife Act 1974	Aboriginal Heritage Impact Permit (AHIP) to remove a scarred tree	AHIP number 1126652 issued 26 May 2011.
	AHIP Variation to disturb areas west of Pacific Highway	AHIP Variation Notice No. 1131922 issued 12 march 2013

## 6. Tweed River Bank Stabilisation

### Project Summary

The severity of river bank erosion in the Tweed estuary varies considerably; however overall, the scale of the problem is large.

River reaches with the most severe and continuous bank erosion are located between Murwillumbah and Stott's Island, primarily adjacent to the Tweed Valley Way and Tumbulgum Road. Within this river reach, erosion is predominantly impacting on road reserve, as opposed to private land or public open space.

This project is identified in the Tweed River Estuary Bank Management Plan 2014 which also provides a schedule of works to stabilise river bank erosion on public land (to be undertaken by Council), as well as updated design advice for works required on private land.

The plan has been developed based on the following principals:

- Environmental values of the riparian environment will be protected and enhanced.
- High value public infrastructure and public open space will be protected.
- The visual and recreational amenity of the river environment will be protected and enhanced.
- Where practical, vulnerable river banks will be managed to increase their resilience to erosion through pre-emptive erosion management.

The range of bank stability conditions has been mapped to inform the preparation of the management plan.

It is estimated that there is 5,800 metres of roadway within the priority reach that is at risk of being affected by bank slips within the next five to ten years.

**Project Scope**

Undertake riverbank stabilisation works based on the Report's findings. In the case of TSC managed land adjacent to roads, the total bank length equal to or less than 7.5 m of the road edge is 10,667 m. The portion of this overall total where erosion is severe is 5,800 metres. It is likely that a large proportion of this length will need to be structurally stabilised.

Wherever possible, design options will include the principal of providing rock fillets to encourage mangrove colonisation of the bank toe in addition to full structural protection of river banks. Bio-engineered designs that maximise ecological and amenity values should also be utilised where feasible.

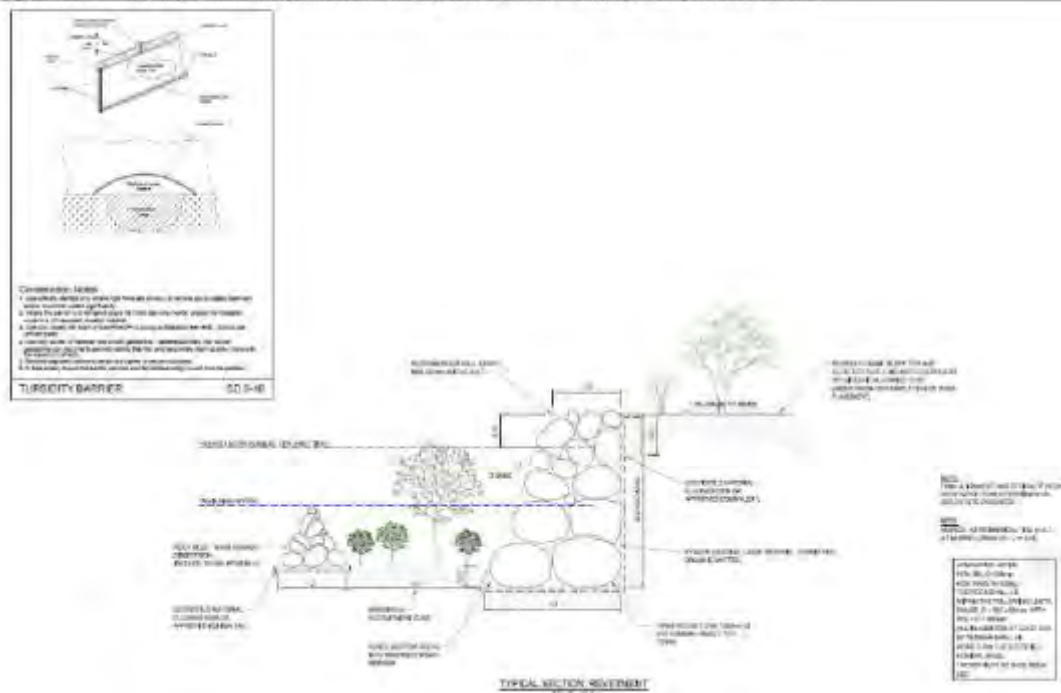
**Budget Summary**

At an estimated cost of \$1500 per lineal metre to stabilise river bank erosion (based on the average cost per metre rate of erosion stabilisation work recently undertaken by Council), the total cost to stabilise severe erosion adjacent to roads could be as much as \$9,000,000 over ten years. Maintenance costs would add to this figure.

This project can be staged over several years. Council does not have matching funding at present, however, may be able to undertake smaller sections at a cost of approximately \$1-2 million by reprioritising other projects currently in Council's Works Program.

**Concept Design**

Figure 7. Full bank height structural protection including a rock fillet to encourage mangrove recruitment.



(\*From the Tweed River Estuary Bank Management Plan 2014)



### **Planning and Environmental Approvals**

When river bank erosion stabilisation projects involve earth works or the placement of rock or any other material into a waterway, approval and permits are required to be sought from Council and a number of state government agencies.

The types of approvals required are different for Council and private land owners. For private landowners, the approval pathway is different when works are in tidal and non-tidal waters.

### ***Council Work***

Council is required to seek a Part V activity approval for river bank stabilisation projects. Part V approval requires the undertaking of a review of environmental factors (REF). The REF process is aimed at identifying and assessing the significance of any potential impact of the proposed project on matters such as flora, fauna, water quality, cultural heritage etc. If works are to be undertaken on Crown Land (or within a Crown waterway reserve), land Owners consent to lodge an application to undertake the activity must be sought from the Department of Lands. Upon receipt of an approval to undertake works, a temporary license to occupy the Crown land and undertake the works must also be sought. If works are to be undertaken within a waterway, a permit from the NSW Department of Primary Industries Fisheries must also be sought. This process is applicable for works in both tidal and non-tidal waterways.

### ***Work on Private Land***

The Tweed LEP 2014 is the planning instrument that defines the permissibility and approval process required for work and activities in the Tweed Shire. Advice should be sought from the Tweed Shire Council Development Assessment Unit for works within a tidal area, or from the NSW Office of water in non-tidal areas.

## **7. Kennedy Drive Interchange with Pacific Highway Upgrade**

### **Project Summary**

As the interchange approaches capacity in the morning and afternoon traffic peak periods it would be an advantage to bring forward the future interchange upgrade. The work would involve roundabout upgrades or coordinated signalisation of the current "dog bone Intersection" including additional slip lanes.

The upgrade would include additional left turn slip lanes, upgrades and alterations to existing traffic lanes to optimise capacity, roundabout upgrades or signalisation of the eastern and western Highway ramps. Detailed concept design work and traffic modelling has been completed for this project.

### **Project Scope**

The project includes road widening between the Highway ramps, traffic signal at the eastern and western ramps, altered traffic lanes and possible signal coordination with the Ducat Street signals.

Council is currently reviewing the Tweed Road Development Strategy (due for completion end of 2016/2017) and this will likely confirm this project as one of the priorities in the Shire's Distributor Road network as well as the final configuration of the interchange.

**Budget Summary**

The estimated cost of this project based on estimates in the Tweed Distributor Roads Contribution Plan is:

<b>Estimated Expenditure</b>		
	Upper Estimate	
Design & construction	\$6,000,000	
<b>Total Expenditure</b>		<b>\$6,000,000</b>

Matching funding can be provided from Section 94 TRCP.

**Planning and Environmental Approvals**

No work has been undertaken on preparing required applications at this time.

**8. Renewal Energy Projects****Project Summary**

A suite of potential renewable energy projects has been compiled.

The projects represent an opportunity to reduce Council's operating costs and help to make Council "fit for the future".

The project would require \$6.1M of capital funding to install 1.85MW of solar capacity at eight key (high energy using) sites around Tweed Shire:

1. Banora Point Wastewater Treatment Plant: 938kW ground-mounted solar
2. Kingscliff Wastewater Treatment Plant: 500kW ground-mounted solar
3. Bray Park Water Treatment Plant and Water Pump Station 2: 142kW rooftop solar
4. Hastings Point Wastewater Treatment Plant: 100kW ground-mounted solar
5. Tweed Regional Aquatic Centre Murwillumbah: 60kW rooftop solar and 44kW battery storage
6. Murwillumbah Civic Centre: 60kW rooftop solar
7. Tweed Heads Library & Civic Centre: 25kW rooftop solar
8. South Tweed Pool: 30kW rooftop solar

**Project Scope**

To provide renewable energy generated by solar panel installations at the above sites. These projects could make up to 15% of Council's total energy and take a significant step towards Council's objective of becoming self-sufficient in renewable energy. Item 7 is funded as part of the current refurbishment and upgrade of the Tweed Heads Library & Civic Centre however the exact value is not known at this time.

**Budget Summary**

The estimated cost of this project is based on preliminary estimates of project scope and costs from the identified sites.

<b>Estimated Expenditure</b>		
Design & construction	\$6,100,000	
<b>Total Expenditure</b>		<b>\$6,100,000</b>

With the exception of Item 7, which is funded, these are only preliminary estimates and no funding towards these projects has been allocated at this time. A feasibility study for installation of solar at the Banora Point Wastewater Treatment Plant is planned but is yet to commence. It may be possible to reallocate existing program funds to allow \$100,000 to be allocated towards the two Swimming Pool items but given the general unavailability of matching funding this project is not at a stage where it meets the grant funding criteria.

### **Planning and Environmental Approvals**

No work has been undertaken on preparing required applications at this time.

## **9. Knox Park Amenities and Entry Plaza**

### **Project Summary**

At its meeting on 19 June 2014, Council adopted the Knox Park Master Plan which provided for the stage revitalisation of Knox Park. Stage 1 consisted of the adventure playground and youth precinct were completed in 2016. Stage 2 would involve the construction of a new central amenities block, demolition of the old toilet blocks and construction of an entry plaza at the intersection of Brisbane and Wollumbin Streets, Murwillumbah.

### **Project Scope**

The works proposed form part of the Stage 2 development.

### **Budget Summary**

The estimated cost of this project based on the concept plan in an amount of \$1million.

<b>Estimated Expenditure</b>		
Design & construction	\$1,000,000	
<b>Total Expenditure</b>		<b>\$1,000,000</b>

Matching funding of \$500,000 is available in Council's current budget for this project and, therefore, could be a suitable for funding under the current grant. However, demonstrating economic and social benefits to the Tweed Region may be problematic.

### **Planning and Environmental Approvals**

A Part V application has been lodged for the construction of the new amenities building and demolition of the old toilet blocks. Part V application may be required for the entry plaza component following completion of the concept design.

### **OPTIONS:**

In keeping with council's previously identified priorities that have been submitted to the RDA and cognisant of the criteria under the BBRF there are only four real options for council to consider in this Round, being:



1. Northern Rivers Rail Trail - with matching funding from the State Government.
2. Kennedy Drive Interchange - with matching funding from the TRCP
3. All Access Playground at Ebenezer Park - A significantly scaled back and staged with a current budget of \$350,000. Council could consider reprioritising other projects in the Community Services and Recreation Services areas to increase this allocation to scale the project up with matching funding from the Commonwealth.
4. A staged Tweed Riverbank Stabilisation Project - with matching funding from reprioritising of other projects with in the Works Program.

If Council were open to considering a project not previously identified but included in its Delivery Program - being the Knox Park Public Amenities and Entry Plaza - a fifth project is open for consideration.

The options are to identify Council's preferred project from the above list of projects and submit them to the Building Better Regions Fund. Council has the option to submit up to two projects for consideration in this Round of funding.

**CONCLUSION:**

This report recommends that Council resolve to submit the Northern Rivers Rail Trail – Tweed Section and Kennedy Drive Interchange Projects for funding as these projects are able to be undertaken holistically in accordance with Council's previously resolved position

Should one of these projects be substituted it is suggested that consideration be given to the Knox Park Amenities and Entry Plaza project.

These projects provide the best opportunity to demonstrate all aspects of the criteria sought.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable

All identified projects are either a resolved position of Council or included in its Community Strategic Plan and Tweed Road Development Strategy.

**b. Budget/Long Term Financial Plan:**

Funding as per the amounts detailed within the report.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1.                      Building Better Regions Fund – Infrastructure Projects  
Stream – Program Guidelines (ECM 4338292)

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18 [E-CM] RFO2016165 Supply of Bulk Fuels (Panel of Providers)

SUBMITTED BY: Infrastructure Delivery

Valid



**Civic Leadership**

**LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.2 Council will seek the best value in delivering services

**SUMMARY OF REPORT:**

Request for Offer RFO2016165 Supply of Bulk Fuels (Panel of Providers) was called to identify a number of suitably-equipped providers to form a panel for the supply and delivery of bulk fuels (Diesel and ULP, plus AdBlue as required) to Council’s Buchanan Street Murwillumbah Works Depot.

At the time of closing six Offers were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. The recommendations are based on the evaluation.

**RECOMMENDATION:**

**That, in respect to Contract RFO2016165 Supply of Bulk Fuels (Panel of Providers):**

1. **Council accepts the Offers of the following four Bidders and that these four Bidders form the RFO2016165 Supply of Bulk Fuels Panel of Providers for a three-year period, with a 1 x 24 month extension option being available to be exercised at Director Engineering’s discretion (as the Contract Principal) based on service and product standards at the end of the initial Contract term, noting that the estimated value of this contract over the potential five year total periods is \$5.3 million.**

<b>Bidder</b>	<b>ABN</b>
Caltex Australia Petroleum Pty Ltd	17 000 032 128
Ocwen Energy Pty Ltd T/A Lowes Petroleum Service	44 605 178 578
Park Pty Ltd	17 093 014 129
Puma Energy (Australia) Fuels Pty Ltd	34 009 644 151

2. **The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council six monthly and at finalisation of the contract.**
  
3. **ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
  - (d) **commercial information of a confidential nature that would, if disclosed:**
    - (i) **prejudice the commercial position of the person who supplied it, or**
    - (ii) **confer a commercial advantage on a competitor of the council, or**
    - (iii) **reveal a trade secret.**

**REPORT:****Offer Background**

Request for Offer RFO2016165 Supply of Bulk Fuels (Panel of Providers) was called to identify a number of suitably-equipped providers to form a panel for the supply and delivery of bulk fuels (Diesel and ULP, plus AdBlue as required) to Council's Buchanan Street Murwillumbah Works Depot.

This contract will replace Council's current Panel of Providers contract for Bulk Fuels, EC2012233. There are four providers on the existing panel, Puma Energy, Park, Lowes and Caltex. Council currently uses around 660,000L of diesel and around 200,000L of ULP annually. As proposed for the new contract, prices for each Provider are currently calculated on the day a fuel order is required to be placed, with the order being placed with the cheapest supplier on the day.

**Request for Offer Advertising**

Offers were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. The Request for Offer was advertised from 23 September 2016 in the *Sydney Morning Herald* and on Council's website.

Offer submissions closed at 4.00pm (local time) on Wednesday 19 October 2016 in the Murwillumbah Tender Box and on eTender.

**Offer Addendums**

There was one addendum (Notice to Bidders) issued before close of Offer.

Addendum No. 1 did not change the RFO document but was issued to clarify Council's usual order fuel volume ranges and to highlight to Bidders that specifying a minimum order volume for any product would likely restrict the number of Orders for which a Provider would be able to be considered.

**Offer Submissions**

At the closing time for Offer Submissions, the Tender Box was opened and six Offers were recorded as below:

<b>Bidder</b>	<b>ABN</b>
Caltex Australia Petroleum Pty Ltd	17 000 032 128
McKinlay Enterprises Pty Ltd T/A Northcoast Petroleum	98 233 044 512
Ocwen Energy Pty Ltd T/A Lowes Petroleum Service	44 605 178 578
Park Pty Ltd	17 093 014 129
Puma Energy (Australia) Fuels Pty Ltd	34 009 644 151
United Petroleum Pty Ltd	52 995 832 068

**Offer Evaluation**

An Offer Evaluation Plan was developed based on the premise that competitive Offers were to be received and scored against specific evaluation criteria in order to select the best value Offers.

Council's Offer Evaluation Panel was made up as follows:

Position
Acting Senior Engineer - Contracts (Chair)
Senior Storekeeper
Systems Administration Officer

Offers were evaluated based on the criteria noted in the table below which were also listed in the Conditions of Offering.

Evaluation Criterion	Document Reference	Weighting (%)
Bidders' meeting of Contract requirements	Throughout Offer	Yes/No
Pricing	Schedule 5.6	80
Sustainable procurement and local content	Schedules 5.4 and 5.5	20
	<b>Total</b>	<b>100</b>

The details of the price and non-price evaluation are shown on the Offer Evaluation Report and Offer Evaluation Scoring Sheet. A copy of the Offer Evaluation Report and Offer Evaluation Scoring Sheet are included as ATTACHMENTS 1 and 2 which are CONFIDENTIAL in accordance with Section 10A:

- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret

The information identifies each Bidder in relation to its Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of Bidders in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Offer.

**OPTIONS:**

That Council:

1. Accepts the Offers of the following four Bidders and that these four Bidders form the RFO2016165 Supply of Bulk Fuels Panel of Providers for a three-year period, with a 1 x 24 month extension option being available to be exercised at Director Engineering's discretion (as the Contract Principal) based on service and product standards at the end of the initial Contract term, noting that the estimated value of this contract over the potential five year total period is \$5.3 million.

Bidder	ABN
Caltex Australia Petroleum Pty Ltd	17 000 032 128
Ocwen Energy Pty Ltd T/A Lowes Petroleum Service	44 605 178 578
Park Pty Ltd	17 093 014 129
Puma Energy (Australia) Fuels Pty Ltd	34 009 644 151

2. Declines to accept any of the Offers, including reasons for this course of action.

**CONCLUSION:**

The recommended Offers have been assessed as providing Council with the best overall value for money proposition, and a Panel of Providers composed of four Providers is deemed to provide the most efficient balance between obtaining the best available pricing on any given day and fuel ordering processes.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Procurement Policy v1.6, in accordance with the Local Government Act and the NSW Local Government (General) Regulation 2005

**b. Budget/Long Term Financial Plan:**

Provision for Council's fuel expenditure is included in the 2016-2017 Budget.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*(Confidential)* Attachment 1. RFO2016165 - Offer Evaluation Report (ECM4317661).

