



TWEED
SHIRE COUNCIL

Mayor: Cr K Milne

Councillors: G Bagnall (Deputy Mayor)
C Byrne
B Longland
W Polglase
P Youngblutt

Agenda

Planning Committee Meeting Thursday 4 February 2016

held at Murwillumbah Cultural and Civic Centre
commencing at 5.00pm

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.

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Items for Consideration of Council:

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1	[PR-PC] Development Application DA15/0585 for Site Remediation and Staged Development Comprising of Alterations and Additions to Existing Building, Use as a Natural Energy Centre, Industrial Fabrication, Cafe, Showroom, Office Space, New Shop and Residence at Lot 1 DP 228337; No. 6 Coolman Street Tyalgum	7
2	[PR-PC] Development Application DA15/0916 for Cobaki - Precinct 6 Fauna Corridor and Culvert Crossings at Lot 1 DP 570076, Lots 54, 199 & 200 DP 755740; Piggabeen Road, Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529, Lot 46, 55, 201, 22, 205, 206, 209, 228 & 305 DP 755740 Sandy Lane Cobaki	79
3	[PR-PC] Northern Joint Regional Planning Panel - Proposed Temporary Extension of Council Appointed Panel Members	119
4	[PR-PC] Tweed Development Control Plan (DCP) Section B27: 61 Marana Street Bilambil Heights	123
5	[PR-PC] Planning Proposal PP10/0005 98 Old Lismore Road, Murwillumbah (Subject Site) and Review of the Hundred Hills Release Area (Housekeeping Review), Being Amendment No 13 to the Tweed Local Environmental Plan (LEP) 2014	127
6	[PR-PC] Rural Villages Strategy	136
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REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 1 [PR-PC] Development Application DA15/0585 for Site Remediation and Staged Development Comprising of Alterations and Additions to Existing Building, Use as a Natural Energy Centre, Industrial Fabrication, Cafe, Showroom, Office Space, New Shop and Residence at Lot 1 DP 228337; No. 6 Coolman Street Tyalgum

SUBMITTED BY: Development Assessment and Compliance

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

SUMMARY OF REPORT:

This application proposes the substantial redevelopment of the 'Tyalgum Buttery' site at 6 Coolman Street, Tyalgum.

The subject site is listed as an individual heritage item on the Heritage Schedule of TLEP 2014.

The applicant seeks consent to remediate the site in accordance with a Remediation Action Plan and subsequently develop the property in two (2) stages and establish a mix of uses within the new and refurbished buildings.

The mixed use portion includes assembly/manufacturing of products in the industrial unit and the display of products in a showroom/display area which is integrated with a café. Other non-associated tenancies include an office space, a shop and a residence. The tenancies are to be accommodated in the refurbished Buttery building and a new building which is to be constructed on the vacant land to the west of the Buttery building.

The application states that the proponent is seeking to establish a 'natural energy centre' as a primary tenancy and incorporate other compatible/complementary uses while respecting the heritage importance of the Buttery building and its village context.

The following is proposed:

Refurbished Buttery building (Stage 1)

- showroom/café GFA: 160m²
- light industry GFA: 156m²
- commercial (office) GFA: 50m²

New building (Stage 2)

- shop GFA: 60m²
- deck GFA: 13m²
- residence GFA: 135m²
- deck (for residence) GFA: 36m²
- garage GFA: 49m²

The industrial unit is to be used for the design and assembly/manufacture of various systems and units associated with the natural energy industry. Typically about 70% of the work would be electronics assembly (for small weather stations and the like) and about 30% of the assembly involving the cutting, drilling and welding of metal component parts. The applicant advises that no automated or heavy machinery is required. There will be 5 employees associated with the light industrial component, 3 being full time. The applicant advises that deliveries to and from the site would be infrequent, and would total a maximum of three per week, made by rigid table top truck or lighter vehicle. No articulated vehicles or containerised goods are involved.

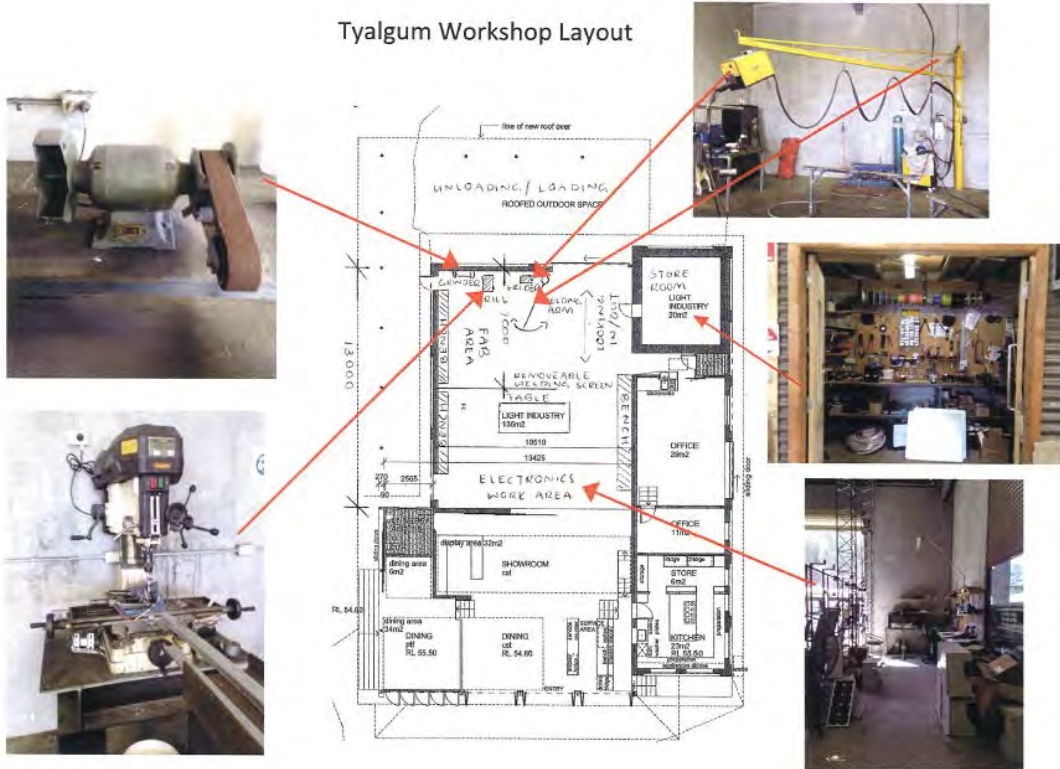
The showroom is to be used in conjunction with the café and would display and provide information about the natural energy units and systems produced in the industrial unit. It is expected that the office space would be separately let and if necessary subject to a separate application for usage.

A specific use is not known at this stage for the shop which is part of the proposed new building (Stage 2). The use of this building will be subject to a future development application.

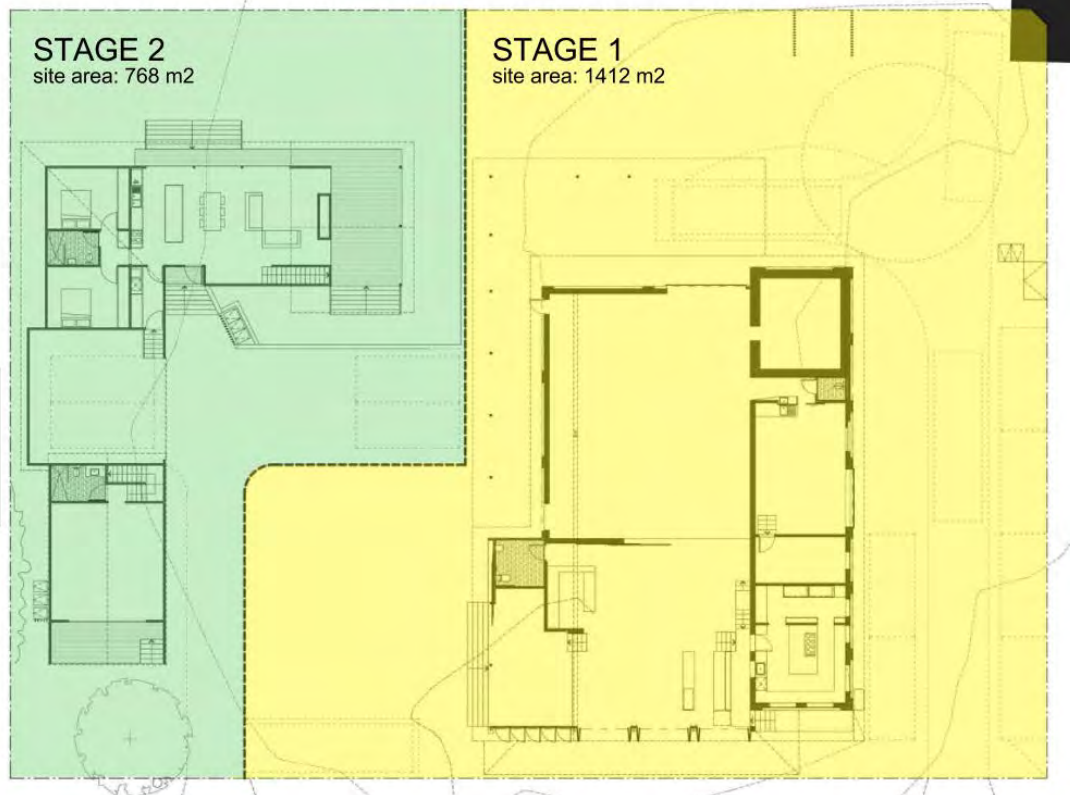
No signage is proposed at this stage. The applicant has acknowledged that due to the heritage listing of the building, further consent will be required for signage.

The applicant has provided the following Workshop Layout Plan which demonstrates that a grinder and welder will be installed in the premises:

Tyalgum Workshop Layout



Staging Plan shown below:



The main issues of the assessment include suitability of the proposal given the site's location in the main street of Tyalgum, noise, heritage and other matters raised in public submissions. The proposed development is being reported to Council after being called up by Councillors Milne and Bagnall. The application is recommended for approval with conditions.

RECOMMENDATION:

That Development Application DA15/0585 for a site remediation and staged development comprising of alterations and additions to existing building, use as a natural energy centre, industrial fabrication, cafe, showroom, office space, new shop and residence at Lot 1 DP 228337; No. 6 Coolman Street Tyalgum be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans as listed in the table below, except where varied by the conditions of this consent.

Title	Prepared by	Dated
DA108 - Site Plan - Roof Plan Proposed	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA109 - Proposed Floor Plan	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA110 - Site Plan - Development Staging and Potential Subdivision (as amended in red)	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA113 - Coolman Street Elevation	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA114 - Site Section	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA201 - Buttery Floor Plan - Existing and Proposed Demolition	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA202 - Buttery Floor Plan - Proposed	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA203 - Buttery Elevations - North	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA204 - Buttery Elevations - East	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA205 - Buttery Elevations South	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA206 - Buttery Elevations - West	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA206 - Buttery Section AA	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA301 - Shop - Floor Plans	Buro Two Architecture	Undated, submitted to Council 17 June 2015

Title	Prepared by	Dated
DA302 - Shop - Elevations	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA303 - Shop Section AA	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA401 - Residence Floor Plans	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA402 - Residence - Elevations	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA403 - Residence Elevations	Buro Two Architecture	Undated, submitted to Council 17 June 2015
DA404 - Residence - Sections	Buro Two Architecture	Undated, submitted to Council 17 June 2015

[GEN0005]

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

[GEN0115]

3. 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]

4. 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]

5. 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]

6. This is a STAGED consent as follows:

Stage 1 constitutes the refurbished Buttery building as follows:

- showroom/café GFA: 160m²
- light industry GFA: 156m²
- commercial (office) GFA: 50m²

Stage 1 includes construction of the buttery access and car parking area.

Stage 2 constitutes a new building as follows:

- shop GFA: 60m²
- deck GFA: 13m²
- residence GFA: 135m²
- deck (for residence) GFA: 36m²

- garage GFA: 49m²

Stage 2 includes construction of the residence access/parking and shop car parking spaces.

7. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -
- (a) Provision for a driveway access and associated works for Stage 1 and Stage 2 in accordance with Section A2 - "Site Access and Parking Code" of Council's consolidated Tweed Development Control Plan and Council's "Driveway Access to Property - Part 1" Design Specification June 2004.
 - (b) Access, parking and manoeuvring shall be designed to accommodate a heavy rigid vehicle (HRV) of up to 12.5m in length in accordance with Australian Standard AS2890.2 - Off-street commercial vehicle facilities.
 - (c) The proposed car park, delivery service area and access from the existing road carriageway to the property boundary shall be bitumen or concrete sealed in accordance with Section A2 - "Site Access and Parking Code".
 - (d) Disabled car parking shall be designed in accordance with Australian Standard AS2890.6 - Off street parking for people with disabilities.

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the works and its reconstruction.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[GENNS01]

8. A concrete footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site in accordance with Councils Development Design and Construction Specifications and Standard Drawing SD013.

Twenty four (24) hours notice is to be given to Council's Engineering Division before placement of concrete to enable formwork and subgrade to be inspected.

9. The 2m and 3m recycled brick walls around the new dwelling courtyard are to be articulated to provide relief from the massing of the walls with details to be forwarded for approval prior to the release of a construction certificate. This may include the integration of landscape elements in front of the wall. In this regard a similarly scaled tree to that currently situated at the property boundary shall be utilized to soften the visual impact of the acoustic barrier walls.
10. This consent does not approve any signage which must be subject to separate development consent.
11. This consent does not approve any landscaping within Council's road reserve at the front of the development site.
12. Access to the Rural Fire Service shed must be provided through the site at all times unless an alternative access arrangement to the shed is provided by the Rural Fire Service.
13. The development shall comply at all times with the Waste Management Plan submitted with the application.
[GENNS02]
14. Measures for bushfire protection shall comply with the recommendations of the Bushfire Hazard Assessment prepared by Bushfire Safe (Aust) Pty Ltd dated May 2015 and additional information supplied by Bushfire Safe (Aust) dated 16 December 2015 including amended site layout plan detailing the required asset protection zones. No part of any asset protection zone is permitted over the adjoining Council managed land to the east.
15. Under the *National Parks and Wildlife Act 1974* all native mammals, birds, reptiles and amphibians, and many native plant species, are protected in NSW. The applicant is to be aware of responsibilities under the aforementioned legislation. Where tree removal is likely or expected to disturb, injure or negatively threaten/maim native fauna a suitably qualified and licensed (by the NSW Office of Environment & Heritage) expert in fauna management shall be engaged to oversee tree works.
16. Separate consent shall be sought for the use of the Stage 2 shop.
[GENNS05]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

17. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for **SUBDIVISION WORKS OR BUILDING WORKS** shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.
[PCC0285]
18. 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.

19. In accordance with Section 68 of the Local Government Act, 1993 any premises proposing to discharge wastewater into Councils sewerage system other than domestic sewage, shall submit to Council a completed Liquid Trade Waste Application for a Liquid Trade Waste Services Agreement. The Application is to be approved by the General Manager or his delegate PRIOR to the issuing of a Construction Certificate to discharge to Council's sewerage system.

[PCC1255]

20. 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]

21. 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]

22. Prior to the issue of a construction certificate, should the Stage 2 development require a private sewer ejection pumping station to discharge sewage to the existing sewer junction on the eastern boundary, the applicant is required to lodge an application to install/operate an onsite sewerage management system (private ejection pump station) under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with an approval.

Any application to install/operate an onsite sewerage management system (private ejection pump station) under Section 68 of the Local Government Act 1993 shall be accompanied by three copies of detailed hydraulic design report certified by a qualified hydraulic engineer and shall address the following criteria:

- * System type and specifications including pump-well volume, pump specifications and rising main size, length and location.
- * Details of operation and maintenance
- * The sewer pump is to be constructed in a flood proof well with electrical equipment located above 1 in 100 flood level.

Any approval to install an on site sewerage treatment system (private ejection pump station) shall comply with the hydraulic design specifications as certified by a qualified Hydraulic Engineer including all recommendations of that report and any addendum to the report to the satisfaction of Councils General Manager or his delegate.

23. If the development is likely to disturb or impact upon telecommunications infrastructure, 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.

The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

[PCC1325]

24. Prior to the construction certificate being issued for Stage 1 plans drawn to a scale of 1:50 detailing the following with regards to all food related areas shall be provided to Council for assessment and approval, accompanied by a completed Application for Approval of Food Premise Fit out and the adopted fee in Council's Fees and Charges. Evidence of the plans being approved shall be provided prior to release of the construction certificate:
1. Floor plan
 2. Layout of kitchens and bar showing all equipment
 3. All internal finish details including floors, wall, ceiling and lighting
 4. Hydraulic design in particular method of disposal of trade waste
 5. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required
25. The Construction Certificate will not be issued over any part if the site requiring a controlled activity approval until a copy of the approval has been provided to Council.
26. A detailed landscape plan prepared by a suitably qualified landscape architect or landscape consultant shall be submitted and approved prior to the commencement of any works onsite or prior to issue of a construction certificate whichever occurs first. The detailed landscape plan shall be of suitable scale and generally consistent with *Landscape Concept - Plummer and Smith dated 10 June 2015* (excluding landscaping in the road reserve) and include the following site specific details:
- a. Demonstrated landscape treatment to improve aesthetic amenity of the acoustic barrier wall and incorporate compensatory planting for the loss of any existing mature trees shown on the Concept Landscape Plan to be provided at a ratio of 1:1 using local native 80L stock.
 - b. Location and details of tree protection fencing in accordance with *Australian Standard AS 4970-2009 - Protection of trees on development sites* for any trees proposed to be retained (if applicable).
 - c. A detailed plant schedule and plan at a suitable scale indicating the location of all proposed planting and any existing vegetation to be retained on and adjacent to the site (if applicable). The plan is to include a detailed plant schedule which shall include;
 - i. Species listed by botanical and common names, with the 80% of plants constituting suitable local native species and no noxious or environmental weed species;
 - ii. Specific location, planting densities and quantities of each species; pot sizes; the estimated sizes of the plants at maturity, and proposed staking methods (if applicable); and
 - iii. Maintenance methods including the use of drip irrigation and

mulching or groundcovers to reduce bare soils areas and including maintenance schedule for a minimum period of one year after completion of landscaping on site.

- d. All landscaping is to be compliant with *Planning for Bushfire Protection 2006*.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

27. 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]

28. 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]

29. 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]

30. Residential building work:

(a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

- * in the name and licence number of the principal contractor, and**
- * the name of the insurer by which the work is insured under Part 6 of that Act,**

(ii) in the case of work to be done by an owner-builder:

- * the name of the owner-builder, and**
- * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.**

(b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

31. 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]

32. 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]

33. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to the issue of the Subdivision Certificate.

[PCW0375]

34. 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]

35. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

DURING CONSTRUCTION

36. 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]

37. 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]

- 38. 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]

- 39. 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]

- 40. 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]

- 41. 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]

- 42. 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]

- 43. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.**

[DUR0905]

- 44. Provision to be made for a flood free storage area (above 55.2m AHD) for stock and equipment susceptible to water damage. Water resistant materials shall be utilised for the Buttery renovation works below the Design Flood Level.**

[DUR1395]

- 45. Subject to the requirements of the local electricity authority, all electrical wiring, power outlets, switches, etc, should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level shall be provided with earth leakage devices.**

[DUR1415]

- 46. The habitable floor area of the dwelling is to be at a level not less than RL 55.7m AHD.**

[DUR1435]

47. 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 Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

48. 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]

49. 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]

50. 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]

51. 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]

52. 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]

53. 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]

54. 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]
55. All works shall comply with AS2601-2001 Demolition of Structures and the Work Health and Safety Regulation 2011. [DURNS01]
56. Prior to demolition of the structure is commenced all asbestos material shall be identified and removed from the site by an asbestos removalist who is appropriately licensed to carry out the work by WorkCover NSW. All asbestos waste shall be disposed at a facility that is licensed to receive asbestos waste (all receipts related to disposal must be kept on site and provided to a Council Authorised Officer upon request). [DURNS02]
57. Written notice shall be provided to the 'regulator' at least 5 days before the removalist commences licensed asbestos removal work in accordance with Clause 466 of the Work Health and Safety Regulation 2011. [DURNS03]
58. Prior to demolition work commencing a sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm by 300mm shall be erected in a prominent visible location on the site. The sign shall remain in place until all asbestos has been removed from the site. [DURNS04]
59. Prior to the commencement of construction of the new structure or use of the site a 'clearance inspection' shall be conducted for the site and a 'clearance certificate' issued by a licensed asbestos assessor or competent person which states that the site 'does not pose a risk to health and safety from exposure to asbestos' in accordance with Clause 474 of the Work Health and Safety Regulation 2011. A copy of this certificate shall be forwarded to the principal certifying authority and Council within 7 days of completion of the 'clearance inspection'. [DURNS05]
60. All remediation works shall comply with the Preliminary Site Investigation, Detailed Site Investigation and Remediation Action Plan prepared by HMC Environmental Consulting Pty Ltd dated August 2015. [DURNS06]
61. Upon completion of the remediation works Tweed Shire Council shall be provided with a Validation Report in accordance with the Preliminary Site Investigation, Detailed Site Investigation and Remediation Action Plan prepared by HMC Environmental Consulting Pty Ltd dated August 2015 to the satisfaction of the General Manager or delegate. Construction works including the importation of clean fill material shall not be undertaken until the Validation Report is approved by the General Manager or delegate. The validation report shall include further groundwater investigations to provide evidence that groundwater contamination has not occurred since the previous investigation was undertaken in 2013.
62. Access and use of the Council managed lands to the north and east is not permitted. [DURNS07]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

63. 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]

64. 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]

65. **Section 94 Contributions**

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

Prior to the occupation of the Stage 2 building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 94 Contributions must have been paid in full and the Certifying Authority must have 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.

*The Stage 2 charges include reductions for the Minister's S94 Contribution Cap for the residential component.

Stage 1

(a) Tweed Road Contribution Plan:	
23.22 Trips @ \$2666 per Trips	\$61,905
(\$2,534 base rate + \$132 indexation)	
S94 Plan No. 4	
Sector13_4	

Stage 2

(a)	<p>Tweed Road Contribution Plan: 15.83693 Trips @ \$2666 per Trips</p> <p>(\$2,534 base rate + \$132 indexation) S94 Plan No. 4 Sector13_4</p>	<p>\$42,221</p>
(b)	<p>Open Space (Casual): 0.72 ET @ \$552 per ET</p> <p>(\$502 base rate + \$50 indexation) S94 Plan No. 5</p>	<p>\$397</p>
(c)	<p>Open Space (Structured): 0.72 ET @ \$632 per ET</p> <p>(\$575 base rate + \$57 indexation) S94 Plan No. 5</p>	<p>\$455</p>
(d)	<p>Shirewide Library Facilities: 0.72 ET @ \$851 per ET</p> <p>(\$792 base rate + \$59 indexation) S94 Plan No. 11</p>	<p>\$613</p>
(e)	<p>Bus Shelters: 0.72 ET @ \$66 per ET</p> <p>(\$60 base rate + \$6 indexation) S94 Plan No. 12</p>	<p>\$48</p>
(f)	<p>Eviron Cemetery: 0.72 ET @ \$124 per ET</p> <p>(\$101 base rate + \$23 indexation) S94 Plan No. 13</p>	<p>\$89</p>
(g)	<p>Community Facilities (Tweed Coast - North) 0.72 ET @ \$1411 per ET</p> <p>(\$1,305.60 base rate + \$105.40 indexation) S94 Plan No. 15</p>	<p>\$1,016</p>
(h)	<p>Extensions to Council Administration Offices & Technical Support Facilities</p> <p>0.9366 ET @ \$1888.66 per ET</p> <p>(\$1,759.90 base rate + \$128.76 indexation) S94 Plan No. 18</p>	<p>\$1,768.92</p>

- (i) **Regional Open Space (Casual)**
0.72 ET @ \$1108 per ET \$798
(\$1,031 base rate + \$77 indexation)
S94 Plan No. 26
- (j) **Regional Open Space (Structured):**
0.72 ET @ \$3890 per ET \$2,801
(\$3,619 base rate + \$271 indexation)
S94 Plan No. 26

[POC0395/PSC0175]

66. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

67. 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]

68. 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]

69. 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 for the relevant stage.

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 64 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Stage 1

Water DSP8: 0.17 ET @ \$13128 per ET \$2,231.80

Sewer Tyalgum: 1.08 ET @ \$6307 per ET \$6,811.60

Stage 2

Water DSP8: 0.638 ET @ \$13128 per ET \$8,375.70

Sewer Tyalgum: 0.788 ET @ \$6307 per ET \$4,969.90

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

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

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.

70. 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]
71. Prior to issue of the occupation certificate for the Stage 2 dwelling certification shall be provided by a suitably qualified and experience consultant stating that the dwelling has been constructed in accordance with the recommendations of the Environmental Noise Impact Report prepared by CRG Acoustics Pty Ltd dated October 2015 relating to acoustically treated windows and doors. [POCNS01]
72. Prior to issue of the occupation certificate for the Stage 2 dwelling certification shall be provided by a suitably qualified and experience consultant stating that the acoustic barriers recommended in the Environmental Noise Impact Report prepared by CRG Acoustics Pty Ltd dated October 2015 (Sketch No.1) have been installed. [POCNS02]
73. Prior to issue of the occupation certificate for Stage 1 certification shall be provided by a suitably qualified and experience consultant stating that the acoustic barriers recommended in the Environmental Noise Impact Report prepared by CRG Acoustics Pty Ltd dated October 2015 (Sketch No.1 - 3.0m (Green barrier) and 2.6m (Red barrier)) have been installed. The 3.0m (Green) barrier must be extended to the dining stairs adjacent to the loading bay and courtyard to the satisfaction of Council's General Manager or delegate. [POCNS03]

USE

74. 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]
75. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises. [USE0145]
76. 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]
77. 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]

78. 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]
79. The development shall be carried out in accordance with the provisions of the Environmental Noise Impact Report prepared by CRG Acoustics Pty Ltd dated October 2015. [USE0305]
80. 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]
81. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements. [USE0845]
82. 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]
83. Hours of operation are restricted to 7am to 6pm, 7 days per week for the shop, café and showroom, and 7am to 6pm Monday to Friday for the workshop. [USENS01]
84. Amplified music shall be limited to a maximum level of 70 dB(A) at 1m from any speaker within the development. All speakers are to face internal to the building and away from windows and doors. [USENS02]
85. No amplified music is permitted outside of the buildings. [USENS03]
86. All manufacturing activity shall be limited to inside the workshop space. Only loading operations and materials storage are to occur in the roofed outdoor space. [USENS04]

GENERAL TERMS OF APPROVAL UNDER SECTION 91 OF THE WATER MANAGEMENT ACT 2000

Plans, standards and guidelines

1 These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA15/0585 and provided by Council.

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.

2 Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CM) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land

and material in or within 40 metres of the top of the bank or shore of the river identified.

3 The consent holder must prepare or commission the preparation of:

(i) Works Schedule

(ii) Erosion and Sediment Control Plan

4 All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The plans must be prepared in accordance with DPI Water's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals.

(i) Outlet structures

5 The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.

Rehabilitation and maintenance

6 The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the DPI Water.

7 The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the DPI Water.

Reporting requirements

8 The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.

Security deposits

9 NA

Access-ways

10 NA

11 NA

Bridge, causeway, culverts, and crossing

12 NA

13 NA

Disposal

14 The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by DPI Water.

Drainage and Stormwater

15 The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by DPI Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by DPI Water.