*(Confidential)* Attachment 2. RFO2016165 - Offer Evaluation Scoring Sheet (ECM4317556).

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19 [E-CM] RFO2016114 Kingscliff Foreshore Revitalisation Construction Works

SUBMITTED BY: Infrastructure Delivery

Valid



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Civic Leadership
1.3	Delivering the objectives of this plan
1.3.1	Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan

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### SUMMARY OF REPORT:

Request for Offer RFO2016114 Kingscliff Foreshore Revitalisation Construction Works was invited from three previously pre-qualified Civil Contractors to submit an Offer bid for the Kingscliff Foreshore Revitalisation construction works which includes:

- Rock armour and concrete seawall foreshore protection works
- Associated Construction and landscaping works for the creation of the new Kingscliff Central Park
- Associated Construction and landscaping works for the upgrade of the Kingscliff Beach Holiday Park.

At the time of closing all three Contractors bids were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. The recommendations are based on the evaluation.

### RECOMMENDATION:

**That in respect to Contract RFO2016114 Kingscliff Foreshore Revitalisation Construction Works:**

1. Council awards the contract to **SEE Civil Pty Ltd (ABN: 88 115 963 427)** for the amount of **\$14,096,635.41 (exclusive of GST)**.
2. The **General Manager** be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council six monthly and at finalisation of the contract.



3. **ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
- (d) **commercial information of a confidential nature that would, if disclosed:**
    - (i) **prejudice the commercial position of the person who supplied it, or**
    - (ii) **confer a commercial advantage on a competitor of the council, or**
    - (iii) **reveal a trade secret.**

## REPORT:

### Offer Background

Request for Offer RFO2016114 Kingscliff Foreshore Revitalisation Construction Works was invited from three previously pre-qualified Civil Contractors to submit an Offer for the Kingscliff Foreshore Revitalisation Construction Works which includesL

- Rock armour and concrete seawall foreshore protection works
- Associated Construction and landscaping works for the creation of the new Kingscliff Central Park
- Associated Construction and landscaping works for the upgrade of the Kingscliff Beach Holiday Park.

At the Council meeting held 21 July 2016 Council resolved to invite the following companies to undertake an Early Contractor Involvement (ECI) process to bid for the Kingscliff Foreshore Revitalisation Project works.

Bidder	ABN
SEE Civil Pty Ltd	88 115 963 427
Hazell Bros Group Pty Ltd	27 088 345 804
Allroads Pty Ltd	42 142 378 514

All three Contractors were provided a letter of intent to undertake the ECI process by attending two workshops and then subsequently invited to tender for the project.

### Request for Offer Advertising

Offers were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005.

Offer submissions closed at 4.00pm (local time) on 16 November 2016 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

### Offer Addendums

There were seven (7) Notice to Bidders issued before close of Offer.

Addendum No. 001 was issued to advise Bidders of revised electrical drawings.

Addendum No. 002 was issued to advise Bidders of the inclusion of standard drawings.

Addendum No. 003 was issued to advise Bidders of revised seawall drawings.

Addendum No. 004 was issued to advise Bidders of revised Central Park drawings.

Addendum No. 005 was issued to advise Bidders of revised Seawall rock specification.

Addendum No. 006 was issued to advise Bidders of revised electrical drawings.

Addendum No. 007 was issued to advise Bidders of the revised luminaries required.

### Offer Submissions

At the closing time for Offer Submissions, the Tender Box was opened and three conforming Offers and two Alternative Offers were recorded as below:

Bidder	ABN
SEE Civil Pty Ltd (Conforming and Alternative)	88 115 963 427
Hazell Bros Group Pty Ltd (Conforming and Alternative)	27 088 345 804
Allroads Pty Ltd (Conforming)	42 142 378 514

### Offer Evaluation

An Offer Evaluation Plan was developed based on the premise that competitive Offers were to be received and scored against specific evaluation criteria in order to select the best value Offer.

Contractors performances and participation during the ECI process were also assessed. This assessment assisted the Panel in evaluating the Contractors overall understanding and appreciation of the construction risks of the project and whether or not they were able to offer any innovation.

Council's Offer Evaluation Panel was made up as follows:

Name	Position
Stewart Brawley	Manager Recreation Services - Chairperson
Warren Boyd	Design Engineer
Ted Gibson	Contract Engineer
Matthew Lee	Project Officer - Coastal
Mathew Greenwood	Internal Auditor - Probity Advisor

Offers were evaluated based on the criteria noted in the table below which were also listed in the Conditions of Offering.

Criterion	Document Reference	Weighting (%)
Assessed Offer Price (as adjusted)	Schedule 2	30
Innovation (Departures schedule)	Schedule 4	10
Relevant Experience and Performance	Schedule 6	7.5
Project Timing	Schedule 7	2.5
Methodology & Risk Mitigation	Schedule 8	35
Project Team (incl. Subcontractors)	Schedule 6 & 12	5
Local Content	Schedule 18	10
	Total	100

The evaluation criteria was weighted as a 70% non-price 30% price due to the high risk nature of the construction particularly the seawall components.

The criteria particularly focussed on methodology and risk mitigation which was requested in the tender schedule asking the Tenderers to provide details of construction methods, risks identified and how they proposed to mitigate the risks for all components of the project.

This was considered to be important information for evaluation so as not to expose Council to uncertainties and cost implications.

The details of the price and non-price evaluation are shown on the Offer Evaluation Report and Offer Evaluation Scoring Sheet. A copy of the Offer Evaluation Report and Offer

Evaluation Scoring Sheet are included as ATTACHMENTS 1 and 2 which are CONFIDENTIAL in accordance with Section 10A:

- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret.

The information identifies the Bidder in relation to the Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of the Bidder in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Offer.

**OPTIONS:**

That Council:

1. Awards the contract to SEE Civil Pty Ltd (ABN: 88 115 963 427) for the amount of \$14,096,635.41 (exclusive of GST).
2. Awards the Contract to a different Bidder, including reasons for this course of action.
3. Declines to accept any of the Offers, including reasons for this course of action.

**CONCLUSION:**

As per the Offer Evaluation Panel recommendation, it is recommended that Council awards the contract to SEE Civil Pty Ltd (ABN: 88 115 963 427) for the amount of \$14,096,635.41 (exclusive of GST).

SEE Civil Pty Ltd (ABN: 88 115 963 427) achieved the highest overall assessment score and is therefore deemed as the most advantageous option for Council.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Procurement Policy v1.6.

The Offer invitation and evaluation have been conducted in accordance with the provisions of:

- The Local Government Act 1993 and the NSW Local Government (General) Regulation 2005.
- Council's Procurement Policy.

In accordance with Local Government (General) Regulations 2005.

**b. Budget/Long Term Financial Plan:**

Provision for the RFO2016114 Kingscliff Foreshore Revitalisation Construction Works is funded jointly from Australian Government Grant from the National Stronger Regions Fund (NSRF), Tweed Coast Holiday Parks Reserve Trust and Tweed Shire Council included in the 2016-2017 Budget.

**c. Legal:**  
Not Applicable.

**d. Communication/Engagement:**  
Inform - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*(Confidential)* Attachment 1. RFO2016114 - Offer Evaluation Report (ECM 4318691).

*(Confidential)* Attachment 2. RFO2016114 - Offer Evaluation Scoring Sheet  
(ECM 4319345).

*(Confidential)* Attachment 3. RFO2016114 - Probity Report (ECM 4319101).

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20 [E-CM] RFO2016139 Soil Nail Anchor Wall Tumbulgum Road Murwillumbah

SUBMITTED BY: Infrastructure Delivery

Valid



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Supporting Community Life
2.4	An integrated transport system that services local and regional needs
2.4.3	Ensure local streets, footpaths and cycleways are provided, interconnected and maintained

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### SUMMARY OF REPORT:

Request for Offer RFO2016139 was called to engage suitably qualified and experienced organisation(s) to design and construct an Anchored Soil Nail Retaining Wall. The successful contractor will widen the north side of Tumbulgum Road, Murwillumbah, construct a retaining wall, to permit a new footpath cycleway and allow road re-alignment.

At the closing time for Offer submissions, 10 offers were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. The recommendations are based on the evaluation.

### RECOMMENDATION:

That, in respect to Contract RFO2016139 Construction of Soil Nail Anchor Wall Tumbulgum Road Murwillumbah:

1. Council awards the contract to Michael Reid Family Trust ATF Crosana Pty Ltd ABN 45 943 696 462 for the amount of \$744,080.41 (exclusive of GST) subject to Council releasing a Construction Certificate for the works.
2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at finalisation of the contract.
3. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret.

## **REPORT:**

### **Project Overview**

The location of the project is on Tumbulgum Road between Sunnyside Lane and Old Ferry Road. Currently the road and footpath are too narrow. The northern embankment has had previous issues with erosion with material falling onto the footpath. The southern (riverside) embankment is unstable with previous slips down the embankment. As a result Council has had to remove the timber riverside boardwalk, reduce the speed and place weight restrictions upon the road until repairs can be undertaken.

The current scope of the northern embankment wall construction works is to perform excavation, soil nailing, place natural looking shotcrete and install vine vegetation to eventually cover the embankment. This work will be undertaken by contractors. Once completed, Council will internally deliver the construction of a wider footpath at the base of the northern embankment, a wider road pavement, improved drainage and build a retaining wall to stabilise the southern (riverside) embankment. This project is within the current financial year budget with a value of \$1.7M.

Subject to Council approval of contract RFO2016139, a Construction Certificate (CC) will need to be obtained to allow works to proceed. Once the CC has been issued the contractor can be formally engaged. While that is occurring there will be preliminary works including tree clearing, service relocations and additional geotechnical testing to commence prior to wall construction. It is expected Tumbulgum Road between Sunnyside Lane and Old Ferry Road will be closed for approximately 5 months total (for wall and road construction works). Traffic will be detoured via Old Ferry Road and Queen Street. Pedestrians and cyclists will still be able to travel through the site using temporary footpaths.

### **Offer Background**

Request for Offer RFO2016139 was called to engage a suitably qualified and experienced organisation(s) to design and construct an Anchored Soil Nail Retaining Wall. The successful contractor will widen the north side of Tumbulgum Road, Murwillumbah, construct a retaining wall, to permit a new footpath cycleway and allow road re-alignment.

### **Offer Advertising/Distribution**

The Offer was invited in accordance with the provisions of the Local Government Act 1993, the NSW Local Government (General) Regulation 2005 and the Tendering Guidelines for NSW Local Government. The Offer was officially advertised on Tuesday 13 September 2016 in The Sydney Morning Herald and also in the Brisbane Courier Mail, Gold Coast Bulletin on 10 September 2016 and the TweedLink issued 12 September 2016.

### **Offer Addendums**

There was 1 Notice to Bidders (NTB) issued on 7 October 2016. This NTB provided corrections to pages 53 and 55 of the Request for Offer document.

### **Offer Submissions**

At the closing time for Offer Submissions, the Tender Box was opened and 10 Offers were recorded as below:

Bidder	ABN	Amount Offered (incl GST)
Alder Constructions Pty Ltd ATF Alder Family Trust	31 106 657 470	Confidential Information
Ark Construction Group Pty Ltd	80 112 094 372	
Civil Logic Pty Ltd	81 168 035 498	
Michael Reid Family Trust ATF Crosana Pty Ltd	45 943 696 462	
EarthTEC Pty Ltd	25 093 558 582	
Elite Retaining Systems Pty Ltd T/A Australian Marine & Civil	66 601 876 680	
Geo Stabilise Pty Ltd	47 166 054 842	
Pan Civil Pty Ltd	37 001 992 963	
Pentacon Pty Ltd	92 156 524 131	
Warner Company	59 084 076 853	

### Offer Evaluation

An Offer Evaluation Plan was developed based on the premise that competitive Offers were to be received and scored against specific evaluation criteria in order to select the best value Offer. Council's Offer Evaluation Panel was made up as follows:

Position
Engineer Contracts
Engineer Assets and Maintenance
Engineer Projects

### Evaluation Criteria

Offers were evaluated based on the criteria noted in the table below which were also listed in the Conditions of Offering.

Criterion	Document Reference	Weighting (%)
Value for Money (Normalised Offer Price) (Mandatory but Chairperson sets weighting)	Schedule 2 & 3	40
Price Compared with TSC Estimate	Schedule 2 & 3	Yes/No Item
Financial Details and Capacity	Schedule 4	Yes/No Item
Previous and Current Works (Experience)	Schedule 4	5
Project Management (Key Personnel)	Schedule 5	5
Methodology and Work Program (Time)	Schedule 6	5
WHS and Risk Management	Schedule 7	10
Environmental Management	Schedule 7	10
Quality Management	Schedule 7	10
Proposed Subcontractors (Experience)	Schedule 8	Yes/No Item
Company Insurances	Schedule 9	Yes/No Item



Criterion	Document Reference	Weighting (%)
Sustainable Procurement	Schedule 10	0
Local Content (Development of Local Business/Industry) (Mandatory 10% assessment as per Policy)	Schedule 11	10
Innovation	All Schedules	5
Maintenance and Running costs	All Schedules	Yes/No Item
Life of Proposed materials and equipment	All Schedules	Yes/No Item
	<b>Total</b>	<b>100</b>

### Evaluation Results

The details of the price and non-price evaluation are shown on the Offer Evaluation Report and Offer Evaluation Scoring Sheet. A copy of the Offer Evaluation Report and Offer Evaluation Scoring Sheet are included as ATTACHMENTS 1 and 2 which are CONFIDENTIAL in accordance with Section 10A:

- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret

The information identifies the Bidder in relation to the Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of the Bidder in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Offer.

Michael Reid Family Trust ATF Crosana Pty Ltd achieved the highest overall assessment score and is therefore deemed as the most advantageous option for Council.

### OPTIONS:

That Council:

1. Awards the contract RFO2016139 to Michael Reid Family Trust ATF Crosana Pty Ltd ABN 45 943 696 462 for the amount of \$744,080.41 (exclusive of GST) subject to Council releasing a Construction Certificate for the works.
2. Awards the Contract to a different Bidder, including reasons for this course of action.
3. Declines to accept any of the Offers, including reasons for this course of action.

### CONCLUSION:

In respect to Contract RFO2016139 Construction of Soil Nail Anchor Wall Tumbulgum Road Murwillumbah, it is recommended that Council awards the contract to Michael Reid Family Trust ATF Crosana Pty Ltd ABN 45 943 696 462 for the amount of \$744,080.41 (exclusive of GST) subject to Council releasing a Construction Certificate for the works.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

The offer process has been conducted in accordance with the provisions of:

- Local Government Act 1993 and NSW Local Government (General) Regulation 2005
- Council's Procurement Policy v 1.6

**b. Budget/Long Term Financial Plan:**

Provision for funding RFO2016139 is included in the Road Maintenance 2016/2017 Budget.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*(Confidential)* Attachment 1. RFO2016139 - Offer Evaluation Report (ECM4335446).

*(Confidential)* Attachment 2. RFO2016139 - Offer Evaluation Scoring Sheet (ECM433531).

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21 [E-CM] Procurement of Bulk Carbon Dioxide (CO2)

SUBMITTED BY: Infrastructure Delivery

Validms



Supporting Community Life

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**LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

- 1 Civic Leadership
  - 1.3 Delivering the objectives of this plan
  - 1.3.2 Council will seek the best value in delivering services
- 

**SUMMARY OF REPORT:**

The attached report sets out the requirement for, methodology undertaken to procure, and recommendations relating to the procurement of Bulk Carbon Dioxide, used for water treatment purposes at the Bray Park Water Treatment Plant and at the aquatic centres.

**RECOMMENDATION:**

**That:**

1. Council enters into a contract with Air Liquide (ABN 95 000 029 729) for Bulk Carbon Dioxide (CO2) supply using the negotiated version of the Air Liquide 'Liquid Products Agreement' for a three year period at the negotiated rates, with the estimated value of this contract over the proposed three-year period noted as being \$440,000.
2. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret.

## REPORT:

### **Bulk CO2 requirement**

Council uses Bulk CO2 for water treatment purposes at its Bray Park Water Treatment Plant (around 400T/year) and also at the Murwillumbah TRAC (16T/year) and Kingscliff TRAC (8T/year) for pool water treatment. The Tweed TRAC is also anticipating imminent implementation of a CO2 water treatment system (usage estimated to be around 4T/year).

### **Bulk CO2 suppliers and standards**

There are only two suppliers of Bulk CO2 in Australia, Air Liquide and BOC. There is only one standard of Bulk CO2 – ‘food grade’ – allowable in Australia, and both suppliers’ product meets the Australian regulatory requirements.

### **Existing supply arrangements**

Council’s previous purchasing arrangement for Bulk CO2 was under two separate contracts – for Bray Park WTP it was purchased in true bulk format (delivered by tanker, priced per tonne) as an item under the EC2014040 Water Treatment Chemicals from Air Liquide, while the CO2 for the pools was included in a second Industrial Gases contract (EC2014045), but priced per kg (and delivered by mini-tanker) and supplied by BOC.

### **NOROC Tender Process**

In late-2015 Council participated in a joint Northern Rivers Regional Organisation of Councils (NOROC) tender process (as defined under Section 55 of the Local Government Act) for Water Treatment Chemicals, whose aim was to purchase water treatment chemicals at a greater cost advantage by uniting purchasing power. This tender included Bulk CO2 as a supply item and both Air Liquide and BOC provided pricing in response to the NOROC Request for Tender, which offered bidders a three-year initial contract term with two x one-year options to extend.