16 The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by DPI Water.

Erosion control

17 The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.

Excavation

18 The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.

19 N/A

Maintaining river

20 The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by DPI Water.

21 NA

River bed and bank protection

22 NA

23 NA

Plans, standards and guidelines

24 NA

25 NA

26 NA

27 NA

Groundwater

28 NA

END OF CONDITIONS

REPORT:

Applicant: Australian Radio Towers
Owner: Mrs Seva E Norman
Location: Lot 1 DP 228337; No. 6 Coolman Street Tyalgum
Zoning: RU5 - Village
Cost: \$1,000,000

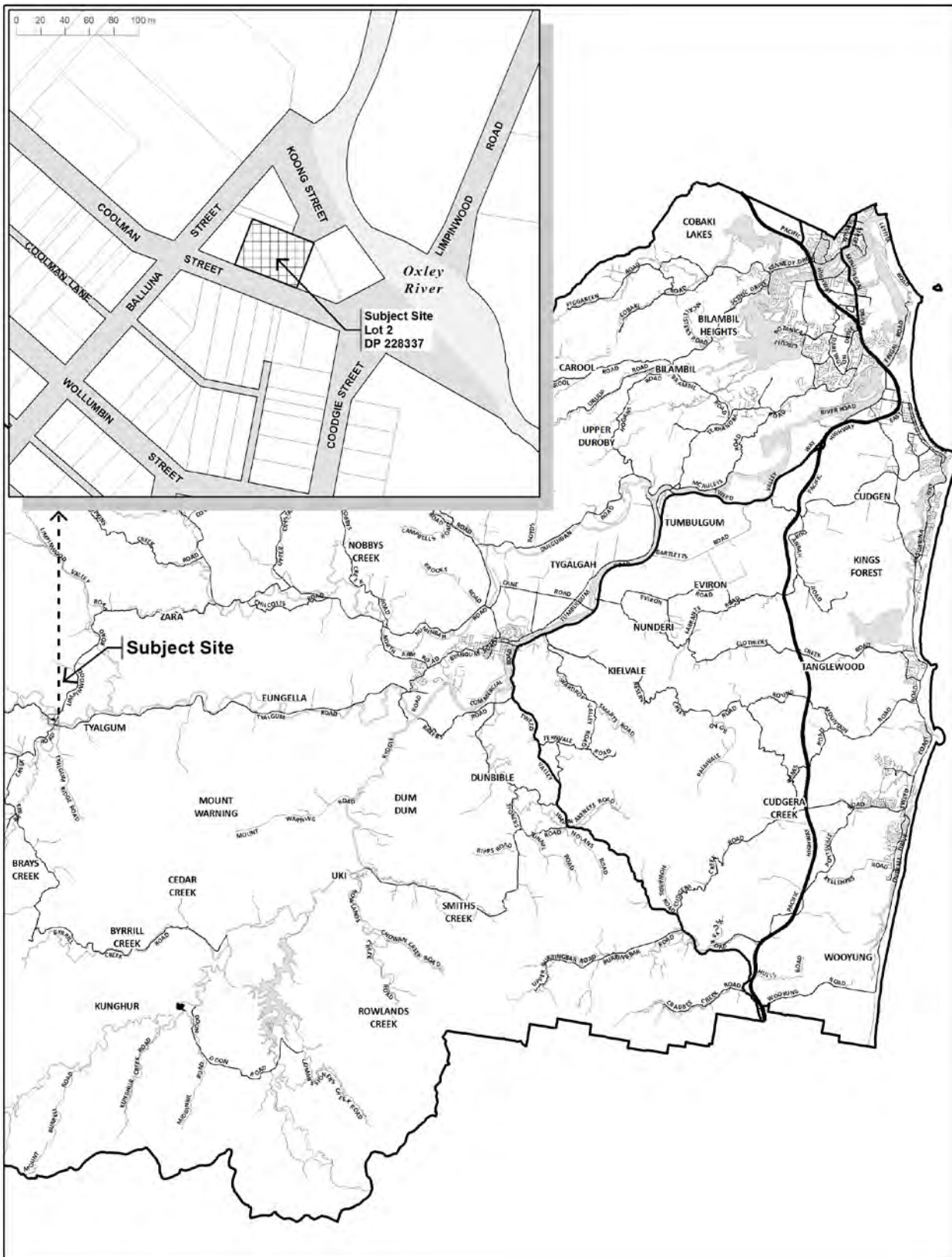
Background:

The subject land is described as Lot 1 DP228337 (No.6) Coolman Street, Tyalgum. The land is relatively flat with the existing Buttery building located towards the front of the site on the Coolman Street boundary. The lot is of a regular rectangular shape with a frontage to Coolman Street of approximately 54m and an area of approximately 2,180m².

Access to the site is via a sealed driveway portion across the road reserve off Coolman Street. A gravel driveway extends along the side of the existing building, on the eastern property boundary and accesses the rear of the site.

The Buttery was opened in 1913 during a period of growth and consolidation for Tyalgum village (Ainsworth Heritage, 2014). The Buttery was operational for a period of approximately 34 years until its closure in 1947. Following its closure the site was used until recent years as a car repair station and service station (Bartrim's Garage). The site is currently being used as a workshop for the assemblage of radio/cellular phone towers.

SITE DIAGRAM:



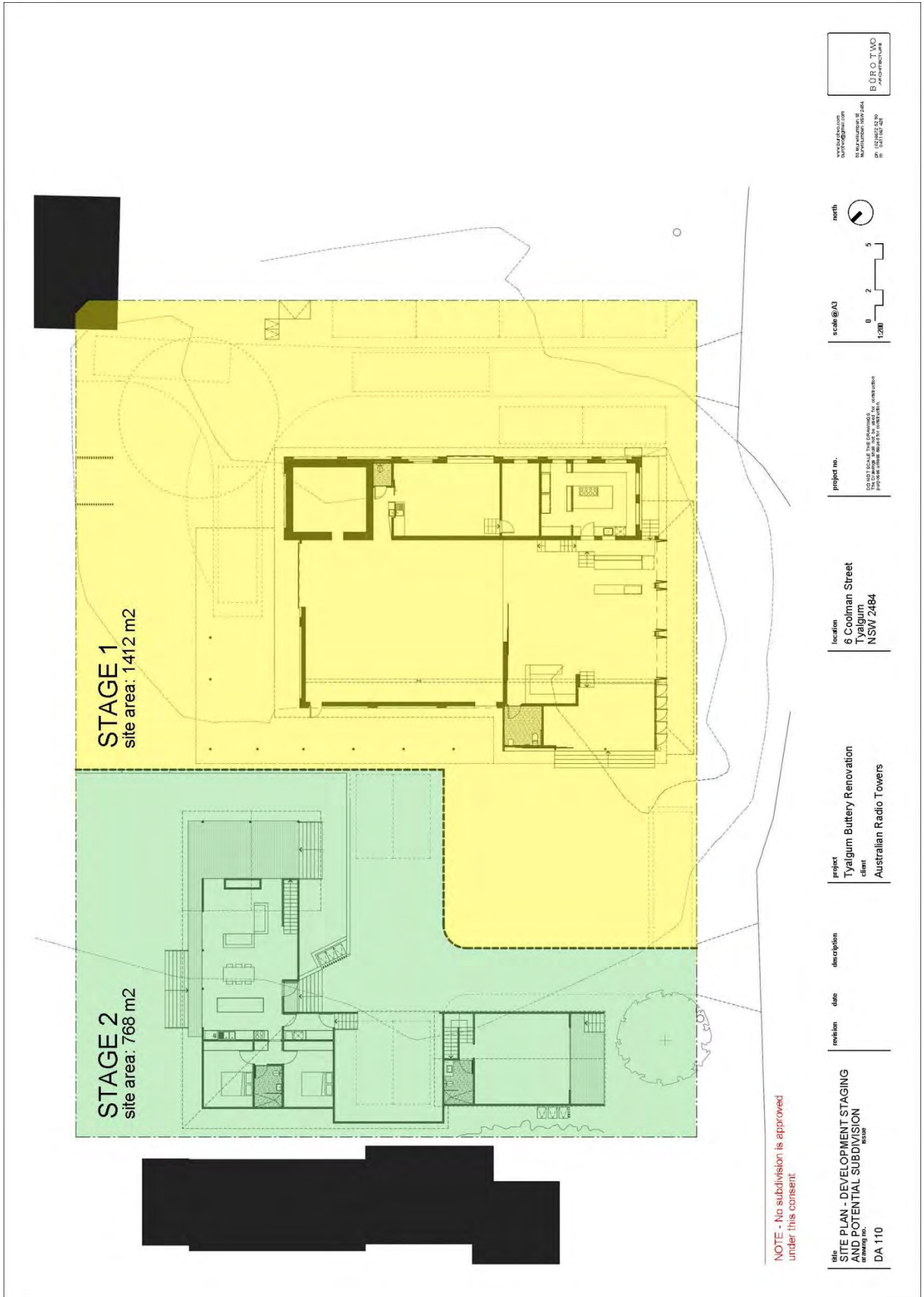
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 0 1 2 3 4 Km
 20 NOT SCALE
 COPY ONLY - NOT CERTIFIED
 GDA
 Map Projections: Universal Transverse Mercator
 Horizontal Datum: Geocentric Datum of Australia 1994
 Grid: Mac Grid of Australia, Zone 56

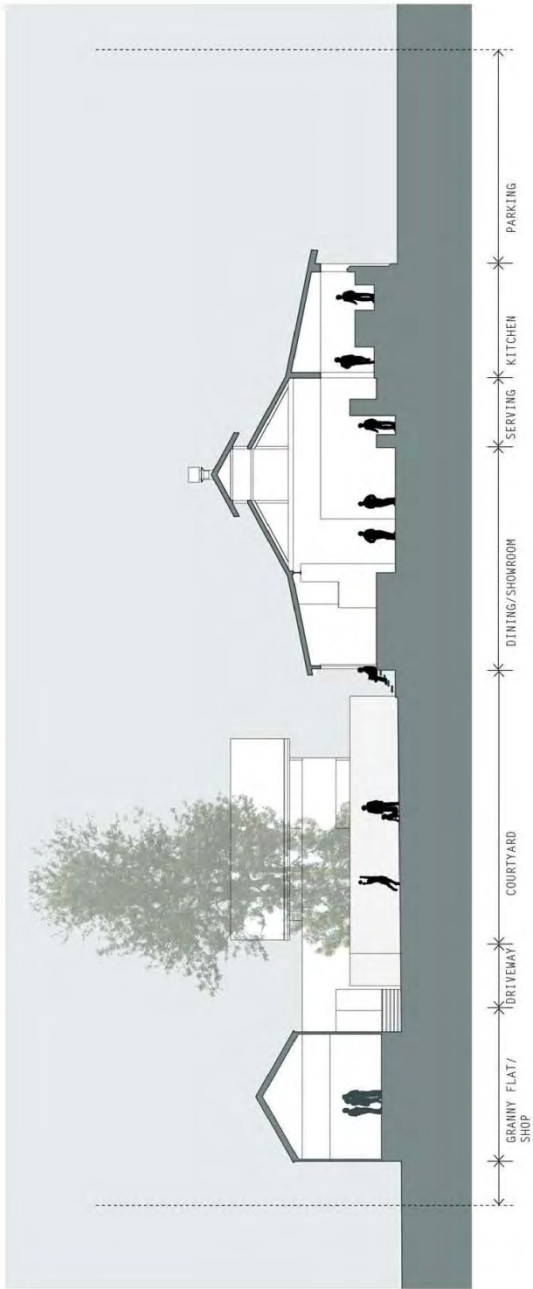
Civic and Cultural Centre
 3 Tumbulgum Road
 Murwillumbah NSW 2484
TWEED
 SHIRE COUNCIL
 PO Box 816
 Murwillumbah NSW 2484
 T | (02) 6670 2400 | 1300 292 872
 F | (02) 6670 2429
 W | www.tweed.nsw.gov.au
 E | plan@tweed.nsw.gov.au

Locality Plan
 Lot 1 DP 228337
 No. 6 Coolman Street Tyalgum

Affected Property
 Cadastre: 20 January, 2016
 © Land and Property Information (LPI) and
 Tweed Shire Council.
 Boundaries shown should be considered
 approximate only

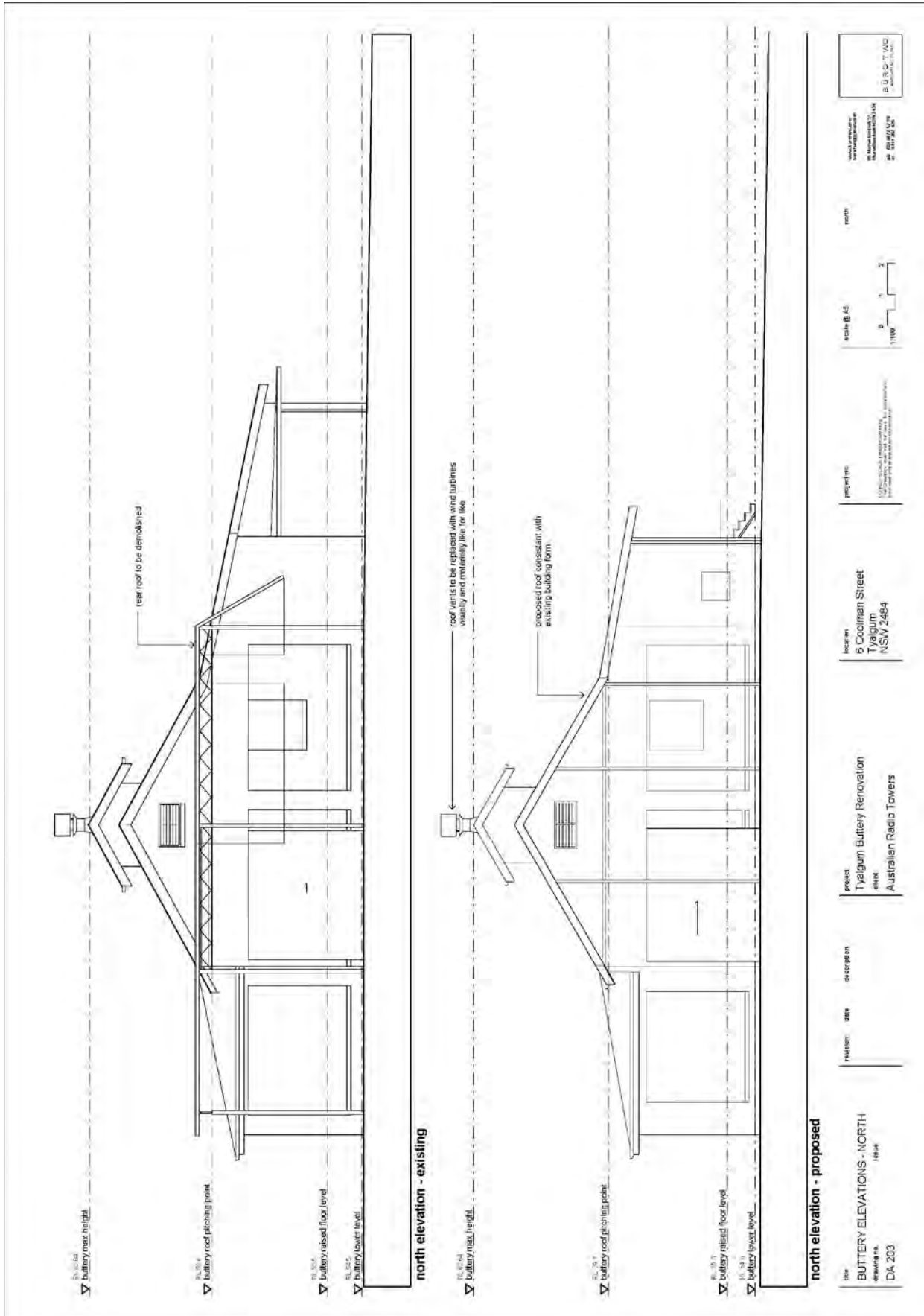
Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential 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 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 "Dial before You Dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.

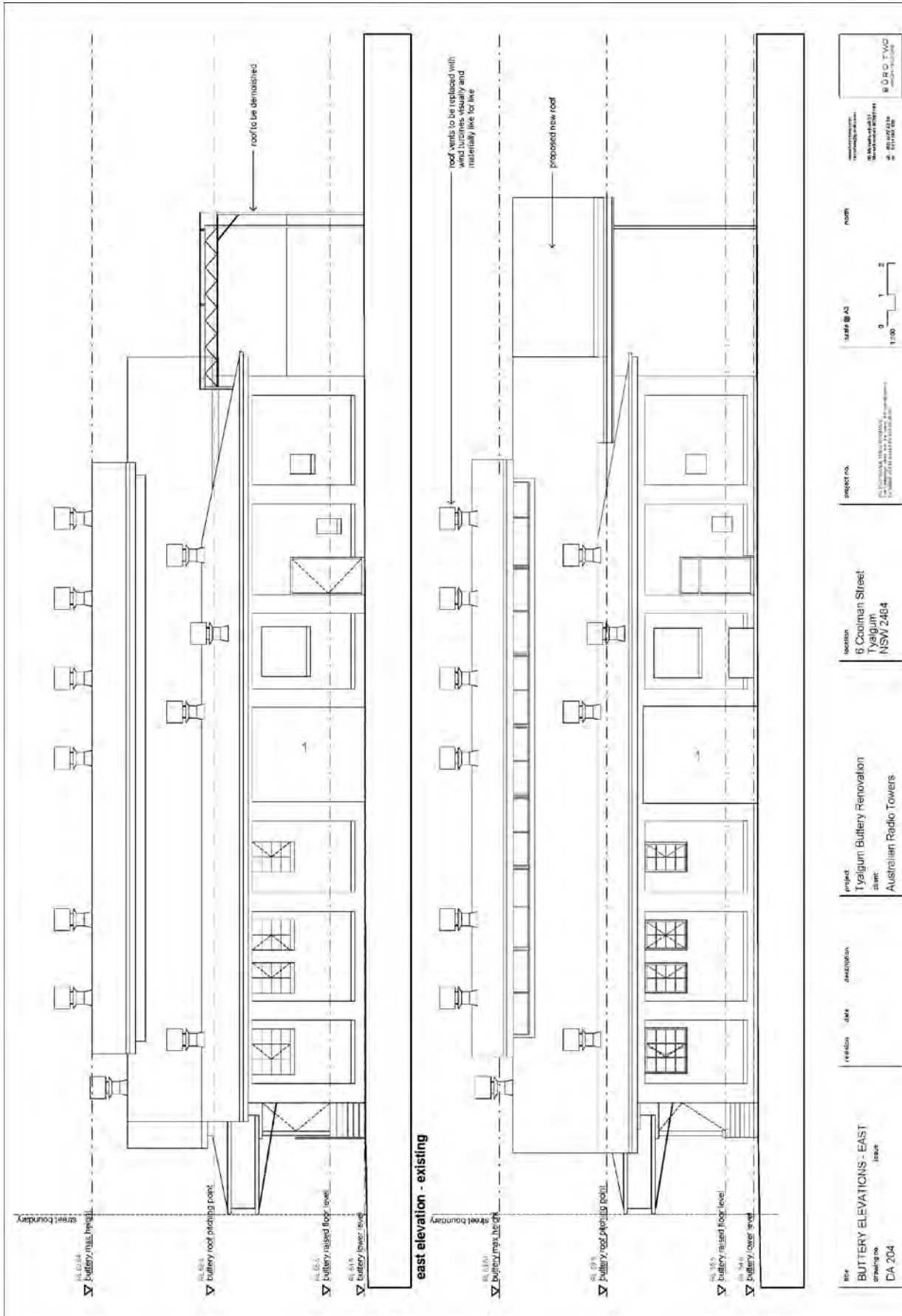


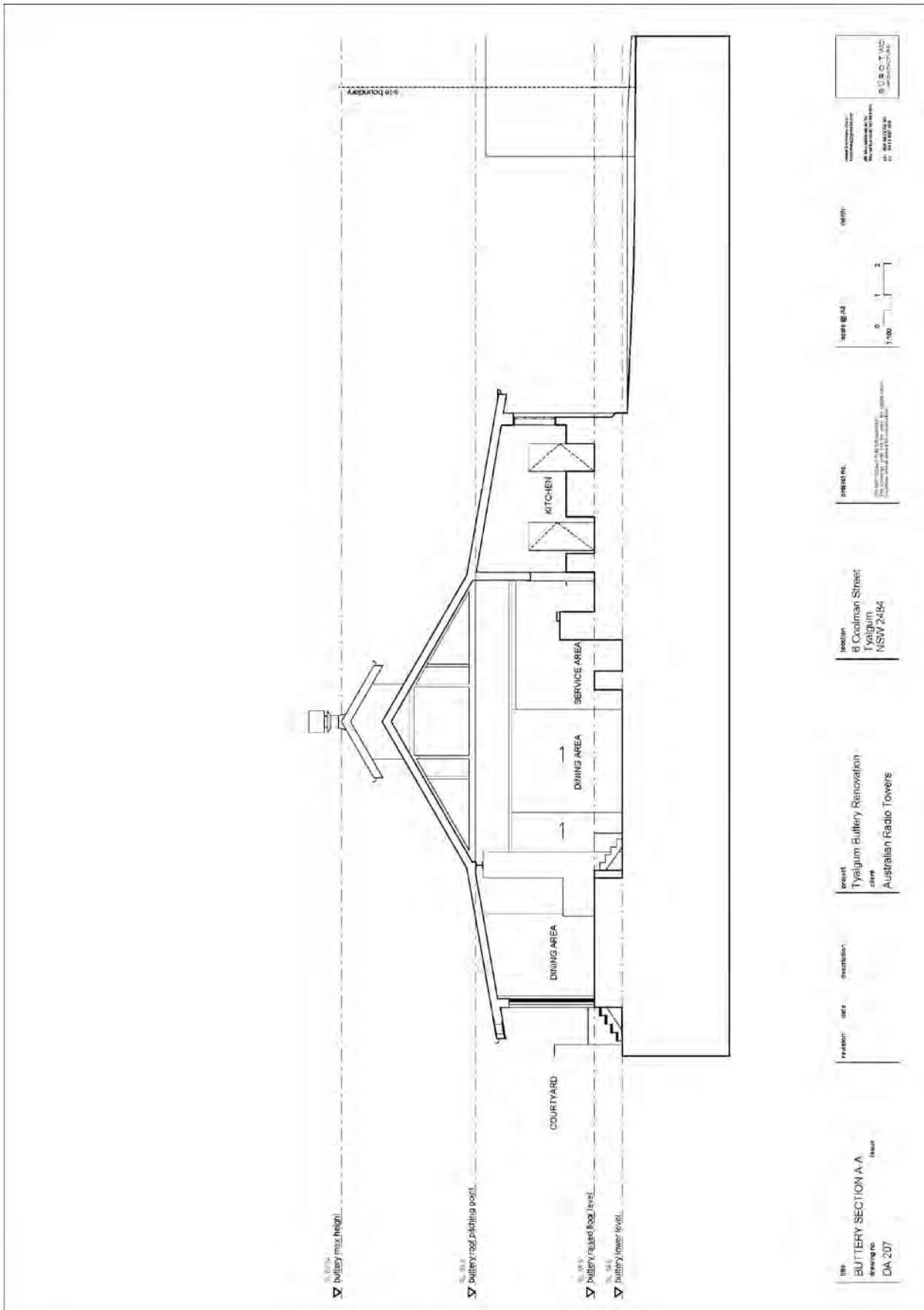


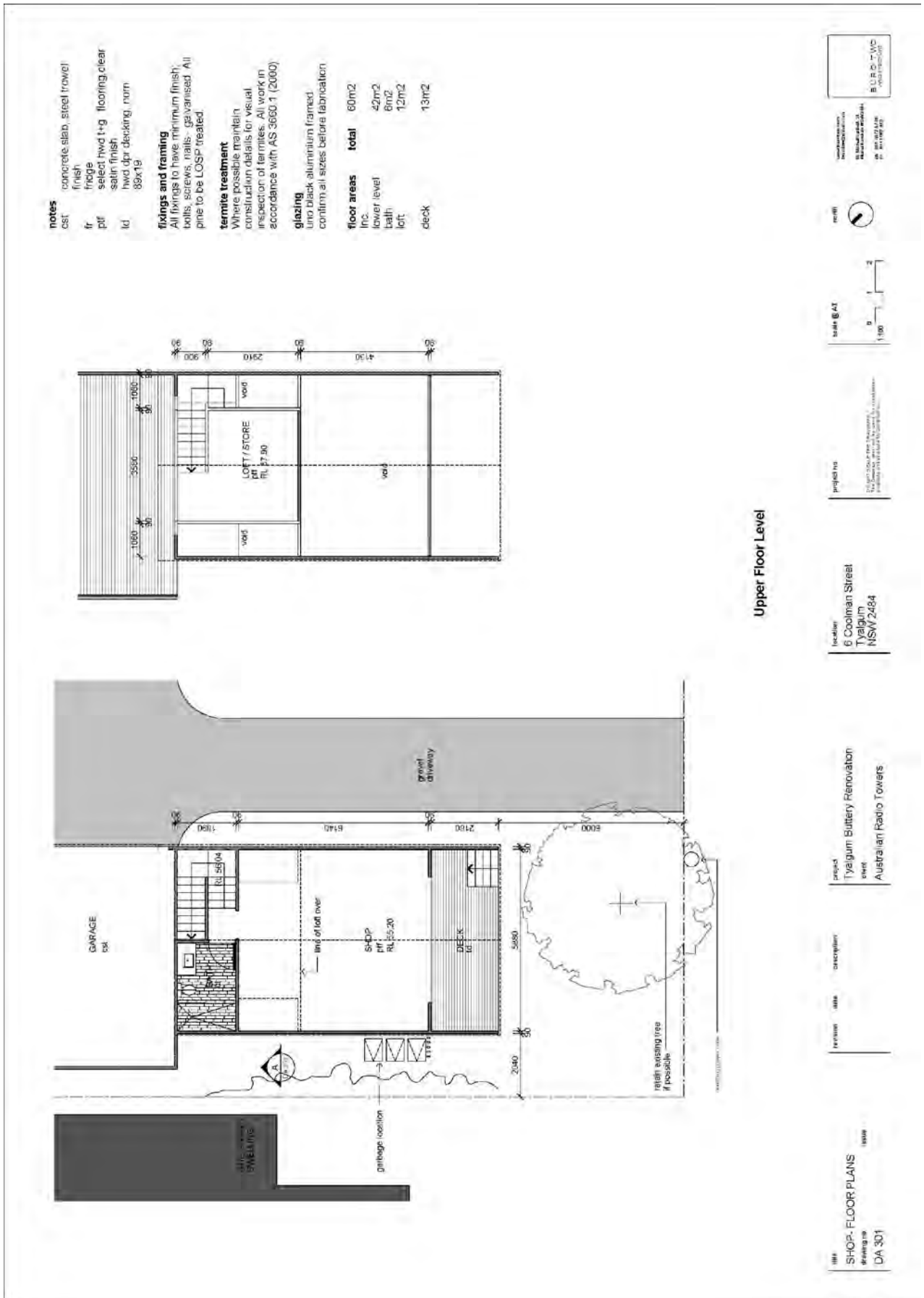
IMAGES OF COURTYARD

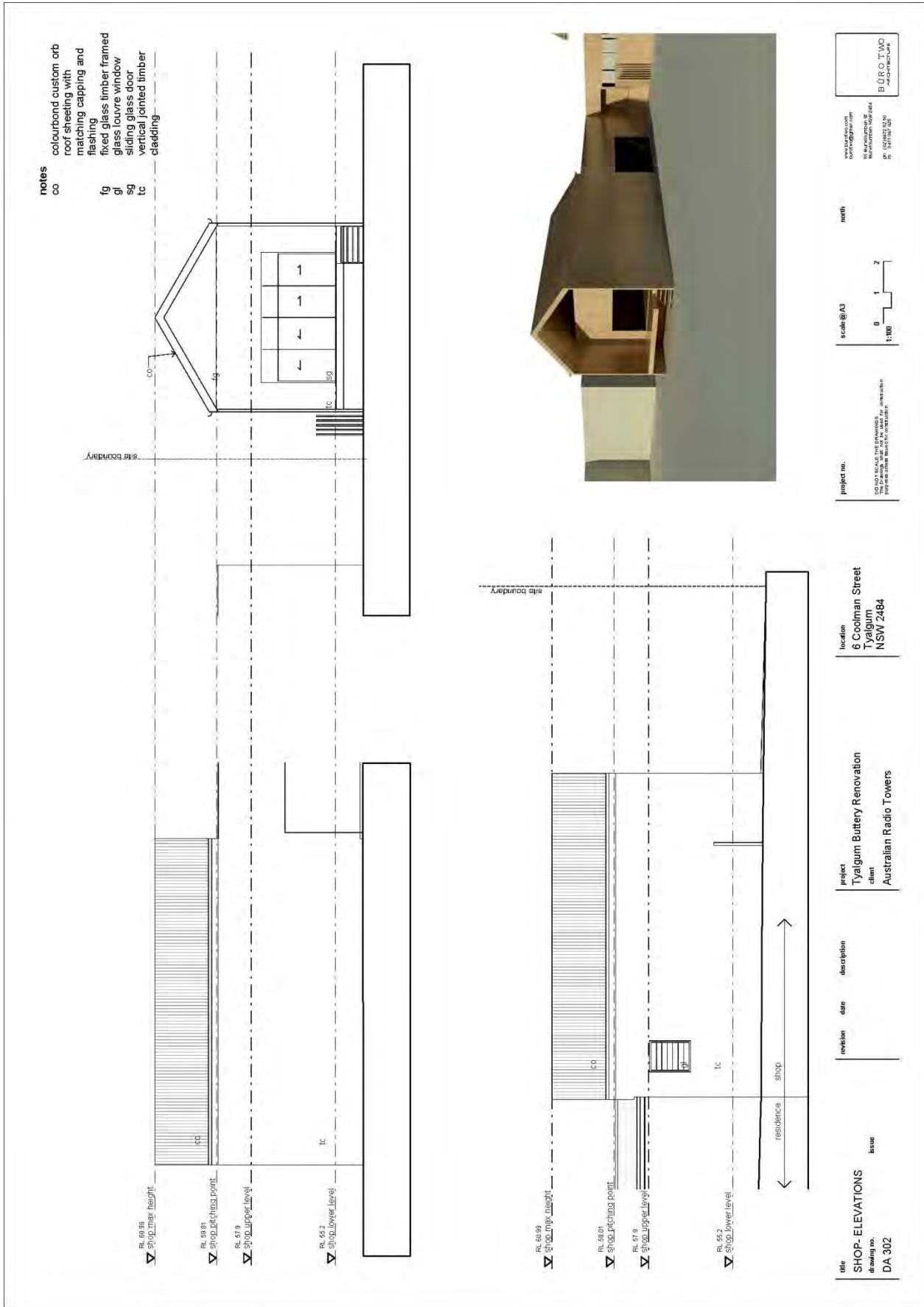
<p>title SITE SECTION drawing no. DA 114</p>	<p>revision date description</p>	<p>project Tyalgum Buttery Renovation client Australian Radio Towers</p>	<p>location 6 Coolman Street Tyalgum NSW 2484</p>	<p>project no. This drawing shall not be used for construction purposes without the consent of BURCO TWO</p>	<p>scale @A3 1:50 0 0.5 1</p>	<p>north</p>	<p>BURCO TWO www.burco.com.au burco@burco.com.au Burwood NSW 1500 PH (02)9622 0240 FX (02)9622 0241</p>
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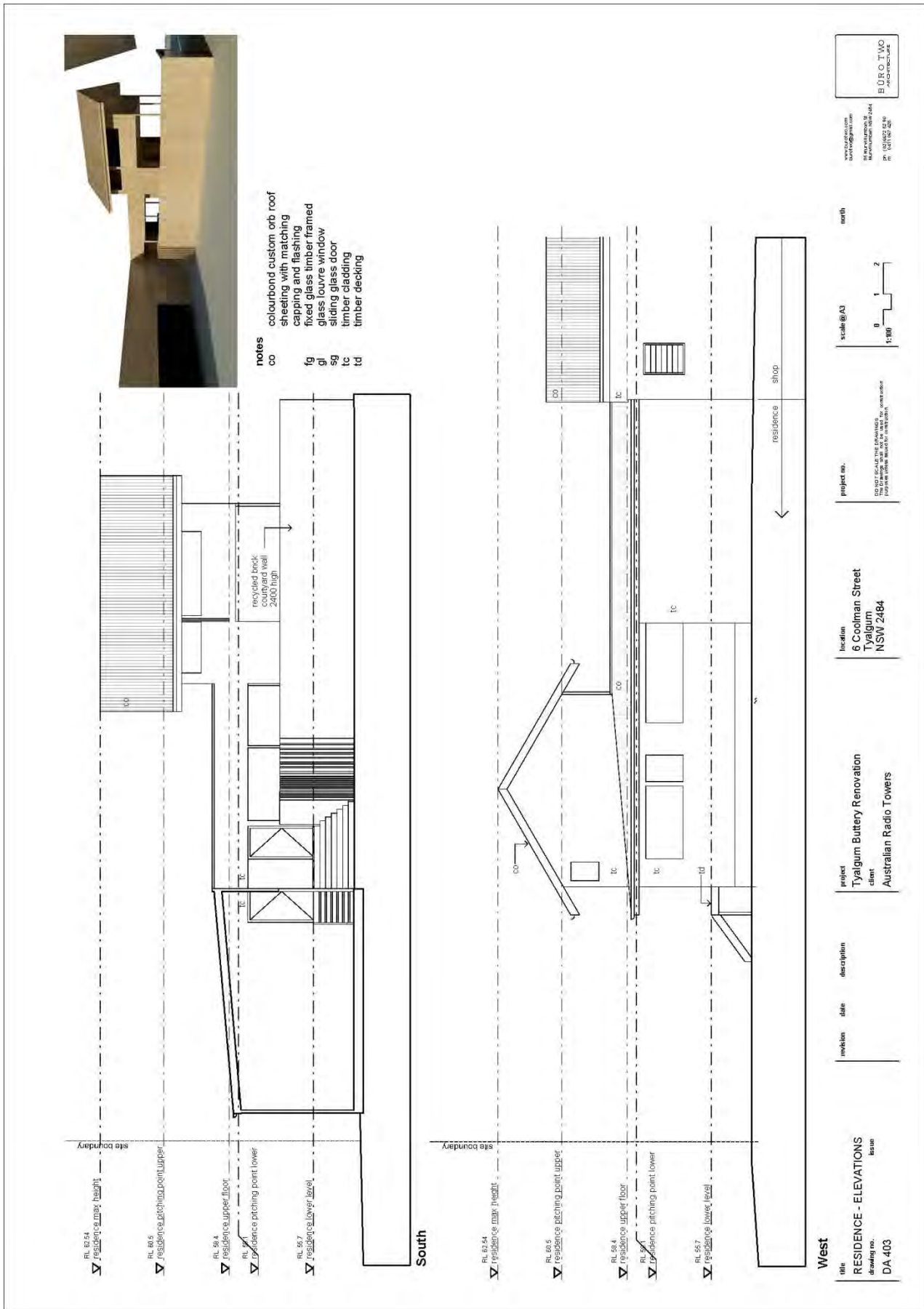


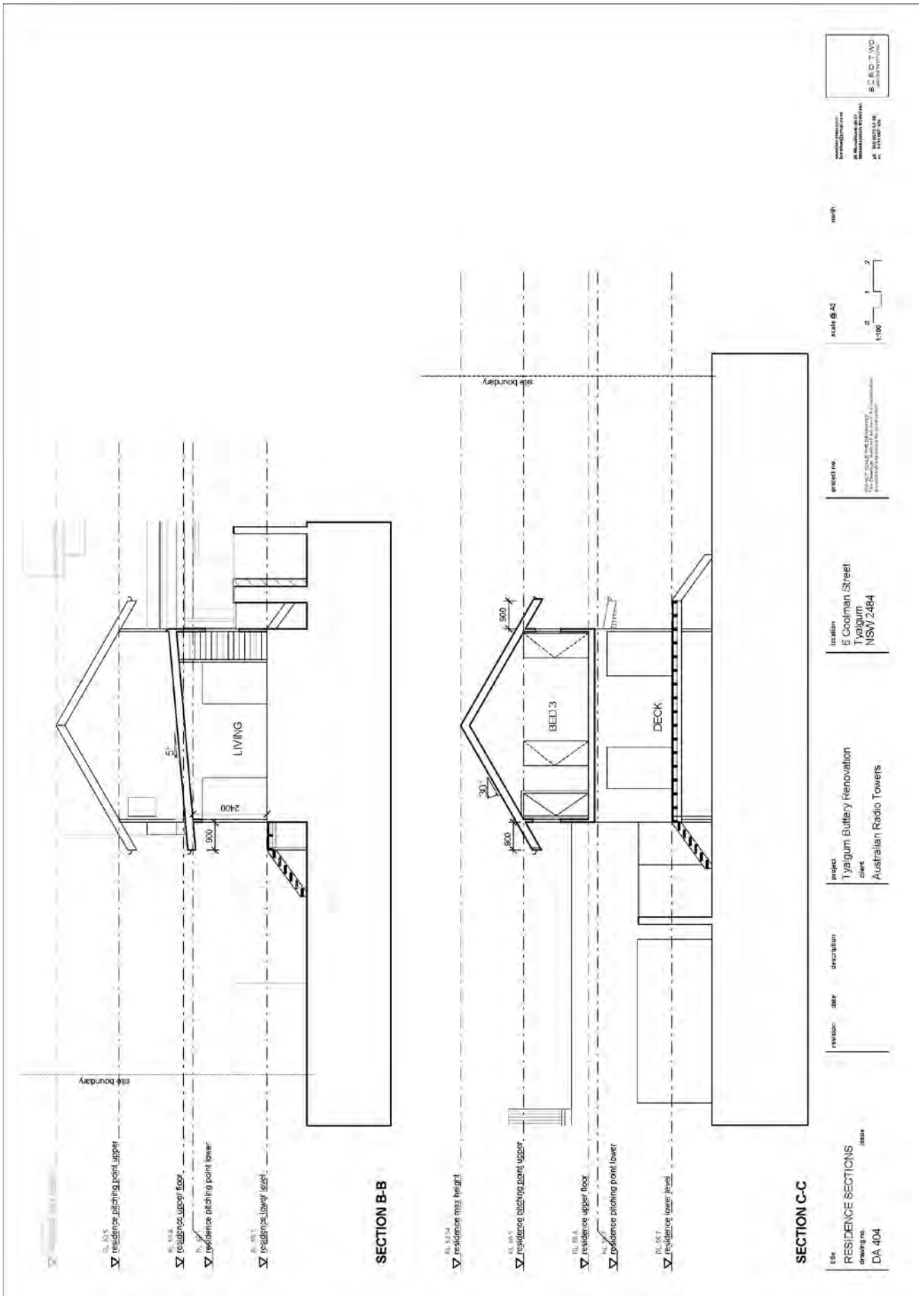












SECTION B-B

SECTION C-C

Site:
RESIDENCE SECTIONS
drawing no.
DA 404

revision: date: description:

project:
Tyalgum Buttery Renovation
client:
Australian Radio Towers

location:
5 Coolman Street
Tyalgum
NSW 2484

project no.
Tyalgum Buttery Renovation
drawing no. DA 404

scale @ A2
1:100

SECTION B-B
SECTION C-C

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

The proposed development is considered to be consistent overall with the aims of the TLEP 2014 as it represents a well-designed and sympathetic re-use of an historically significant building with minimal environmental impacts.

Clause 2.3 – Zone objectives and Land use table

The objectives of the RU5 zone are as follows:

- To provide for a range of land uses, services and facilities that are associated with a rural village; and
- To ensure that new development responds to and respects the character of a rural village.

The proposed development is consistent with the zone objectives particularly considering that the application includes:

- the sympathetic refurbishment of the heritage designated BATTERY building;
- the revitalisation and remediation of a key historic site in the Tyalgum village;
- upgrading of the village streetscape; and
- uses which will provide local employment and stimulate tourist interest in the village.

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

There is no subdivision proposed in this application, though the Staging Plan does reference 'potential future subdivision'. This will require separate development consent.

Clause 4.3 - Height of Buildings

The height of the proposed building (to top of the roof vents) is approximately 10.2m. The height of the shop is approximately 6.6m. The height of the proposed dwelling is approximately 8.2m.

All are compliant with the 13.6m height limit which applies to the site.

Clause 4.4 – Floor Space Ratio

The respective map provides a Floor Space Ratio of 2:1 for the subject site. The site area is 2178.48m². The floor area is 610m² (including garage).

This results in an FSR of 0.28:1 which is well below the prescribed maximum.

Clause 5.9 – Preservation of Trees or Vegetation

The application includes the removal of three existing trees on site, being two silky oaks and one coral tree. It is not possible to retain the vegetation due to the amount of excavation required to appropriately remediate the site.

Council's Natural Resource Management Unit have reviewed the application in this regard and provided that whilst retention of the silky oaks was the preferred option, it is reasonable for the vegetation to be removed to facilitate the remediation outcome, subject to quality landscaping. Clause 5.9 is considered to be satisfied.

Clause 5.10 - Heritage Conservation

The subject site is listed as an individual heritage item on the Heritage Schedule of TLEP 2014. The Inventory Sheet for the Butter Factory notes that:

'The former butter Factory demonstrates the original economic basis of the village, the dairy industry. The building is a now one of two remaining examples of a butter factory in the Tweed Shire. It is the most intact. The building represents a style of architecture and construction specific to a now vanished industry, once the mainstay of the village.'

The subject site is also within the curtilage of the Tyalgum Village Conservation Area, which is listed on the Heritage Schedule of the TLEP 2014. The Inventory Sheet for the Tyalgum Village Conservation Area notes that:

'The village, established in the Edwardian era, contains representative commercial and residential buildings indicative of the time and the area. The Coolman streetscape demonstrates the typical character of the north coast village within the Tweed district. Significant places include the Community Hall, Tyalgum Store, the Bakery and the Butter Factory.'

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.

For reasons which follow (under Clause 5.10 (5)), the proposed development is considered to meet the above objectives. The proposed development will result in sympathetic adaptive reuse of the Buttery building and continue its historical

'light industrial' use which the submitted Statement of Heritage Impact identifies as a benefit.

(2) Requirement for consent

Development consent is required for any of the following:

- a. demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a heritage conservation area,
- b. altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- c. disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- d. disturbing or excavating an Aboriginal place of heritage significance,
- e. erecting a building on land:
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- f. subdividing land:
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

Development consent has been sought for the proposed works.

(3) When consent is not required

5.10 (3) is not relevant to this proposal.

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

The applicant has submitted a detailed Statement of Heritage Impact with the application, prepared by Ainsworth Heritage.

This has informed Council's assessment of the proposed development and is discussed in detail below. It is considered (as outlined below), that the proposed development is appropriate with regard to impact on the heritage significance of the building, subject to the recommendations of the Statement.

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- a. on land on which a heritage item is located, or
- b. on land that is within a heritage conservation area, or
- c. on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

Planning Assessment

The applicant has submitted a detailed Statement of Heritage Impact with the application, prepared by Ainsworth Heritage.

The Statement provides detailed historical information with regard to the previous operations of the Butter Factory and the wider dairy industry on the North Coast. The Statement provides the following with respect to the general description of the building:

'The Butter Factory is a large, rectangular building supported on concrete piers with a hipped roof clad in corrugated iron and an additional vaulted roof section used a light source. It is an attractive building with wide, lightly decorated eaves and attractive fenestration. It features a large open factory space in its central rectangular area, with two annexes running the length of each long side.

The main body of the building appears to be constructed of rendered masonry (double brick) with a concrete floor. There is evidence of the original configuration of rooms, in the form of remnant internal walls, markings on the walls and floor markings. Internally, the ceiling has open steel rafters and its windows comprise 12-pane and 6-pane metal framed fenestrations.

There is evidence of some window openings being closed on the rear section of the building.

The annexes comprise a configuration of smaller rooms, presumably used for office and storage facilities. These rooms feature timber floorboards and ceilings lined with fibrous sheeting. The doors to the exterior are either timber boards (which are likely original) or corrugated iron clad sliding doors which are the height of the ceiling.'

The Statement contains an Assessment of Significance which recognises that the building has local historical significance, local aesthetic significance, local social significance, local rarity significance and local representativeness significance (criteria taken from NSW Heritage Act and ICOMOS Burra Charter).

The Statement also makes management recommendations to mitigate impacts as follows:

- archival photo recording prior to works commencing;
- lodgement of the Statement with archival recording at the local Historical Society;
- use of appropriate materials and finishes;
- new services to follow existing service lines; and
- review by a heritage consultant of any changes to the proposed design (as reviewed by Ainsworth Heritage).

The Statement and submitted architectural plans were referred to Council's Heritage Advisor for review and comment.

Council's Heritage Advisor was satisfied with the level of assessment presented in the Statement and the conclusions and recommendations in regard to sympathetic reuse of the building. The following comments were supplied:

'The Buttery building has a high level of heritage significance to the Village of Tyalgum as it provides physical evidence of the dairy industry and its role in the founding of the Village of Tyalgum.

The development proposal is sympathetic to the original building and will ensure the longevity of the building through sympathetic use. The proposed alterations maintain the original form and fabric of the building whilst removing the unsympathetic later additions. For this reason the proposed changes to the buttery are supported.

In stage two of the development it is proposed to build a two storey house with a shop at the front facing the street adjacent to the Buttery. The new building will be separated from the buttery building by a car parking area and a courtyard. The proposed shop has a forward facing gable roof that is quite high, however this is appropriate as it is balanced in the context of the height of the buttery building. The residence has a two storey element that is located at the rear of the block. The setback to the second storey element is sufficient to ensure that it is not a dominant element.

Conclusion

The development is a good response to the future development of this site and will ensure the conservation of the Buttery building.

The application is supported.'

It is considered that the provisions of Clause 5.10 have been satisfied by the proposed development. Conditions requiring compliance with the Statement of

Heritage Impact (particularly the recommendations as contained in Section 7) will be applied.

Clause 5.11 - Bush fire hazard reduction

The applicant submitted a Bushfire Hazard Assessment – (BushfireSafe (Aust) Pty Ltd May 2015) and further information upon request dated 16 December 2015.

The following is a summary of Council's review of the information, noting that the detailed review was undertaken by Council's Natural Resource Management staff:

- The bushfire hazard assessment has identified the largest risk to be the bushfire prone vegetation (classified as 'forest') which is located >28 m from the proposed development.
- Offsite Asset Protection Zones (APZ) were proposed and included Council road reserve (to the north), Council managed park (to the east) and a developed residential lot (to the north / north-west). No consent from adjacent land owners were provided as part of the DA to establish easements on these properties and therefore these APZs were not considered compliant with *Section 3.3 (b) APZs on adjoining lands of Planning for Bushfire Protection 2006* and subsequently the applicant was requested to provide information on how offsite APZs were achievable.

RFI Response from Bushfire Risk Management and Environmental Consultants Dated 16 December

The response from the applicant's consultant provided amended APZ plans that removed the APZ from the adjacent Council managed park and road reserve but retained the APZ to the north extending onto the adjacent residential property of Lot 1.

The NSW RFS provided written email correspondence indicating that an offsite APZ into the residential property to the north (Lots 1/7/759012 and 1//249660) is an acceptable solution under Appendix 2 Pg.52 of Planning for Bushfire Protection 2006.

With the proposed APZ configuration, no additional vegetation clearing (beyond that required for site rehabilitation works) is proposed to achieve APZ requirements.

Relevant conditions have been applied relating to bushfire protection.

Clause 7.1 – Acid Sulfate Soils

The site is not located on acid sulfate soils.

Clause 7.2 - Earthworks

Excavation of around 1195m² of lead contaminated soil is required from the site. The depth of excavation is 300mm to 400mm. Clause 7.2 specifies that consent is required for the subject earthworks. When considering an application for earthworks, the consent authority must consider a range of matters. With regard to these, the proposed works (which are necessary to remediate the site) are unlikely to (because of their shallow depth) disrupt drainage or soil stability on the site or result in any adverse environmental impact. The excavated material is contaminated and will require disposal at an appropriate facility as per the submitted Remediation Action Plan. A Waste Management Facility in Queensland has committed to receiving the material subject to further testing. The excavation is an environmental benefit which will result in the site being safe for continuing and future use (by the proposed development) as well as any future development.

The proposed works are considered to be consistent with Clause 7.2.

Clause 7.3 – Flood Planning

The site is not within the mapped flood planning area.

Clause 7.4 - Floodplain Risk Management

In relation to Clause 7.4, Council's Flooding Engineer has advised the following:

'Based on the submitted architectural plans DA 106 dated June 2015, from a flood perspective I can support this application. The habitable portion of the development is confined to the new dwelling adjacent the existing buttry and satisfies the flood requirements of council's Tweed DCP Section A3 Development of Flood Liable Land.

Specific reference is made to Section A3.9 Rural Village & The Clarrie Hall Dam. Whilst there is no flood modelling for Tyalgum, the proposed adopted floor level of the proposed dwelling is set at RL 55.7m AHD which is the adopted Min Floor Level for Residential Development as outlined in Table 9.1 – Flood Levels in Rural Areas.

Standard conditions for the application would be the adopted flood/floor level and recommending flood free storage for the commercial component include electrical wiring above the DFL @ RL 55.2m AHD and water resistant materials for the Buttry renovation works below the DFL.'

Subject to imposition of the conditions above, the matters raised by Clause 7.4 are considered satisfied.

Clause 7.6 - Stormwater Management

In relation to stormwater management, disposal of roof water is proposed via the existing drainage system. Council's Development Engineer has applied a

condition requiring the provision of stormwater drainage detail for the car park area with a S138 application. Clause 7.6 is considered satisfied.

Clause 7.10 - Essential Services

Essential services are available at the site. Clause 7.10 is considered satisfied.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

SEPP No. 55 - Remediation of Land

SEPP 55 provides that a consent authority must consider whether land is contaminated prior to issuing a consent and if so, whether it will be suitable after remediation for the proposed use. A preliminary report must be considered in coming to the conclusion that the land is suitable for the proposed use.

In this instance, Council was furnished with Preliminary Site Investigation, Detailed Site Investigation and Remediation Action Plan prepared by HMC Environmental Consulting Pty Ltd dated August 2015 (all contained within a single report). This report has been assessed in detail by Council's Environmental Health Officer and planning staff have been advised that the investigation is sufficient and considers the relevant matters. Subject to conditions requiring remediation of the site in accordance with the investigation and Remediation Action Plan, it is considered that the site is suitable for the proposed use and SEPP 55 is considered satisfied as it applies to development control.

SEPP No. 64 – Advertising and Signage

This SEPP will be relevant at the time of assessment of the proposed signage application.

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

There are no draft EPIs which apply to the proposed development.

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

The application proposes construction of a single dwelling on the site, to the west of the main Buttery building. At Council's request, a DCP Section A1 assessment was provided.

The assessment demonstrates that the proposed dwelling complies with the policy with the exception of a variation to the rear setback and the garage setback.

The rear setback is 8.185m to the wall of the dwelling house and 7.28 to the eave which represents a minor variation. In the context of the wider development this

is not considered to create serious impacts for any adjoining property, particularly given the property in proximity to the rear boundary is owned by the applicant. None of the objectors have raised the minor setback variance as a concern with the development and as such it is considered appropriate to recommend approval notwithstanding the reduced rear setback.

The garage is located well within the site with sufficient parking provided. The garage is not located behind the front elevation of the dwelling however given the location of the garage in between the proposed dwelling and the shop (and the orientation of it internally within the site, perpendicular to Coolman Street) there will not be visual impacts associated with this. The aim of this control is to reduce the visual dominance of garages when viewed from the street. Such a matter is not relevant for the subject proposal where the garage is integrated with the wider development on the site.

Notwithstanding the above variations, the proposed dwelling design is considered appropriate and suitable for approval.

A2-Site Access and Parking Code

The following car parking has been calculated using Councils development control plan – Section A2 Site Access and Parking Code:

Building Type	Rate	Total
Refurbished Buttery Building (Stage 1)		
Showroom/café GFA: 160m² (40m² dining area)	- 1 per staff (3 staff) - Customer 3.5/100m ² (50% reduction as per Table 1) - 1 HRV delivery	- 3 - 0.7 - 1 HRV
Light industry GFA: 156m²	- 1 per 120m ² - 1 HRV	- 1.3
Commercial (office) GFA: 50m²	- Staff and customer 1/50m ²	- 1
	Total – Stage 1	6 spaces + 1 HRV
<i>New building (Stage 2)</i>		
Shop GFA: 60m²	- Staff 1/100 GFA - Customer 3.5/100m ² (50% reduction as per Table 1) - 1 HRV	- 0.6 - 1.05 - 1 HRV
Deck GFA: 13m²	N/A	N/A
Residence GFA: 135m²	1 space plus driveway (2 spaces per dwelling)	- 2
Deck (for residence) GFA: 36m²	N/A	N/A
Garage GFA: 49m²	N/A	N/A
	Total – Stage 2	4 vehicles + 1 space for delivery of shops HRV
	Total	10 vehicles + 2 HRV

A total of 10 spaces are provided on the site as per the below figure which is appropriate and compliant with DCP Section A2.

A4-Advertising Signs Code

No signage is proposed at this stage. The applicant has acknowledged that due to the heritage listing of the building, further consent will be required for signage. An appropriate condition has been included in this regard. Section A4 assessment will be undertaken for the future application.

A11-Public Notification of Development Proposals

The proposed development was advertised for a period of 30 days (as it constitutes advertised/integrated development).

The advertising period was from 29 July to 28 August 2015.

During this time, 31 submissions (objections) were received. One letter of support was received after close of the exhibition period.

The applicant was referred a copy of the submissions and asked to provide a response. A detailed response was received and this is detailed under 'Public Submissions' below.

A13-Socio-Economic Impact Assessment

The proposed development is considered to have a positive socio-economic impact.

A15-Waste Minimisation and Management

The applicant submitted a detailed Waste Management Plan prepared by HMC Environmental Consulting Pty Ltd. The plan identifies that there is adequate area available on the site to provide suitable storage facilities for waste generated during the part demolition, construction and occupation of the proposed mixed use development.

In relation to site remediation, the plan referenced the Remediation Action Plan (also prepared by HMC) with regard to excavation and disposal of contaminated material. This is appropriate.

In relation to partial demolition, there will be standard building materials and possible hazardous materials (asbestos containing material and lead). The plan provides that a Workcover NSW licenced contractor must be contacted to remove hazardous material if present. Standard building materials would be disposed of at Council's Waste Management Facility.

In relation to the construction phase, the report identifies that industrial skip bins would be used to contain and transport waste to Council's Waste Management Facility (serviced weekly or on call).

In relation to the operational phase of the development, the report identifies likely waste streams, including typical domestic waste and recyclables, metal and oil waste from the light industrial component, and food waste and oil/grease/waste cooking oil from the kitchen/café component. Appropriate methods have been

proposed to deal with these waste streams as follows (waste cooking oil would be removed by the provider/recycler):

Table 9 – Estimated Waste Storage Receptacles (Operational)

Business type	General Waste	Recycling waste	Green waste
Dwelling	1 x 140L (Red) MGB serviced weekly	1 x 240L (Yellow) MGC serviced fortnightly	Optional
Light industrial	1 x 1100L serviced weekly or on call	1 x 1100L serviced weekly or on call	
Office Cafe Gift Shop	1 x 1100L + 2 x 660L serviced weekly	1 x 3000L serviced fortnightly	

Note final servicing for cafe and gift shop would depend on patronage and opening hours.

The plan was referred to Council’s Waste Management Unit who confirmed that the proposed arrangements are appropriate.

A16-Preservation of Trees or Vegetation

Council’s Natural Resource Management Unit has reviewed the application and provided detailed assessment concluding that the ecological impacts of the proposal (stemming from vegetation clearing) are appropriate subject to appropriate landscaping post development. An excerpt of this assessment is provided below:

“The most prominent direct ecological impacts are associated with the removal of two (2) mature Grevillia robusta (Silky Oak).

Following review of the applicants information response NRM provide conditions of consent with particular focus on achieving quality landscaping outcomes to maintain the sites visual aesthetic whilst incorporating suitable species typical to that of the nearby riparian vegetation to the north.

The proposed development is not considered to pose a significant ecological impact to fauna or flora provided conditions of consent are complied with.

The requirement through conditions for the preparation and approval of a detailed landscape plan will seek to ensure scenic amenity is maintained and potentially improved, whilst ecological elements are appropriately offset”.

It is noted that a submission raised the issue of potential impacts on the grey headed flying fox. Council’s Ecologist has specifically responded to this as follows:

“A submission was made raising concerns about the ecological assessment not considering potential industrial noise impacts to grey headed flying fox and other species that may frequent the riparian vegetation to the north of the property.

NRM are aware of a small flying fox camp that has occupied several camps in the Tyalgum township area (nearest sites located approximately 500 m away). NRM acknowledges that the riparian vegetation community to the north of the site may potentially be used opportunistically as a foraging and roosting habitat by grey

headed flying fox (and other species) and acknowledges concerns raised regarding impacts of noise disturbance on these species, however the following points are made:

- There are no permanent flying fox camp records mapped in the Tyalgum area or seasonal flying fox camps located in the riparian vegetation to the north and it is not a survey site of the annual National Flying Fox Census;
- Over approximately the past 69 years the site has been a factory and mechanical workshop and therefore elevated noise levels (beyond that of a typical residential property) have been present;
- Noise will be limited to daylight hours and therefore nocturnal fauna will not be affected by noise disturbance; and
- Conditions of consent regarding noise control (e.g. acoustic buffers and acoustically treated windows) are to be imposed and should help to maintain noise levels within a suitable range.

It therefore is not considered likely that the proposed development will pose significant long term impacts to local grey headed flying fox or other local native species”.

It is noted that there is no site specific development control plan over the subject area.

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

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

The Coastal Policy is not applicable.

Clause 92(1)(b) Applications for demolition

Minor demolition is required of internal linings and partition walls, external additions and concrete slabs. Council's Building Surveyor has reviewed the proposed development and applied appropriate conditions of consent (noting that those pertaining to demolition of areas of the building containing potentially hazardous materials have been included).

Clause 93 Fire Safety Considerations

Council's Building Surveyor has reviewed the application and provided appropriate conditions with respect to fire safety.

Clause 94 Buildings to be upgraded

Council's Building Surveyor carried out an inspection of the building on 30/7/15.

That officer has advised that Clause 94 is considered satisfied as the existing building and proposal will generally comply with Building Code of Australia.

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

The site is removed from the coastal zone and there is no relevant management plan.