Ultimately all NOROC members determined that the joint Tender process had not yielded any savings over and above pricing able to be obtained individually, and in December 2015 NOROC officially advised all Tenderers that:

*“after careful deliberation and analysis of tendered prices, it was found that there would be no appreciable advantage for member Councils to formalise a contract against the offers received. Consequently, the Tender Evaluation Panel has recommended that the tender results be considered by each individual Council to determine if separately negotiated contracts or purchase agreements would provide benefit, accordingly any decision to proceed has been left for individual Councils determination.”*

Based on the NOROC determination, Council’s Contracts Unit determined that Council should, following the unsuccessful Tender process, and in accordance with paragraph 178(3)e of the Local Government (General) Regulation 2005, enter into negotiations with Air Liquide as the lowest-priced tenderer for Bulk CO2.

Another determining factor prompting this course of action was that it was considered that this product now fell into the ‘extenuating circumstances’ category (as set out in paragraph (3)(i) of Section 55 of the Local Government Act); notably it was evident that the small pool of available potential suppliers meant that a more competitive or satisfactory result would not be achieved by inviting a further round of tenders.

### **Post-Tender negotiation process**

The NOROC Tender pricing demonstrated that Bulk CO2 market pricing had increased substantially since Council had last tendered for this item (in 2014); however it was felt that the NOROC pricing might still present some scope for negotiation, a dialogue to that end was opened with Air Liquide, as the lowest-priced NOROC bidder, in March 2016. The negotiation of both contractual and commercial terms and conditions has subsequently been ongoing; a mutually-agreed Liquid Products Agreement is now ready to be executed. A full pricing comparison, including pricing for the proposed new contract, is included in Confidential Attachment 1.

### **OPTIONS:**

Council could start a new Tender process for Bulk CO2, enter into the negotiated agreement with Air Liquide for one year and then start a new Tender process, or Council can agree to enter into the negotiated agreement for the proposed three-year contract term. Each of these options is discussed in detail in Confidential Attachment 1.

### **CONCLUSION:**

Both the Engineering (as manager of the Bray Park Water Treatment Plant) and Community and Natural Resources (as manager of the aquatic centres) Directorates agree that the methodology undertaken to secure a new Bulk CO2 contract for Council has met all applicable procurement requirements and has resulted in the best value for money outcome currently available in the marketplace with regards to CO2 supply. It is recommended that Council endorses the proposal set out in the attached Procurement Report and accepts the Recommendation set out herein.

### **COUNCIL IMPLICATIONS:**

#### **a. Policy:**

Procurement Policy v1.6, in accordance with the Local Government Act and the NSW Local Government (General) Regulation 2005.

#### **b. Budget/Long Term Financial Plan:**

Provision for Council's Carbon Dioxide expenditure is included in the 2016-2017 Budget.

#### **c. Legal:**

Not Applicable.

#### **d. Communication/Engagement:**

**Inform** - We will keep you informed.

### **UNDER SEPARATE COVER/FURTHER INFORMATION:**

(Confidential) Attachment 1. Procurement Report - Bulk Carbon Dioxide CO2 (ECM 4322436).

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**22 [E-CM] RFO2016077 Supply Electricity for Small Sites from 1 January 2017**

**SUBMITTED BY: Infrastructure Delivery**

Validms



## **Civic Leadership**

### **LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

- 1 Civic Leadership
  - 1.3 Delivering the objectives of this plan
  - 1.3.2 Council will seek the best value in delivering services
- 

### **SUMMARY OF REPORT:**

Request for Offer RFO2016077 was called to ensure continued electricity supply to Council's small site infrastructure after the completion of contract EC2013-217 which is due to expire on 31 December 2016.

The offer was advertised as per the requirements of the Local Government Regulation 2005 and is scheduled to close at 4:00pm NSW Local Time on 7 December 2016.

It is anticipated that offers from Electricity Retailers will be valid for 14 days so a prompt assessment and Council resolution is required to be able to enter a Retail Electricity Supply Agreement within the offered validity period.

Once offers have been received on 7 December 2016, Council officers will undertake an assessment and provide a Late Report to Council.

### **RECOMMENDATION:**

**That Council considers a late report for RFO2016077 Supply Electricity for Small Sites from 1 January 2017 at the Council Meeting scheduled for 15 December 2016.**

**REPORT:**

As per Summary of Report.

**OPTIONS:**

That:

1. A late report for RFO2016077 Supply Electricity for Small Sites from 1 January 2017 be received.
2. A late report for RFO2016077 Supply Electricity for Small Sites from 1 January 2017 not be received.

**CONCLUSION:**

That Council considers a late report for RFO2016077 Supply Electricity for Small Sites from 1 January 2017 at the Council Meeting scheduled for 15 December 2016.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Procurement Policy v1.6.

**b. Budget/Long Term Financial Plan:**

Electricity is an operational cost covered in the budget allocation for each operational site that Council is responsible for.

The Water and Waste Water Unit and Recreation Services Units are the largest consumers due to operational and public recreation needs.

The existing contract EC2013-217 incurs average monthly expense of roughly \$120,000.00 incl GST for all sites.

All Divisions of Council will be affected by Contract RFO2016077.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**23 [E-CM] Proposed Crown Road Closure - Tumbulgum**

**SUBMITTED BY: Design**

Validms



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Civic Leadership
1.3	Delivering the objectives of this plan
1.3.1	Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan

---

### SUMMARY OF REPORT:

Council has received a notice of application to close a section of Crown road reserve at Tumbulgum from Crown Lands. Council has been requested to provide its concurrence or objection to the closure of these sections of Crown public road.

A desktop investigation has been conducted which notes no services or infrastructure are located within the road reserves. There is no formation within the road reserves however the section of road which runs along the western boundary of Lot 1 DP 781660 and Lot 153 DP 755698 provides a connection between Tweed Valley Way and Bartletts Road.

In accordance with Council's policy on road closure and private purchase, the Crown road reserves along the western boundary of Lot 1 DP 781660 and Lot 153 DP 755698 are not eligible for closure as their future highest and best use for Council purposes is judged to be of more economic worth than the current land value and could potentially be developed for vehicle, cycle, pedestrian or equestrian use as the Shire grows. It is recommended that Council objects to the closure of these sections of Crown road reserve and applies to have them transferred from Crown to Council.

The Crown road reserves running along the southern boundary of Lot 2 DP 583342 and the road separating Lot 155 and Lot 182 DP 755698 do not fall within the categories of roads not eligible for closure under Council's policy on road closure and purchase and therefore indicate no objection necessary.

### RECOMMENDATION:

**That Council:**

- 1. Objects to the closure of the Crown road reserves which runs along the western boundary of Lot 1 DP 781660 and Lot 153 DP 755698.**

2. Does not object to the closure of the road running along the southern boundary of Lot 2 DP 583342 and the road separating Lot 155 and Lot 182 DP 755698.
3. Applies to transfer the road reserve which runs along the western boundary of Lot 1 DP 781660 and Lot 153 DP 755698 from Crown to Council control.
4. Sign all necessary documents under the Common Seal of Council.

**REPORT:**

Council has received a notice of application to close a section of Crown Road reserve along the eastern and southern boundaries of Lot 2 in DP 583342, the western boundary of Lot 1 DP 781660 and Lot 153 DP 755698 and the road separating Lot 155 and Lot 182 DP 755698 at Tumbulgum from Crown Lands (Please refer to diagram 1). Council has been requested to provide its concurrence or objection to the closure of these sections of Crown public road.

**Diagram 1** – Plan showing the proposed road closures as highlighted.



**Section 1** (Diagram 2) is located between Tweed Valley Way and the Tweed River. There is potential for this section of road reserve to be utilised in future road widening should the need arise. This area is also under investigation for riverbank regeneration and the road reserves provide the necessary access to allow these works to be completed.

**Diagram 2** showing the section of road between Tweed Valley Way and the Tweed River.



**Section 2** (Diagram 3) consists of the Crown road reserve which runs along the western boundary of Lot 1 DP 781660 and Lot 153 DP 755698. This road is unformed however potentially provides a connection road between Tweed Valley Way and Bartletts Road.

**Diagram 3** showing the road proposed to be closed along the western boundary of Lot 1 DP 781660 and Lot 153 DP 755698.



In accordance with Council's policy on road closure and private purchase, the Crown road reserves noted above as **Section 1** and **Section 2** are not eligible for closure as their future highest and best use for Council purposes is judged to be of more economic worth than the current land value and could potentially be developed for vehicle, cycle, pedestrian or equestrian use as the Shire grows.

**Section 3** (Diagram 4) runs along the southern boundary of Lot 2 DP 583342. There is no road formation, no environmental impacts and does not detrimentally affect any of the surrounding land owners.

**Diagram 4** showing the road on the southern boundary of Lot 2 DP 583342.



**Section 4** (Diagram 5) being the road separating Lot 155 and Lot 182 DP 755698 contains no road formation, no environmental impacts and does not detrimentally affect any of the surrounding land owners.

**Diagram 5** showing road separating Lot 155 and Lot 182 DP 755698.



The Crown road reserves shown as **Section 4** and **Section 5** noted above do not fall within the categories of roads not eligible for closure under Council's policy on road closure and purchase and therefore indicate no objection necessary.

**OPTIONS:**

1. Council objects to the closure of Sections 1 and 2 noted in the body of the report and does not object to the closure of Sections 3 and 4 noted in the body of the report.
2. Council does not object to the closure of the Crown roads reserve along the eastern and southern boundaries of Lot 2 in DP 583342, the western boundary of Lot 1 DP 781660 and Lot 153 DP 755698 and the road separating Lot 155 and Lot 182 DP 755698 at Tumbulgum.
3. Council objects to the closure of the Crown roads reserve along the eastern and southern boundaries of Lot 2 in DP 583342, the western boundary of Lot 1 DP 781660 and Lot 153 DP 755698 and the road separating Lot 155 and Lot 182 DP 755698 at Tumbulgum.

**CONCLUSION:**

In accordance with Council's policy on road closure and private purchase, the Crown road reserves noted above as **Section 1** and **Section 2** are not eligible for closure as their future highest and best use for Council purposes is judged to be of more economic worth than the current land value and could potentially be developed for vehicle, cycle, pedestrian or equestrian use as the Shire grows. It is recommended that Council applies to transfer these sections of road reserve from Crown to Council control.

The Crown road reserves shown as **Section 4** and **Section 5** do not fall within the categories of roads not eligible for closure under Council's policy on road closure and purchase and therefore indicate no objection necessary.

It is therefore recommended that Council objects to the closure of the Crown road reserves which runs along the western boundary of Lot 1 DP 781660 and Lot 153 DP 755698 and does not object to the closure of the road running along the southern boundary of Lot 2 DP 583342 and the road separating Lot 155 and Lot 182 DP 755698.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Road Closures and Private Purchase v1.2.

**b. Budget/Long Term Financial Plan:**

No budget implications.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

These road closure applications were advertised by Crown Lands as part of the statutory requirements for road closures.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. Crown Lands notification of proposed road closure (ECM 4290200).

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**24 [E-CM] Creation of Easement to Drain Sewage over Lot 5 in DP 1121923, Pottsville**

**SUBMITTED BY: Design**

**FILE REFERENCE: DA15/0642 and SEW16/0406**

Validms



## **Civic Leadership**

### **LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

- 1 Civic Leadership
  - 1.3 Delivering the objectives of this plan
  - 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
- 

### **SUMMARY OF REPORT:**

Council has provided development consent to the owners of Lot 5 in DP 1121923 which includes a condition relating to the creation of an easement to Drain Sewage over the existing sewer line.

The applicant has now submitted an application for the creation of the easement together with a Transfer Granting Easement to be lodged and registered at Land & Property Information (LPI), Sydney. The Transfer Granting easement will create an Easement to Drain Sewage 3 wide over Lot 5 in DP 1121923 benefiting Tweed Shire Council which satisfies the consent condition. The Transfer Granting easement will require the endorsement of Council under Common Seal prior to registration by the applicant.

### **RECOMMENDATION:**

**That:**

- 1. Council provides its consent to the Transfer Granting Easement creating an Easement to Drain Sewage 3 wide over Lot 5 in DP 1121923.**
- 2. All documentation be executed under the Common Seal of Council.**

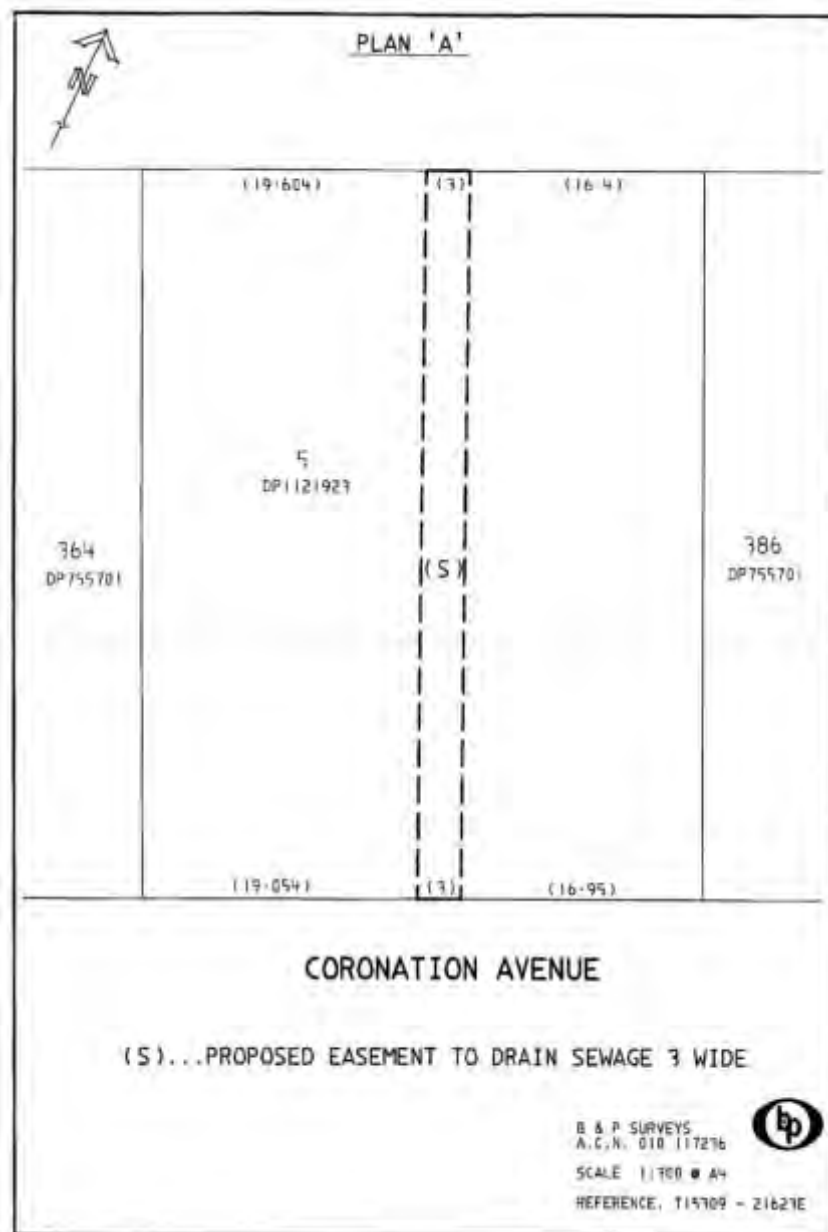
**REPORT:**

Council has provided development consent to the owners of Lot 5 in DP 1121923 which includes the following condition relating to the creation of an easement to Drain Sewage over the existing sewer line.

*"13. Council requires a legal arrangement which will burden current and future owners of the property to permit Council to maintain, and re-construct these works as and when required. That is access is required to repair, maintain and reconstruct the sewer."*

The applicant has now submitted an application for the creation of the easement together with a Transfer Granting Easement to be lodged and registered at Land & Property Information (LPI), Sydney. The Transfer Granting easement will create an Easement to Drain Sewage 3 wide over Lot 5 in DP 1121923 benefiting Tweed Shire Council which satisfies the consent condition.

Below is a copy of the Plan of Easement to Drain Sewage 3 wide:



**OPTIONS:**

This is a condition of consent of DA15/0642 requiring the applicant to create the Easement to Drain Water in favour of Council.

**CONCLUSION:**

It is recommended that Council approves the creation of the Easement to Drain Sewage 3 wide over Lot 5 in DP 1121923 benefiting Tweed Shire Council and endorses the Transfer Granting Easement under Common Seal of Council.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable.

**b. Budget/Long Term Financial Plan:**

No Future Budget implications.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

Public consultation not required as this report emanates from the landowner addressing consent conditions.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1.

Application for Creation of Easement (ECM 4290402).

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25 [E-CM] Road Naming - Herbies Lane, Tweed Heads South

SUBMITTED BY: Design

Validms



## Supporting Community Life

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Supporting Community Life
2.4	An integrated transport system that services local and regional needs
2.4.3	Ensure local streets, footpaths and cycleways are provided, interconnected and maintained

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### SUMMARY OF REPORT:

Council at its meeting of 15 September 2016 resolved to advertise its intention to name the road which runs off Seaview Street at Tweed Heads South as Herbies Lane and allowed one month for objections to the proposal.

No objections were received.

It is recommended that the name Herbies Lane be adopted for the naming purposes of the road and notification be submitted by Government Gazette in accordance with *the Road (General) Regulation 2008* and the *Roads Act 1993*.

### RECOMMENDATION:

That:

1. Council adopts the name of "Herbies Lane" for the road which runs off Seaview Street at Tweed Heads South.
2. The naming of the public road be gazetted under the provisions of the *Road (General) Regulation 2008* and the *Roads Act 1993*.

**REPORT:**

Council at its meeting of 15 September 2016 resolved to advertise its intention to name the road which runs off Seaview Street at Tweed Heads South as Herbies Lane and allowed one month for objections to the proposal. Refer to Diagram 1.

No objections were received.

**Diagram 1 – Location of proposed Herbies Lane, Tweed Heads South.**



**OPTIONS:**

The process of naming the public road reserve as Herbies Lane complies with and has been completed in accordance with Council's Policy - Naming of Streets and Roads.

**CONCLUSION:**

It is recommended that the name Herbies Lane be adopted for the naming purposes of the road and notification be submitted by Government Gazette in accordance with *the Road (General) Regulation 2008* and the *Roads Act 1993*.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Naming of Streets and Roads v1.2.