(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**

Light Industry definition

The applicant was requested to clarify how the proposed development meets the light industry definition. By way of a response, the following was supplied:

1. The proposed natural energy industry is, we submit, compliant with the definition of a “*light industry*” under the Tweed LEP 2014. In that regard we confirm the following:
 - It is a relatively small operation occupying approximately 156m² GFA including a total of five (5) employees (three (3) full time and two (2) part time);
 - Typically about 70% of the work involves assembly of electronic components and 30% structure assembly involving cutting/grinding, drilling and welding of metal component parts to assemble weather proof metal cabinets, electronic control boards, solar arrays etc. No automated or heavy machinery is involved and essentially all work is undertaken with manual/electronic hand or bench tools;
 - The activities are non-polluting with no toxic or offensive waste. All waste can be managed by conventional means (refer Waste Management Plan, S.E.E. Attachment E).
 - Deliveries to and from the site are expected to occur infrequently (maximum three (3) per week) and would normally be made by rigid table top truck or lighter vehicle. No articulated vehicles, containerised goods or the like are involved.

Tweed Local Environmental Plan 2014 defines ‘light industry’ as:

light industry means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following:

- (a) high technology industry,
- (b) home industry.

Note. Light industries are a type of ***industry***—see the definition of that term in this Dictionary.

Subject to the proposed conditions of consent, Council planning staff are satisfied that the proposed development meets the above definition.

Signage

No signage is proposed at this stage. The applicant has acknowledged that due to the heritage listing of the building, further consent will be required for signage. An appropriate condition has been included in this regard.

Food Premises

The proposal includes a café within Stage 1 of the development. Limited details have been provided relating to the internal fitout. Council's Environmental Health Officer notes that this can be adequately managed through the provision of conditions.

Noise/Acoustic Barrier

There are two components to potential noise impacts as a result of this proposal, construction impacts and operational impacts.

In relation to construction impacts, Council's Environmental Health officer has advised that these can be mitigated by way of standard conditions.

In relation to operational noise, it is noted that the proposal is located immediately adjacent to two residential dwellings to the west and north-west. The proposal also includes the construction of a dwelling within the subject property. It is anticipated that potential land use conflicts may arise and the applicant was requested to provide further information on the 3 August 2015. There were a number of submissions received that raise noise concerns mainly from adjacent business operators.

The applicant submitted an Environmental Noise Impact Report prepared by CRG Acoustics Pty Ltd dated October 2015. The assessment includes unattended noise logging, attended measurements of current light industrial activities and modelled predictions. Council's Environmental Health Officer advises that the assessment has been undertaken by a suitably qualified and experienced consultant and in general accordance with the NSW Industrial Noise Policy 2000. The assessment based upon predicted noise impact levels recommends a series of mitigation measures that are summarised below and will be incorporated into conditions of consent.

- Hours of operation be limited to 7am to 6pm, 7 days per week for the Shop, Café and Showroom, and 7am to 6pm Monday to Friday for the Light Industry.
- Low level amplified sound be allowed only inside the dining room.
- Music be limited to a maximum level of 70 dB(A) at 1m from any speaker. This is low level background music only, and will not interfere with conversation.
- Speakers inside the dining room be aimed away from doors and windows.
- No amplified sound be allowed outside the building.
- Drainage grating over trafficable areas be well secured to prevent rattling.
- All manufacturing activity be limited to inside the workshop space. Only loading operations and materials storage are to occur in the roofed outdoor space.
- An acoustical barrier be constructed as per Sketch No. 1 in Appendix A of this report.

Impact of acoustic barrier on heritage significance

The advice of Council's Heritage Advisor was sought in relation to the acoustic walls recommended in the acoustic report. The following is an excerpt from that advice that raises no major concern with the proposed design however does recommend articulation of the proposed courtyard walls and screening where possible.

Such recommendations have been incorporated into conditions of consent.

Background

This referral follows comments provided initially by Council's Heritage Advisor, dated 11/09/15.

The comments are in response to the Acoustic Report by CRG Acoustics and Recommended Acoustic Barrier measures incorporated into the DA detail.

Impact of Works:

It is acknowledged that the Acoustic Barrier measures are recommended to address the potential sound impacts of the light industrial component of the proposed development, however, the height of the barrier walls of 2m, 3m and 2.6m respectively are significantly greater than that typically found within the open rural village character of Tyalgum.

Notwithstanding, the proposal has sought to use face brick and lapped timber materials appropriate to the sites heritage context as well as meeting noise attenuation requirements.

Although the visibility of the acoustic barrier walls from the north of the site is mitigated by the typographical changes and vegetation, from Coolman Street the walls will be prominent. The acoustic barrier walls from inside the courtyard of the new dwelling, offset by only 1.5m will also be prominent.

The use of recycled brick to the courtyard walls (both east and south of the new dwelling) is supported and articulation to the walls is also encouraged to reduce the massing of the walls. The overall mass and scale of the walls could be further reduced with the integration of landscape or planter boxes in front of the wall where space permits out of vehicular circulation.

The rural landscape is a key feature of the Tyalgum Heritage Conservation Area. This rural landscape and the visual impact of the acoustic barrier walls from Coolman Street will be reduced by the retention of the large tree (Coral tree?) which currently fronts Coolman Street.

The siting of the tree on the front property boundary appears to allow sufficient room for a reconfigured driveway alignment to go around the tree. As such, its retention is recommended.

Recommendation:

1. *The acoustic barrier walls are required for noise management and the materials proposed are supported.*
2. *The 2m and 3m recycled brick walls around the new dwelling courtyard are to be articulated to provide relief from the massing of the walls with details to be forwarded for approval prior to the release of a construction certificate. This may include the integration of landscape elements in front of the wall.*
3. *The large tree to the property boundary be retained or, if this is not possible, that a similarly scaled tree be planted to the Coolman Street boundary to soften the visual impact of the acoustic barrier walls.*

(c) Suitability of the site for the development

Asbestos

The Preliminary Site Investigation, Detailed Site Investigation and Remediation Action Plan prepared by HMC Environmental Consulting Pty Ltd dated August 2015 identifies that asbestos containing material may be encountered during refurbishment works. Standard conditions to be applied to ensure compliance with NSW WorkCover requirements.

Contaminated Land/UPSS

The proposal is supported by a Preliminary Site Investigation, Detailed Site Investigation and Remediation Action Plan prepared by HMC Environmental Consulting Pty Ltd dated August 2015 (all contained within a single report). The report has been amended to reflect a further information request to incorporate the removal of the UPSS. Historical potentially contaminating activities identified on the property include a service station, dairy factory mechanical workshop and blacksmith operations. Lateral and vertical sampling results identify lead contamination above residential and commercial HILs up to a depth of 400mm below the ground surface level across the site. Other metals and petroleum hydrocarbons exceed the ecological screening and investigation levels for the site.

A Remediation Action Plan has been developed to decommission and remove the UPSS and excavate and transport lead impacted soil to an approved landfill facility. The scope of the Remediation Action Plan proposes to remove lead impacted soil from the site and transport for final disposal to an approved landfill facility. The remediation includes the decommissioning and removal of the identified UPSS.

TCLP testing has been undertaken to determine the NSW waste classification for disposal to the Veolia Wattle Glen landfill at Redbank Plains, Queensland. The TCLP results indicate that offsite disposal of the excavated fill material as a restricted solid waste is feasible. Veolia has provided written landfill acceptance for the identified contaminated material (Appendix 24).

TCLP testing shows extremely low leachability from the lead-impacted soil and this, together with the significant buffer to the groundwater (>5m) through low permeability clay, indicates groundwater contamination would be a low risk. A groundwater investigation undertaken in 2013 indicates no groundwater contamination has occurred relating to lead and hydrocarbons from the UPSS. It is acknowledged that there is a low risk of groundwater contamination however it is considered important that further groundwater testing is undertaken and provided in the validation report to be submitted post remediation works.

Validation testing is proposed for contaminants of concern following the remediation works to confirm concentrations remaining in exposed surfaces are within the adopted HIL and EIL prior to placement of clean fill material. It is proposed to submit a validation report within 60 days from the completion of works. This must be submitted prior to the placement of clean fill material and can be managed through conditions.

The Preliminary Site Investigation, Detailed Site Investigation and Remediation Action Plan prepared by HMC Environmental Consulting Pty Ltd dated August 2015 has been prepared in general accordance with the NSW EPA Sampling Design Guidelines 1995, NSW EPA Guidelines for Consultants Reporting on Contaminated Sites, NSE EPA Guidelines for Assessing Service Station Sites 1994, NSW EPA UPSS Guidelines and Technical Notes and is considered adequate.



Developer Contributions

Section 64 and Section 94 charges will apply to the development as follows:

Stage 1

Stage 1 constitutes the refurbished Buttery building with proposed uses and floor areas as follows:

- (i) Refurbished Buttery building (Stage 1):
 - showroom/café GFA : 160m²
 - light industry GFA : 156m²
 - commercial (office) GFA : 50m²

Section 64 charges

There was previously a service station at this site however there is no record of S64's being paid for this development. The only record of development at this site is from 1974. Therefore, the existing lot, approved from development initially in 1974 has been assessed as having 1.2 ET credits for water (>2000m²) and 1.0 ET for sewer (sewerage services in the region were installed approximately 1989).

Stage 1 - Refurbished Buttery building

- showroom (inc toilet): = 38m² = dry industrial rates
- café, service area and kitchen = 40m² + 53m² + 29m²: = refreshment room rates
- light industry GFA : 156m² = dry industrial rates
- commercial (office) GFA : 50m² = commercial rates

Stage 1	Area (m²)	Water (ET/m²)	Sewer (ET/m²)	Water ET	Sewer ET
showroom and service area	38	0.001	0.001	0.038	0.038
café and kitchen :	122	0.008	0.013	0.976	1.586
light industry	156	0.001	0.001	0.156	0.156
commercial (office)	50	0.004	0.006	0.2	0.03
TOTAL	366			1.37	2.08

Therefore minus the existing credit stage 1 Section 64 charges would be:

Water = 1.37 - 1.2 = 0.17 x \$13,128 = \$2,231.76

Sewer = 2.08 - 1.0 = 1.08 x \$6,307 = \$6,811.56

Section 94 contributions

The last use of the building was as Bartrim's Garage (service station) which provided mechanical services and fuel to the local community. The service station had 3 pumps.

Section 94 Plan 4 – Tweed Road Contribution Plan

The plan contains a rate per pump of 200 trips.

The proposed uses are as follows:

- showroom = 38m^2 = mixed retail showroom (40 trips/100m² GLA)
- café, service area and kitchen = $40\text{m}^2 + 53\text{m}^2 + 29\text{m}^2$: = refreshment room (60 trips/100m² GLA)
- light industry GFA : 156m^2 = light industry (5 trips/100m² GLA)
- commercial (office) GFA : 50m^2 = light industry (5 trips/100m² GLA)
*noting that this will only be used in conjunction with the light industry business.

Therefore the following is applicable:

- showroom = **15.2 trips**
- refreshment room = **73.2 trips**
- light industry (light industry and office combined) = **10.3 trips**

TOTAL Stage 1 trips = 98.7 trips.

The existing credit is 600 trips with a modification factor of 0.10 (a new service station would be charged per pump x modification factor). Thus, it is relevant for the purposes of calculating credit (as advised by Council's Traffic Engineer).

$600 \text{ trips} \times 0.1 = 60 \text{ trips credit available.}$

$98.7 \text{ trips} - 60 \text{ trips credit} = 38.7 \text{ trips.}$

Utilising 40% employment generating discount, 38.7 trips is reduced to **23.22 trips.**

Section 94 Plan 18 – Council Administration

It is considered that the site would have credit for one large commercial/industrial building, having a floor area of around 300m². The floor area at completion of Stage 1 is 366m² (the rate is calculated per 300m² of floor area). As such it is considered that it is reasonable that there is **no Plan 18 charge at Stage 1.**

Stage 2

(ii) New building (Stage 2):

- shop GFA : 60m²
- deck GFA : 13m²
- residence GFA : 135m²
- deck (for residence) GFA : 36m²
- garage GFA : 49m²

Section 64 charges

Stage 2 - New building

- shop GFA : 60m² = shop rate (0.002 ET Water & 0.003 ET sewer)
- residence GFA : 135m² (2 bedroom integrated housing 0.6 ET Water & 0.75 ET Sewer)

Stage 2	Area (m ²)	Water (ET/m ²)	Sewer (ET/m ²)	Water ET	Sewer ET
shop	60	0.002	0.003	0.038	0.038
residence	135			0.6	0.75
TOTAL	195			0.638	0.788

Water = 0.638 x \$13,128 = \$8,375.66

Sewer = 0.788 x \$6,307 = \$4,969.916

Section 94 contributions

S94 contributions are applicable for the small shop (Section 94 Plan 4 and Plan 18) and the proposed residence (standard contributions for a residential dwelling).

Shop

Section 94 Plan 4 – Tweed Road Contribution Plan

The plan has a rate for a shop/general store of less than 100m² as follows:

2.8(A) where A = m² GLA and a modification factor of 0.15 is applied.

The shop has a floor area of 60m².

As such, the following is applicable:

(2.8 x 60) x 0.15
 = 25.2 trips x 40% employment generating discount
= 15.12 trips

There is no credit available.

Section 94 Plan 18 – Council Administration
 Contributions applicable for one small commercial Lot
= \$409.25 (0.2166ET)

Residence

The following S94 plans apply:

- **Section 94 Plan 4 – Tweed Road Contribution Plan**

6.5ET charge *note total ET charge for Stage 2 is 15.12 trips (shop) + 6.5 trips (residence)
 = 21.62 trips *refer table below re cap adjustments

- **Section 94 Plan 5 – Local Open Space**
 - 1 ET charge for new residence (structured)
 - 1 ET charge for new residence (casual)
 - *refer table below re cap adjustments

- **Section 94 Plan 11 – Tweed Shire Library Facilities.**
 - 1 ET charge for new residence.
 - *refer table below re cap adjustments

- **Section 94 Plan 12 – Bus Shelters**
 - 1 ET charge for new residence.
 - *refer table below re cap adjustments

- **Section 94 Plan 13 – Eviron Cemetery**
 - 1 ET charge for new residence.
 - *refer table below re cap adjustments

- **Section 94 Plan 15 – Community Facilities**
 - 1 ET charge for new residence.
 - *refer table below re cap adjustments

- **Section 94 Plan 18 – Council Administration**
 - 1 ET charge for new residence *note total ET charge for Stage 2 is 0.2166 ET (commercial unit) + 1 ET (residence) = 1.2166ET
 - *refer table below re cap adjustments

- **Section 94 Plan 22 – Cycleways**
 - *Note – the subject zone is exempt from the cycleways levy

- **Section 94 Plan 26 – Shirewide/Regional Open Space**
 - 1 ET charge for new residence (structured)
 - 1 ET charge for new residence (casual)
 - *refer table below re cap adjustments

Note that the \$20, 000 Section 94 Cap applies to the above contributions for the residence (but not the shop). As such, manual adjustments have been made to the above figures for the residence to account for the cap discount.

Plan	Price per ET	Adjusted ETs	Adjusted charge
S94-04 (Rural Other)	\$12423.68	0.7169 ET (for residence) + shop (15.12) = 15.83693	\$42221.00
S94-05 (Local OS) Casual	\$552	0.72	\$397
S94-05 (Local OS) Structured	\$632	0.72	\$455
S94-11 Libraries	\$851	0.72	\$613.00
S94-12 Bus Shelters	\$66	0.72	\$48.00
S94-13 Cemeteries	\$124	0.72	\$89
S94-15 Community Facilities	\$1411	0.72	\$1016.00
S94-18 Council Admin	\$1888.66	0.72ET (for residence) + shop (0.2166) = 0.9366	\$1768.92
S94-26 (Regional OS) Casual	\$1108	0.72	\$798.00
S94-26 (Regional OS) Structured	\$3890	0.72	\$2801.00

***Note that the wording of the condition has been manually amended to reflect that cap adjustments have already been carried out and are reflected in the figures.**

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

In relation to submissions from public authorities, the application constituted integrated development to NSW Office of Water because of works within 40m of the Oxley River. The Office of Water responded and provided General Terms of Approval which have been applied as conditions of consent.

In relation to public submissions, the proposed application was advertised in the Tweed Link for a period of 30 days from Wednesday 29 July 2015 to Friday 28 August 2015. During this time, a total of 31 submissions were received raising various concerns from amenity and noise impacts, to impacts on the unique character of the village and competition with existing businesses. These matters are addressed in detail below.

Outside the submission period, one letter of support for the proposal was received.

Almost 3 months after closure of the exhibition period, further correspondence was received from a number of original submitters. Many of these contained further objections and requests for information and updates on the application.

The below outlines the objections received during the exhibition period, grouped by topic. It is also noted that the applicant has supplied a detailed response to the public submissions which is annexed to this report.

Objection	Planning staff response
<p>Definition/Landuse How is the development defined as light industry when it contains welding/sawing/cutting of metal? How is this appropriate in a rural village area?</p>	<p>The development must be characterised as 'light industrial' to be permissible. The applicant has addressed this in considerable detail (as outlined above in this report) and Council planning staff are satisfied that the proposed activities meet the definition.</p> <p>The RU5 zone permits 'light industry' with consent. The proposed development is consistent with the zone objectives particularly considering that the application includes:</p> <ul style="list-style-type: none"> • the sympathetic refurbishment of the heritage designated Buttery building; • the revitalisation and remediation of a key historic site in the Tyalgum village; • upgrading of the village streetscape; and • uses which will provide local employment and stimulate tourist interest in the village. <p>The part of the proposal that constitutes light industry is considered to be appropriately regulated by way of standard conditions which have been applied.</p> <p>In terms of the proposed use, it is permissible in the zone and it is considered that suitable conditions have been applied to mitigate noise and amenity impacts. Planning staff consider that the proposed development will contribute positively to the Tyalgum village.</p>
<p>Noise Noise pollution, offensive noise, noise inconsistent with that expected in a rural village, noise early in the morning</p>	<p>In relation to noise, the technical assessment has confirmed that the relevant limits will not be exceeded. Conditions will be applied in this regard.</p>

Objection	Planning staff response
<p>Traffic impact Additional vehicles on Tyalgum road, road safety concerns, road capacity concerns, number of truck deliveries, large vehicles using the road</p>	<p>The applicant has advised that truck movements will be limited to 3 per week, and these would be by rigid table top truck or lighter vehicle (i.e.: no articulated vehicles or the like are required). Council's engineers have not raised any objection to the proposal on the grounds of road capacity or traffic safety. Overall it is considered that the operation of the development would generally maintain the status quo in terms of other delivery vehicles etc. serving Tyalgum's other businesses.</p>
<p>Heritage impact The design is not in keeping with the 'heritage' feel of the village. The design is too modern.</p>	<p>A detailed Statement of Heritage Impact was submitted with the application which was reviewed by Council's Heritage Advisor who confirmed that the proposed works were appropriate. The statement confirms that the proposed design is appropriate and sympathetic having regard to the historical use of the building as well as its physical appearance. The proposed design is considered to open up the site to the street and facilitate ongoing use of the site for a purpose sympathetic to the previous 'light industrial' use of the site, being a butter factory and then a service station.</p>
<p>Contamination How can a contaminated site be used for a café? Remediation of the site will undermine the stability of the building.</p>	<p>The applicant submitted a detailed Remediation Action Plan for the site which has been reviewed in detail by Council's Environmental Health Officers. Considerable work has gone into the preparation of this plan (which was prepared by a specialist consultant) and these works are not considered to compromise the safety or significance of the existing Buttery building which will be made good and reopened as a result of the proposed works.</p>

Objection	Planning staff response
<p>Consultation The applicant did not consult with the community prior to submitting the application</p>	<p>Whilst community consultation prior to submission of a development application would be best practice, there is no legal obligation for this to occur. In assessing the application, Council staff have followed due process in the notification of the subject application as per the provisions of Development Control Plan Section A11 – Public Notification of Development Proposals. The subject submissions on the development were received as a result of this process.</p>
<p>Access to the Rural Fire Service shed will be reduced</p>	<p>There is no legal right for the Rural Fire Service to have access over the subject site. Notwithstanding, the applicant has advised that they have no objection to this arrangement informally proceeding. As such, a condition has been applied requiring through access to the shed to be provided at all times, unless the RFS provide an alternative arrangement.</p>
<p>Parking There is insufficient parking</p>	<p>Sufficient parking is provided for the development within the subject site as per Council's Development Control Plan Section A2 – Site Access and Parking Code.</p>
<p>Competition/Oversupply There are already enough cafes in Tyalgum, we don't need any more. There will be an oversupply which is unsustainable</p>	<p>Oversupply/competition issues are not a matter for Council's consideration under the Environmental Planning and Assessment Act 1979.</p>
<p>Flooding The site is flood prone</p>	<p>Flooding has been addressed by Council's Flooding Engineer. The proposed dwelling has an appropriate floor level and conditions of consent require the provision of flood free storage and the like for the commercial parts of the site.</p>
<p>Rural Villages Strategy The proposal is inconsistent with the Rural Villages Strategy</p>	<p>The Rural Villages Strategy is a document that informs LEP preparation. LEP 2014 permits light industry in the subject zone.</p>

Objection	Planning staff response
<p>Loss of income The development will reduce tourists and visitors to the other businesses already operating in Tyalgum</p>	<p>Loss of income is not a matter for consideration under planning legislation. It is considered that the proposed development would likely generate additional interest and employment in the Tyalgum area.</p>
<p>Disturbing the site will affect water quality and macroinvertebrate populations in the Oxley River</p>	<p>NSW Office of Water have reviewed the application with regard to water quality and provided general terms of approval. Council's specialist ecological staff have not raised concerns with water quality.</p>
<p>The development mix is uncomfortable and will create traffic and parking impacts</p>	<p>The development mix, whilst unusual, consists of permissible uses. Sufficient parking is provided. Council's engineers have not raised any objection to the proposal on the grounds of road capacity or traffic safety. The applicant has advised that delivery vehicles would be rigid table top trucks at most (and likely smaller). No heavy vehicles or articulated vehicles are required.</p>

The matters raised in submissions are considered to be appropriately addressed either by the existing application documentation or by conditions of consent. None of the matters raised are considered to warrant refusal of the proposed application.

(e) Public interest

Subject to the recommended conditions, the proposed development is considered to be in the public interest. The development represents a sympathetic adaptive re-use of an important historical building. Matters raised in submissions are considered to be able to be addressed via conditions of consent and it is thus considered that the development is suitable for approval.

OPTIONS:

1. Approve the development in accordance with the recommended conditions.
2. Refuse the development.

Option 1 is recommended.

CONCLUSION:

The proposed development is considered to be suitable for approval.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not applicable

c. Legal:

Should Council determine to refuse this application, there are rights of appeal to the NSW Land and Environment Court.

d. Communication/Engagement:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Applicant's response to Public Submissions (ECM 3931297)

- 2 [PR-PC] Development Application DA15/0916 for Cobaki - Precinct 6 Fauna Corridor and Culvert Crossings at Lot 1 DP 570076, Lots 54, 199 & 200 DP 755740; Piggabeen Road, Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529, Lot 46, 55, 201, 22, 205, 206, 209, 228 & 305 DP 755740 Sandy Lane Cobaki

SUBMITTED BY: Development Assessment and Compliance

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

SUMMARY OF REPORT:

Council is in receipt of an application for the construction of the 50m wide east west fauna corridor within Precinct 6 within the Cobaki development site.

The works incorporate the formation of a stormwater drain running through the centre of the fauna corridor and two culvert crossings which will facilitate future north south road crossings.

The proposed works have been previously assessed under the residential subdivision approval for Precinct 6 (DA10/0801). The original approval for P6 (specifically Condition 63) required a bridge design for each of the road crossings to maximise fauna connectivity within the corridor. A modification of the original approval (DA10/0801.02) amended Condition 63. Following a long negotiation period, Condition 63A was adopted by Council, whereby the culvert crossings were required to incorporate four 3m wide x 1.8m dry passage openings (with appropriate plantings and wildlife furniture) in addition to any stormwater requirements.

The applicant has now lodged a fresh application for the fauna corridor and culvert crossings. The design of the proposed culverts involves two 2.4m wide box culverts with a 2.4m wide concrete link slab between them (7.2m wide in total). The proposal combines the stormwater drainage with the fauna culverts, as opposed to the requirement for separate culverts under Condition 63A of DA10/0801.02.

The applicant has stated that a single 2.4m wide box culvert is more than sufficient for fauna movement, however the 7.2m wide design has been proposed in order to cater for the 1 in 100 year rainfall event. Concrete ledges and elevated timber boardwalks are also proposed to provide all weather access to fauna.

It is considered that the proposed 7.2m wide culvert design is acceptable for fauna movement within the corridor. Advice from the NSW Office of Environment & Heritage

(OEH) also confirms that the proposed 7.2m wide design is satisfactory for fauna. Whilst a separate stormwater culvert is preferable (as per Condition 63A of DA10/0801.02), the proposed dual use of the culverts is accepted in this instance, given the proposed use of dry access wildlife ledges and boardwalks.

As noted by OEH, it is considered that the approved 2.4m wide culvert at the eastern end of the corridor (under the Cobaki Parkway) would ideally be upgraded to the 7.2m wide culvert design, to reduce the potential for a bottle neck effect for fauna at this point of the corridor. This upgrade was requested of the applicant but not supported. Rather, the applicant has proposed to “retrofit” the approved 2.4m wide culvert with concrete ledges and elevated timber boardwalks.

Rehabilitation of the corridor is also proposed, along with exclusion fencing along the boundaries of the corridor and road crossings. Further detail is required with regard to the proposed rehabilitation and fencing. Appropriate conditions of consent have been applied in this regard.

The proposed development was placed on public exhibition for a period of 14 days during which time there were no submissions.

RECOMMENDATION:

That Development Application DA15/0916 for Cobaki - Precinct 6 fauna corridor and culvert crossings at Lot 1 DP 570076, Lots 54, 199 & 200 DP 755740; Piggabeen Road, Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529, Lot 46, 55, 201, 202, 205, 206, 209, 228 & 305 DP 755740 Sandy Lane Cobaki Lakes 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:**
 - **Dwg A443-C-6-0001 Rev A prepared by Sedgman and dated 04/09/15;**
 - **Dwg A443-C-6-0100 Rev C prepared by Sedgman and dated 28/10/15;**
 - **Dwg A443-C-6-0200 Rev C prepared by Sedgman and dated 16/10/15;**
 - **Dwg A443-C-6-0201 Rev C prepared by Sedgman and dated 16/10/15;**
 - **Dwg A443-C-6-0202 Rev A prepared by Sedgman and dated 04/09/15;**
 - **Dwg A443-C-6-0300 Rev C prepared by Sedgman and dated 16/10/15;**
 - **Dwg A443-C-6-0301 Rev C prepared by Sedgman and dated 16/10/15;**
 - **Dwg A443-C-6-0302 Rev C prepared by Sedgman and dated 16/10/15;**
 - **Dwg A443-C-6-0303 Rev C prepared by Sedgman and dated 16/10/15;**
 - **Dwg A443-C-6-0304 Rev B prepared by Sedgman and dated 16/10/15;**
 - **Dwg A443-C-6-0305 Rev D prepared by Sedgman and dated 16/10/15;**
 - **Dwg A443-C-6-0306 Rev D prepared by Sedgman and dated 16/10/15;**
 - **Dwg A443-C-6-0400 Rev B prepared by Sedgman and dated 24/09/15;**
 - **Dwg A443-C-6-0401 Rev B prepared by Sedgman and dated 29/09/15;**
 - **Dwg A443-C-6-0402 Rev D prepared by Sedgman and dated 28/09/15;**
 - **Dwg A443-C-6-0403 Rev D prepared by Sedgman and dated 28/09/15;**

- Dwg A443-C-6-0404 Rev C prepared by Sedgman and dated 29/09/15;
 - Dwg A443-C-6-0406 Rev B prepared by Sedgman and dated 28/09/15;
 - Dwg A443-C-6-0407 Rev B prepared by Sedgman and dated 28/09/15;
- except where varied by the conditions of this consent.

[GEN0005]

2. The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application.
[GEN0045]
3. The development is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.
[GEN0125]
4. 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]
5. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.
[GEN0265]
6. 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 or drainage works (including connection of a private stormwater drain to a public stormwater drain or installation of erosion and sediment control works.)

Erosion and Sediment Control shall be designed, installed and maintained 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".

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. Prior to the issue of a Construction Certificate a Construction Management Plan shall be submitted to and approved by the Principle Certifying Authority. A copy of the approved plan shall be submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:
 - a) Hours of work;
 - b) Contact details of site manager;
 - c) Traffic and pedestrian management;
 - d) Noise and vibration management;
 - e) Construction waste management;
 - f) Erosion and sediment control; and,
 - g) Flora and fauna management.

Where construction work is to be undertaken in stages, the Proponent may, subject to agreement with the Principle Certifying Authority, stage the submission of the Construction Management Plan consistent with the staging of activities relating to that work. The Proponent shall submit a copy of the approved plan to Council.

- [PCC0125]
8. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the public infrastructure works as set out in Council's fees and charges at the time of payment.

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision is issued.

- [PCC0275]
9. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

- [PCC0285]
10. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- (a) Contours and terraces where the height exceeds 1m.
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- (c) Densely plant with appropriate native species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
- (d) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.

- [PCC0455]
11. 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]

12. Notwithstanding any other condition of this consent separate construction certificates for bulk earthworks and subdivision works may be issued and the carrying out of bulk earthworks may be commenced prior to the issue of a Construction Certificate for subdivision works where it can be demonstrated all works are compatible.

[PCC0495]

13. Prior to the issue of a Construction Certificate, a Detailed *Geotechnical Investigation* shall be undertaken by an appropriately qualified practising professional Geotechnical Engineer.

The investigation shall identify any areas of compressible clay materials, loose sands, landslip, subsidence or reactive soil profiles which may impact on construction or building activities. If unsuitable materials are identified the investigation shall provide recommendations such as a preloading or other forms of treatment necessary to achieve surface movement (y_s) rates consistent with a site classification M as defined by AS 2870 (current version). All consolidation resulting from preloading shall be monitored by settlement plates or detailed survey to determine consolidation/settlement characteristics.

[PCC0500]

14. A Traffic Control Plan in accordance with AS1742 and the latest version of the NSW Government Roads and Maritime Services (RMS) publication "Traffic Control at Work Sites" shall be prepared by an RMS accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate for Subdivision Works. Safe public access shall be provided at all times.

[PCC0865]

15. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within any road reserve. Application shall include engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

- (a) Construction of the fauna corridor culvert crossings or retro-fitting of similar features within any existing road reserve, as well as any approach embankments within the road reserve. For relevant design requirements, see separate 'PCC' condition at the end of this sub-section of the Consent.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following:

- Road works/furnishings
- Stormwater drainage
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

16. Prior to the issue of a Construction Certificate for subdivision works, the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
- (b) Detailed engineering plans and specifications, *prepared in accordance with Development Design Specification D13 - particularly Section D13.09*. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks/furnishings
 - stormwater drainage
 - landscaping works
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure), *as well as details and locations of any significant electrical servicing infrastructure - such as transformers and substations*

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

17. 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) It is encouraged that the stormwater and site works incorporate water sensitive design principles and where practical, integrated water cycle management, as proposed by "Water By Design", an initiative for best practice by the South East Queensland Healthy Waterways Partnership.
 - (d) Specific Requirements to be detailed within the Construction Certificate application include:
 - (i) Shake down area shall be installed within the property, immediately prior to any vehicle entering or exiting the site prior to any earthworks being undertaken

[PCC1105]

18. 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, 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]

19. 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]

20. 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]

21. Prior to the issue of a construction certificate for the proposed works, the following matters are to be satisfactorily addressed:

1. **Culvert redesign**: the nominated 3-cell culvert systems are undersized and require redesign to ensure the following matters have been satisfactorily addressed:
 - a. Loss of cross-sectional area due to the fauna ledges, as well as the timber boardwalks.
 - b. Include obstruction factor for the elevated timber boardwalks: incorporate debris loading and turbulence considerations.
 - c. No allowance for blockage has been made in the current preliminary design (generally 20% required: see D5.14 and QUDM Section 10.4).
 - d. Minimum internal freeboard of 0.5m to the Q100 year TWL within the culvert systems.
 - e. Demonstrate that unacceptable afflux will not occur upstream of the culverts.

- f. **Submission of supporting hydraulic / hydrologic calculations to verify that all above matters have been satisfactorily addressed, as well as nominating the actual TWL's (Q3 month, Q2 year and Q100 year) nominated on sheets 0406 and 0407 of the engineering drawings by Sedgman.**
- g. **The elevated timber boardwalks shall:**
 - i. **Be designed for a simple side profile to minimise the obstruction to the cross-sectional waterway area of the culvert system, with particular attention given to any supporting bracket system.**
 - ii. **The method of fixing the boardwalks / support brackets to the inside of the culvert system must consider and be designed to cater for the stormwater flow velocities through the culverts, as well as extra stresses resulting from debris loading.**
 - iii. **The boardwalks are to be elevated as high as possible within the culvert systems to afford the highest level of stormwater immunity, while still facilitating appropriate fauna passage.**

NOTE: these redesign requirements are likely to necessitate a much wider culvert system or inclusion of a fourth cell.

- 2. **Batter slopes: some batter slopes shown on the typical cross sections exceed TSC maximum slope of 1 in 4. In addition, the 1 in 2 batter slopes shown on the cross sections for the open channel do not comply. Any non-compliance will need to be rectified accordingly.**

All batter slopes steeper than 1 in 4 are to be provided with low maintenance vegetation or hard surfacing of the batter, unless specifically nominated in relevant Landscaping Plans or previously approved Management Plans for the site. Appropriate details are to be included with the application for a construction certificate.

- 3. **Cobaki Parkway: as the proposed works include the 'retro-fitting' of fauna ledges and timber boardwalks to a previously approved culvert design under Cobaki Parkway - and if the preferred multi-culvert fauna access provisions are not provided - then Items 1(a) to 1(g) above must also be satisfactorily addressed for the Cobaki Parkway culvert.**
- 4. **Separate approval: if any of the above-mentioned works are to be undertaken within existing dedicated road reserves, then those works will require separate approval from Council under Section 138 of the Roads Act.**

[PCCNS01]

- 22. **Prior to the issue of a Construction Certificate, detailed design drawings of fauna exclusion fencing and access gates are to be submitted to and approved by Council.**
- 23. **Prior to the issue of a Construction Certificate, there is to be a resolution of the inconsistency between the proposed development and the existing approved Management Plans with regard to the proposed vegetation community to be created within the corridor.**

24. Prior to the issue of a Construction Certificate, updates to relevant existing approved Management Plans relating to the fauna corridor within Precinct 6 will be required with regard to timing, responsibilities and performance measures for works within the fauna corridor. All amendments to the Management Plans are to be approved by Council.
25. Prior to the issue of a Construction Certificate, DA10/0801 must be modified where relevant, pursuant to Section 80A(1) of the EP&A Act 1979 (as amended) and Regulation, to be consistent with this consent.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

26. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

27. 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]

28. Subdivision work in accordance with a development consent must not be commenced until:

- (a) a Construction Certificate for the subdivision work has been issued in accordance with Councils Development Construction Specification C101 by:
 - (i) the Consent Authority, or
 - (ii) an Accredited Certifier, and
- (b) the person having the benefit of the development consent:
 - (i) has appointed a Principal Certifying Authority,
 - (ii) has appointed a Certifying Engineer to certify the compliance of the completed works.

The Certifying Engineer shall be an Institute of Engineers Australia Chartered Professional Engineer (Civil College) with NER (civil) registration. Documentary evidence is to be provided to Council demonstrating current NER accreditation, and

(iii) has notified the Consent Authority and the council (if the council is not the Consent Authority) of the appointment,

(iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Certifying Engineer is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and

(c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.

[PCW0815]

29. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

30. 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]

DURING CONSTRUCTION

31. 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]

32. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.

[DUR0015]

33. 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]

34. 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]

35. 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]

36. No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

[DUR0765]

37. All earthworks and filling shall be carried out in accordance with AS 3798 (current version) to a Level 1 inspection regime and testing in accordance with Table 8.1.

The earthworks and filling shall also be undertaken in accordance with the recommendations provided in the *Geotechnical Investigation* (as required by Consent Condition 12) and monitored by a Registered Geotechnical Testing Consultant.

Notwithstanding earthworks and filling, the frequency of field density tests for trenches shall be undertaken in accordance with Table 8.1 of AS 3798 (current version). Each trench layer shall be a minimum of 300mm in depth unless an alternative depth can be justified by a qualified geotechnical Engineer.

[DUR0795]

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

[DUR0815]

39. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council General Manager or his delegate.

[DUR0985]

40. 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 a Subdivision Certificate/Occupation Certificate.

[DUR0995]

41. 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]

42. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.

[DUR1015]

43. 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]

44. During the relevant stages of construction for any vehicular accessways, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:

- (a) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.
- (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

45. The proponent must not undertake any work within the public road reserve without giving Council's Engineering Division (48 hours notice of proposed commencement). Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.

[DUR1845]

46. 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 Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

47. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.
48. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:

[DUR1885]

Road or Vehicular Access Works

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - base
- (f) Pathways, footways, cycleways - formwork/reinforcement
- (g) Final Practical Inspection - on maintenance
- (h) Off Maintenance inspection

Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final Practical Inspection - on maintenance
- (i) Off maintenance

Stormwater Quality Control Devices (other than proprietary devices)

For detail refer to Water By Design - Technical Guidelines

- (a) Earthworks and filter media
- (b) Structural components
- (c) Operational establishment
- (d) Mechanical/electrical
- (e) Commissioning - on maintenance
- (f) Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

The fee for the abovementioned inspections shall be invoiced upon completion of all subdivision works, and subject to the submission of an application for a 'Subdivision Works Compliance Certificate'.

[DUR1895]

49. 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]

50. The works are to be completed in accordance with Tweed Shire Councils Development Control Plan, Part A5 - Subdivision Manual and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

51. Drainage Reserve / Fauna Corridor

(a) The proposed drainage reserve / fauna corridor is to be dedicated to Council at no cost.

(b) An accurate plan of the proposed drainage reserve / fauna corridor shall be submitted to Council 60 days prior to lodgment of Application for Subdivision Certificate (form 13) to allow the land to be classified.

[DUR2295]

52. Provision of a stormwater drainage system in accordance with the approved Construction Certificate.

[DUR2345]

53. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

54. 60 days prior to lodgment of Application for Subdivision Certificate, an accurate plan of the subdivision is to be submitted to Council indicating all public land to be dedicated to Council (including Drainage Reserves, Sewer Pump Stations, Parks, Sports Fields, Conservation Areas and other lands as defined and excluding Roads, etc). The function of all such public land is to be indicated to allow classification of the land parcel by Council as either Operational or Community Land, as detailed in the Local Government Act 1993.

[DUR2455]

55. All water drawn from Councils reticulated system shall be via a Tweed Shire Council metered standpipe. The location of the hydrant shall be nominated by Tweed Shire Council and all water shall be only used for the purposes nominated by the applicant for the duration of the construction activities.

[DUR2575]

56. Dust and Erosion Management

(a) Site earthworks are to be limited to a 5ha maximum at any time to reduce exposed areas. Completed areas are to be topsoiled and seeded immediately to protect them from water and wind erosion.

- (b) All topsoil stockpiles are to be sprayed with dust suppression material such as "hydromulch", "dustex" or equivalent. All haul roads shall be regularly watered or treated with dust suppression material or as directed on site.
- (c) All construction activities that generate dust shall cease when average wind speeds exceed 15m/s (54 km/h). The applicant shall be responsible for the monitoring of on-site wind speeds and be able to produce this data to Council on request.

[DUR2825]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

57. Prior to issue of a subdivision certificate that will dedicate the Fauna Corridor / Drainage Reserve to Council, all works/actions/inspections etc required by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

58. Prior to the issue of a Subdivision Certificate that will dedicate the Fauna Corridor/Drainage Reserve to Council, a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the (public infrastructure insert/delete as applicable) works (minimum as tabled in Council's fees and charges current at the time of payment) which will be held by Council for a period of 6 months from the date on which the plan of subdivision is registered. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

59. At the completion of the earthworks/filling and prior to the issue of the Subdivision Certificate that will dedicate the Fauna Corridor / Drainage Reserve to Council, an appropriately qualified practising professional Geotechnical Engineer shall provide an Engineering Certification that clearly states the following:

1. All earthworks and filling have been inspected to a Level 1 standard in accordance with AS 3798 (current version) and in accordance with the recommendations of the detailed *Geotechnical Investigation* (as required by Consent Condition 12).
2. All surface movement (y_s) has achieved rates that are consistent with a site classification M as defined by AS 2870 (current version).
3. Trenches have been compacted in accordance with Council's Construction Specifications.

[PSC0395]

60. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate that will dedicate the Fauna Corridor / Drainage Reserve to Council. 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 a Subdivision Certificate.

[PSC0725]

61. Prior to the issue of a Subdivision Certificate that will dedicate the Fauna Corridor / Drainage Reserve to Council, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's

Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D13 - Engineering Plans.

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer Certifying that:

- (a) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;
- (b) the plans accurately reflect the Work as Executed.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed (WAX) plans.

[PSC0735]

62. A Subdivision Certificate that will dedicate the Fauna Corridor / Drainage Reserve to Council, will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

[PSC0825]

63. The creation of easements for services, rights of carriageway and restrictions as to user (including restrictions associated with planning for bushfire) as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:

- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway / easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the Community Land Development Act, Strata Titles Act, Conveyancing Act, or other applicable legislation.

[PSC0835]

64. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate that will dedicate the Fauna Corridor / Drainage Reserve to Council.

[PSC0855]

65. Prior to registration of the plan of subdivision that will dedicate the Fauna Corridor/Drainage Reserve to Council, a Subdivision Certificate shall be obtained.

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 2 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0885]

66. In conjunction with the application for a Subdivision Certificate that will dedicate the Fauna Corridor / Drainage Reserve, the applicant must also apply to Council (OR PCA if applicable) for a Compliance Certificate for Subdivision Works. This may require obtaining individual Compliance Certificates for various civil works components such as (but not limited to) the following:

- (a) Roads
- (b) Water Reticulation
- (c) Sewerage Reticulation
- (d) Sewerage Pump Station
- (e) Drainage
- (f) Bulk Earthworks
- (g) Retaining Walls

Note:

1. All compliance certificate applications for Subdivision Works must be accompanied by documentary evidence from the developers Certifying Engineer, certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.
2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[PSC0915]

67. The six (6) months Defects Liability Period commences upon the registration of the Plan of Subdivision.

[PSC0925]

68. A formal asset handover of all water quality control devices is to be implemented at the completion of the maintenance period ("Off Maintenance"), whereby all relevant stakeholders will inspect the device and be issued with a current operational manual for the device.

[PSC1025]

69. Prior to the issue of a Subdivision Certificate that will dedicate the Fauna Corridor/Drainage Reserve to Council, and also prior to the end of defects liability period, a CCTV inspection of any stormwater pipes and gravity sewerage systems installed and to be dedicated to Council including joints and junctions will be required to demonstrate that the standard of the infrastructure is acceptable to Council.

Any defects identified by the inspection are to be repaired in accordance with Councils Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC1065]

REPORT:

Applicant: Leda Manorstead Pty Ltd
Owner: Leda Manorstead Pty Ltd
Location: Lot 1 DP 570076, Lots 54, 199 & 200 DP 755740; Piggabeen Road, Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529, Lot 46, 55, 201, 202, 205, 206, 209, 228 & 305 DP 755740 Sandy Lane Cobaki Lakes
Zoning: 7(l) Environmental Protection (Habitat)
Cost: \$800,000

Background:

Cobaki Estate has multiple layers of approvals which allow for subdivision of the site, including a town centre, community facilities, sports fields, parks and other infrastructure.

The following table summarises the key and more contemporary approvals issued over the site:

Determining Authority	Approval	Date
Tweed Shire Council	S94/194 approximately 763 lots and Cobaki Parkway	1995
Tweed Shire Council	S97/54 approximately 430 lots (Parcel 7-10)	1997
Tweed Shire Council	K99/1124 approximately 560 lots	2000
Tweed Shire Council	Part 12 – Bulk Earthworks across the whole site	
Tweed Shire Council	1162/2001DA – Bulk Earthworks and Masterplan for Town Centre	2002
Department of Planning	Concept Plan approval for approximately 5500 dwellings Concept Plan – Mod 1	December 2010 May 2013
Department of Planning	Project Application central open space and drainage corridor Project Application – Mod 1 Project Application – Mod 2 Project Application – Mod 3	February 2011 May 2013 April 2014 February 2015
Northern Joint Regional Planning Panel	DA10/0800 – 475 Residential Lots (Precinct 1 and 2) S96 (DA10/0800.03) – Council Approved	May 2011 March 2014
Northern Joint Regional Planning Panel	DA10/0801 – 441 Residential Lots (Precinct 6) S96 (DA10/0801.02) – Council Approved	May 2011 June 2014

Determining Authority	Approval	Date
Northern Joint Regional Planning Panel	DA15/1026 - Staged development application under Section 83B of the EP&A Act 1979 development of Precincts 6, 7, 8, 9, 10, 11 & 12 – Cobaki Lakes (JRPP), Stage 1 – Staged bulk earthworks	Not Yet Determined
Northern Joint Regional Planning Panel	DA16/0056 – Stage 2 and 3 of the Staged Development Application (part Precinct 6 and part Precinct 7) comprising 464 residential lots, 7 public open space lots, 1 residual lot & associated infrastructure (JRPP)	Not Yet Determined

The original approval for Precinct 6 comprised of 441 residential lots (including 1 residual lot) and lots for drainage, open space and urban infrastructure, as determined by the Joint Regional Planning Panel on **30 May 2011**. The approved road crossings over the east west fauna corridor involved bridges to allow for a range of fauna to freely move through the corridor and be an architectural feature within the estate. The location of the corridor within the development site is noted below in Figure 1.



Figure 1: Location of the east west fauna corridor within the subject site

The original Condition 63 was applied with respect to requirements for detailed design drawings, as follows:

63. *Detailed design drawings for all road crossings over the nominated fauna corridor are to be provided illustrating replacement of culverts with bridges to enable a range of fauna to range through the corridor and facilitate east-west connectivity for fauna across the site.*

A S96 application to modify DA10/0801, incorporating a large number of amendments including Condition 63, was lodged on **5 October 2011**.

The applicant initially proposed to delete Condition 63 asserting that it was not acceptable to the developer in terms of costs and that the proposed culverts in the applicant's flora and fauna assessment were found to be suitable.

The applicant was advised in **May 2012** that the reasoning for deletion of the condition based on cost was not supported. The east/west corridor should remain as open as possible to provide the best fauna connection possible in the only east-west location provided on the site and to maximise the conveyance of stormwater.

Following an exchange of correspondence, the applicant was advised in **August 2012** of an acceptable fauna crossing, incorporating three 2.4 x 1.8m culverts in addition to two smaller culverts at section H and three smaller culverts at section I as shown in Figure 2 below:

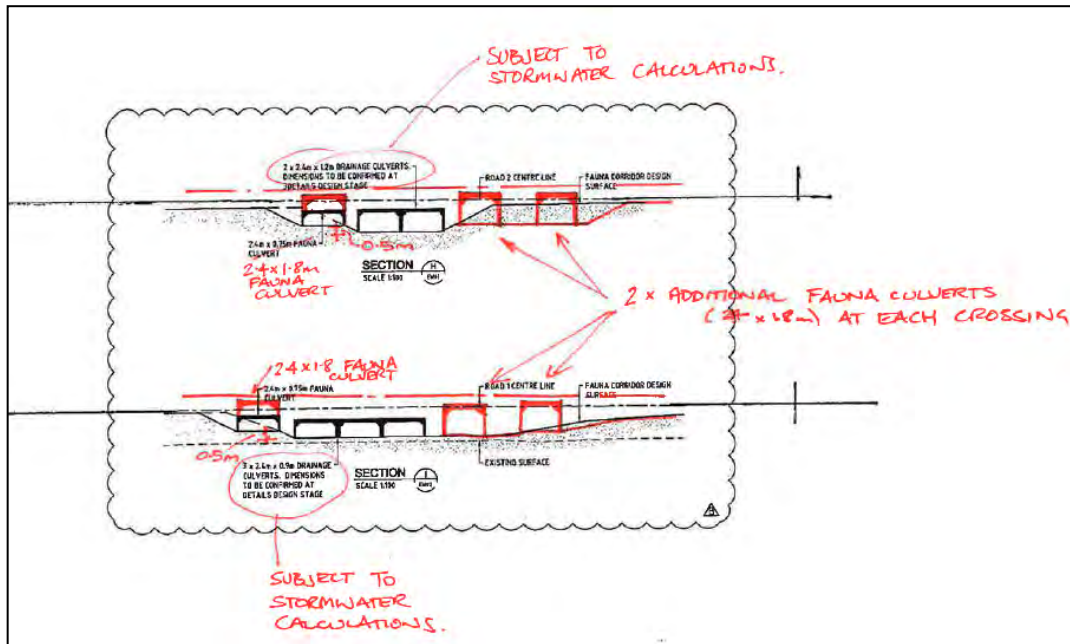


Figure 2: Applicant's fauna crossing plan with Council markup in red (August 2012).

Correspondence submitted by the applicant in **September 2013** proposed a new culvert design incorporating the requested number of culverts, but reduced sizes.

The applicant was advised in **December 2013** that their request to use culverts (instead of bridges), has been accepted on the basis of providing additional culverts with dimensions of 2.4m x 1.8m.

Correspondence submitted by the applicant in **January 2014** noted that the required size of culverts is excessive...*"due to the fact that only one (1) 2.4m wide x 1.8m high culvert is required under the adjacent approved Cobaki Parkway South road crossing."*

The applicant also noted that the higher fauna culverts will impact on the surrounding road network. As an alternative, the applicant then proposed two x 2.4m x 1.8m culverts with a link slab to create three x 2.4m wide and 1.8m high openings, with the culverts at either end having a fauna ledge to provide dry passage, as noted below in Figure 3:

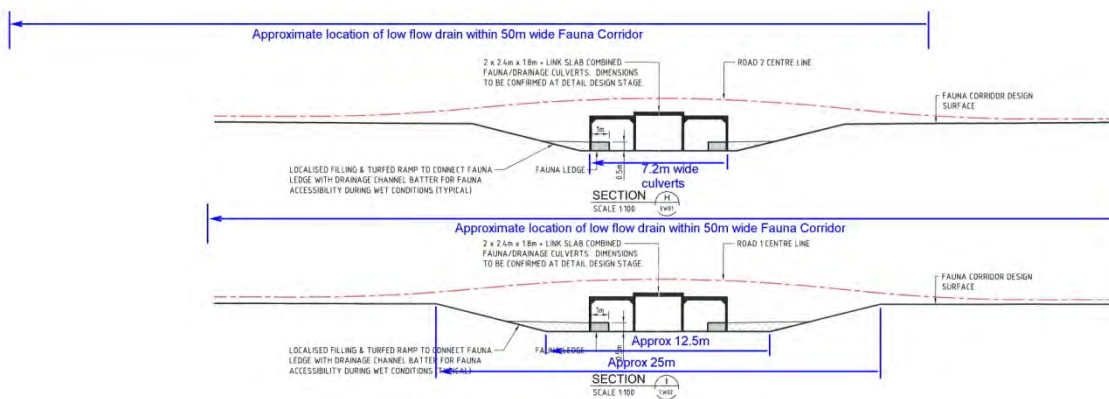


Figure 3: Applicant's fauna crossing plan submitted Jan 2014 (Part of Plan No YC0229-11E1-FC01 Revision E) with blue notation added for clarity by Council

Although it was considered that a bridge structure (as required under the original Condition 63) was the design solution most closely aligned with the planning intent to maximise habitat connectivity through the environmental area across which the roads are proposed to traverse, the following recommendation was put to the **6 March 2014** Planning Committee:

63A. *Detailed design drawings for all road crossings over the nominated fauna corridor are to be provided illustrating replacement of culverts with bridges submitted to the General Manager or his delegate for approval. Each crossing design shall incorporate three 2.4 x 1.8m culverts (or two 2.4 x 1.8m culverts connected with a slab) in the centre of the corridor and an additional culvert (minimum 2.4 x 1.2m) on either side of the central culverts to enable a range of fauna to cross through the corridor and facilitate east-west connectivity for fauna across the site.*

However, it was resolved at this meeting that the determination be deferred to the 20 March 2014 Ordinary Council meeting to 'enable the consideration of information with regards to the ecological, engineering and integrity of the various underpass designs'.

Following the analysis of information and practices from bodies such as the RMS and Queensland Roads on their designs, a memo was provided to the Councillors on 18 March 2014 detailing five main fauna corridor options to consider, including the original bridge requirement of the approved Condition 63. The second most suitable of these options, taking into account cost issues and the intent of maintaining the wildlife corridor, was as follows:

2. *Provide four (4) 3.0m wide x 2.4m high dry passage fauna openings at each road crossing supported by plantings at the underpass entrances, fencing and suitable "furniture" treatments. Such openings should be in addition to any culverts required for drainage purposes.*

At the Ordinary Council meeting of **20 March 2014**, Council resolved to defer the item to the 1 May Planning Committee meeting to enable:

1. *The proponent's consultant to have an opportunity to respond to the Council's memo of 18 March 2014.*
2. *Council to provide a series of questions relating to the preparation of the proponent's consultant's report; and*
3. *Council to negotiate with the proponent to determine if an arbitrator could be appointed to resolve the outcome of the openings, with costs to be shared equally between the parties.'*

Council at its Planning Committee meeting of **3 April 2014** recommended as follows:

"that Council reconsiders the application and makes a determination following preparation of a report reflecting the proposed meeting of Leda and Council ecologists."

Leda's ecologist and Council's ecologist met on **14 May 2014** to discuss the matter and to identify issues of agreement and disagreement. A summary of the points of difference are noted below:

1. There was agreement on the need for structures that will maximise/facilitate/optimize the east-west movement of wildlife across the Cobaki site, but remain in disagreement about the scale and dimensions of such structures.

2. Council's ecologist remains of the view that a bridge structure would be better and have a lower impact than either of the culvert structures suggested by Council or the proponent and is the design solution most closely aligned with the planning intent to maximise habitat connectivity through the environmental area across which the roads are proposed to traverse.
3. There was agreement that maximising year-round dry access within fauna underpasses is an important consideration.
4. There was agreement that if a culvert design is to be adopted, that appropriate habitat and habitat features (dense vegetation clumps, logs, rocks etc) would assist utility at the entrances and that ledges and shelves would be beneficial within some of the underpasses.
5. Based on empirical data from monitoring studies Leda's ecologist remains strongly of the opinion that the scale and dimensions of the structures as currently proposed by the proponent exceed the minimum that can already be demonstrated – in conjunction with other measures such as exclusion fencing - to be effective in terms of facilitating fauna movement beneath roads of comparable and even greater widths than are associated with the two road crossings being considered in this instance.
6. Council's ecologist remains of the opinion that neither the published literature nor information provided by Leda's ecologist is sufficient to conclude that the proponent's culvert design (or indeed Council's proposed compromise culvert design) would allow fauna movement and dispersal of a magnitude similar to the total fauna movement and dispersal in the corridor (once established) without any road crossing.
7. There was agreement that the currently approved underpass configuration at the eastern (Cobaki Parkway) end of the easement will potentially constrict the movement of wildlife into and out of the envisaged corridor.

Following the meeting between Leda's and Council's ecologists, the proponent provided verbal advice to Council's General Manager that based on the advice of their ecologist, that they were not prepared to compromise their latest proposed fauna culvert design, and would defend this position through an appeal in the NSW Land and Environment Court.

It was also noted from previous legal advice that Council needed to determine a pathway to allow completion of this matter. That is, Council was not able to refer determination on a specific condition of the approval, as Council's decision making function under the Environmental Planning & Assessment Act is indivisible.

Despite the proponent maintaining their current position, the discussions between Council's ecologist and the proponent's ecologist were beneficial to the extent that Council sought to reach a solution in good faith that would maintain the intent of the corridor. Therefore in an effort to resolve the issue, Council's ecologist conceded during the discussions and as part of the final report between the parties that the maximum height could be at the proponent's preferred height of 1.8m (rather than 2.4m).

The matter was again reported to the **5 June 2014** Planning Committee meeting, whereby it was recommended that, should Council still wish to support an alternative to the original, preferred bridge option, the following amendment to Condition 63 was required:

- 63A. Detailed design drawings for all road crossings over the nominated fauna corridor are to be submitted to the General Manager or his delegate for approval. Each crossing design shall incorporate four 3.0m wide x 1.8m high dry passage openings supported by plantings at underpass entrances, fencing and suitable

“furniture” treatments where such openings are in addition to any culverts required for drainage purposes to enable a range of fauna to cross through the corridor and facilitate east-west connectivity for fauna across the site.

Council resolved to adopt the recommended Condition 63A, as noted above.

PROPOSED DEVELOPMENT:

The subject application relates only to the construction of the east west fauna corridor which traverses Precinct 6. The construction of the corridor is proposed to incorporate the formation of an open (low flow) stormwater drain, and two culvert crossings, as well as vegetation and fencing of the fauna corridor, as shown in Figure 4 below.