**b. Budget/Long Term Financial Plan:**

No future budget implications.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Consult**-We will listen to you, consider your ideas and concerns and keep you informed.

Council report dated 15 September 2016 resolving to advertise the intention to name the road Herbies Lane.

Advertised in the Tweed Link on 27 September 2016 with submissions closing 27 October 2016. No objections were received.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1.

Letter proposing street name (ECM 4141165).

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**26 [E-CM] Classification of Land as Operational - 105 Fraser Drive, Banora Point**

**SUBMITTED BY: Design**

Validms

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## Supporting Community Life

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
  - 2.4 An integrated transport system that services local and regional needs
  - 2.4.1 Provide a safe and efficient network of arterial roads connecting neighbourhoods to town centres, employment, shopping, health, commercial and education facilities
- 

### SUMMARY OF REPORT:

At its meeting held on 21 July 2016 Council resolved to purchase Lot 2 DP 814255, 105 Fraser Drive, Banora Point.

Settlement of the purchase occurred on 7 October 2016 and pursuant to Section 31 of the Local Government Act 1993, Council is required to classify all land held by it.

Prior to resolving to classify the land, Council was required to publish a notice of its intention to classify the land. Such a notice was published in the Tweed Link on 1 November 2016, with a submission period of 28 days, which expired on 29 November 2016 and no submissions were received.

It is recommended that Council approve the classification of the subject land as operational in pursuance of its obligations under the Local Government Act, 1993.

### RECOMMENDATION:

**That Council, in accordance with Section 31 of the Local Government Act 1993 classify Lot 2 DP 814255 being 105 Fraser Drive, Banora Point as operational land.**



**REPORT:**

At its meeting held on 21 July 2016 Council resolved to purchase Lot 2 DP 814255, 105 Fraser Drive, Banora Point as shown in Diagram 1.

Diagram 1 showing Lot 2 DP 814255.



Settlement of the purchase occurred on 7 October 2016 and pursuant to Section 31 of the Local Government Act 1993, Council is required to classify all land held by it.

Prior to resolving to classify the land, Council was required to publish a notice of its intention to classify the land. Such a notice was published in the Tweed Link on 1 November 2016, with a submission period of 28 days, which expired on 29 November 2016 and no submissions were received.

**OPTIONS:**

As the classification of land is a statutory obligation, there are no alternative options available regarding this matter.

**CONCLUSION:**

Council is required to classify all land held by it and the purpose of this report is to fulfil that statutory obligation, it is recommended that Council approve the classification of the subject land as operational land in pursuance of Section 31 of the Local Government Act 1993.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Section 31 Local Government Act 1993.

**b. Budget/Long Term Financial Plan:**

No financial or budget implications arise from this report.

**c. Legal:**

In accordance with the classification of land acquired after July 1993, being Section 31 of the Local Government Act 1993.

**d. Communication/Engagement:**

**Consult-**We will listen to you, consider your ideas and concerns and keep you informed.

Advertising of proposal to classify the land as operational in Tweed Link dated 1 November 2016 providing 28 days for submissions.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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## REPORTS FROM THE DIRECTOR CORPORATE SERVICES

### 27 [CS-CM] Draft Community Strategic Plan 2017/2027 "Living and Loving the Tweed"

SUBMITTED BY: Financial Services

Validms



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
  - 1.2 Improve decision making by engaging stakeholders and taking into account community input
  - 1.2.3 Financial requirements and the community's capacity to pay will be taken into account when meeting the community's desired levels of service
- 

### SUMMARY OF REPORT:

Section 402 (5) of the *Local Government Act 1993* (NSW) prescribes that following an ordinary election of councillors, the council must review the community strategic plan before 30 June following the election.

The attached Draft Strategic Plan 2017/2027 "Living and Loving the Tweed" has been developed incorporating engagement with the council, community groups and individuals and other levels of government.

It addresses a broad range of issues that have been raised during the various methods of engagement carried out by Council and its intent is to identify the main priorities and aspirations for the future of the Tweed local government area.

Councillors and the Community Engagement Network will be participating in a range of activities and events throughout the exhibition period encouraging community feedback on the draft document.

Following the close of the public exhibition phase, a further report will be presented to council for consideration to adopt the 2017/2027 Community Strategic Plan "Living and Loving the Tweed" incorporating actions from the feedback received.

### RECOMMENDATION:

**That the Draft Community Strategic Plan 2017/2027 "Living and Loving the Tweed" be endorsed, and placed on public exhibition for the period 2 January 2017 until 25 February 2017, inviting community feedback.**

## REPORT:

Section 402 of the *Local Government Act 1993* (NSW) prescribes that:

### Clause (5)

*"Following an ordinary election of councillors, the council must review the community strategic plan before 30 June following the election.*

*The council may;*

- endorse the existing plan,*
- endorse amendments to the existing plan or*
- develop and endorse a new community strategic plan as appropriate,*

*to ensure that the area has a community strategic plan covering at least the next 10 years."*

### Clause (6)

*"A draft community strategic plan or amendment of a community strategic plan must be placed on public exhibition for a period of at least 28 days and submissions received by the council must be considered by the council before the plan or amendment is endorsed by the council."*

As the most current election occurred in November 2016, Council has until 30 June 2017 to adopt a ten-year Community Strategic Plan which will encompass the period from July 2017 until June 2027.

The attached Draft Strategic Plan 2017/2027 "Living and Loving the Tweed" has been developed incorporating engagement with the council, community groups and individuals and other levels of government.

It addresses a broad range of issues that have been raised during the various methods of engagement carried out by Council and its intent is to identify the main priorities and aspirations for the future of the Tweed local government area.

Council must place the Draft Community Strategic Plan on public exhibition for a period of at least 28 days and comments from the community must be accepted and considered prior to the endorsement of the final Community Strategic Plan.

This report recommends an extended public exhibition period of 54 days (2 January, 2017 to 25 February, 2017).

Following the close of the public exhibition phase, a further report will be presented to council for consideration to adopt the 2017/2027 Community Strategic Plan "Living and Loving the Tweed" incorporating actions from the feedback received.

Council will use the Community Strategic Plan, and resourcing options to prepare a four year Delivery Program for its term of office and a detailed Operational Plan for each year of the Program.

The Delivery and Operational Plans allocate priorities to the goals and actions outlined in the Community Strategic Plan and determine appropriate targets to measure outcomes.

**OPTIONS:**

1. Adopt the Draft Community Strategic Plan 2017/2027 “Living and Loving the Tweed” and place on public exhibition.
2. Make amendments to the Draft Community Strategic Plan 2017/2027 “Living and Loving the Tweed” and place on public exhibition.

**CONCLUSION:**

That Council endorses and places on public exhibition the draft Community Strategic Plan 2017/2027 “Living and Loving the Tweed”.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

The Community Strategic Plan sits above all other council plans and policies in the planning hierarchy.

The purpose of the Plan is to identify the community’s main priorities and aspirations for the future, and plan actions to achieve them.

These actions will take into consideration the issues and pressures that may affect the community and the level of resources that will realistically be available. While a council has a custodial role in initiating, preparing and maintaining the Community Strategic Plan on behalf of the local government area, it is not wholly responsible for its implementation. Other partners, such as state agencies and community groups may also be engaged in delivering the long term objectives of the Plan.

**b. Budget/Long Term Financial Plan:**

The Community Strategic Plan provides a vehicle for expressing long-term community aspirations. However, these will not be achieved without sufficient resources – time, money, assets and people – to actually carry them out.

The Resourcing Strategy (yet to be developed) consists of three components:

- Long Term Financial Planning
- Workforce Management Planning
- Asset Management Planning.

The Long Term Financial Plan must be:

- for a minimum of 10 years.
- updated at least annually as part of the development of the Operational Plan.
- reviewed in detail as part of the four yearly review of the Community Strategic Plan.

The Long Term Financial Plan is an important part of council’s strategic planning process. It is the point where long term community aspirations and goals are tested against financial realities.

**c. Legal:**

As required by Section 402 of the Local Government Act 1993.

**d. Communication/Engagement:**

**Consult**-We will listen to you, consider your ideas and concerns and keep you informed.

Council has undertaken the following community engagement and policy formulation to inform the development of the Draft Community Strategic Plan – 2017/2027:-

- Tweed Sustainable Agriculture Strategy
- Events Strategy
- Market Policy
- Rural Land Strategy
- Kingscliff Foreshore Revitalisation project
- Draft Kingscliff Locality Plan (Ongoing)
- Business Investment Policy
- Draft Scenic Landscape Strategy
- Inaugural Food Forum Outcomes Report
- Community Sponsorship Policy
- Recreation and Open Space Strategy
- Draft Commercial Recreation Activities on Public Open Space
- Draft Non Motorised Water Recreation Businesses Policy
- Draft Rural Villages Strategy
- Tweed Coast Comprehensive Koala Plan of Management
- Tweed Regional Accessible Playground and Park concept Plan
- Volunteer Policy
- Tweed Urban Stormwater Quality Management Plan
- Community Halls Strategy
- Homelessness Policy
- Environmental Sustainability Strategy
- Murwillumbah to Tweed Gallery Rail Trail Plan
- Draft Sportsfield Strategy

Council's Community engagement Network has attended the following Events over the last sixteen months:

- Weekend Markets at Kingscliff, Pottsville and Murwillumbah Farmers Market
- Murwillumbah Show 2015 & 2016
- Dragon Boat Races at Jack Evans Boat Harbour
- Rotary Charity Duck Race 2015
- Tweed River Festival at Murwillumbah 2015 and Tumbulgum 2016
- Foodies Fest 2015 and 2016
- Northern Rivers District Kennel club Dog Show 2016
- Christmas Tree Lighting Murwillumbah and Tweed Heads 2015 and 2016
- Tweed Heads, Kingscliff Chamber of Commerce Meetings
- Banora Point Residents Association
- Knox Park Playground opening
- Kingscliff Ratepayers and Progress Association

In addition to the engagement undertaken on specific policies, plans and the initiatives of the community engagement network, Council also actively engages with the community through feedback received via the community representatives on the following Council advisory committees:

- Aboriginal Advisory Committee
- Tweed Australia Day Committee
- Community Halls Advisory Committee
- Equal Access Advisory Committee
- Floodplain Management Committee
- Sports Advisory Committee
- Tweed Coastal Committee
- Tweed Regional Gallery Advisory Committee
- Tweed River Committee
- Tweed Shire Demand and Water Efficiency Review Community Reference Group
- Local Traffic Committee

The Draft Community Strategic Plan “Living and Loving the Tweed” is an important milestone in the “Tweed the Future is Ours” program which commenced in January 2015. It is aimed at working with our communities to provide Council with clear direction on the services they want to see delivered in the future and their expectations as to the level of these services and the corresponding costs.

As part of “Tweed the Future is Ours” Council conducted a Service Planning Survey during the months of November and December 2016 to gauge the importance and satisfaction levels that residents have of Council’s 50+ services.

The survey comprised of four sections:

1. Service awareness – understanding what Council does – an introduction to Council’s services, their functions and how they are grouped into four different service streams.
2. Service importance – feedback on how important these services are to the Tweed community, as well as asking what services should be a priority.
3. Service satisfaction – feedback on current satisfaction levels with particular services.
4. Tweed tomorrow – how can we make Tweed even better tomorrow than it is today?

The information and feedback received through these conversations and surveys has and will continue to assist Council in the planning and delivery of services into the future.

Councillors and the Community Engagement Network will be participating in a range of activities and events throughout the exhibition period encouraging community feedback on the draft document.

The first edition of the Tweed Link of 2017, to be published on 10 January, will feature information on the Draft Community Strategic Plan “Living and Loving the Tweed” and highlight opportunities for the community to provide comments. It is anticipated that each week throughout the exhibition period, the Tweed Link will provide details of upcoming Community Engagement Network dates and places.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. Draft Community Strategic Plan “Living and Loving the Tweed” will provided to Councillors prior to the meeting.

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28 [CS-CM] RFO2016169 Provision of Security Services

SUBMITTED BY: Corporate Governance

Valid



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Civic Leadership
1.3	Delivering the objectives of this plan
1.3.2	Council will seek the best value in delivering services

### SUMMARY OF REPORT:

Request for Offer RFO2016169 Provision of Security Services was called to procure the services of a qualified and experienced security firm to provide a range of Security Services, on both a regularly-scheduled and ad-hoc/as required basis, including patrols, alarm monitoring and response, facility lock-ups, banking escorts, staff escorts, static guards and staff security training.

At the time of closing six Offers were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. The recommendations are based on the evaluation.

### RECOMMENDATION:

That in respect to Contract RFO2016169 Provision of Security Services:

- 1. Council awards the contract to National Management Group Pty Ltd ATF National Management Group T/As Tweed Coast Protective Services (ABN 26 257 33 737) for the Offered rates for the period 1 January 2017 to 30 June 2020, with a further possible 1 x 24 month extension option available to be exercised at Director Corporate Services' discretion (as the Contract Principal) based on service and delivery standards at the end of the initial Contract term, noting that the estimated value of this contract over the potential five-and-a-half year total period is \$990,000.**
- 2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at finalisation of the contract.**

3. **ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
- (d) **commercial information of a confidential nature that would, if disclosed:**
    - (i) **prejudice the commercial position of the person who supplied it, or**
    - (ii) **confer a commercial advantage on a competitor of the council, or**
    - (iii) **reveal a trade secret.**

**REPORT:****Offer Background**

Offer RFO2016169 Provision of Security Services was called to procure the services of a qualified and experienced security firm to provide a range of Security Services, on both a regularly-scheduled and ad-hoc/as required basis, including patrols, alarm monitoring and response, facility lock-ups, banking escorts, staff escorts, static guards and staff security training.

**Request for Offer Advertising**

Offers were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. The Request for Offer was advertised from 30 September 2016 in the *Sydney Morning Herald*, the *Brisbane Courier Mail*, the *Tweed Link* and on Council's website.

Offer submissions closed at 4.00pm (local time) on Wednesday 26 October 2016 in the in the Murwillumbah Tender Box and on eTender.

**Offer Addendums**

There were two addendums (Notices to Bidders) issued before close of Offer.

Addendum No. 1 clarified the requirements of the Alarm Monitoring, Banking Escorts, Staff Escorts and staff security training and audits portions of the Services, and added an additional item, Alarm Monitoring Set-Up Fee, to the Pricing Schedule.

Addendum No. 2 noted and answered questions from Bidders relating to the Services requirements.

**Offer Submissions**

At the closing time for Offer Submissions, the Tender Box was opened and six Offers were recorded as below:

<b>Bidder</b>	<b>ABN</b>
Business Security & Management Solutions Pty Ltd Trading As BSMS SECURITY	85 129 088 286
Nitestar Pty Ltd ATF Bob Dean Trust	89 120 377 915
Southern Cross Protection Pty Ltd	93 094 077 255
Sydney Night Patrol & Inquiry Co Pty Ltd trading as SNP Security	11 000 013 098
National Management Group Pty Ltd ATF National Management Group T/As Tweed Coast Protective Services	26 527 33 737
Unimet Security Pty Ltd	29 1276 648 22

**Offer Evaluation**

An Offer Evaluation Plan was developed based on the premise that competitive Offers were to be received and scored against specific evaluation criteria in order to select the best value Offer.

Council's Offer Evaluation Panel was made up as follows:

<b>Position</b>
Acting Senior Engineer - Contracts (Chair)
Manager Corporate Governance
Operations Coordinator – Recreation Assets

Offers were evaluated based on the criteria noted in the table below which were also listed in the Conditions of Offering.

<b>Evaluation Criterion</b>	<b>Document Reference</b>	<b>Weighting (%)</b>
Bidders' meeting of Contract requirements	Throughout Offer	Yes/No
Pricing	Schedule 5.8 Offer Pricing	40
Demonstrated capability to perform the Services as specified	Schedules: 5.3 Insurance Details Form 5.4 Bidder's Experience Form 5.9 Proposal	30
Relevant experience with contracts/services of a similar nature	Schedule 5.4 Bidder's Experience Form	10
Appropriate systems and procedures in place to service the Contract (including sustainable procurement)	Schedules: 5.3 Insurance Details Form 5.5 Workplace Health and Safety Management Form 5.6 Environmental Performance Form 5.9 Proposal	10
Local Content	Schedule 5.7	10
	<b>Total</b>	<b>100</b>

The details of the price and non-price evaluation are shown on the Offer Evaluation Report and Offer Evaluation Scoring Sheet. A copy of the Offer Evaluation Report and Offer Evaluation Scoring Sheet are included as ATTACHMENTS 1 and 2 which are CONFIDENTIAL in accordance with Section 10A:

- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret

The information identifies Bidders in relation to Offer pricing and the evaluation of the products offered by each Bidder. If disclosed, the information would be likely to prejudice the commercial position of Bidders in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Offer.

**OPTIONS:**

That Council:

1. Awards the contract to National Management Group Pty Ltd ATF National Management Group T/As Tweed Coast Protective Services (ABN 26 257 33 737) for the Offered rates for the period 1 January 2017 to 30 June 2020, with a further possible 1 x 24 month extension option available to be exercised at Director Corporate Services' discretion (as the Contract Principal) based on service and delivery standards at the end of the initial Contract term, noting that the estimated value of this contract over the potential five-and-a-half year total period is \$990,000.
2. Declines to accept any of the Offers, including reasons for this course of action.

**CONCLUSION:**

All Offers were fairly and equitably assessed against the advertised evaluation criteria and the recommended Offer has been assessed as providing Council with the best overall value for money proposition for the carrying out of Council's Security Services requirements.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Procurement Policy v1.6, in accordance with the Local Government Act and the NSW Local Government (General) Regulation 2005.

**b. Budget/Long Term Financial Plan:**

Provision for the Security Services is included in the 2016-2017 Budget.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

(Confidential) Attachment 1. RFO2016169 Provision of Security Services - Offer Evaluation Report (ECM 4318254)

(Confidential) Attachment 2. RFO2016169 - Offer Evaluation Scoring Sheet (ECM 4318311)

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29 [CS-CM] In Kind and Real Donations - July to September 2016

SUBMITTED BY: Financial Services

Valid



## Civic Leadership

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### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
  - 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
  - 2.1.3 Provide opportunities for residents to enjoy access to the arts, festivals, sporting activities, recreation, community and cultural facilities
- 

### SUMMARY OF REPORT:

Details of in kind and real donations for the period July to September 2016 are reproduced in this report for Council's information.

### RECOMMENDATION:

**That Council notes the total donations of \$141,984.35 for the period July to September 2016.**

**REPORT:**

Council maintains a register of in kind and real donations. Details of these donations for the period July to September 2016 are reproduced as follows:

**In Kind and Real Donations - July to September 2016**

<b>Financial Assistance</b>			
<b>Amount</b>	<b>Recipient</b>	<b>Donated Item</b>	<b>Date</b>
5,837.99	Rosemary Evans	Budget Allocation - Local Heritage Assistance Fund	06/07/2016
10,000.00	Taste Northern Rivers Inc Po Box 1136	Budget Allocation - 2016/2017 Festival & Events Sponsorship Funding (Taste of Kingscliff)	29/07/2016
10,000.00	Coolyrocks on Festival Inc	Budget Allocation - 2016/2017 Festival & Events Sponsorship Funding (Cooly Rocks On Festival 2016)	01/08/2016
10,000.00	QSM Sports Pty Ltd	Budget Allocation - 2016/2017 Festival & Events Sponsorship Funding ( Battle of the Border)	01/08/2016
3,000.00	Rotary Club Of Murwillumbah Central Inc	Budget Allocation - 2016/2017 Festival & Events Sponsorship Funding (Tweed Banana Festival)	22/08/2016
10,000.00	Pottsville Beach Tennis Club Inc	Donation - Clay Court Upgrade (Stronger Communities Program)	23/08/2016
32,250.00	Tweed River Jockey Club Ltd	Donation - Recycled Water Scheme	05/09/2016
5,000.00	Tyalgum Music Festival Inc	Budget Allocation - 2016/2017 Festival & Events Sponsorship Funding (Tyalgum Music Festival)	14/09/2016
10,000.00	Tweed Food Fest Inc	Budget Allocation - 2016/2017 Festival & Events Sponsorship Funding (Taste the Tweed Tours)	14/09/2016
7,500.00	Murwillumbah Festival of Performing Arts Inc	Budget Allocation - 2016/2017 Festival & Events Sponsorship Funding	28/09/2016
1,500.00	Tweed Heads Croquet Club Inc	Budget Allocation - 2016/2017 Festival & Events Sponsorship Funding ( Croquet Spring Carnival)	28/09/2016

**\$105,087.99**

<b>Goods, Services and/or Materials</b>			
\$65.00	Terranora Early Learning Centre	Worm Farm	July/Aug/Sept
142.00	Mumzbuzz - Cudgen Farm Market Day	Term of Learn to Swim Lessons	July/Aug/Sept
68.00	Learn to Swim School Promotion	4 - Family Pass Murwillumbah TRAC	July/Aug/Sept
75.00	Tweed Palliative Care Group	Swim Aids Prize pack	July/Aug/Sept
250.00	Tweed Community - TRAC	20- Program Passes	July/Aug/Sept

<b>Financial Assistance</b>			
<b>Amount</b>	<b>Recipient</b>	<b>Donated Item</b>	<b>Date</b>
	Marketing		
64.00	Tweed Land Care Committee	Printing	July
40.00	Murwillumbah High School	13 Shrubs & Trees	26/07/2016
45.00	Living for the Future Home Expo	Compost Bin	03/09/2016
65.00	Living for the Future Home Expo	Worm Farm	03/09/2016
1,040.99	Salvation Army	Dumping Fees - Stotts Creek Landfill	July/Aug/Sept
176.76	You Have a Friend	Dumping Fees - Stotts Creek Landfill	July/Aug/Sept
726.68	Tweed Valley Opportunity Shop	Dumping Fees - Stotts Creek Landfill	July/Aug/Sept
502.78	RSPCA	Dumping Fees - Stotts Creek Landfill	July/Aug/Sept
1,080.20	Tweed Palliative Care	Dumping Fees - Stotts Creek Landfill	July/Aug/Sept
1,433.72	On-Track Community Programs Inc	Dumping Fees - Stotts Creek Landfill	July/Aug/Sept
2,563.02	St Vincent de Paul	Dumping Fees - Stotts Creek Landfill	July/Aug/Sept
125.70	Tweed Coast Community Baptist Church	Dumping Fees - Stotts Creek Landfill	July/Aug/Sept

**\$8,463.85**

<b>Provision of Labour and/or Plant &amp; Equipment</b>			
471.02	Life Education Van Relocation	Provision of Labour & Council Plant	July/Aug
630.81	QSMSports - (Cycle Race Road Signage)	Provision of Labour & Council Plant	05/08/2016
403.82	Tweed Banana Festival	Provision of Labour & Council Plant	Aug/Sept
332.70	Tyalgum Music Festival	Provision of Labour & Council Plant	09/09/2016
50.15	Byron Shire Council (Sustainable House Day Expo)	Provision of Labour	24/09/2016

**\$1,888.50**

<b>Rates</b>			
1,782.25	Bilambil Literary Society	Council Rates 2016/2017	16/07/2016
2,347.50	Tyalgum Community Hall Association Inc	Council Rates 2016/2017	16/07/2016
1,416.60	Trustees of Kunghur Public Hall	Council Rates 2016/2017	16/07/2016
2,318.30	Uki Hall Reserve Trust	Council Rates 2016/2017	16/07/2016
2,607.90	Trustees Burringbar School of Arts Hall Association	Council Rates 2016/2017	16/07/2016
1,486.40	Stokers Siding Memorial Hall	Council Rates 2016/2017	16/07/2016
1,007.80	Murwillumbah Autumn Club Inc	Council Rates 2016/2017	16/07/2016



<b>Financial Assistance</b>			
<b>Amount</b>	<b>Recipient</b>	<b>Donated Item</b>	<b>Date</b>
2,611.70	Twin Towns Police & Community Youth Club	Council Rates 2016/2017	16/07/2016
3,963.10	Tweed Coast Community Centre	Council Rates 2016/2017	16/07/2016
1,414.80	Crabbes Creek Hall Pty Ltd	Council Rates 2016/2017	16/07/2016
2,074.50	Legacy Club of Coolangatta/Tweed Heads	Council Rates 2016/2017	16/07/2016
805.45	Pottsville Beach Tennis Club	Council Rates - Sewer - 2016/2017	16/07/2016
288.03	Twin Towns Police and Community Youth Club	Water Usage	20/07/2016
109.88	Twin Towns Police and Community Youth Club	Sewer Usage	20/07/2016

**\$24,234.21**

### **Tweed Link Advertising**

62.64	Community Notices - Banora Point and District Residents Association	Advertising	July/Aug/Sept
97.74	Community Notices - Burringbar Community Association	Advertising	July/Aug/Sept
63.99	Community Notices - Cabarita Beach/Bogangar Residents Association	Advertising	July/Aug/Sept
61.29	Community Notices - Casuarina & South Kingscliff Residents Association	Advertising	July/Aug/Sept
62.64	Community Notices - Chinderah District Residents Association	Advertising	July/Aug/Sept
27.54	Community Notices - Cudgen Progress Association	Advertising	July/Aug/Sept
27.54	Community Notices- Fingal Head Community Association	Advertising	July/Aug/Sept
62.64	Community Notices - Kingscliff Ratepayers and Progress Association	Advertising	July/Aug/Sept
94.50	Community Notices - Pottsville Community Association	Advertising	July/Aug/Sept
97.74	Community Notices - Stokers Siding and District Community Association	Advertising	July/Aug/Sept
126.90	Community Notices - Tyalgum District Community Association	Advertising	July/Aug/Sept
62.64	Community Notices - Uki Residents Association	Advertising	July/Aug/Sept

**\$847.80**

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Financial Assistance			
Amount	Recipient	Donated Item	Date

Room Hire			
114.00	Twin Towns Friends Association	Room Hire - South Tweed HACC	July/Aug/Sept
541.00	Australian Red Cross	Room Hire - South Tweed HACC	July/Aug/Sept
171.00	Tweed Community Care Forum	Room Hire - South Tweed HACC	July/Aug/Sept
276.00	Tweed Hospital Auxiliary	Room Hire - South Sea Islander Room	July/Aug/Sept
276.00	South Sea Islanders Community	Room Hire - South Sea Islander Room	July/Aug/Sept
84.00	Banora Point & District Residents Association	Room Hire - Banora Point Com Centre	July/Aug/Sept

**\$1,462.00**

**\$141,984.35** Total Donations 1st Quarter (July, August, September 2016)

**OPTIONS:**

Not Applicable.

**CONCLUSION:**

For Councillor's Information and inclusion in Annual Report.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Donations and Subsidies Version 1.2.

**b. Budget/Long Term Financial Plan:**

As per Budget estimates.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**30 [CS-CM] Compliments and Complaints Analysis Report for the Period 1 July to 30 September 2016**

**SUBMITTED BY: Corporate Governance**

Validms



## **Civic Leadership**

### **LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

1	Civic Leadership
1.2	Improve decision making by engaging stakeholders and taking into account community input
1.2.1	Council will be underpinned by good governance and transparency in its decision making process

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### **SUMMARY OF REPORT:**

The Compliments and Complaints Handling Policy contains a quarterly reporting requirement. The Policy is designed to:

- Ensure compliments and complaints received are appropriately recorded;
- Recognise and acknowledge compliments Council receives;
- Deal with complaints in a fair and equitable manner; and
- Increase the level of customer satisfaction with the way feedback is handled, and in the delivery of services and systems.

The Compliments and Complaints Analysis Report for the Period 1 July to 30 September 2016 identifies compliments and complaints and is provided for the information of Council.

### **RECOMMENDATION:**

**That Council receives and notes the Compliments and Complaints Analysis Report for the Period 1 July to 30 September 2016.**

## REPORT:

The Compliments and Complaints Handling Policy contains a quarterly reporting requirement. The Policy is designed to:

- Ensure compliments and complaints received are appropriately recorded;
- Recognise and acknowledge compliments Council receives;
- Deal with complaints in a fair and equitable manner; and
- Increase the level of customer satisfaction with the way feedback is handled, and in the delivery of services and systems.

There are many instances where Council is complimented on the broad range of services it provides to the community, often in the form of a follow up phone call, written thank you or certificate of appreciation. These occasions highlight when Council has met or exceeded citizen expectations. Information about compliments Council receives often goes unrecognised because, unlike complaints, they require little action. However Council values its staff and compliments are an important feedback mechanism to organisational performance as well as a good sign of an engaged and active community.

A complaint is an expression of dissatisfaction, made in:

- a) respect to a Council Officers role in the provision of service delivery or lack of service delivery that has allegedly affected an individual, group or body of stakeholders whether justified or not; or
- b) the quality of service provided by council; or
- c) failing to act upon a request from the public and policies adopted by council.

A complaint can progress from Council's lack of action following the lodgement of a customer request for service or a request for information.

It is not a request for service (customer request management), or information, or an explanation of a policy or procedure, or objections to a development application before Council determination.

A complaint analysis report is presented to Council, detailed by type and outcomes/actions on a quarterly basis, without personal identifying particulars of complainants or associated persons or properties.

Complaints principally refer to the:

- Failure of Council Officers to comply with Council's Customer Service Charter in not responding to items within 14 days in accordance with the Correspondence - Response to Policy.
- Respondents being dissatisfied with the actions of Council Officers in handling their original request for service.
- Complainants being dissatisfied by decisions made by Council.

The complaint type has been categorised in accordance with the Council's organisational structure. This methodology assists in monitoring the effectiveness of Council's handling of complaints and improving service delivery.

Council received 54 compliments for the period 1 July to 30 September 2016, as follows:

Compliment Type	Ref	Details of Compliment	Comments
<b>Office of General Manager</b>	1.1	<i>ePlanning</i> Thanking General Manager for making Council a pleasure to work with.	Noted by General Manager.
<b>Corporate Services</b>	2.1	<i>Divisional Customer Service Units</i> 10 Compliments Appreciation to various staff for excellent Customer Service.	Referred to appropriate Council Officers.
	2.2	<i>Mantra in the Park Food Festival</i> Congratulating Council and the organiser on the top class event.	Compliment passed onto event organiser.
<b>Planning and Regulation</b>	3.1	<i>Council Pound</i> Thank you for great dealings with staff at the pound.	Referred to appropriate Council Officers.
	3.2	<i>Development Assessment and Compliance Unit</i> 4 Compliments Appreciation to various staff for excellent Customer Service.	Referred to appropriate Council Officers.
<b>Engineering</b>	4.1	<i>Dry Dock Road Re-sealing</i> Thank you for the smooth road.	Noted by Manager Infrastructure Delivery.
	4.2	<i>Roads and Infrastructure Delivery Unit</i> 3 Compliments Thank you to staff for excellent Customer Service.	Referred to appropriate Council Officers.
	4.3	<i>Water and Wastewater Unit</i> 2 Compliments Appreciation to staff for excellent Customer Service.	Referred to appropriate Council Officers.
	4.4	<i>Water and Wastewater Unit</i> Thanking staff in assisting with Wastewater Update Seminar.	Referred to appropriate Council Officers.
	4.5	<i>Kennedy Drive</i> Appreciation to traffic control team with great assistance in directing ambulances to the Medial Centre.	Referred to appropriate Council Officers.
<b>Community and Natural Resources</b>	5.1	<i>Community Options Unit</i> 2 Compliments Thank you to Staff for assisting clients.	Referred to appropriate Council Officer.
	5.2	<i>Parks Assets Team</i> 7 Compliments Thanking staff for the maintenance of various Council assets.	Referred to appropriate Council Officers.
	5.3	<i>TASTE Northern Rivers</i> Thanking Council Parks staff for assisting with cleaning up after the event.	Referred to appropriate Council Officers.
	5.4	<i>Tweed Regional Art Gallery</i> Information received advising that the family enjoyed a recent visit to the Gallery.	Referred to Art Gallery Staff.

Compliment Type	Ref	Details of Compliment	Comments
	5.5	<i>Wilson Park Upgrade</i> 3 Compliments Congratulating Council on the recent upgrade work.	Referred to appropriate Council Officers.
	5.6	<i>Cemeteries</i> 3 Compliments Appreciation to Staff for excellent Customer Service and the high standard of the grounds.	Referred to appropriate Council Officers.
	5.7	<i>Tweed Valley Sailing Club</i> Thanking Council Officers, especially Parks and Recreation Unit, for assistance in creation of the Club.	Referred to appropriate Council Officers.
	5.8	<i>Natural Resources Unit</i> 2 Compliments Thanking staff for assistance with their enquiries.	Referred to appropriate Council Officers.
	5.9	<i>Tree Maintenance Team</i> 3 Compliments Thank you to staff for attending to various tree matters.	Referred to appropriate Council Officers.
	5.10	<i>Tweed Heads Auditorium</i> Appreciation for excellent Customer Service provided by Caretaker.	Referred to Auditorium Caretaker.
	5.11	<i>Living Home Expo</i> Appreciation for the presentation of the Expo.	Referred to appropriate Council Officer.
	5.12	<i>Pottsville Beach Tennis Club</i> Appreciation and thanks to Council staff members for assistance and support in the Club obtaining a Stronger Communities Program Grant.	Referred to appropriate Council Officers.
	5.13	<i>Parks Maintenance Team</i> Thanking gardeners for a great job at the Museum Collection Store.	Referred to appropriate Council Officers.

During this quarter 10 complaints have been recorded as follows:

Complaint Type	Ref	Details of Complaint	Comments
<b>Office of General Manager</b>	1.1	<i>Resident of Pottsville</i> Complaint received about a breach of confidentiality.	Extensive investigation conducted, no breach of confidentiality was identified, response provided.
<b>Corporate Services</b>	2.1	<i>15 Cypress Crescent Cabarita Beach</i> Still no response to email dated 19 May 2016 – destruction of Norfolk Pine.	Detailed investigation conducted, with recommended process improvements, response now provided.

Complaint Type	Ref	Details of Complaint	Comments
Planning and Regulation	3.1	<i>65-67 Cylinders Drive Kingscliff</i> DA16/0224- reliance on Council advice have resulted in incurring extra expenses and now faced with contradictory advice.	An investigation was undertaken, resulting in the developer and consultant attending a meeting with Council Officers to develop a strategy to assist in determining the development application.
	3.2	<i>768 -770 Casuarina Way Casuarina</i> CC16/0267 <i>Site Management Issues</i> Engineering consultant complaining about Council's enforcement of construction certificate approval conditions.	Response sent advising of Council Officers responsibilities in managing construction certificate approval conditions and noting that further discussions have been held. Consultant now proposes to work with Council in a positive and collaborative working relationship.
	3.3	<i>North Hill Court Tanglewood</i> Complaint received regarding lack of correspondence with reference to development occurring on property.	Complaint investigated, owner has lodged a development application for the property, currently being assessed.
Engineering	4.1	<i>Dry Dock Road Tweed Heads</i> Complaint about road works, sat in traffic for 15 minutes for no reason.	Response sent advising road works were being undertaken by a contractor, complaint passed onto contractor.
	4.2	<i>Kennedy Drive Roadworks</i> 2 complaints about how traffic delays are being handled and standard of the road works.	Responses sent to complainants providing information on the issues raised.
	4.3	<i>Philip Parade &amp; Kirkwood Road West Tweed Heads South</i> Formal complaint had a fall on roadway as there is lack of footpaths in area.	Response sent, advising of Council's recently adopted Pedestrian Access and Mobility Plan, funding for footpaths determined on a needs basis, Philip Parade road surface to be investigated.
	4.4	<i>Honeymyrtle Drive Banora Point</i> Property owner complaining on the standard of service provided by Council in conducting maintenance on property.	Property now cleaned up by Council Staff.
Community and Natural Resources	5.1	Nil	

**OPTIONS:**

Mandatory report in accordance with Council's Compliments and Complaints Handling Policy v1.4.