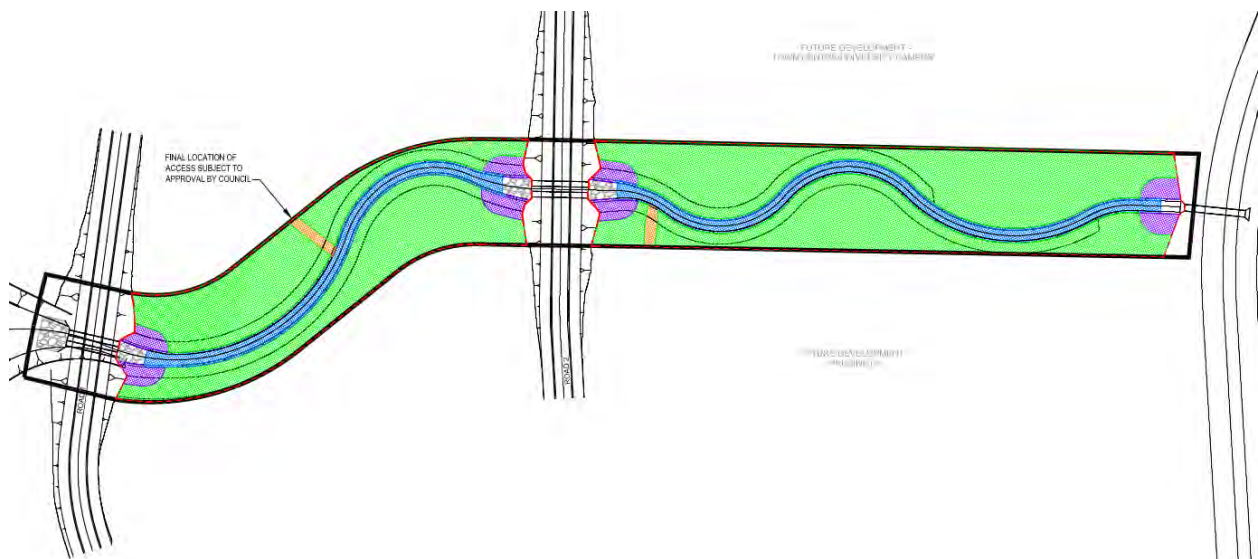


Figure 4: East West Fauna Corridor within Precinct 6, indicating proposed location of the culvert crossings (far left and centre), low flow drain (blue) and area to be vegetated (green)

The proposed culverts will facilitate fauna movement through the corridor, whilst providing for future road connections between urban development to the north and residential land to the south.

Construction of the culverts will involve two x 2.4m wide box culverts with a central link slab to provide a further 2.4m wide opening. This will provide a total open width of 7.2m within the 50m wide corridor. The box culverts are proposed to be 1.8m high, whilst the link slab will be 2.0m in height (refer to Figure 5 below). The applicant has identified that the culverts have been designed to convey stormwater for a 1 in 100 year (Q100) rain event.

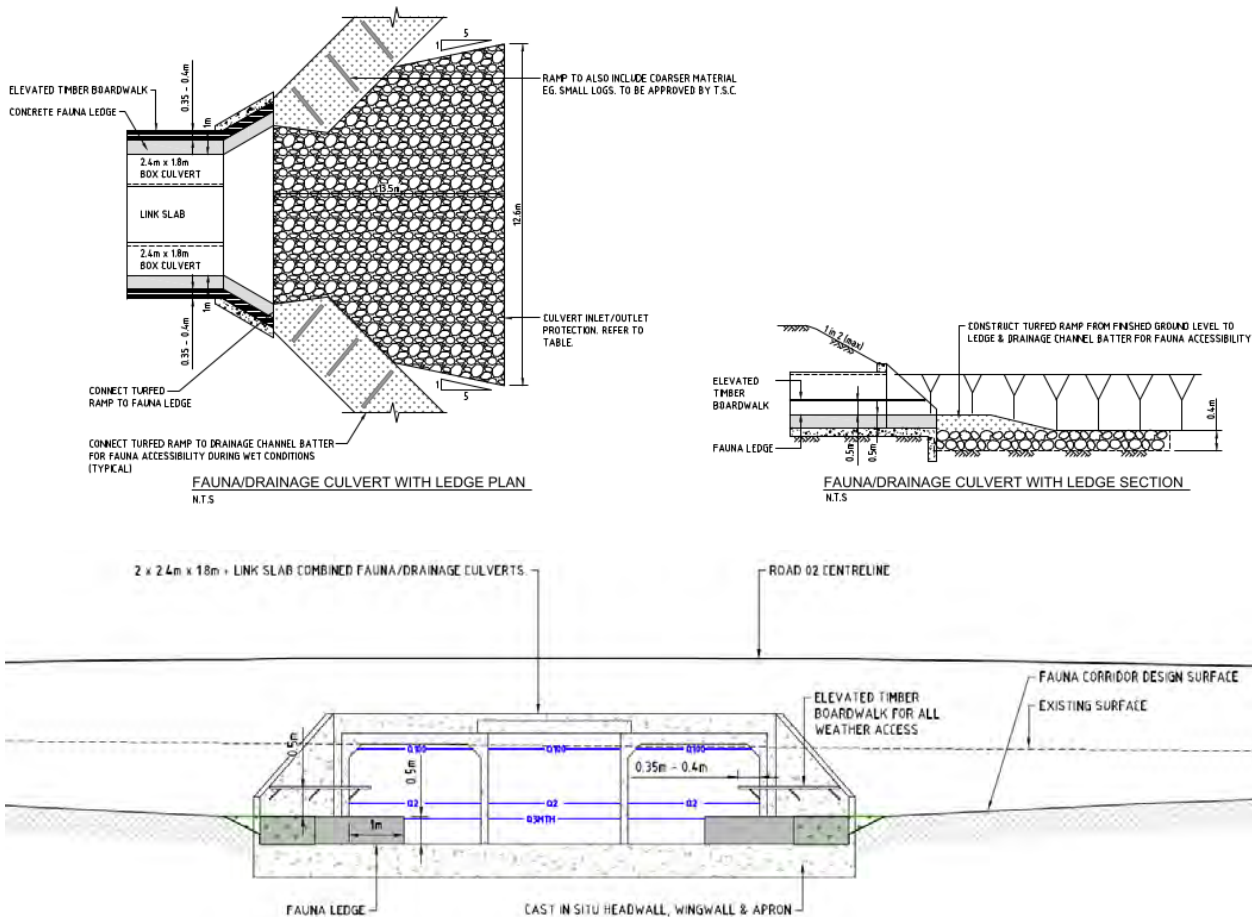


Figure 5: Plan, Section and Elevation of the proposed box culverts, link slab and fauna ledges, with stormwater levels shown in blue

Fauna ledges are proposed within the outer edges of the box culverts to provide dry fauna crossings up to the Q3 month rainfall event. An elevated timber boardwalk is also proposed in each box culvert to provide all weather access above the Q2 rainfall event level.

The applicant has proposed to rehabilitate the fauna corridor by establishing freshwater wetland/sedgeland vegetation within the central drain area. It is proposed to plant scribbly gum woodland on the battered banks with dense plantings located adjacent to the headwall openings to the culverts.

Fencing of the fauna corridor is proposed to incorporate 1800mm high mesh fencing with 1500mm high supports at 3m intervals. The 300mm difference in height allows for a “floppy-top” effect, which acts as a further deterrent for wildlife.

It should also be noted that the applicant has proposed to retrofit the already approved culvert under the Cobaki Parkway (at the eastern end of the fauna corridor) with fauna ledges and elevated timber boardwalks.

SITE DIAGRAM:



1:75,000 A4 Portrait
 0 0.5 1 1.5 Km
 COPY ONLY - NOT CERTIFIED
 GDA
 Horizontal Datum: Geoidetic Datum of Australia 1994
 Vertical Datum: Mean Sea Level
 T: (02) 9670 2400 | (0800) 200 872
 F: (02) 9670 2420
 W: www.tweed.nsw.gov.au
 E: planning@tweed.nsw.gov.au

Locality Plan
 Lot 1 DP 570076, Lots 54, 199 & 200 DP 755740;
 Piggabeen Road, Cobaki Lakes;
 Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679,
 Lot 2 DP 566529, Lot 46, 55, 201, 202, 205, 206, 209,
 228 & 305 DP 755740, Sandy Lane, Cobaki Lakes

Affected Property
 Cadastre: 25 January, 2016
 © Land and Property Information
 (LPI) and Tweed Shire Council
 Boundaries shown should be
 considered approximate only.

Disclaimer: 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 interest) or consequences of all damages and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is provided for the general guidance and it is considered outdated and discontinue only. It should not be used for survey or construction purposes and prior to any excavation or other work, you should contact the relevant authority. The information contained on this document remains valid for 30 days only from the date of supply.
 Edition: 3-856-095-027ANGARD-TEMP-16-Cadastre-Plan-Localities-Plan_756_A4Final
 Author: abatchelor - Strategic Planning & Urban Design Unit
 Date Printed: 25 January 2016

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

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

Cobaki Concept Plan MP....

The applicant's Statement of Environmental Effects provides a detailed assessment of the individual conditions applied under the approved Concept Plan. The majority of the conditions do not specifically apply as there is no subdivision proposed. However, a number of conditions regarding Management Plans do apply. The applicant has identified those conditions which will be complied with at construction certificate stage. Appropriate conditions have been applied to ensure that any proposed management plans applicable to the proposed development are consistent with the existing approved management plans.

Statement of Commitments

The applicant has also provided an assessment against the Statement of Commitments associated with the Concept Approval. Appropriate conditions have been applied with regard to timing of relevant management plans etc.

Tweed Local Environmental Plan 2000

Clause 4 - Aims of the Plan

Clause 4 illustrates that the aims of the TLEP 2000 are to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan. The vision of the plan is "*the management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced*". Clause 4 further aims to provide a legal basis for the making of a DCP to provide guidance for future development and land management, to give effect to the Tweed Heads 2000+ Strategy and Pottsville Village Strategy and to encourage sustainable economic development of the area which is compatible with the Shire's environmental and residential amenity qualities.

The development application is considered suitably in keeping with the above, as it is not considered likely to result in a reduction of existing amenity for nearby residential properties or the shire as a whole and will ultimately provide a corridor for fauna movement within the site, subject to conditions of consent.

Clause 5 - Ecologically Sustainable Development

Clause 5 of the LEP relates to ecologically sustainable development. The TLEP aims to promote development that is consistent with the four principles of ecologically sustainable development, being *the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms*.

The proposed development is considered to be in keeping with the ESD principles.

Clause 8 - Consent Considerations

The applicant's initial application defined the proposed works as "works for drainage and landfill", which are permissible as an Item 3 (Clause 8(2)) matter. Whilst this use is relevant for the proposed stormwater drainage component of the development, it is not considered the most appropriate definition for the fauna corridor component. That is, the stormwater drainage is not the "principal purpose" of the corridor. The applicant was requested to address this matter and provided the following response:

"The proposal was characterised as works for drainage and land fill as the works largely relate to the stormwater infrastructure. We acknowledge that the purpose of the corridor is also for the movement of fauna.

We are not convinced that the definition of earthworks would provide a better solution since it does nothing further for the element of "fauna corridor" and is unrelated to stormwater drainage.

As an alternative we suggest that the development be characterised as both works for "drainage and land fill" and "environmental facility". The relevant definitions from Tweed LEP 2000 are provided below:

works for drainage and landfill *the removal of extractive material from land for the principal purpose of providing a method of stormwater drainage and the subsequent filling or spoiling of the extractive material on an allotment.*

environmental facility *a structure or work which provides for:*
(a) nature study or display facilities such as walking, board walks, observation decks, bird hides or the like, or
(b) environmental management and restoration facilities such as bush restoration, swamp restoration, erosion and run off prevention works, dune restoration or the like.

In our view the definition of environmental facilities is broad enough to extend to the fauna corridor establishment work, including structures.

The assessment of the component of the development comprising Works for Drainage and Landfill was provided in the Statement of Environmental Effects in accordance with Clause 8(2) of Tweed LEP 2000.

Our assessment comments for the component of the development comprising Environmental Facility as an Item 2 use under Clause 8(1) are provided below. Clause 8(1) of Tweed LEP 2000 is in the following terms:

8 Consent considerations

(1) The consent authority may grant consent to development (other than development specified in Item 3 of the Table to clause 11) only if:

(a) it is satisfied that the development is consistent with the primary objective of the zone within which it is located, and

- (b) it has considered those other aims and objectives of this plan that are relevant to the development, and*
- (c) it is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.*

In relation to Clause 8(1)(a), the primary objectives of the 7(f) zone are as follows:

Primary objectives

- to protect areas or features which have been identified as being of particular habitat significance.*
- to preserve the diversity of habitats for flora and fauna.*
- to protect and enhance land that acts as a wildlife corridor.*

The proposed development will allow the construction of the east-west fauna corridor as foreshadowed by the Cobaki Estate Concept Plan Approval MP 06-0316. The proposal is therefore entirely consistent with the primary objectives of the 7(l) zone.

In relation to Clause 8(1)(b), the secondary objectives of the 7(f) zone are as follows:

Secondary objectives

- to protect areas of scenic value.*
- to allow for other development that is compatible with the primary function of the zone.*

The proposed Environmental Facility will enhance the scenic value of the site and has been designed to accommodate the related stormwater infrastructure which has been assessed under Clause 8(2). Accordingly the proposal is considered to be consistent with the secondary objectives of the 7(l) zone.

In relation to Clause 8(1)(c), the proposed Environmental Facility comprising the establishment of the east-west fauna corridor, in accordance with the Cobaki Concept Plan Approval, is unlikely to create any unanticipated cumulative impacts upon the community, catchment or locality within which it is to be carried out. Rather, the proposal, which incorporates appropriate embellishment of the corridor with vegetation and fencing, will create positive impacts by enhancing the east-west movement of fauna across the site within the future development of the Cobaki Estate. The site of the proposed development is not likely to create any direct adverse impacts upon neighbouring properties or to the area of the Tweed as a whole. "

As noted above, the stormwater drainage component is best described as "works for drainage and landfill", which are permissible as an Item 3 (Clause 8(2)) matter. The applicant has provided the following Clause 8(2) assessment:

TABLE 6 – MATTERS FOR CONSIDERATION UNDER CLAUSE 8(2) OF TWEED LEP 2000	
MATTERS FOR CONSIDERATION	ASSESSMENT COMMENT
<p>(a) the development is necessary for any one of the following reasons:</p> <p>(i) it needs to be in the locality in which it is proposed to be carried out due to the nature, function or service catchment of the development,</p> <p>(ii) it meets an identified urgent community need,</p> <p>(iii) it comprises a major employment generator, and</p>	<p>The proposed fauna corridor has been identified and zoned as part of the Concept Plan Approval associated with the Cobaki Estate.</p> <p>Due to the zoning of the subject land comprising the proposed fauna corridor and its location in connection to the vegetated areas to the east and the west, it is essential that the corridor be established in this location.</p> <p>Given that the proposal involves the establishment of the fauna corridor, having regard to the circumstances discussed above, we submit the proposal satisfies the requirements of this subclause.</p>
<p>(b) there is no other appropriate site on which the development is permitted with consent development (other than as advertised development) in reasonable proximity, and</p>	<p>Due to the location of the proposed fauna corridor in relation to the vegetated areas to the east and the west of the site, and due the repeal of Tweed LEP 2000 on land to the north and south of the site, there is no other appropriate site on which the development would be permitted as an Item 2 use (under Tweed LEP 2000) in reasonable proximity.</p>
<p>(c) the development will be generally consistent with the scale and character of existing and future lawful development in the immediate area, and</p>	<p>The proposed fauna corridor will be consistent with the intended character of the development to be established under the concept plan in the immediate area.</p>
<p>(d) the development would be consistent with the aims of this plan and at least one of the objectives of the zone within which it is proposed to be located.</p>	<p>The aims of the Local Environmental Plan include "to encourage sustainable economic development of the area".</p> <p>The proposed fauna corridor and its function as a stormwater drain will provide the required wildlife corridor across the site, whilst allowing the urban development to proceed in a sustainable way.</p> <p>As previously mentioned the proposal, which is to comprise the east-west fauna corridor in the central part of the Cobaki Estate is therefore consistent with the primary zone objective, which is to protect and enhance land that acts as a wildlife corridor.</p>

The applicant's assessment against the Clause 8(2) provisions of Tweed LEP 2000 is considered satisfactory.

Clause 11 - Zone Objectives

The subject site has a variety of zones, with the development area (fauna corridor) occurring wholly within the 7(l) Environmental Protection (Habitat) zone.

The 7(l) zone has the following objectives:

The primary objectives for land zoned 7(l) Environmental Protection (Habitat) are:

- *to protect areas or features which have been identified as being of particular habitat significance.*
- *to preserve the diversity of habitats for flora and fauna.*
- *to protect and enhance land that acts as a wildlife corridor.*

The secondary objectives for land zoned 7(l) are:

- *to protect areas of scenic value.*
- *to allow for other development that is compatible with the primary function of the zone.*

The proposed works for drainage and landfill and Environmental Facility are permissible with consent and are considered to be consistent with the zone objectives applicable to the site.

Clause 15 - Essential Services

The provision of essential services is not required for the proposed development. Appropriate stormwater drainage will be provided.

Clause 28 - Development in Zone 7(l) Environmental Protection (Habitat) and on adjacent land

The objective of Clause 28 is to protect wildlife habitat from the adverse impacts of development.

In order to grant consent, the consent authority must take into consideration:

- (a) the likely effects of the development on the flora and fauna found in the locality, and
- (b) the potential for disturbance of native flora and fauna as a result of intrusion by humans and domestic and feral animals, increased fire risk, rubbish dumping, weed invasion and vegetation clearing, and
- (c) a plan of management showing how any adverse effects arising from the development are to be mitigated.

It is considered that appropriate conditions have been applied to minimise impact upon the fauna expected to utilise the corridor. Management plans will be required to address the potential impact from adjoining development. Fencing is proposed in order to restrict access into the fauna corridor, with the exception of access points for maintenance of the stormwater drainage system.

Clause 35 - Acid Sulfate Soils

The applicant has noted that an Acid Sulfate Soils Assessment was undertaken as part of the Concept Plan Application and has advised that an Acid Sulfate Soils Management plan will be deferred to Construction Certificate stage, as per the requirements of Condition C5 of the Concept Plan Approval.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 32B: Coastal Lands

This clause applies to the subject site as the NSW Coastal Policy applies. The proposal is consistent with the NSW Coastal Policy, Coastline Management Manual and North Coast Design Guidelines. The development will not result in overshadowing of the beach or waterfront open space.

SEPP No. 14 - Coastal Wetlands

Whilst there is a mapped SEPP 14 area within the north eastern portion of the development site, the proposed site area of the fauna corridor is not located within the mapped area.

SEPP No. 44 - Koala Habitat Protection

The applicant has noted that previous assessments have concluded that there is no requirement for a Plan of Management, given there is no core Koala habitat on the subject site.

SEPP No. 55 - Remediation of Land

The applicant's Statement of Environment Effects notes that there are no known areas of contamination within Precinct 6. Council's Environmental Health Unit has raised no objections in terms of contamination, noting that a review of the Cobaki lakes constraints map confirmed that there are no identified areas of contamination within Precinct 6.

SEPP No 71 – Coastal Protection

Clause 8 of the SEPP identifies matters for consideration for land within the coastal zone. The application is considered to adequately satisfy the matters for consideration, subject to conditions of consent.

SEPP (State and Regional Development) 2011

Given that the works do not involve subdivision and have a capital investment value of less than \$20 million, Tweed Shire Council is the consent authority for the proposed development.

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

There are no draft Environmental Planning Policies applicable to the proposed development.

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

Tweed Development Control Plan

A3-Development of Flood Liable Land

The applicant has noted that the proposed development has been designed to accommodate the 1 in 100 year rainfall event, thereby complying with the provisions of DCP A3. Applicable conditions of consent have been applied with regard to stormwater drainage.

A5-Subdivision Manual

The applicant has undertaken an assessment against the landforming provisions of DCP A5. Council's Engineers have raised no objections, subject to conditions of consent.

A11-Public Notification of Development Proposals

The proposed development was placed on public exhibition for a period of 14 days, during which time nil objections were received.

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

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

The subject land is affected by the coastal policy. The proposed development is not considered to be in conflict with the policies and strategies of the policy.

Clause 92(1)(b) Applications for demolition

No demolition works are proposed.

Clause 93 Fire Safety Considerations

Clause 93 is not applicable to the proposed works.

Clause 94 Buildings to be upgraded

Clause 94 is not applicable to the proposed works.

(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 land. The Tweed Shire Coastline Management Plan 2005 is not applicable to the proposed development.

Tweed Coast Estuaries Management Plan 2004

This Plan relates to the Cudgen, Cudgera and Mooball Creeks and is therefore not applicable to the proposed development.

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

This plan relates to the Cobaki and Terranora Broadwater. The subject site adjoins Cobaki Creek which feeds into the Cobaki Broadwater. Appropriate conditions have been applied in order to ensure that appropriate sediment and erosion control measures are in place during construction of 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

Flora and Fauna

The proposed development has been supported by an ecological assessment by Biolink's Steve Phillips dated 23 October 2015. The assessment considers four main issues: limitations imposed by the already approved culvert under Cobaki Parkway; plant species within the corridor; fencing; and requirements for the proposed culvert crossings.

Whilst a full copy of the assessment is provided under Attachment 1, the following is a summary of the findings in relation to the abovementioned issues:

- The greatest number of corridor entry points should be provided at the interface with adjoining habitat. The ecological assessment supports consideration of a modification to the already approved culvert (2.4m x 1.8m Reinforced Concrete Box Culvert (RCBC)) under the Cobaki Parkway, suggesting that a design similar to the proposed culverts within the corridor itself (i.e. 7.2m wide design) would be ideal at the entrance point of the corridor.
- With regard to the proposed revegetation strategy to recreate a Scribbly Gum Woodland (with the tallest canopy cover to be less than 30% for fire management), the assessment supports the proposed use of Swamp Mahogany and dense understorey at native shrubs and ground covers.
- The assessment notes a lack of detail for the proposed fencing. Despite this, the assessment highlights that the fencing is critical to create a barrier between the fauna corridor and the adjoining roadways and urban / residential precincts.
- As noted above, the assessment considers the proposed 7.2m wide culvert design (two 2.4m x 1.8m RCBC either side of a 2.4m wide concrete linking slab) to be the ideal design for the approved eastern culvert under Cobaki Parkway. This design would provide the greatest opportunity for fauna movement at the corridor entry and reduce the potential for bottlenecks at this point of the corridor.

The assessment also identifies that a single 2.4m x 1.8m RCBC is more than acceptable for fauna movement through the culvert crossings. However, as a result of the proposal being dual use in nature (i.e. accommodates stormwater drainage requirements as well as fauna

movement), the proposed 7.2m wide culvert design within the corridor (which includes ledges and elevated boardwalks in an effort to provide dry access for fauna), is supported by the ecological assessment.

As noted earlier in this report, the appropriate sizing of the culvert has been the subject of extensive discussion and debate. In order to obtain further advice on the matter, the application was forwarded to the NSW Office of Environment & Heritage (OEH), requesting comment on the appropriateness of the proposed culvert design. OEH provided the following advice:

“The OEH has reviewed the proposed designs for the fauna corridor and fauna underpass structures for the Cobaki, Tweed Heads West Development Application (Drawing Numbers A443-C-6-000 to 0303 Revision C and A443-C-6-0406 to 0407 Revision B dated 04/09/15). The OEH is satisfied that the proposed culvert dimensions, extent of dry passage and design of fauna furniture will be sufficient to accommodate the assemblage of native fauna species likely to utilise the habitat types to be established within the proposed wildlife corridor.

We are also generally satisfied with the proposed wildlife exclusion fence design, location and extent as illustrated in Figure 1A – Rehabilitation Areas dated 26 October 2015. However, we recommend that the fencing design be modified to exclude frog and reptile movement where the fencing adjoins the road corridors in order to further minimise potential wildlife mortalities. Furthermore, if fencing is not already proposed on the western side of the western underpass and eastern side of the eastern underpass (i.e. Cobaki Parkway), then additional fauna exclusion fencing should be installed at these locations to funnel wildlife into the underpass structures.

The OEH understands that the fauna underpass structure proposed under the Cobaki Parkway will consist of a single box culvert (dimensions 2.4m wide x 1.8m high), which will provide much less effective wildlife movement function than the designs subject to the current development application. The status of this underpass is unclear to the OEH. However, we recommend that the design and dimensions be upgraded to match the specifications of the fauna underpass structures subject to this current development application in order to improve overall wildlife corridor function, particularly during wet periods, and prevent possible formation of a wildlife movement bottleneck”.

Council’s Natural Resource Management (NRM) Unit has provided the following comments:

“The application is a modification of the Concept Approval and DA10/0801/02 for the following reasons:

Concept Plan

- The fauna crossings proposed by the current application are inadequate for provision of the required connectivity throughout the east west fauna corridor.*
- Provision of a 50 metre wide corridor is a major component of the improvements to overall connectivity required of the project by the Concept Approval.*

- *The current application provides only 14% of this width at the two crossing points, reduced to 4% (2m) under Q3 month conditions. Additionally, a significant part of the corridor is now being used for drainage purposes reducing habitat value and connectivity for wildlife.*
- *Moreover, it is likely that there will be five or six such road crossings once all stages of the development are complete, further reducing habitat value and connectivity for wildlife.*

Conditions of DA10/0801.02

- *The design of the fauna crossings proposed in the current application is inconsistent with Condition 63A of DA10/0801.02.*
- *The proposed culverts are not of adequate width.*
- *Separate fauna and drainage culverts are required.*
- *The design remains unchanged from that previously considered in conjunction with the above amendment to this DA.*

NRM acknowledges the advice provided by OEH dated 18 December 2015. Regardless, a number of outstanding issues will require addressing or further detail to be submitted prior to the issuing of a construction certificate, including:

- *Detailed design drawings of fauna exclusion fencing and access gates.*
- *Resolution of inconsistency between the current application and approved Management Plans with regard to the proposed vegetation community to be created within the corridor.*
- *Updates to relevant management plans will be required with regard to timing, responsibilities and performance measures”.*

Appropriate conditions of consent have been applied with regard to further details required for fencing, vegetation and management plans.

With regard to appropriate sizing of the culverts, the ideal width is considered to be four x 2.4m wide openings plus any stormwater requirements, as per Condition 63A of DA10/0801.02.

Taking into consideration the OEH advice, the proposed two x 2.4m x1.8m RCBC plus link slab (7.2m wide in total) is considered to be acceptable for the purposes of fauna passage through the culverts. This differs from the applicant’s ecological advice that a single 2.4x1.8m RCBC is sufficient for fauna passage. The applicant has highlighted that the primary purpose of the three culvert openings is to provide capacity for the Q100 stormwater drainage. This has been the main point of contention for the proposed culverts.

Although not ideal, the dual use (fauna and stormwater) of the 7.2m wide culvert crossing is supported, subject to conditions of consent and the provisions of the concrete ledge and elevated timber boardwalk being proposed within the RCBC’s for dry passage through the culverts.

Although it is acknowledged that the single 2.4m x 1.8m RCBC under the Cobaki Parkway has been separately approved, it is considered good practise to amend / upgrade the approved design so as to incorporate the same 7.2m wide culvert design as proposed within the corridor. This would minimise any potential funnelling effect, as highlighted by the OEH. This upgrade was requested of the applicant but not supported. Rather, the applicant has proposed to “retrofit” the approved 2.4m wide culvert with concrete ledges and elevated timber boardwalks. Whilst the applicant’s proposed retrofitting of the approved culvert is recognised, an increase in the total width of the culvert in this location (i.e. entrance to the fauna corridor) is considered to be a better outcome for fauna connectivity. In this regard, it is noted that the applicant’s ecological expert also identifies the benefit in increasing the width of the culvert at the eastern entrance of the corridor.

Stormwater Management

The applicant has noted that the proposed fauna corridor has been designed to provide the stormwater drainage for the adjoining areas to the north and south (Precincts 5 and 6). The applicant also notes that erosion and sedimentation control during construction of the corridor will be addressed at the construction certificate stage.

Council’s Engineers have undertaken an assessment of the proposed development. In summary, it is considered that the proposed stormwater drainage component of the development is acceptable, subject to conditions of consent.

Appropriate conditions have been applied to ensure that the design of the stormwater drainage system has taken into consideration the “retrofitted” ledges and boardwalks within the culverts.

It is noted that the proposed elevated boardwalk may become a maintenance issue with regard to the potential collection of debris. A condition has been applied with regard to the design of the boardwalk in an effort to limit this occurrence.

(c) Suitability of the site for the development

Concept Plan

The proposed development is considered to be suitable for the subject site, given the fauna corridor is incorporated into the approved Concept Plan.

Earthworks

The application includes earthworks for the formation of the open channel that traverses the fauna corridor and the construction of the culvert abutments. Excess spoil removed from the fauna corridor channel will be utilised as fill within the Cobaki estate. The use of excess spoil elsewhere within the estate is satisfactory providing the fill material does not contain contaminants and the fill material is only deposited in approved locations.

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

As noted previously, the proposed development was placed on public exhibition for a period of 14 days, during which there were nil submissions.