**CONCLUSION:**

The Compliments and Complaints Analysis Report for the Period 1 July to 30 September 2016 be received and noted.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Compliments and Complaints Handling v1.4

**b. Budget/Long Term Financial Plan:**

Not Applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**31 [CS-CM] Monthly Investment and Section 94 Development Contribution Report for Period ending 30 November 2016**

**SUBMITTED BY: Financial Services**

Valid



## **Civic Leadership**

### **LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

- 1 Civic Leadership
  - 1.3 Delivering the objectives of this plan
  - 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
- 

### **SUMMARY OF REPORT:**

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested. The Manager Financial Services, being the Responsible Accounting Officer, certifies that investments have been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies. Council had **\$274,857,609** invested as at **30 November 2016** and the accrued net return on these funds was **\$663,538** or **2.90%** annualised for the month.

### **RECOMMENDATION:**

**That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at period ending 30 November 2016 totalling \$274,857,609 be received and noted.**

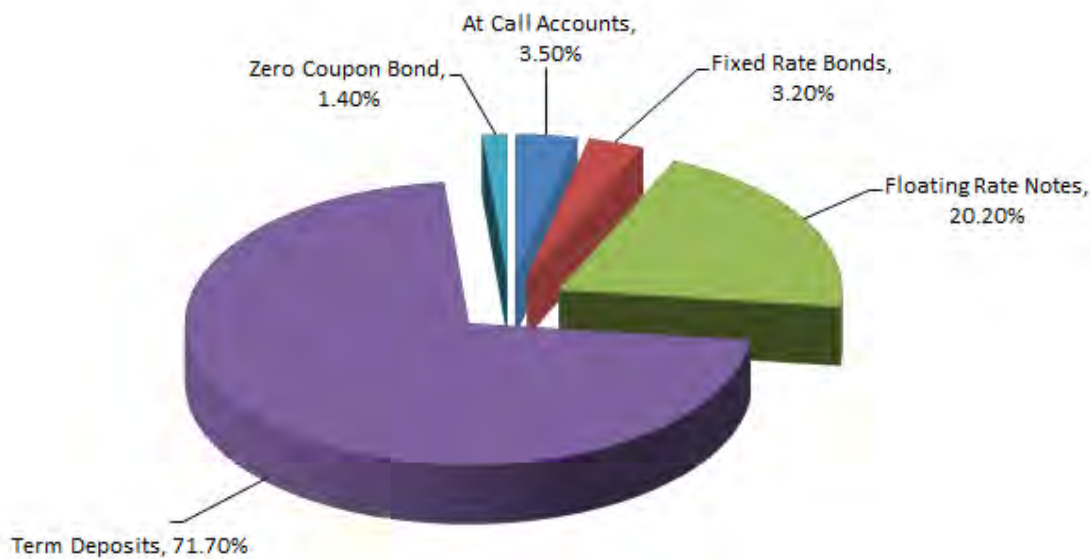
**REPORT:**

**1. Restricted Funds as at 1 September 2016**

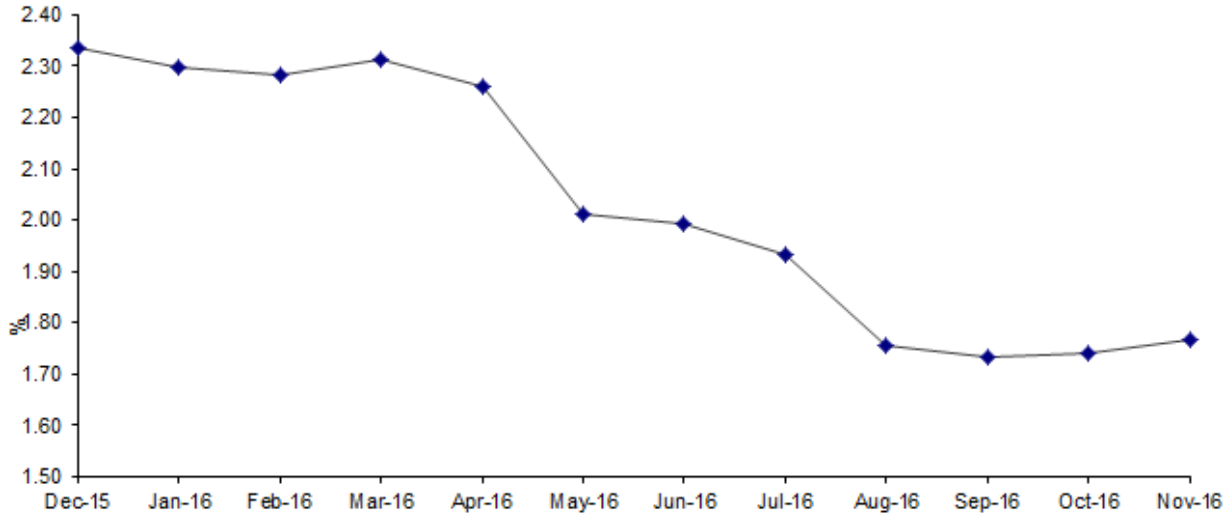
Description	(\$'000)			
	General Fund	Water Fund	Sewer Fund	Total
<b>Externally Restricted (Other)</b>	10,867	41,915	69,816	<b>116,351</b>
Crown Caravan Parks	19,035			<b>19,035</b>
Developer Contributions	31,046	1,701		<b>32,747</b>
Domestic Waste Management	14,482			<b>14,912</b>
Grants	4,846			<b>4,846</b>
<b>Internally Restricted (Other)</b>	44,046			<b>48,756</b>
Employee Leave Entitlements	11,596			<b>12,703</b>
Grants	3,344			<b>3,344</b>
Unexpended Loans	7,445			<b>7,445</b>
<b>Total</b>	<b>146,707</b>	<b>43,616</b>	<b>69,816</b>	<b>260,139</b>

Note: Restricted Funds Summary updated September 2016, corresponding with the Annual Financial Statements as at 30 June 2016

**2. Investment Portfolio by Category**



**3. Investment Rates - 90 Day Bank Bill Rate**



**4. Bond and Floating Rate Note Securities**

Counterparty	Face Value	Market Value	% Return on Face Value	Investment Type	Maturity Date
AMP (Morgans) (6/18)	1,000,000.00	1,006,640.00	2.59	FRN	06-Jun-18
ANZ (04/20)	1,600,000.00	1,600,496.00	2.57	FRN	17-Apr-20
* ANZ Green Bond (06/20)	2,000,000.00	2,048,200.00	3.25	Fixed Rate Bond	03-Jun-20
* Bendigo (RBS) (11/18)	1,000,000.00	1,007,810.00	3.03	FRN	14-Nov-18
* Bendigo (Westpac) (08/20)	1,000,000.00	999,200.00	2.86	FRN	18-Aug-20
* Bendigo Bank (04/21)	3,000,000.00	3,036,540.00	3.21	FRN	20-Apr-21
* Bendigo Bank FRN (CBA) (02/20)	1,000,000.00	1,000,400.00	2.86	FRN	21-Feb-20
* BOQ (06/18)	1,000,000.00	1,037,150.00	4.00	Fixed Rate Bond	12-Jun-18
* BOQ (06/18)	1,000,000.00	1,007,010.00	2.73	FRN	12-Jun-18
* BOQ (10/20)	2,500,000.00	2,508,000.00	2.91	FRN	20-Oct-20
CBA (01/21)	1,000,000.00	1,008,890.00	2.90	FRN	18-Jan-21
CBA (04/19)	1,000,000.00	1,005,970.00	2.63	FRN	24-Apr-19
CBA (07/20)	2,000,000.00	2,004,520.00	2.65	FRN	17-Jul-20
CBA (10/19)	2,000,000.00	2,006,860.00	2.60	FRN	18-Oct-19
CBA Bond (04/19)	1,000,000.00	1,040,080.00	4.25	Fixed Rate Bond	24-Apr-19
CBA/Merrill Lynch Zero Coupon Bond (01/18)	4,000,000.00	3,828,738.80	7.17	Fixed Rate Bond	22-Jan-18
CUA (03/17)	1,000,000.00	1,006,950.00	3.04	FRN	20-Mar-17

Counterparty	Face Value	Market Value	% Return on Face Value	Investment Type	Maturity Date
CUA (03/17) (CBA)	1,000,000.00	1,006,950.00	3.04	FRN	20-Mar-17
CUA (04/19)	1,900,000.00	1,965,541.50	3.33	FRN	01-Apr-19
CUA (04/19)	2,000,000.00	1,965,541.50	3.33	FRN	01-Apr-19
CUA (12/17) ANZ	1,000,000.00	1,006,350.00	2.94	FRN	22-Dec-17
* Heritage (Morgans) (05/18)	2,000,000.00	1,996,740.00		FRN	07-May-18
* Heritage (RBS/RIMSEC) (06/17)	2,500,000.00	2,576,000.00	7.25	Fixed Rate Bond	20-Jun-17
* Heritage (Westpac) (05/18)	1,000,000.00	998,370.00	2.91	FRN	07-May-18
* Macquarie (ANZ) (10/18)	1,000,000.00	1,005,320.00	2.79	FRN	26-Oct-18
* Macquarie (RIMSEC) (03/20)	2,000,000.00	2,013,340.00	2.82	FRN	03-Mar-20
* ME Bank (04/18)	1,000,000.00	1,005,790.00	3.05	FRN	17-Apr-18
* ME Bank (ANZ) (07/19)	1,000,000.00	1,005,110.00	3.20	FRN	18-Jul-19
* ME Bank (ANZ) (11/17)	2,000,000.00	2,002,200.00	2.76	FRN	17-Nov-17
NPBS (Morgans) (02/18)	1,000,000.00	999,410.00	2.86	FRN	27-Feb-18
NPBS (Westpac) (04/20)	2,000,000.00	1,993,540.00	3.08	FRN	07-Apr-20
Rabo (ANZ) (03/21)	2,000,000.00	2,040,440.00	3.22	FRN	04-Mar-21
Rabo (Morgans) (02/20)	2,000,000.00	2,005,440.00	2.81	FRN	11-Feb-20
* Suncorp (04/21)	2,000,000.00	2,026,340.00	3.13	FRN	12-Apr-21
* Suncorp (11/19)	1,000,000.00	996,540.00	2.46	FRN	05-Nov-19
* Suncorp (CBA) (08/19)	1,000,000.00	999,880.00	2.70	FRN	20-Aug-19
* Suncorp (NAB) (08/20)	3,000,000.00	3,031,080.00	3.00	FRN	20-Oct-20
* Suncorp Covered (RIMSEC) (12/16)	2,000,000.00	2,046,860.00	4.75	Fixed Rate Bond	06-Dec-16
* Suncorp Metway (Covered Bond) (06/21)	2,000,000.00	2,005,000.00	2.84	FRN	22-Jun-21
* IMB (NAB) (10/19)	1,250,000.00	1,253,962.50	3.15	FRN	28-Oct-19
* Westpac (07/20)	2,000,000.00	2,002,140.00	2.66	FRN	28-Jul-20
* Westpac (WBC) (10/20)	1,000,000.00	1,006,270.00	2.84	FRN	28-Oct-20

Counterparty	Face Value	Market Value	% Return on Face Value	Investment Type	Maturity Date
	67,750,000.00	68,107,610.30	3.22		
<b>LEGEND</b>					
Investment Type	ABS = Asset Backed Security				
	Bond = Fixed Rate Bond				
	FRN = Floating Rate Note				
<b>Counterparty</b>	Bendigo = Bendigo & Adelaide Bank		NPBS - Newcastle Permanent Building Society		
AMP = AMP Bank	Heritage = Heritage Bank		ME = Members Equity Bank		
ANZ = ANZ Bank	ING = ING Bank		RaboDirect = Rabo Bank		
BOQ = Bank of Queensland	Investec = Investec Bank		Rural = Rural Bank (previously Elders Bank)		
CBA = Commonwealth Bank	Macquarie = Macquarie Bank		Suncorp = Suncorp Metway Bank		
CUA = Credit Union Australia	NAB = National Australia Bank		WBC = WBC Banking Corporation		

## 5. Term Deposits

Counterparty	Lodged or Rolled	Interest Due	Maturity Date	Principal	% Yield
* Auswide Bank (Dec 2016)	08-Dec-15	13-Dec-16	13-Dec-16	3,000,000.00	3.76
* St George (Dec 2016)	17-May-16	19-Dec-16	19-Dec-16	3,000,000.00	3.10
Gateway CU (RIMSEC) (June 2016)	08-Nov-16	20-Dec-16	20-Dec-16	2,000,000.00	2.15
Big Sky BS (Curve) (Jan 2017)	19-Jan-16	17-Jan-17	17-Jan-17	2,000,000.00	3.10
* BOQ (Jan 2017)	12-Jul-16	17-Jan-17	17-Jan-17	2,000,000.00	3.00
* Bankwest (Sept 2016)	20-Sep-16	24-Jan-17	24-Jan-17	2,000,000.00	2.50
* Suncorp (May 2015)	31-May-16	31-Jan-17	31-Jan-17	3,000,000.00	3.00
* Auswide Bank (Curve) (Feb 2017)	03-Feb-16	07-Feb-17	07-Feb-17	1,000,000.00	3.50
* Bankwest (Feb 2017)	08-Nov-16	07-Feb-17	07-Feb-17	3,000,000.00	
* Bendigo (Curve) (Feb 2017)	11-Aug-16	14-Feb-17	14-Feb-17	2,000,000.00	2.95
CUA (Curve) (Feb 2017)	17-Feb-16	14-Feb-17	14-Feb-17	2,000,000.00	3.05
RaboDirect (Curve) (Feb 2017) annual interest	10-Feb-16	14-Feb-17	14-Feb-17	1,000,000.00	3.40
Rural (Curve) (Feb 2017)	28-Jun-16	14-Feb-17	14-Feb-17	2,000,000.00	3.00
BCU (Curve) (Feb 2017)	21-Feb-16	21-Feb-17	21-Feb-17	1,000,000.00	3.20
* BOQ (Aug 2016)	23-Aug-16	21-Feb-17	21-Feb-17	4,000,000.00	2.80

Counterparty	Lodged or Rolled	Interest Due	Maturity Date	Principal	% Yield
ING (Curve) (Feb 2017) Auswide Bank (RIMSEC) (Feb 2017)	25-Feb-16	21-Feb-17	21-Feb-17	<b>1,000,000.00</b>	3.10
BOQ (Feb 2017)	30-Aug-16	28-Feb-17	28-Feb-17	<b>1,000,000.00</b>	2.75
BCU (Curve) (Mar 2017) NAB (Mar 2017)	30-Aug-16	07-Mar-17	07-Mar-17	<b>1,000,000.00</b>	2.85
Rabo Bank (Mar 2017) (RIMSEC)	07-Sep-16	07-Mar-17	07-Mar-17	<b>4,000,000.00</b>	2.63
Rural Bank (Curve) (Mar 2017)	04-Mar-14	07-Mar-17	07-Mar-17	<b>2,000,000.00</b>	4.15
Bendigo Bank (March 2017)	08-Mar-16	07-Mar-17	07-Mar-17	<b>1,000,000.00</b>	3.05
Heritage (Mar 2017)	08-Sep-16	14-Mar-17	14-Mar-17	<b>1,000,000.00</b>	2.80
ING (Curve) (Sept 2017) Suncorp (Sept 2017) BOQ (Sept 2017) quarterly interest	16-Mar-16	14-Mar-17	14-Mar-17	<b>4,000,000.00</b>	3.25
Suncorp (March 2017)	07-Sep-16	14-Mar-17	14-Mar-17	<b>3,000,000.00</b>	2.69
Bendigo Bank (Curve) (April 2017)	20-Sep-16	21-Mar-17	21-Mar-17	<b>4,000,000.00</b>	2.60
Suncorp (Oct 2017)	20-Sep-16	28-Mar-17	28-Mar-17	<b>2,000,000.00</b>	2.70
Suncorp (Oct 2017) AMP (RIMSEC) (May 2017) NAB (May 2017)	30-Aug-16	28-Mar-17	28-Mar-17	<b>2,000,000.00</b>	2.65
MyState (July 2017)	13-Oct-16	18-Apr-17	18-Apr-17	<b>2,000,000.00</b>	3.00
Australian Military Bank (Curve) (July 2017)	25-Oct-16	02-May-17	02-May-17	<b>2,000,000.00</b>	2.70
AMP (Curve) (Aug 2017)	25-Oct-16	02-May-17	02-May-17	<b>2,000,000.00</b>	2.70
	10-May-16	09-May-17	09-May-17	<b>3,000,000.00</b>	3.00
	29-Nov-16	30-May-17	30-May-17	<b>3,000,000.00</b>	2.75
	01-Sep-16	04-Jul-17	04-Jul-17	<b>2,000,000.00</b>	2.70
	05-Jul-16	11-Jul-17	11-Jul-17	<b>1,000,000.00</b>	3.15
	03-Aug-16	08-Aug-17	08-Aug-17	<b>2,000,000.00</b>	2.80

	Counterparty	Lodged or Rolled	Interest Due	Maturity Date	Principal	% Yield
*	BOQ (Aug 2017)	06-Aug-17	08-Aug-17	08-Aug-17	1,000,000.00	3.00
*	BOQ (Aug 2017)	06-Aug-17	08-Aug-17	08-Aug-17	2,000,000.00	3.00
*	BOQ (Aug 2017)	06-Aug-16	08-Aug-17	08-Aug-17	3,000,000.00	3.00
	CUA (Aug 2017)	09-Aug-16	08-Aug-17	08-Aug-17	2,000,000.00	2.70
	NAB (Sept 2017)	13-Sep-16	12-Sep-17	12-Sep-17	3,000,000.00	2.69
	P&N Bank (RIMSEC) (Sept 2017)	21-Sep-16	21-Sep-17	21-Sep-17	1,000,000.00	4.00
	NAB (Oct 2017)	04-Oct-16	03-Oct-17	03-Oct-17	2,000,000.00	2.77
*	Bendigo (Oct 2017)	19-Oct-16	17-Oct-17	17-Oct-17	4,000,000.00	2.85
	NAB (Oct 2017)	18-Oct-16	17-Oct-17	17-Oct-17	2,000,000.00	2.80
	NAB (Oct 2017)	18-Oct-16	17-Oct-17	17-Oct-17	4,000,000.00	2.80
	Defence Bank (Curve) (Oct 2017)	26-Oct-16	24-Oct-17	24-Oct-17	1,000,000.00	3.00
*	IMB (Nov 2017)	05-Nov-16	06-Feb-17	06-Nov-17	1,000,000.00	2.61
*	Bendigo Bank (Dec 2017)	15-Dec-15	18-Dec-16	18-Dec-17	2,000,000.00	3.15
*	Bendigo Bank (Feb 2018)	16-Feb-16	16-Feb-17	13-Feb-18	3,000,000.00	3.10
	Rabo (RIMSEC) (Feb 2018)	19-Aug-16	21-Aug-17	20-Feb-18	3,000,000.00	3.00
*	Bendigo Bank (Curve) (Mar 2018)	31-Aug-16	31-Aug-17	06-Mar-18	2,000,000.00	2.70
*	ME Bank (Curve) (Mar 2018)	01-Mar-16	06-Mar-17	06-Mar-18	2,000,000.00	3.13
*	Bendigo Bank (Curve) (May 2018)	17-May-16	22-May-17	22-May-18	2,000,000.00	3.05
	NAB (May 2018)	22-Nov-16	22-Feb-17	22-May-18	2,000,000.00	2.72
	QLD PCU (Curve) May 2018)	17-May-16	22-May-17	22-May-18	2,000,000.00	3.15
	Defence Bank (Curve) (May 2018)	25-May-16	28-May-17	28-May-18	1,000,000.00	3.05
	Defence Bank (Curve) (June 2018)	31-May-16	05-Jun-17	05-Jun-18	1,000,000.00	3.05

Counterparty	Lodged or Rolled	Interest Due	Maturity Date	Principal	% Yield
Rabo (Curve) (Jul 2018) MMBS	26-Nov-16	26-Nov-17	03-Jul-18	<b>3,000,000.00</b>	3.10
(Curve) (Aug 2018)	15-Aug-16	16-Aug-17	21-Aug-18	<b>2,000,000.00</b>	3.00
Rabo Bank (Curve) (Aug 2018)	21-Aug-16	21-Aug-17	21-Aug-18	<b>2,000,000.00</b>	4.10
Rabo (Curve) (Aug 2018)	26-Aug-16	26-Aug-17	28-Aug-18	<b>3,000,000.00</b>	3.00
QLD PCU (RIMSEC) (Sept 2018)	05-Sep-16	04-Sep-17	04-Sep-18	<b>1,000,000.00</b>	3.05
Defence Bank (Curve) (Nov 2018)	23-Nov-16	23-Nov-17	27-Nov-18	<b>2,000,000.00</b>	3.00
RaboDirect (Curve) (Jan 2019)	13-Jan-16	15-Jan-17	15-Jan-19	<b>1,000,000.00</b>	4.00
ING (RIMSEC) (Jan 2019)	31-Oct-16	30-Jan-17	29-Jan-19	<b>2,000,000.00</b>	2.60
* Bendigo Bank (Curve) (June 2019)	01-Jun-16	01-Jun-17	04-Jun-19	<b>2,000,000.00</b>	3.15
RaboDirect (Curve) (Aug 2019)	07-Aug-16	07-Aug-17	13-Aug-19	<b>2,000,000.00</b>	4.30
* Bendigo Bank (Aug 2019)	23-Aug-16	23-Aug-17	27-Aug-19	<b>5,000,000.00</b>	2.90
* Bendigo Bank (Sept 2019)	03-Sep-16	03-Sep-17	03-Sep-19	<b>1,000,000.00</b>	4.15
Rabo Bank (Curve) (Sept 2019)	01-Sep-16	01-Sep-17	03-Sep-19	<b>1,000,000.00</b>	4.05
CBA (Oct 2019)	23-Aug-16	23-Aug-17	23-Oct-19	<b>1,999,999.00</b>	3.20
NAB (Dec 2019)	19-Sep-16	19-Dec-16	17-Dec-19	<b>2,000,000.00</b>	2.78
* IMB (Jan 2020)	06-Oct-16	06-Jan-17	06-Jan-20	<b>1,000,000.00</b>	2.74
NAB (Jan 2020)	17-Oct-16	16-Jan-17	21-Jan-20	<b>2,000,000.00</b>	3.75
NAB (Feb 2020)	03-Nov-16	03-Feb-17	03-Feb-20	<b>1,000,000.00</b>	2.78
ING (RIMSEC) (Feb 2020)	11-Nov-16	13-Feb-17	11-Feb-20	<b>1,000,000.00</b>	2.71
NAB (Feb 2020) annual interest	14-Nov-16	13-Feb-17	12-Feb-20	<b>2,000,000.00</b>	2.90
CBA (Feb 2020)	14-Nov-16	13-Feb-17	13-Feb-20	<b>1,000,000.00</b>	2.66



	Counterparty	Lodged or Rolled	Interest Due	Maturity Date	Principal	% Yield
*	IMB (Mar 2020)	19-Sep-16	19-Dec-16	17-Mar-20	2,000,000.00	2.78
	CBA (May 2020)	21-Nov-16	20-Feb-17	19-May-20	1,000,000.00	2.63
	CBA (May 2020)	21-Nov-16	20-Feb-17	19-May-20	2,000,000.00	2.48
	Rabo Bank (Curve) (May 2020)	20-May-16	19-May-17	19-May-20	2,000,000.00	3.20
*	BOQ (Aug 2020)	09-Aug-16	09-Aug-17	11-Aug-20	5,000,000.00	3.20
*	Westpac (Aug 2020)	25-Nov-16	27-Feb-17	25-Aug-20	2,000,000.00	2.49
*	Westpac (Jan 2021)	11-Oct-16	11-Jan-17	12-Jan-21	6,000,000.00	2.84
*	Westpac (Feb 2021)	18-Nov-16	20-Feb-17	18-Feb-21	2,000,000.00	3.00
*	Westpac (Apr 2021) quarterly interest	07-Oct-16	09-Jan-17	07-Apr-21	1,000,000.00	3.03
	RaboDirect (Curve) (Jul 2021)	27-Oct-16	27-Jan-17	27-Jul-21	1,000,000.00	3.30
	CBA (Aug 2021)	31-Aug-16	31-Aug-17	31-Aug-21	6,000,000.00	3.40
*	Westpac (Curve) (Feb 2021)	17-Nov-16	17-Feb-17	17-Nov-21	1,000,000.00	2.96
*	Westpac (Feb 2021)	17-Nov-16	17-Feb-17	17-Nov-21	1,000,000.00	3.00
<b>Total</b>					<b>196,999,999.00</b>	<b>3.02</b>
<b>LEGEND</b>		<b>Counterparties</b>				
AMP = AMP Bank		Macquarie = Macquarie Bank		WBC = Westpac Bank		
ANZ = ANZ Bank		NAB = National Australia Bank				
Auswide = Auswide Bank		ME = Members Equity Bank				
BOQ = Bank of Queensland		NPBS = Newcastle Permanent Building Society				
CBA = Commonwealth Bank		P&N = P&N Bank				
Heritage = Heritage Bank		RaboDirect = Rabo Bank				
ING = ING Bank		Rural = Rural Bank				
Investec = Investec Bank		Suncorp = Suncorp Metway Bank				

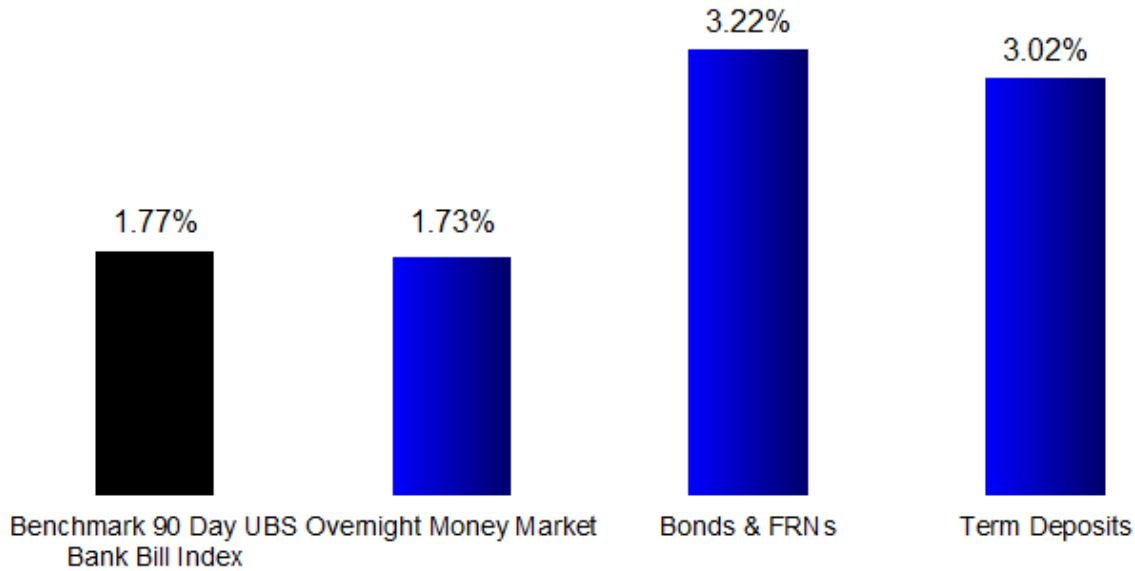
## 6. Ethical Investments

\* Ethical Financial Institutions highlighted  
**\$140,371,017** which represents **51.07%** of the total portfolio  
 Source: Australian Ethical - [www.australianethical.com.au](http://www.australianethical.com.au)

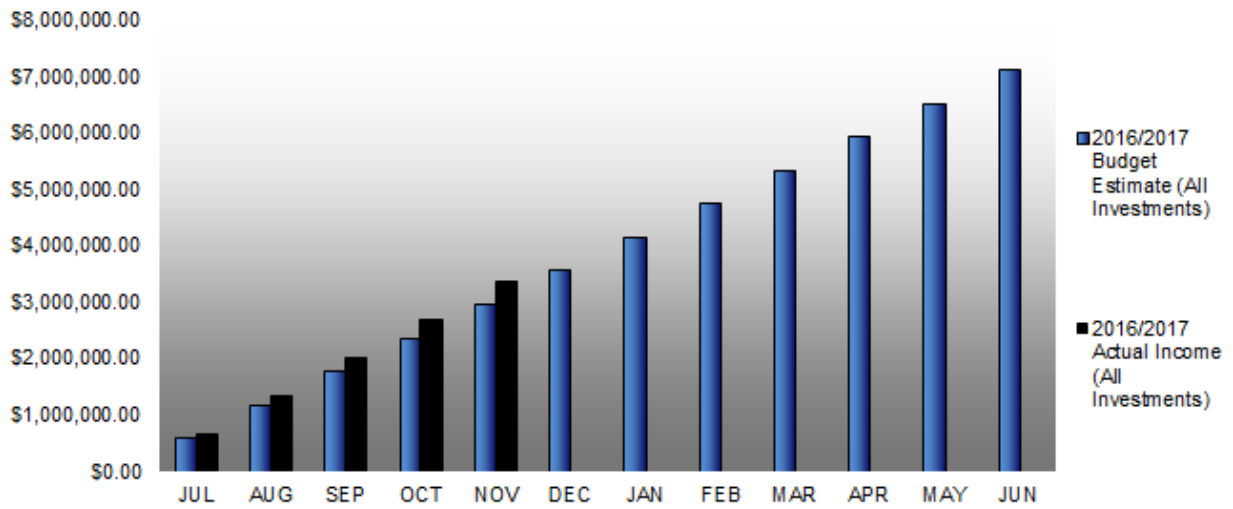
**7. Performance by Category**

Category	Face Value	Market Value	Weighted Average Return by Investment Category	Above or (Below) 90 day BBSW Benchmark
Benchmark 90 Day UBS Bank Bill Index			1.77%	
Overnight Money Market	9,750,000.00	<b>9,750,000.00</b>	1.73%	-0.04%
Bonds & FRNs	66,750,000.00	<b>68,107,610.30</b>	3.22%	1.45%
Term Deposits	196,999,999.00	<b>196,999,999.00</b>	3.02%	1.25%
			Weighted Average Total Portfolio	
	<b>273,499,999.00</b>	<b>274,857,609.30</b>	3.02%	1.25%

**Performance by Category Compared with Benchmark**



**8. Total Portfolio Income v Budget**



**9. Investment Policy Diversification and Credit Risk**

Total Portfolio Credit Limits Compared to Policy Limits					
Long-Term Credit Ratings	Investment Policy Limit	Actual Portfolio	Short-Term Credit Ratings	Investment Policy Limit	Actual Portfolio
AAA Category	100%	<b>1.47%</b>	A-1+	100%	<b>18.83%</b>
AA Category	100%	<b>12.21%</b>	A-1	100%	<b>14.19%</b>
A Category	60%	<b>10.45%</b>	A-2	60%	<b>30.92%</b>
BBB Category	20%	<b>6.63%</b>	A-3	0%	<b>0.00%</b>
Unrated	10%	<b>2.03%</b>	Unrated	10%	<b>3.27%</b>

Market Value by Security Rating Group (Long Term)



Market Value by Security Rating Group (Short Term)



**10. Term to Maturity**

Maturity Profile	Actual % Portfolio	Policy Limits
Less than 365 days	45.26%	Minimum 40%
More than 365 days and less than 3 years	27.70%	Maximum 60%
3 years and less than 5 years	27.04%	Maximum 35%
Total	100.00%	

Market Value by Term Remaining

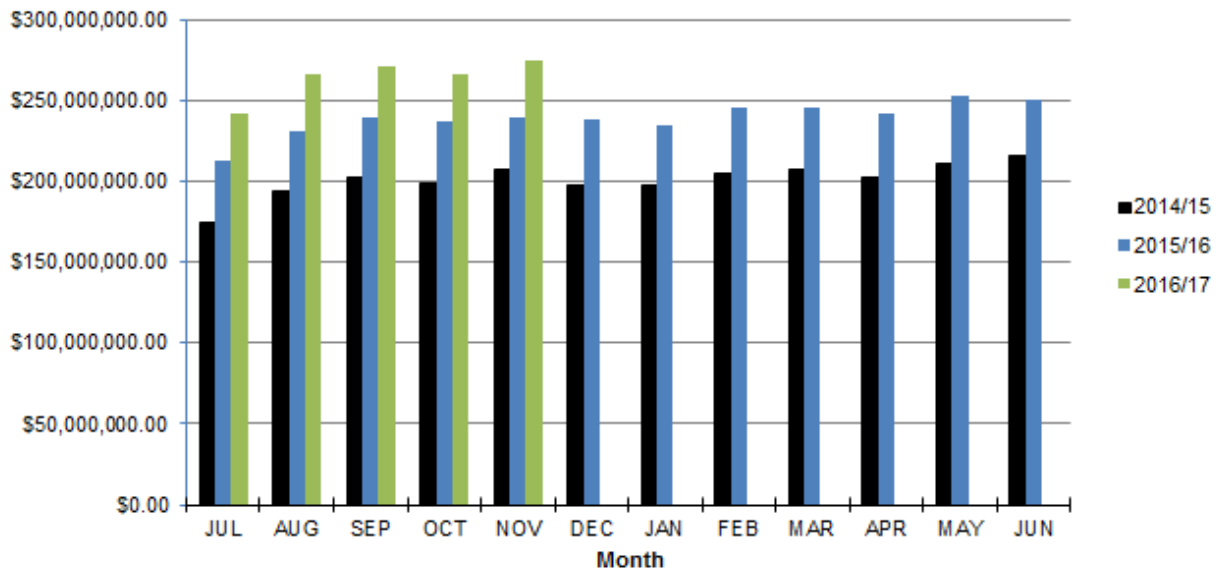


### 11. Investment Alternatives Explained

Investment Product	Maturity Range	Usual term to maturity	Major Benefits	Major risks
At Call Cash	At Call	Immediate to a few months	Highly liquid - same day access to funds with no impact on capital	Not a capital growth asset
			Highly secure as a bank deposit	Underperforms other asset classes in the long term
Bank Bill	1 - 180 days	Less than 1 year	Highly liquid - same day access to funds, usually with no or minimal impact on capital	Not a growth asset
			Highly secure (bank risk)	Underperforms other asset classes in the long term
				May incur a small loss for early redemption
Term Deposit	Up to 5 years	Less than 2 years	Liquid - same day access to funds	Will incur a small capital loss for early termination
			Highly secure as a bank deposit	Underperforms growth assets in the longer term

Investment Product	Maturity Range	Usual term to maturity	Major Benefits	Major risks
Floating Rate Note Bond	1 - 5 years	Greater than 2 years	Increased yield over bank bills	Not a growth asset
			Can accrue capital gain if sold ahead of maturity and market interest rates have fallen	Can incur capital losses if sold ahead of maturity and market interest rates have risen
			Coupon interest rate resets quarterly based on 90 day bank bill swap rate	Credit exposure to company issuing the paper
			Relatively liquid	May not be bank guaranteed
			Less administration than bank bills	Underperforms other asset classes in the long term
Fixed Rate/Bond	1 - 5 years	Greater than 3 years	Can accrue capital gain if sold before maturity and market interest rates have fallen	Can incur capital losses if sold before maturity and market interest rates have risen
			Fixed return - semi-annual coupons	Credit exposure to company issuing paper
			Generally liquid	
			Can be government or corporate issuer	

**12. Monthly Comparison of Total Funds Invested**



### 13. Section 94 Developer Contributions - Monthly Balances & Receipts

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
1	DCP3 Open Space	4,474,652	
2	Western Drainage	632,862	
3	DCP3 Community Facilities	1,713	
4	TRCP Road Contributions	14,837,516	286,026
5	Open Space	505,552	37,174
6	Street Trees	203,173	4,158
7	West Kingscliff	879,611	
10	Cobaki Lakes	-1,417	
11	Libraries	2,315,912	38,333
12	Bus Shelters	114,963	2,990
13	Cemeteries	112,071	5,578
14	Mebbin Springs	94,722	
15	Community Facilities	1,550,286	42,750
16	Surf Lifesaving	97,721	1,582
18	Council Administration/Technical Support	1,474,834	87,103
19	Kings Beach	847,206	
20	Seabreeze Estate	790	
21	Terranora Village	34,087	
22	Cycleways Shirewide	411,584	21,643
23	Carparking Shirewide	1,429,749	
25	SALT	1,119,133	
26	Open Space Shire wide	2,217,331	225,222
27	Tweed Heads Masterplan	305,976	2,094
28	Seaside City	455,690	
91	DCP14	113,357	
92	Public Reserve Contributions	142,106	
95	Bilambil Heights	554,325	
	<b>Total</b>	<b>34,925,507</b>	<b>754,653</b>

### 14. Australian and World Economy and Cash Rate

At its 6 December 2016 meeting, the Reserve Bank of Australia (RBA) decided to leave the cash rate unchanged at 1.50 per cent.