NSW Office of Environment & Heritage

The application was forwarded to the NSW Office of Environment & Heritage (OEH), requesting comment on the appropriateness of the proposed culvert design. OEH provided advice on the proposal, as noted above.

(e) Public interest

It is considered that the proposed development does not compromise the public interest. The proposal is generally considered to reflect the provisions of all applicable development control plans and intended development for the locality, subject to compliance with conditions of consent.

OPTIONS:

1. Approve the proposed development;
2. Defer the determination to allow negotiations with Leda regarding the upgrade of the approved culvert under Cobaki Parkway; or
3. Refuse the application.

CONCLUSION:

Although the preferred culvert design would incorporate separate fauna culverts and stormwater drainage culverts (as per the current wording of Condition 63A of DA10/0801.02), the proposed dual use is supported.

The proposed 7.2m wide RCBC is considered to be acceptable for fauna movement, as noted by OEH. Whilst the proposed retrofitting of the approved RCBC under Cobaki Parkway with a concrete ledge and elevated boardwalk is acknowledged, a duplication of the 7.2m wide RCBC design in this location is considered to be a better outcome in terms of fauna connectivity and reduced wildlife funnelling at this point of the corridor.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable

c. Legal:

The applicant has clearly indicated that an appeal will be lodged with the NSW Land & Environment Court if a satisfactory outcome is not achieved.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Steve Phillips - Biolink Advice (ECM 3933319)

3 [PR-PC] Northern Joint Regional Planning Panel - Proposed Temporary Extension of Council Appointed Panel Members

SUBMITTED BY: Director

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
- 1.1.1 Establish sustainability as a basis of shire planning and Council's own business operations
- 1.1.1.3 Assessment of new developments (Development Assessment unit)

SUMMARY OF REPORT:

The purpose of this report is to seek Council's endorsement for a temporary, 18 month extension of the current period of appointment of Council's local panel members for the Northern Joint Regional Planning Panel (JRPP).

At its meeting of 13 December 2012, Council resolved the following:

“RESOLVED that:

1. *Council determines the appointment of two panel members and one alternative member of the Northern Joint Regional Planning Panel as:
Dr Stephen Philips, Mr Ned Wales as panel members with alternate member being Mr Robert Quirk.*
2. *The Director-General of the Department of Planning and Infrastructure be advised of these appointments; and*
3. *ATTACHMENTS 1 and 2 be treated as CONFIDENTIAL in accordance with Section 10A(2)(c) of the Local Government Act, 1993, because they contain information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.”*

The Department of Planning and Environment has recently informed Council that the Department's current policy recommends that Council appointed panel members for JRPPs should be renewed every three years. Based on that advice, the three year period for Tweed Council's current appointees expired in December, 2015.

Given that there are current applications soon to be determined by the Northern JRPP, the Department is seeking a timely response from Council on the status of the current appointment of local panel members.

It has been the previous practice of Council to conduct an expression of interest (EOI) process for the appointment of the Northern JRPP local panel members.

However, given the expected timing of the upcoming local government elections for Tweed Council, in either late 2016 or early 2017, it may well be a more appropriate option for Council to endorse a temporary, 18 month extension of the current period of appointment of Council's local panel members for the Northern Joint Regional Planning Panel (JRPP), and thereby provide an opportunity for any newly elected Tweed Council to make their own determination of the local panel members.

The Department was consulted on their view of this alternative temporary approach, and they raised no objection.

It is worth noting that Council has previously supported an extension of the local appointees to the original Northern JRPP in June 2012, for the same reason that there was an upcoming local government election in September 2012.

Alternatively, Council can resolve to conduct an EOI process to determine new appointees to the Northern JRPP.

RECOMMENDATION:

That:

- 1. Council endorses that the appointment of the current two panel members and one alternative member as Council's representatives in the Northern Region Joint Planning Panel be extended up until 30 June 2017;**
- 2. Prior to 30 June 2017, an expressions of interest process be conducted to assess new Council appointments; and**
- 3. The Department of Planning and Environment and Council's current local appointees be advised of this decision.**

REPORT:

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The Department of Planning and Environment has recently informed Council that the Department's current policy recommends that Council appointed panel members for JRPPs should be renewed every three years. Based on that advice, the three year period for Tweed Council's current appointees expired in December, 2015.

Given that there are current applications soon to be determined by the Northern JRPP, the Department is seeking a timely response from Council on the status of the current appointment of local panel members.

It has been the previous practice of Council to conduct an expression of interest (EOI) process for the appointment of the Northern JRPP local panel members.

However, given the expected timing of the upcoming local government elections for Tweed Council, in either late 2016 or early 2017, it may well be a more appropriate option for Council to endorse a temporary, 18 month extension of the current period of appointment of Council's local panel members for the Northern Joint Regional Planning Panel (JRPP), and thereby provide an opportunity for any newly elected Tweed Council to make their own determination of the local panel members.

The Department was consulted on their view of this alternative temporary approach, and they raised no objection.

It is worth noting that Council has previously supported an extension of the local appointees to the original Northern JRPP in June 2012, for the same reason that there was an upcoming local government election in September 2012.

Alternatively, Council can resolve to conduct an EOI process to determine new appointees to the Northern JRPP.

OPTIONS:

1. Council endorses that the appointment of the current two panel members and one alternative member as Council's representatives in the Northern Region Joint Planning Panel be extended up until 30 June 2017 ; or
2. Council endorses that an EOI process to determine new Council appointees to the Northern JRPP.

The Council officers recommend Option 1.

CONCLUSION:

The period of appointment of the current Council representatives on the Northern Regional Planning Panel expired on 13 December 2015. Given the need for a timely response for the consideration of upcoming JRPP DAs, and the uncertainty of the timing of the upcoming local government elections, it is considered appropriate that any newly elected Council be provided with the opportunity to determine Council's appointees to the Northern JRPP.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Council is required to pay for certain costs of the Local Panel members, and the administration of Joint Regional Planning Panel Meetings.

These costs are allowed within the operational budget.

c. Legal:

The NSW Planning and Environmental Assessment Act 1979 outlines a series of legislative requirements for the assessment of regionally significant developments, and the operation of Joint Regional Planning Panels.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

4 [PR-PC] Tweed Development Control Plan (DCP) Section B27: 61 Marana Street Bilambil Heights

SUBMITTED BY: Strategic Planning and Urban Design

FILE REFERENCE: GT1/DCP/B27

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.5 Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economical viable agriculture land
- 1.5.2 Land use plans and development controls will be applied and regulated rigorously and consistently and consider the requirements of development proponents, the natural environment and those in the community affected by the proposed development

SUMMARY OF REPORT:

This report provides a summary of the public consultation undertaken with regard to the Draft Tweed DCP Section B27 – 61 Marana Street Bilambil Heights which provides a more detailed planning framework to support the recent rezoning of the site to permit residential land uses.

The Draft DCP Section B27 has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000* and to meet the requirements of *Clause 7.13 – Development requiring the preparation of a development control plan* of the *Tweed Local Environmental Plan (LEP) 2014*.

No issues have been raised, nor submissions received with respect of the Draft DCP Section B27 and the report seeks Council's endorsement of the Draft DCP.

RECOMMENDATION:

That:

1. Draft Tweed DCP Section B27 – 61 Marana Street Bilambil Heights be adopted for inclusion in the Tweed DCP 2008 in accordance with Section 21 of the *Environmental Planning and Assessment Regulation 2000*.
2. Public notification of the commencement of the Draft Tweed DCP Section B27 – 61 Marana Street Bilambil Heights be given in the Tweed Link within 28 days in accordance with Section 21(2) of the *Environmental Planning and Assessment Regulation 2000*.

3. **A copy of the Draft Tweed DCP Section B27 – 61 Marana Street Bilambil Heights be referred to the NSW Department of Planning and Environment within 28 days of its commencement in accordance with Section 25AB of the *Environmental Planning and Assessment Regulation 2000*.**

REPORT:

Background

At the Planning Committee of 5 February 2015 Council resolved to proceed with the Planning Proposal PP10/0002 for 61 Marana Street Bilambil Heights and for the plan to be forwarded to the NSW Planning and Environment to be made.

The planning proposal was made by way of Amendment No 9 to the *Tweed Local Environmental Plan (LEP) 2014* on 11 August 2015.

At the Planning Committee of 5 February 2015 Council also resolved to prepare and exhibit the associated Development Control Plan (DCP) amendment to address the requirements of the site's nomination on the Key Sites Mapping Layer of the LEP 2014 and thus the requirement for the preparation of a DCP under Clause 7.13 prior to determining any development application in respect of the site.

The draft Development Control Plan Section B27 has been prepared and publicly exhibited in accordance with the resolution of Council and the requirements of the provisions of the *Environmental Planning and Assessment Regulation 2000*.

Council has held compliance action regarding the unlawful use of the tourist accommodation on the site in abeyance pending the rezoning of the land and lodgement of a development application to seek approval for the unlawful permanent occupation of the dwellings.

Summary of the Public Consultation

The draft DCP and relevant Council report was publicly exhibited for a period of 30 days from Wednesday 28 October to Friday 27 November 2015.

The public exhibition material was available at Council's Tweed Heads and Murwillumbah offices and on Council's website.

Direct notification letters were sent to approximately 27 adjoining property owners.

Submissions

No submissions were received in response to the public exhibition.

Summary of the DCP Section B27

The draft DCP addresses and provides a development framework for Staging of the Development, access, distribution of land uses, subdivision patterns / provision for services, building envelope / built form controls and public domain.

Minor amendments to the draft DCP to assist with clarity have been made. These amendments make no change to the intent or outcome of the DCP provisions.

The final Draft Tweed DCP Section B27 – 61 Marana Street Bilambil Heights is provided in attachment 1.

OPTIONS:

1. The recommendations provided within this report be adopted, or
2. Defer consideration of the Draft Tweed DCP to seek further clarification, or
3. Resolve not to proceed with the DCP and provide the reasons for doing so for public notification purposes in accordance with Section 21(3) of the *Environmental Planning and Assessment Regulation 2000*.

Council Staff recommend Option 1.

CONCLUSION:

A DCP is required under Clause 7.13 of the Tweed LEP 2014 prior to the granting of any consent with respect of the site. Council has held compliance action regarding the unlawful use of the tourist accommodation on the site in abeyance pending the rezoning of the land and lodgement of a development application to seek approval for the unlawful permanent occupation of the dwellings. Given there have been no submissions with respect of the draft DCP, the site has been rezoned to permit residential land uses and the DCP is now required to enable a development application to be lodged, the adoption of the Draft Tweed DCP Section B27 is recommended.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

There are no budget implications arising from the adoption of the Draft Tweed DCP Section B27.

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:

Attachment 1. Draft Tweed DCP Section B27 - 61 Marana Street Bilambil Heights (ECM 3924221)

5 [PR-PC] Planning Proposal PP10/0005 98 Old Lismore Road, Murwillumbah (Subject Site) and Review of the Hundred Hills Release Area (Housekeeping Review), Being Amendment No 13 to the Tweed Local Environmental Plan (LEP) 2014

SUBMITTED BY: Strategic Planning and Urban Design

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.5 Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economical viable agriculture land
- 1.5.1 Sustainable management of the population in accordance with strategic decisions of previous councils, the NSW and Commonwealth Governments and the Far North Coast Regional Strategy, including provision of amenities, infrastructure and services

SUMMARY OF REPORT:

The Planning Proposal PP10/0005 98 Old Lismore Road, Murwillumbah (subject site) and review of the Hundred Hills release area (Housekeeping Review), being Amendment No 13 to the Tweed Local Environmental Plan (LEP) 2014 has been publically exhibited and the relevant Agencies consulted consistent with the requirements of the Gateway Determination, dated 12 August 2016.

Whilst the proposal for the subject site has the requisite strategic planning justification, one submission raises concern regarding the impacts on their property and dam arising from the drainage of the future development.

Whilst there may be an engineering solution to address the issue, there still remains uncertainty around the ability of the site to accommodate the stormwater flows without unacceptable impacts on the submitter's dam in terms of water quality, sediment load and the impacts of the drainage on the already failing boundary fencing. It also remains unclear how much of the drainage treatment area will be located on the proponent's land and how much on the submitter's land.

It is recommended that further information on the stormwater and drainage impacts on the dam is required prior to proceeding with the plan being made. The Proponent should be given six weeks to supply the necessary information to address these concerns or the Proposal should be discontinued or deferred pending reconsideration as part of the Strategic Planning & Urban Design Unit's annual Work Plan review.

No submissions have been received raising issue with the 'Housekeeping Review' amendments. It is recommended that these proceed in order to address inconsistencies that arose with the zoning translation of the Hundred Hills release area into the new 'Standard Instrument' Tweed Local Environmental Plan 2014.

RECOMMENDATION:

That:

- 1. Planning Proposal PP10/0005 be held in abeyance pending further information regarding stormwater and drainage as detailed within this report, and which is to be submitted within (6) six weeks of the date of this resolution;**
- 2. Subject to point No.1 first being satisfied, the Planning Proposal PP10/0005 is to be updated as necessary and referred to the Minister for Planning and Environment for the Plan to be made under Section 59 of the *Environmental Planning and Assessment Act 1979*; and**
- 3. If the information required to be submitted under point No.1 is not provided within the required timeframe for submission the Planning Proposal, excluding those matters of a 'house-keeping' nature, is to be held in abeyance pending reconsideration as part of the Strategic Planning & Urban Design Unit's annual Work Plan review.**

REPORT:

Background

The original Planning Proposal (Proposal) request was lodged with Council in 2010 and reported to Council 19 October 2010, at which time Council resolved to prepare a planning proposal for submission for a Gateway Determination.

In August 2011 the owners, Stockland Development, entered into a Memorandum of Understanding (MOU) to guide the completion of the additional studies required to inform the proposal submission for a Gateway Determination.

The proposal since this time has proceeded very slowly and has twice been reported to Council with recommendations to give reasons not cease the Proposal or to discontinue the proposal (20 February 2014 and September 2014 in the Strategic Planning work Program).

On both occasions Council has resolved to proceed with the Planning Proposal and allow adequate time for the applicant to provide the information required.

At the Planning Committee meeting of 9 April 2015 Council considered a report on the matter which sought to include additional land as part of the wider housekeeping review of the Hundred Hills Release Area, and resolved: to include the housekeeping review amendments; refer the Proposal for a Gateway Determination and publicly exhibit the Proposal in accordance with the Gateway Determination.

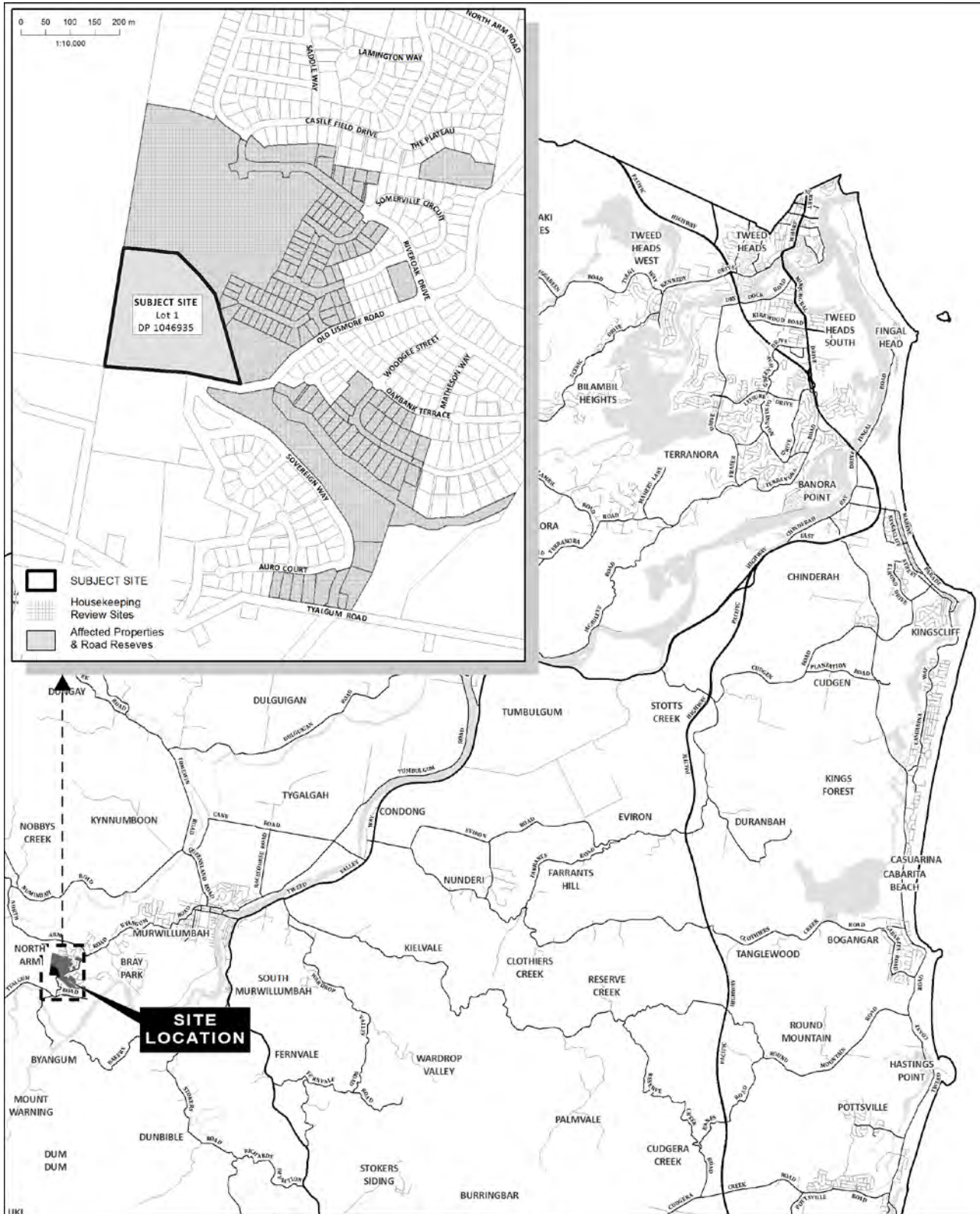
A Gateway Determination was received 24 April 2015. Additional information was sought on appropriate lot sizes in response to the site topography, as highlighted in the April 2015 report. An amended Gateway Determination was received 7 October 2015 following the required review of the lot sizes for the subject (original) site.

The revised Gateway Determination has a completion date of 12 August 2016 and allowed the minimum lot size for the subject site to be amended to 600sqm.

Summary of the proposal (Tweed LEP 2014 Amendment No 13)

In summary the Proposal, as shown in Figure 1, seeks to rezone the subject land from the current R5 Large Lot Residential to R2 Low Density Residential with an amendment to the Lot size map of 600 sqm for the subject site. The Proposal also seeks to amend the Floor Space Ratio map from 0.55:1 to 0.8: 1 consistent with the residential zoning.

The surrounding Housekeeping amendments consolidate the R2 Low Density Residential zone within the wider Hundred Hills Release area; tidy up the boundaries between the residential and open space zones; and apply a small B1 Neighbourhood Centre zone consistent with the master planning. The amended zones apply the relevant lots size, floor space ratio and height of buildings consistent with their residential or commercial zone.



Locality Plan

Planning Proposal PP10/0005 -- Hundred Hills, West Murwillumbah
 Subject Site - Lot 1 DP 1046935 and housekeeping review sites

Disclaimer: 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 therefore all responsibility and of 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 the 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 on this document remains valid for 30 days only from the date of supply.

Cadastral: 12 March, 2015
 © Land and Property Management Authority (LPMA) & Tweed Shire Council.
 Boundaries shown should be considered approximate only.

0 1 2 3 Km
 1:120,000 @ A4 Portrait
 DO NOT SCALE
 COPY ONLY - NOT CERTIFIED
 Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geoidic Datum of Australia 1994
 Grid: Map Grid of Australia, Zone 55
 GDA

Civic and Cultural Centre
 3 Tumbulgum Road
 Murwillumbah NSW 2484
 PO Box 816
 Murwillumbah NSW 2484
 T (02) 6670 2400 1300 292 872
 F (02) 6670 2429
 W www.tweed.nsw.gov.au
 E planning@tweed.nsw.gov.au



Figure 1 Proposed land subject to Amendment No 13

Community Consultation

In accordance with the Gateway Determination, the Proposal was publicly exhibited from 28 October – 27 November 2015 for a minimum period of 28 days.

The exhibition material was available at Council Offices in Murwillumbah and Tweed Heads and available on Council's website.

In accordance with the Gateway Determination the Proposal was referred to the NSW Rural Fire Service (RFS).

Submissions

Two general submissions were received in addition to the NSW RFS submission.

Agency submissions

The NSW RFS raised no concerns with the Proposal in relation to bushfire.

General submissions

Submission 1 - Sewer odour

One submission raised concern with high concentration of sewer odour coming from the Hundred Hills Estate and the impact of the sewer of the release of new land.

Planning response

Council has been working with locals to address the odour issues. The odour control system has recently been installed at Riveroak Sewerage Pump Station and it introduces a product to prevent H₂S from forming.

At the time of writing this report this action was yet to be commissioned, but is likely to come on-line in a few weeks. Locals in the receiving area will be advised prior to changing the flow over. Council has already carried out extensive works to try and prevent this odour but it is very difficult with the steep design of the sewer. Council will continue to work on the odour issues until resolved.

Council's Water and Wastewater Unit advise that the growth of the catchment will help the odour because more flow will reduce the current retention time and the sewage will not be as septic.

The odour issues are related to the design, operation and the steepness of the land and will need to be addressed adequately in the future sewer servicing of the subject site as part of the development application process.

Submission 2 - Right to Farm

The second submission from the southern adjoining property owner raises four key concerns. The first is the matter of the Right to Farm. The subject site adjoins land zoned RU2 Rural Landscape and the adjoining property owner is seeking to ensure the application of fertilizer and agricultural chemicals will not be impacted by the future residential development of the land.

Planning response

The use of the adjoining land for foraging seed evaluation and livestock grazing indicates a suitable buffer of 150 metres where spraying is involved and 30 metres for grazing. The proposed lots on the southern boundary of the subject site are proposed to be between approximately 25-50 from the property boundary and with a drainage corridor in between. In addition these southern lots are proposed to be greater than 1900sqm allowing a dwelling to be set back further.

The subject site is within a catchment of less than 100 hectares and therefore, under the *Development Control Plan (DCP) Section A5 Subdivision*, does not require a riparian buffer to the watercourse.

The future development, as proposed, should be sufficiently buffered to allow farming to continue. No further amendment to the planning proposal is required.

Submission 2 - Boundary fencing

The second matter is related to the boundary fencing. The submission highlighted that the existing fencing is in a poor state of repair and beyond reasonable repair. It is understood that the landowner is concerned by the condition of the fencing as it is deteriorating quickly and incapable of containing livestock. The landowner has approached the Stockland Group, as the neighbouring landowner, regarding the sharing of costs for new fencing, however it would appear that Stockland, at least for the present time, is planning on deferring any new fencing to future landowners.

It is a fairly widespread practice that inter-allotment boundary fencing is left for future lot purchasers to erect, at their own cost. The exception is when fencing is seen by the developer or council as integral to the protection or management of some related element, whether that is for example; infrastructure, the environment, visual or noise attenuation. Under those circumstance the matter usually arises for consideration at the development application stage and where appropriate is required by way of condition of consent.

Planning response

Because the development site adjoins land used or that is capable of being used for livestock and agriculture and these two differing land-uses, urban-residential vs rural, elevates the risk to ongoing property (farm) management, like that identified with the fencing issue, through fragmentation of land tenure, it was considered appropriate to raise the issue directly with the Proponent (Stockland Group).

The Proponent has since advised that they will further consider the fencing issue, but have made no commitment at this time to erect an appropriate dividing fence.

If unresolved at the time of a subdivision development application this matter may be revaluated and may be a requirement by way of condition of consent. As it is, it is not a matter that the planning proposal need resolve, or that the Council should become a party to. There is appropriate legislation in place for managing the issue, and to which either party has recourse for present purposes, and if integral to a future development proposal may then be conditioned by Council via the grant of consent.

Submission 2 - Natural waterway and drainage

A key concern is in relation to the natural waterway and drainage between the dam on the with west corner of the subject site and the waterway that crosses onto the submitter's property supplying a dam on their north east corner, as shown In Figure 2. The dam on the

submitter's property is currently used for watering of livestock and previously for irrigating horticultural crops.

The submitter would like to ensure that any earthworks and subsequent development does not restrict the water flow and not allow soil erosion to impact the fenceline and dam as has previously occurred (photos supplied). Submitter was previously told by the proponent that their dam was the erosion containment for the site, which they object to.

The submitter requests that Stockland address the soak on their side and soil deposited over part of the fenceline and tidy up the waterway between the two dams when excavators are on site.

Planning response

The Proposal seeks to drain part of the site to the dam and natural watercourse location as outlined in their Conceptual Stormwater Assessment, as exhibited.

Whilst in principle this is an acceptable solution as a legal point of discharge given the location of the natural watercourse, the impacts on the adjacent dam for stock watering are a key consideration. At a planning proposal stage, Council needs to be confident that the impacts of future development have been considered and may be suitably managed. The detail to achieve that level of suitable management is generally assessed at the development application (DA) stage.

Notwithstanding, given the dam is not located on Stockland land, the proponent was requested in early December to provide further advice regarding how earthworks and future development will not restrict the water flow to the dam, or result in erosion, sediment or water quality issues for the adjoining rural land. At the time of writing this report no further advice has been received.

The Bulk Earthworks report by Mortons, as exhibited, indicates fill to the southern section of the subject site outside of the drainage corridor and approximately 15 metres into the drainage corridor, creating a steeper batter towards the southern section of the site than currently occurs.

Whilst there may be an engineering solution to address the issue, there still remains uncertainty around the ability of the site to accommodate the stormwater flows without unacceptable impacts on the submitter's dam in terms of water quality, sediment load and the impacts of the drainage on the already failing boundary fencing. It also remains unclear how much of the drainage treatment area will be located on the proponent's land and how much on the submitter's land.

It is recommended that further information on the stormwater and drainage impacts on the dam is required prior to proceeding with the plan being made.

It was anticipated this could have been included within this report to Council, however, the Proponent has not yet provided the requested information.

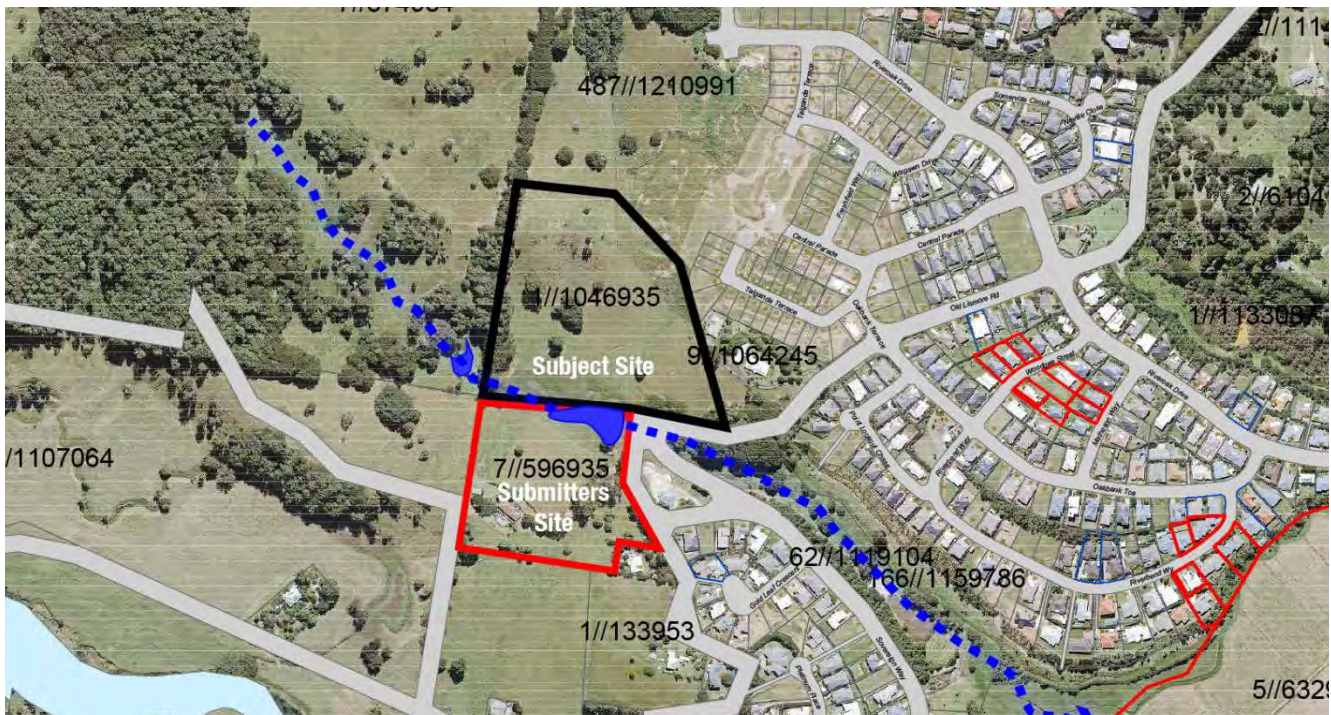


Figure 2 Aerial showing the location of the subject site (black outline), submitter's site (red outline), the dam and the natural watercourse / drainage path (in blue).