The global economy is continuing to grow, at a lower than average pace. Labour market conditions in the advanced economies have improved over the past year. Economic conditions in China have steadied, supported by growth in infrastructure and property construction, although medium-term risks to growth remain. Inflation remains below most central banks' targets, although headline inflation rates have increased recently. Globally, the outlook for inflation is more balanced than it has been for some time.

Commodity prices have risen over the course of this year, reflecting both stronger demand and cut-backs in supply in some countries. The higher commodity prices have supported a

rise in Australia's terms of trade, although they remain much lower than they have been in recent years. The higher prices are providing a boost to national income.

Financial markets are functioning effectively. Government bond yields have risen further with the adjustment having been orderly. Funding costs for some borrowers have also risen, but remain low. Globally, monetary policy remains remarkably accommodative.

In Australia, the economy is continuing its transition following the mining investment boom. Some slowing in the year-ended growth rate is likely, before it picks up again. Further increases in exports of resources are expected as completed projects come on line. The outlook for business investment remains subdued, although measures of business sentiment remain above average.

Labour market indicators continue to be somewhat mixed. The unemployment rate has declined this year, although some measures of labour underutilisation are little changed. There continues to be considerable variation in employment outcomes across the country. Part-time employment has been growing strongly, but employment growth overall has slowed. The forward-looking indicators point to continued expansion in employment in the near term.

Inflation remains quite low. The continuing subdued growth in labour costs means that inflation is expected to remain low for some time, before returning to more normal levels.

Low interest rates have been supporting domestic demand and the lower exchange rate since 2013 has been helping the traded sector. Financial institutions are in a position to lend for worthwhile purposes. These factors are assisting the economy to make the necessary adjustments, though an appreciating exchange rate could complicate this.

Conditions in the housing market have strengthened overall, although they vary considerably around the country. In some markets, prices are rising briskly, while in others they are declining. Housing credit has picked up a little, although turnover of established dwellings is lower than it was a year ago. Supervisory measures have strengthened lending standards and some lenders are taking a more cautious attitude to lending in certain segments. Considerable supply of apartments is scheduled to come on stream over the next couple of years, particularly in the eastern capital cities. Growth in rents is the slowest for some decades.

Taking account of the available information, and having eased monetary policy earlier in the year, the Board judged that holding the stance of policy unchanged at this meeting would be consistent with sustainable growth in the economy and achieving the inflation target over time.

### **Council's Investment Portfolio**

Council's investment portfolio is conservatively structured in accordance with Office of Local Government guidelines with approximately 75.2% of the portfolio held in cash and term deposits. Term deposits and bonds are paying average margins over the 90 day bank bill rate.

Bank demand for longer dated term deposit funds has increased due to diminished availability of wholesale funding, increased cost of wholesale funding and new banking capital requirements. This demand for long term funds is highlighted by the lowering of

many "at call" rates to less than the RBA cash rate and increased margins above the 90 day bank bill benchmark for term deposits.

The historic low cash rate is still translating to lower total investment yields. This continues to present difficulties obtaining reasonable investment income without risking capital.

All investment categories out-performed the UBS 90 day bank bill benchmark this month. The investment portfolio again benefited this month from some higher yielding bonds and term deposits purchased before interest rate margins began contracting. Overall, the investment portfolio has returned a **weighted average 1.35% pa** above the 90 day UBS bank bill index for the last month.

*Source: RBA Monetary Policy Decision*

## 15. Investment Summary

### GENERAL FUND

CORPORATE FIXED RATE BONDS	12,577,028.80	
FLOATING RATE NOTES	55,530,581.50	
ASSET BACKED SECURITIES	0.00	
FUND MANAGERS	0.00	
TERM DEPOSITS	63,999,999.00	
CALL ACCOUNT	9,750,000.00	<b>141,857,609.30</b>

### WATER FUND

TERM DEPOSITS	68,000,000.00	
FUND MANAGERS	0.00	<b>68,000,000.00</b>

### SEWERAGE FUND

TERM DEPOSITS	65,000,000.00	
FUND MANAGERS	0.00	<b>65,000,000.00</b>

<b>TOTAL INVESTMENTS</b>		<b>274,857,609.30</b>
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It should be noted that the General Fund investments of \$141 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

All Water and Sewerage Fund investments can only be expended in accordance with Government regulation and Council resolution.

## Statutory Statement - Local Government (General) Regulation 2005 Clause 212

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Local Government (General) Regulations and Council's investment policies.



### Responsible Accounting Officer

Manager Financial Services  
Tweed Shire Council



**OPTIONS:**

Not Applicable.

**CONCLUSION:**

Not Applicable.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable.

**b. Budget/Long Term Financial Plan:**

Not Applicable.

**c. Legal:**

Local Government (General) Regulations 2005 - Section 212 - Reports on council investments

*"(1) The responsible accounting officer of a council:*

- (a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:
  - (i) if only one ordinary meeting of the council is held in a month, at that meeting, or*
  - (ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and**
- (b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.*

*(2) The report must be made up to the last day of the month immediately preceding the meeting."*

**d. Communication/Engagement:**

**Inform** - We will keep you informed.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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## ORDERS OF THE DAY

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### **Civic Leadership**

#### ***LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:***

- 1 Civic Leadership
  - 1.2.1 Council will be underpinned by good governance and transparency in its decision making processes
- 

## **32 [NOM] Street Trees under Power Lines**

### **NOTICE OF MOTION:**

**Councillor K Milne moves that:**

- 1. Council writes to Essential Energy inviting them to jointly undertake an audit with Council's Arboriculture team of street trees in urban areas that are impacting on Essential Energy powerlines.**
- 2. Following the audit a report be prepared and brought back to Council that identifies:**
  - a) areas that have the potential for tree removal and replacement with suitable species; or**
  - b) where changing of open span electrical conductors to aerial bundle conductors, in consultation with Essential Energy, may be an option for the preservation of trees as this would minimise the need for pruning;**
  - c) a priority list of streets or key trees to be addressed; and**
  - d) time and resource allocation to undertake a) and/or b) and c) above**

### **Councillor's Background Notes**

Recommended Priority:

Nil.

Description of Project:

Nil.

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**Management Comments:**

It is noted that a similar Motion was considered by Council at its meeting on 21 July 2016 which was lost.

In October 2016 Essential Energy wrote to Council proposing the formation of a *Vegetation Management Consultation Group* to work with Council's to develop an agreed set of principles on vegetation management under power lines including:

*Balancing community expectations, cultural and environmental considerations and safety requirements with each party's legislative, risk mitigation and fiscal responsibilities; and*

*Supporting shared development and implementation of a long term local area vegetation management strategy that addresses vegetation management costs and network risk associated with Council trees, and includes educational initiatives for responsible planting near powerlines.*

Council has agreed to participate in the working group and accordingly, there may be merit in deferring consideration of further action until the working group develops the set of principles.

An audit of all the street trees in the Shire is a large undertaking. Due to the scope of the proposal and the resources required, it will not be feasible to undertake an audit of the whole Shire in one episode without compromising Council's tree management program and services.

Were the audit supported by Council and Essential Energy, it would be undertaken over a minimum of 12 month period. The estimated cost to undertake a Shirewide street tree audit and report is \$30,000. Council may wish to consider requesting Essential Energy to contribute to these costs.

It should also be noted that where trees are removed under power lines, the requirements for new plantings under powerlines would limit their replacement to shrubs, thereby losing street trees permanently in these instances and creating other issues with vehicular sight distances and pedestrian access.

Delivery Program:

Valid

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**Caring for the Environment**

**LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

- 4 Caring for the Environment
- 4.1 Protect the environment and natural beauty of the Tweed
- 4.1.2 Protect, regulate and maintain natural assets (the coastline, coastal and inland waterways, biodiversity, bushland and scenic landscapes) for current and future generations

Valid

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Budget/Long Term Financial Plan:

Cost to undertake audit and reporting approx. \$30,000. Currently unfunded.

Legal Implications:

Requirements for maintaining powerline clearances.

Policy Implications:

Tweed Shire Council Tree Management Guidelines for Council Managed Land.

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**33 [NOM] Banning the Provision of Alcohol for Councillors and Staff**

**NOTICE OF MOTION:**

**Councillor K Milne moves that Council no longer provides alcohol on the Council premises to Councillors, staff and media during or after Council meetings and workshops with the exception of special events such as the Christmas Party.**

**Councillor's Background Notes**

Recommended Priority:

Nil.

Description of Project:

Nil.

**Management Comments:**

It is noted that a similar Motion was considered by Council at its meeting on 17 March 2016 which was lost.

Tweed Shire Council is committed to providing a safe, healthy and productive workplace for all workers. As part of this commitment Council has established clear standards of acceptable behaviour along with corrective action steps regarding the management of alcohol and other drugs impacting on the workplace.

In March 2015, Council's Executive Management Team formally adopted the Alcohol and Other Drugs in the Workplace- Employee Protocol.

This Protocol has been developed with reference to the Local Government industry template Alcohol and Other Drugs Policy and Procedure documents prepared and endorsed by Local Government New South Wales (LG NSW); the New South Wales Local Government, Clerical, Administrative, Energy, Airlines and Utilities Union (USU); the Local Government Engineers Association (LGEA); and the Development and Environmental Professionals' Association (DEPA).

Council's Alcohol and other Drugs in the Workplace standards apply to all Council workers including: Employees, labour hire staff, group training apprentices and trainees, contractors, sub-contractors, work placement participants and volunteers. The protocol does not apply to Councillors.

Under the New South Wales Work Health and Safety Act (2011) employers have a duty of care to ensure the health, safety and welfare of their workers and other people in the workplace, whilst workers have a duty to take reasonable care of their own health and safety, as well as for the health and safety of other people in the workplace and to cooperate with their employer in providing a safe working environment.

In this context workers are obliged to present themselves for work in a fit state so that in carrying out their work activities they do not:

- expose themselves, their co-workers or other people in the workplace to unnecessary risks to health and safety;
- inhibit their ability to fulfil the requirements of their position;
- present a poor public image of Council; and/or
- cause damage to property and/or equipment

Penalties exist under legislation for employers and through the application of the disciplinary procedures of the Local Government (State) Award for employees who fail to take their work health and safety responsibilities seriously. It should also be noted that Workers Compensation claims may be declined where alcohol and/or drugs are a contributing factor to injury.

The general conduct provisions of the Code of Conduct also require that council employees and Councillors must not conduct themselves, when carrying out their functions, in a manner that is likely to bring council or the employee into disrepute. By way of example, a worker may be in breach of their general conduct obligations under the Code of conduct if they:

- attend for work in breach of the workplace standards detailed in this protocol; or
- conduct themselves in an inappropriate and/or unprofessional manner whilst at work, at a work related function, or whilst in Council uniform (which may be due to the effects of inappropriate alcohol and/or drugs use).

Council has adopted the following applicable limits for arrival at work:

- the blood alcohol limits prescribed in NSW for the operation of motor vehicles, and
- the confirmatory target concentrations of the Australian Standard AS 4760-2006 for drug detection.

Once having commenced work, the consumption of alcohol and or other drugs at any time during the working day (including designated breaks) is prohibited. Additionally, alcohol and illicit drugs are not to be consumed on Council worksites regardless of the time of day.

The exception to these rules are 'designated events' where the responsible consumption of alcohol is permitted within legal limits i.e. the blood alcohol limits prescribed in NSW for the operation of motor vehicles).

The General Manager may from time to time approve special occasions, functions or events, such as the staff Christmas Party, or official openings as 'designated events' where the responsible consumption of alcohol is authorised.

Out of hours work related functions such as conference dinners and council workshops/meetings have been deemed 'designated events'.

When attending 'designated events' staff are at all times to maintain appropriate standards of behaviour and are to drink responsibly. Inappropriate behavior at these events will be

regarded as a breach of Council's Code of Conduct and disciplinary action taken accordingly.

Council reserves the right to refuse or withdraw alcohol service at Council run 'designated events' where there is a belief that an individual is not behaving responsibly.

The exceptions are 'designated events' held within work hours where some staff may be required to return to duties at the conclusion of a the event:

- Where return to work is to normal duties no alcohol is to be consumed:
- Where duties to be performed are incidental and of short duration, such as packing up the event, locking premises etc:
  - up to 1 standard drink can be consumed by staff where a <0.05 BAC standard applies; and
  - no alcohol is to be consumed by staff where a 0.00 BAC or <0.02 BAC standard applies as a single drink could place the individual over the prescribed BAC.

The minimum requirements with regard to the management of council run 'designated events' are:

- the provision of low alcohol and non alcohol alternatives to full strength alcoholic drinks;
- the provision of food;
- adherence to responsible service of alcohol provisions.

Employees who intend to consume alcohol at these events are to make suitable arrangements to ensure they are conveyed home safely.

Whilst the Alcohol and Other Drugs Protocol does not apply to Councillors, "designated events" of Council where Councillors are present such as workshops and council meetings are conducted in accordance with the minimum requirements of the protocol.

Delivery Program:

Valid



## Civic Leadership

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- |       |  |
|-------|--|
| 1     | Civic Leadership   |
| 1.2   | Improve decision making by engaging stakeholders and taking into account community input       |
| 1.2.1 | Council will be underpinned by good governance and transparency in its decision making process |

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### Budget/Long Term Financial Plan:

Nil.

Legal Implications:

See Management Comments.

Policy Implications:

See Management Comments.

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**34 [NOM] Opening Murwillumbah to the River**

**NOTICE OF MOTION:**

**Councillor K Milne moves that Council brings back a report on placing an opening gate in the levee wall of the Wharf Street Park with associated park furniture and viewing platform**

**Councillor's Background Notes**

Recommended Priority:

Nil.

Description of Project:

Nil.

**Management Comments:**

Delivery Program:

Validms

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**Supporting Community Life**

**LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

2	Supporting Community Life
2.3	Provide well serviced neighbourhoods
2.3.5	Ensure adequate stormwater drainage, flood management and evacuation systems are in place to protect people and property from flooding
2.3.6	Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities

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The current levee was constructed in the early 1990s, upgrading the previous levee structure. The section along Tumbulgum and Commercial Roads is built from reinforced concrete. There are a number of openings built into the wall, with floodgates that require manual closing in the lead up to flood events.

It would be technically feasible to engineer another opening, subject to detailed design to ensure longevity of the structure, and of course integrity during flood events, including an overtopping event.

The additional flood risk that is created by introducing a further opening in the levee would need to be weighed against the costs of doing so and the urban design improvements that it might bring to the Town Centre.

Budget/Long Term Financial Plan:

There is no budget allowance for this project.

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There would be a significant cost involved in the engineering design of an opening in the wall, and for gates / barriers to provide protection to the Murwillumbah town centre during a flood event. Cost of construction would then need to be estimated and the project included in the delivery program.

New infrastructure such as the gates, new park furniture, and the proposed viewing platform would also require ongoing funding for maintenance and renewal.

Legal Implications:

Between Wharf Park and the bridge are three private allotments under two ownerships whose boundaries extend to the river. Previously one of these landholders has opposed public access along the levee through their private land. The proposal to open the levee and encourage access to the riverside of the levee will likely conflict with these private land rights. There will likely be significant additional project costs associated with resolving these land conflicts should it go ahead.

Policy Implications:

Nil

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**QUESTIONS ON NOTICE**

**35 [QoN-Cr C Cherry] Off Leash Dog Areas**

**QUESTION ON NOTICE:**

Councillor C Cherry asked:

Please advise when the community consultation regarding on and off leash areas for dogs is scheduled to be carried out.

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**CONFIDENTIAL ITEMS FOR CONSIDERATION**

**REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE**

**REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE**

**C1 [PR-CM] Vegetation Removal at Lot 23 DP 1211517 Barneys Point Road, Banora Point**

**REASON FOR CONFIDENTIALITY:**

This report is confidential due to potential legal proceedings.

**Local Government Act**

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Validms

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**Caring for the Environment**

**LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

- 4 Caring for the Environment
  - 4.1 Protect the environment and natural beauty of the Tweed
  - 4.1.3 Manage and regulate the natural and built environments
- 
-

**REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE**

**C2 [CNR-CM] Extension of Waste Transport and Disposal Contract with Veolia Environmental Services until 30 June 2017**

**REASON FOR CONFIDENTIALITY:**

**Local Government Act**

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret.

Validms

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**Supporting Community Life**

**LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:**

- 2 Supporting Community Life
  - 2.3 Provide well serviced neighbourhoods
  - 2.3.4 Provision of high quality, best practice, solid waste disposal with energy recovery, and improving resource recovery practices and infrastructure which meets health and environmental requirements and projected demand
- 
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## REPORTS FROM THE DIRECTOR ENGINEERING IN COMMITTEE

### C3 [E-CM] Clarrie Hall Dam - Land Acquisition - 683 Doon Doon Road, Doon Doon

#### REASON FOR CONFIDENTIALITY:

This report discusses commercial discussions and private financial arrangements which should not be disclosed to the public in order to protect the privacy of the affected individuals.

#### Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Validms

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**Supporting Community Life**

#### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
  - 2.3 Provide well serviced neighbourhoods
  - 2.3.2 Provision of a secure, high quality and reliable drinking water supply services which meets health and environmental requirements and projected demand
- 
-