Submission 2 - Castlefield Drive extension

Submitters seek clarity on the proposed extension of Castlefield Drive as it appears on the plans that this extension cuts across part of their property.

Planning Response

The Castlefield Drive extension, as proposed, does not cut across the submitter's property. The path across the submitter's property is from an older planning document.

The future development of the road is intended to be accommodated on the proponent's land, however, should this change the proponent would need to negotiate with adjoining landowners. No further amendment to the planning proposal is required.

Housekeeping Review Lots

No submissions were received in respect of the proposed housekeeping amendments. These amendments address inconsistencies with the translation of the Hundred Hills release area into the Standard Instrument Local Environmental Plan (LEP) (Tweed LEP 2014). As most of this locality is now developed the amendments are a considered a better reflection of the development in the locality

It is recommended the Housekeeping Amendments proceed as exhibited.

OPTIONS:

1. The recommendations provided within this report be adopted.
2. The Planning Proposal, excluding those matters relating to the 'house-keeping' amendments be discontinued and the Secretary of the NSW Planning and Environment notified.
3. Council defer a decision on this matter pending further advice or Councillor workshop.

Council Staff recommend Option 1.

CONCLUSION:

The planning Proposal for the subject site has been subject to ongoing delays since its lodgement in 2010.

The submission by the adjoining landowners has raised concern regarding the Proposal's potential impact on the water quality, flow, sediment load on their dam, the proposed legal point of discharge, and the boundary fencing.

Whilst there may be an engineering solution to address the issue, there still remains uncertainty around the ability of the site to accommodate the stormwater flows without unacceptable impacts on the submitter's dam in terms of water quality, sediment load and the impacts of the drainage on the already failing boundary fencing. It also remains unclear how much of the drainage treatment area will be located on the proponent's land and how much on the submitter's land.

It is recommended that further information on the stormwater and drainage impacts on the dam is required prior to proceeding with the plan being made. Given the Gateway deadline for this Proposal of 12 August 2015, it is recommended that the proponent be given six weeks to supply adequate information to address these concerns or that the progress of the Proposal for the subject site be reconsidered.

No submissions have been received raising issue with the Housekeeping Review Amendments. It is recommended that these proceed in order to address inconsistencies with the translation of the Hundred Hills release area into the Standard Instrument Local Environmental Plan (LEP) (Tweed LEP 2014).

Should the proponent not supply the required information within the required timeframe, it is considered appropriate to proceed with the Housekeeping Review Amendments separately.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

There is no budget allocated to this project. The project is externally resourced and funded through cost recovery under a Costs Agreement with the applicant.

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:

Attachment 1.

Summary of Submissions (ECM 3924396)

6 [PR-PC] Rural Villages Strategy

SUBMITTED BY: Strategic Planning and Urban Design

Valid



Civic Leadership



Supporting Community Life



Strengthening the Economy

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
 - 1.2.4 Involve communities including youth, elderly and aboriginal groups in decision making that affects their area and the wider Tweed community
- 2 Supporting Community Life
 - 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
 - 2.1.6 Provide social, economic and cultural initiatives which enhance access, equity and community well-being
 - 2.3 Provide well serviced neighbourhoods
 - 2.3.7 Preserve the character and heritage and enhance the amenity of existing towns and villages
 - 2.5 Provide vibrant and accessible town, community and business centres
 - 2.5.2 Facilitate the development of a network of neighbourhood centres and community places to meet the needs of local residents
- 3 Strengthening the Economy
 - 3.1 Expand employment, tourism and education opportunities
 - 3.1.4 Market the Tweed as a destination for business and tourism
 - 3.1.6 Support creative practitioners and entrepreneurs to access professional and business development opportunities, to enhance their contribution to the creative economy

SUMMARY OF REPORT:

The Tweed Rural Villages Strategy (the Strategy) has been prepared by the Strategic Planning and Urban Design Unit to provide a vision for the rural settlements of the Tweed Shire and to establish a set of strategic goals, actions and activities aiming to deliver this vision. The Strategy, once endorsed by Tweed Shire Council, will become a part of the strategic planning framework for the Tweed Shire area.

At its Planning Committee meeting of 2 July 2015, Council resolved to place the draft Strategy on public exhibition. This Report provides a summary of community consultation carried out during the public exhibition stage and presents a final draft version of the Strategy for endorsement.

RECOMMENDATION:

That the:

1. **Tweed Rural Villages Strategy be adopted;**

2. **Actions within the adopted Strategy be referred to the relevant areas of responsibility within Council to be programmed for implementation, as a priority; and**
3. **Director Planning and Regulation is to provide an annual report on the implementation of the adopted Strategy.**

REPORT:

Background

At the Planning Committee meeting of 2 July 2015, Council resolved to publicly exhibit the Strategy for a minimum period of 60 days.

The content of the Strategy was presented to the Councillors at the workshop held on 28 May 2015, and was reported to the Planning Committee meeting of 2 July 2015.

Key actions identified in the Strategy include:

a) Future development:

Location of any new development or the direction of future expansion of the villages will be identified in locality plans, prepared incrementally for individual villages. The Strategy also advocates for the *regenerative development* framework as a guiding principle for any future development in the villages.

The Strategy introduces *Planning Principles* prepared for "major rural villages" and "smaller rural villages" as identified on the Rural Settlement Map to prioritise implementation of the actions.

b) Integrated Trail Network in context of the Rail Trail project:

Review of successful development of the tourist trails in other parts of Australia and overseas reveals that the trails may bring multiple opportunities to the local economy, including creation of jobs in tourism and retail industry, promotion of the region and flow-on benefits for the local producers and entrepreneurs. Successful development of both projects will take time and resources and will require co-operation between the key stakeholders as ultimately, the Rail Trail can become a spine of the Integrated Trail Network.

c) Assistance to the local economy

The Strategy includes three groups of actions aiming to facilitate local economic resilience, collaboration and better integration with the broader regional economy:

- assistance to small businesses and entrepreneurship in the rural villages,
- actions aiming to attract creative professionals,
- actions to promote festivals, activities and events in the rural villages.

These actions are consistent with the actions provided under the Tweed Economic Development Strategy 2014.

Assistance to small businesses and entrepreneurship includes an action advocating for a review of the S94 contributions scheme for traffic-generating development, in order to provide additional incentive for entrepreneurs in the rural villages.

d) Village-specific actions: Part 4 of the Strategy provides numerous actions responding to site-specific issues and ideas and includes separate chapters dedicated to each village.

1. Community consultation

In accordance with the Council resolution, the Strategy was publicly exhibited from 30 July to 30 September 2015. The exhibition material was available at Council offices at Murwillumbah and Tweed Heads, on Council's website and community information sessions were held in the following villages:

- Stokers Siding (19 August),
- Uki (19 August),
- Tumbulgum (26 August),
- Bilambil (27 August),
- Crabbes Creek (31 August),
- Burringbar (31 August, for Burringbar and Mooball communities),
- Chillingham (1 September), and
- Tyalgum (3 September).

In addition to the above meetings, community consultation included input from the Reference Panel team comprising of 15 members of the rural community. Their input included group meetings in Murwillumbah, and on-site meetings in the individual villages immediately before the public exhibition stage. The Reference Panel greatly assisted in improving the localised content of the Rural Villages Strategy and in promoting the community information sessions at the public exhibition stage.

In response to the public exhibition 24 submissions were received, with the majority of them expressing support to the Strategy and/or identifying further opportunities and actions for inclusion into the document. Few objections received by Council related to certain actions proposed for individual villages.

Key issues raised in submissions included:

- improvements to open space areas in the villages,
- future development,
- walking trails.

The Tables provided in Sections 2.1 – 2.3 identify the key issues raised in submissions; *Table 1* includes submissions received from individual members of the community, *Table 2* lists submissions received from community groups and associations, *Table 3* includes a submission from the NSW Office of Environment & Heritage.

A copy of the draft Strategy was sent to the following public agencies: NSW Planning & Environment, NSW Office of Environment and Heritage and NSW Department of Industry.

2. Summary of submissions

A total of 24 submissions were received including 20 from the general community, 3 from community organisations and 1 from the Office of Environment and Heritage.

2.1 Submissions made by, or on behalf of, members of the community:

No	Submission summary	Planning comment	Recommendation
1	Lot 4 DP 747359 at Burringbar Road, Burringbar is suitable for expansion of the village and should be considered for future housing development.	The Rural Villages Strategy does not identify land for future development in the vicinity of the rural villages. Instead, it provides criteria for acceptable development in the future (Part 3.2). Suitable land for future development will be identified through the locality planning stage, which will involve community consultation.	For consideration during the preparation of a locality plan for Burringbar.
2	<ol style="list-style-type: none"> 1. Prindable Park in Bilambil should be upgraded with playground/ picnic tables and public toilets. Hall and sport clubs toilet are always locked. 2. Hogans Road to Tumbulgum should be signed as tourist drive 'village to village'. 	<ol style="list-style-type: none"> 1. Comment noted – for referral to the Open Space Strategy (in preparation). 2. Council is in the process of standardising signage across the Shire (see Council report of October 2015 on Town and Village Entry Statement Signage). The matter of labelling roads leading to the rural villages as tourist drive is outside of the scope of the Rural Villages Strategy. 	No changes to the Strategy. Request to upgrade Prindable Park in Bilambil will be referred to the Open Space Strategy project team.
3	<ol style="list-style-type: none"> 1. The Rural Villages Strategy should consider principles of Dementia Friendly Community. 2. Bilambil village needs leash-free dog exercise area. 	<ol style="list-style-type: none"> 1. Evaluation of this submission included review of <i>A Guide to Becoming a Dementia-Friendly Community</i> by Alzheimer's Australia, NSW 2014. Any action related with implementation or consideration of the principles of dementia-friendly community should be carried out through a separate process on a Shire-wide basis, which is outside of the scope of this project. 2. Development of leash-free dog exercise areas in the villages is not identified in the Strategy. This issue will be considered as part of the Open Space Strategy, which is currently in preparation. 	<ol style="list-style-type: none"> 1. No changes to the Rural Villages Strategy. For referral to Council's Community Development Officer - Ageing & Disability. 2. For consideration within the Open Space Strategy.
4	The pathway from the southern end of Burringbar through to Mooball is a good idea but is unsafe as passing traffic is too close.	Comment noted. As part of the post-exhibition review, the Rural Villages Strategy has been revised to include consideration to the Rail Trail project, which will link Burringbar and Mooball via the disused rail line.	No further amendments to the Strategy are required.
5	Gondwana Rainforest Walkway: proposed walkway runs through area subject to frequent flooding which may increase maintenance costs. People currently walk within the waterway corridor – no need to develop a track. Any such proposal should be consulted with other adjoining landowners. None of them have back fences and may not be in favour of the walkway.	The Gondwana Rainforest Walkway has been recognised in the draft Strategy as a community-based initiative, with Council's role limited to provide ongoing support. Potential implementation of this action will be at the discretion of the local community.	No changes to the Strategy.

No	Submission summary	Planning comment	Recommendation
6	Seeks support to the development of Lot 4 DP 747359 at Upper Burringbar Road, Burringbar.	As explained in response to submission No 1, the Strategy does not identify land for future development. Instead, it provides criteria for acceptable development in the future. According to the Strategy, suitable land for development will be identified through locality plans.	For consideration during the preparation of a locality plan for Burringbar.
7	Suggests additional wording to the introduction of the “Tyalgum” section of the Strategy, and changes to action 4.33 to provide a designated timeframe for completing this action.	Additional wording to the introductory section for the Tyalgum village is focused on the history of the hall and a need to construct a footpath along Coolman Street. Whilst the wording provided in this submission is generally supported, it has been slightly edited to reduce its length and avoid subjective statements such as “the Tyalgum Hall is an icon in the Tweed Valley”.	The Strategy has been updated as suggested in the submission, with additional edits reducing its length and excluding subjective statements.
8	There is a risk that the strategy will result in a series of simple to implement capital works items, rather than the creation and implementation of a legislation to control development in accordance with the principles of the Strategy.	The approach taken in the Strategy is to implement development controls through a series of locality plans for the rural villages. The locality plans, once endorsed by Council, will become sections of the Tweed DCP, embedded in the local strategic planning framework.	No actions required.
9	<p>One of the potential community initiatives in Burringbar is sustainable planting and repairs to the local waterways. This could result in many flow-on benefits – link with proposed overnight trekking activities in Uki, help local businesses.</p> <p>Submission provides example of Baldivis Children’s Forest in WA as a proposed community initiative for Burringbar.</p>	This initiative should have a wider level of recognition and support from the local community. This can be achieved through community-based strategic plan for Burringbar which is one of the current priorities of the recently established community association.	No changes to the Strategy.
10	Leash free dog area in Tumbulgum	Development of leash-free dog exercise areas in the villages is not identified in the Strategy. Council is developing an Open Space Strategy to guide its future planning and management of parks and open space in Tweed Shire. As part of the process, Council will review its provision of playgrounds, outdoor fitness equipment, trails, dog exercise areas, community gardens and its spaces for community events.	For consideration within the Open Space Strategy.
11	Pages 54 and 56: St Peters Anglican Church should be Tweed River Chapel	Suggested wording has been reviewed and is supported.	The Strategy has been updated as suggested in the submission. The Heritage register under the LEP to be updated as part of a future housekeeping LEP.

No	Submission summary	Planning comment	Recommendation
12	Submission requests more seats, a toilet and BBQs near bridge in Tumbulgum. Also, sloping footpath on the bridge could be 'roughed up' because it is very slippery when wet.	Council is developing an Open Space Strategy to guide its future planning and management of parks and open space in Tweed Shire. As part of the process, Council will also review its provision of playgrounds, outdoor fitness equipment, trails, dog exercise areas, community gardens and its spaces for community events. Issues related with safety on the bridge will be referred to Council's traffic engineers.	Suggestions related with open space areas in Tumbulgum will be evaluated during the preparation of the locality plan for Tumbulgum. Issues related with safety on the bridge will be referred to Council's traffic engineers.
13	Provides example of Puffing Billy – heritage train near Melbourne, reopened, and popular tourist attraction.	Submission noted. Council's current approach towards the future use of the railway corridor is to pursue development of the walking/cycling "rail trail", without reopening the rail line for trains.	No changes required.
14	Supports section 4.9 of the Strategy (Tumbulgum), particularly recommendation to further investigate ability to accommodate residential accommodation on the other side of the river.	Submission noted	No changes required.
15	<ol style="list-style-type: none"> 1. Action 4.34 should be modified to include a reference to the provision of housing close to the village (Uki) for elderly people, enabling them to stay in the community. 2. Economic development of the rural villages would be enabled by a greater flexibility in the application of planning and enablers from within the Council staff. 3. The Strategy should be updated to include discussion about the Rail Trail and the benefits it may bring to the rural villages. 	<ol style="list-style-type: none"> 1. Action 4.34 lists matters for consideration under the locality plan for the village. One of these matters is "<i>provision of a variety of housing choice</i>". This may be modified to incorporate suggestion made in this submission. 2. It is expected that the Rural Villages Strategy will at least partially respond to this submission. Action 3.11 aims to review Council's Contributions Plan No 4 to identify opportunities for more flexibility. 3. The need to identify, and distinguish the Rail Trail project from the Integrated Trail Network Project have been identified throughout internal consultation of the draft Strategy. 	<ol style="list-style-type: none"> 1. Section 4.34 of the draft Strategy has been updated in accordance with this submission. 2. No changes to the Strategy. 3. The Strategy has been updated to include discussion and additional actions related with potential development of the Rail Trail.
16	Request for better transport access alternatives, such as bicycles and walking passages etc., particularly from Uki to Murwillumbah.	Submission noted. Alternative transport routes will be investigated as part of the masterplan for the integrated trail network (Action 3.3 of the Strategy).	No actions required.

No	Submission summary	Planning comment	Recommendation
17	<ol style="list-style-type: none"> 1. Supports the proposal to change the zoning of the hall and sports ground in Crabbes Creek to RE1 Public Recreation. 2. Playground on State Government land, but this land should not have any further community uses. 3. The hall is the community focus point and the strategy should recognise that. Proposed action to create an outdoor community space may split the function of the hall. 	<p>Actions aiming to establish an outdoor community meeting place have been included in the draft Strategy on the basis of feedback from the local community during consultation stage. As pointed out in this submission, this may dilute the role of the hall in the village. Furthermore, it may result in two community assets that require management in a relatively small village which may be cost-prohibitive and inconsistent with Community Infrastructure Framework.</p>	<p>Remove action aimed at establishing an outdoor community meeting place in Crabbes Creek</p>
18	<ol style="list-style-type: none"> 1. Supports the proposal to change the zoning of the village to RU5 with hall and sports ground in Crabbes Creek zoned RE1 Public Recreation. 2. Playground on State Government land, but this land should not have any further community uses. 3. The hall is the community focus point and the strategy should recognise that. Proposed action to create an outdoor community space may split the function of the hall. 	<p>The exhibited version of the draft Strategy included an action aimed at establishing an outdoor meeting place. As pointed out in this submission, this may dilute the role of the hall in the village. Furthermore, it may result in two community assets that require management in a relatively small village which may be cost-prohibitive and inconsistent with Community Infrastructure Framework.</p>	<p>Remove action aimed at establishing an outdoor community meeting place in Crabbes Creek.</p>
19	<ol style="list-style-type: none"> 1. Supports the proposal to change the zoning of the village to RU5 with hall and sports ground in Crabbes Creek zoned RE1 Public Recreation. 2. Playground on State Government land, but this land should not have any further community uses. 3. The hall is the community focus point and the strategy should recognise that. Proposed action to create an outdoor community space may split the function of the hall. 4. The Strategy should explain statement on page 27 that water and waste water infrastructure is not planned for certain villages. 5. Action 4.18 regarding flooding should be expanded to cover all flooding issues in the village. 6. The land next to the sportsground has threatened frog records. The value and existence of these and other fauna records should be mentioned in the Strategy. 7. Creek area should be cleaned out and revegetated with local native plants to benefit the 	<ol style="list-style-type: none"> 1. Noted. 2, 3. The exhibited version of the draft Strategy included an action aimed at establishing an outdoor meeting place. As pointed out in this submission, this may dilute the role of the hall in the village. Furthermore, it may result in two community assets that require management in a relatively small village which may be cost-prohibitive and inconsistent with Community Infrastructure Framework. 4. Connecting Crabbes Creek to Council's water and waste water reticulation systems is not planned due to significant costs of such development. Other forms of water and waste infrastructure are available for the village, as discussed in Part 3 of the Strategy. 5. The purpose of Action 4.18 is to highlight the need to evaluate and mitigate the risk of flooding affecting access to properties located further away from the village along the Crabbes Creek Road. The intention of this action is to register this issue as one of concerns of the local community, 	<ol style="list-style-type: none"> 1. No action needed. 2, 3. Action 4.16 to be removed from the Strategy. 4. No action needed. 5. No action needed. 6. No action needed. 7. For referral to Natural Resources Management Unit. 8. No action needed. 9. No action needed. 10. Relevant section of the Strategy to be reviewed and updated to stronger outline the relationship between the Strategy and relevant legislative framework. 11. No action needed.

No	Submission summary	Planning comment	Recommendation
	<p>ecology, habitat and assist to reduce flooding. These works could also include a boardwalk and interpretative signs to view the site. This can be carried out with funding or grant assistance.</p> <p>8. Supports Action 4.17 to establish connection between Crabbes Creek, Mooball and Burringbar.</p> <p>9. The Strategy should have more about local jobs, economic development and rural industry.</p> <p>10. Relationship with other policy/planning documents should be expanded and also include discussion on all relevant State and Australian government's policy, legislation and regulation for each village.</p> <p>11. More specific detail should have been provided to explain how some of the broader initiatives in sections 3.2, 3.3 and 3.4 will be implemented for each village.</p>	<p>and refer it for action by Council officers. A broader assessment of flooding in the village is currently being undertaken by Council's flooding engineers.</p> <p>6. This matter appears to be outside the scope of this Strategy, which – as far as any threats to the natural environment are concerned – introduces principles for further development in the rural villages (regenerative development principles). A locality plan will determine the scope of future development (if any) in the village, and will consider and evaluate impacts on the natural environment. Impacts of development on threatened species is a matter for a development application when proposed.</p> <p>7. Noted. This will be passed to Council's NRM unit for consideration.</p> <p>8. Noted.</p> <p>9. The Strategy includes a broad discussion and several actions aiming at improving local economy. These actions are provided under part 3 of the document.</p> <p>10. Section 2 of the Strategy includes an overview of legislation and policy framework relevant to matters raised in this Strategy.</p> <p>11. Action 3.4 is in the Shire-wide section, but involves a community initiative in Uki, therefore can't be implemented in 'each village' as requested in this submission. Actions 3.2 – noted, and actioned. Action 3.3 – at this Stage this action does not affect any rural village.</p>	
20	<p>1. Supports the proposal to change the zoning of the village to RU5 with hall and sports ground in Crabbes Creek zoned RE1 Public Recreation.</p> <p>2. Playground on State Government land, but this land should not have any further community uses.</p> <p>3. The hall is the community focus point and the strategy should recognise that. Proposed action to create an outdoor community space may split the function of the hall.</p> <p>4. The Strategy should explain</p>	See above for a planning response	See above for recommendation.

No	Submission summary	Planning comment	Recommendation
	<p>statement on page 27 that water and waste water infrastructure is not planned for certain villages.</p> <p>5. Action 4.18 regarding flooding should be expanded to cover all flooding issues in the village.</p> <p>6. The land next to the sportsground has threatened frog records. The value and existence of these and other fauna records should be mentioned in the Strategy.</p> <p>7. Creek area should be cleaned out and revegetated with local native plants to benefit the ecology, habitat and assist to reduce flooding. These works could also include a boardwalk and interpretative signs to view the site. This can be carried out with funding or grant assistance.</p> <p>8. Supports Action 4.17 to establish connection between Crabbes Creek, Mooball and Burringbar.</p> <p>9. The Strategy should have more about local jobs, economic development and rural industry.</p> <p>10. Relationship with other policy/planning documents should be expanded and also include discussion on all relevant State and Australian government's policy, legislation and regulation for each village.</p> <p>11. More specific detail should have been provided to explain how some of the broader initiatives in sections 3.2, 3.3 and 3.4 will be implemented for each village.</p>		

2.2 Submissions made by community groups and state agencies:

Submission from Northern Rivers Zone Endurance Riders & Tweed Trail Horse Riders Club

1. Supports the Integrated Trail Network concept and suggests that the Network should include trails currently in use by local horse riders (list provided in the submission).	Comments noted. Community-based plans and strategies addressing development of the Integrated Trail Network identify horse riding trails as its component. Further work is required to map potential connection and role of horse riding trails within the Network and its potential benefits to the rural villages.	For consideration at the implementation stage (Action 3.3). Contact details to the Northern Rovers Zone Endurance Riders & Tweed Trail Horse Riders Club were passed to the Uki Residents Association to initiate discussion about potential role of horse riding trails in the Integrated Trail Network.
2. Suggests that a tourist accommodation plan should be developed in conjunction with the ITN.		
3. The Northern Rivers Zone Endurance Riders can assist in the return of endurance horse events to the Tweed Shire.		

Submission from Chillingham Community Association (CCA)

<p>1. Supports the principles of the Strategy and offers assistance in implementing the Strategy where appropriate.</p> <p>2. Public transport overlooked in the Strategy. Without a decent public transport system the viability of living in a rural village is undermined. Suggests additional action seeking to facilitate development of an integrated transport plan.</p> <p>3. Supports the preparation of a masterplan for integrated trail network but the timeline of the masterplan should be limited to two years.</p> <p>4. Action 4.11 should be removed as the Association is in the process of finalising their strategic directions.</p>	<p>1. Comment noted.</p> <p>2. The content of the Strategy has been based predominantly on the outcomes of community consultation. Public transport was one of the topics for discussion (see Discussion Paper, Jul 2014) but no significant feedback or comments were raised by the community.</p> <p>3. Comment noted. Council has committed to allocate resources to the Rail Trail, which is considered to be the priority. Successful preparation of a masterplan for the Integrated Trail Network will include collaboration between Council, community organisations, state agencies and other stakeholders which will not be bound by the timeframes provided in the Strategy.</p> <p>4. Noted. Further consultation with the CCA were carried out in Dec 2015, strategic directions are not finalised.</p>	<p>1, 2, 3 No changes to the Strategy</p> <p>4. Action removed to avoid possible future inconsistencies with communities' strategic directions.</p>
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Submission from Burringbar Community Association

<p>Submission provides a summary of the a community survey dedicated to the future of the Masterton Park in Burringbar. The survey resulted in 43 households responding.</p> <p>Submission suggests Masterton Park could become a recreation area / community space used for fetes, markets, community garden, and community group events.</p>	<p>Masterton Park is located within the former railway corridor, owned by the State Government. Parts of this land are leased by Council for 'beautification' purposes. Any community initiatives related with additional uses of this land will need to be negotiated with and approved by the landowner. Such negotiations can be undertaken by the local community, with Council support.</p>	<p>The draft Strategy has been amended to emphasise a need to undertake consultation with the rail authority (currently NSW Transport) in order to facilitate use of the land for community purposes.</p>
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2.3 Submission from the agencies (Office of Environment & Heritage)

<p>1. The Strategy should accord with the principles and broad actions of the Far North Coast Regional Conservation Plan 2010.</p> <p>2. TSC should engage the local Aboriginal community to review the process to date and to be included as stakeholders on the Reference Panel.</p> <p>3. Aboriginal cultural values within the villages and landscape can be expressed in the plans for future development and growth within the region. These cultural values include both the tangible evidence of Aboriginal life as well as</p>	<p>1. The Regional Conservation Plan evolves around the protection of biodiversity and cultural heritage of the region. The Rural Villages Strategy is consistent with these aims, as well as with the planning principles provided in the Plan.</p> <p>2. The draft Strategy was forwarded to the Aboriginal Advisory Committee for their review and comments.</p> <p>3. Council is currently developing the Aboriginal Cultural Heritage Management Plan.</p> <p>4. No provisions of the Strategy</p>	<p>No actions required.</p>
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<p>discussion and consideration of non-tangible spiritual and cultural values. A broad scale Aboriginal cultural heritage assessment process should be undertaken prior to finalisation of the document to inform and enhance the Strategy and long term outcomes of the process.</p> <p>4. The Strategy should include mechanisms to ensure fair opportunity for Aboriginal owned and operated businesses to participate in and benefit from actions tailored to assist local economy.</p> <p>5. Agrees with excluding development from high risk flooding areas, potentially allowing development in low flood risk areas with appropriate development controls.</p> <p>6. OEH will support the expansion and subdivision of Future Urban and Village only if such land is identified in an endorsed Growth Management Strategy.</p>	<p>preclude or obstruct fair access opportunity for Aboriginal owned or operated businesses to participate in benefits from actions identified in the Strategy.</p> <p>5. Comment noted.</p> <p>6. Comment noted.</p>	
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3. Implementation of the Strategy

The Strategy has been prepared on the basis of a conversation methodology known as *Appreciative Inquiry*. This methodology facilitates conversation about the future based on cooperative search for the best assets and seeks support to the identified actions at the drafting stage to enable their implementation following the endorsement of the Strategy.



Appreciative Inquiry methodology used for the preparation and proposed implementation of the Strategy.

Implementation of the Strategy will be based on the Action Plan provided in Part 5 of the document. The Action Plan nominates the delivery partner, timeframes, indications of the impact on Council's budget and measures verifying delivery of each action. Most of the actions identified within the Strategy have been designed to be implemented at minimum cost and maximised benefits to the community.

Implementation of the Strategy was discussed during the last meeting of the Reference Panel (in December 2015). Whilst the initial objective of the Reference Panel was to assist in *preparation* of the Strategy, members of the Panel expressed support to a suggestion made by Council officers that the Panel could continue to meet to facilitate implementation of the Strategy, particularly those actions which involve partnership between Council and community groups or actions identified by the local community, where Council role is limited to ongoing support (instead of a leading role).

Actions included within the Strategy will be progressed within Council's Operational and Delivery Plans as per the timeframes provided within the Action Plan.

Progress of the implementation of the Rural Villages Strategy will be reported to Council on an annual basis.

OPTIONS:

1. The Rural Villages Strategy be adopted as recommended.
2. Consideration of the Strategy be deferred pending further point(s) of clarification.
3. Council does not endorse the Strategy.

Council Staff recommend Option 1.

CONCLUSION:

The Strategy has been prepared to provide a vision for the rural settlements of the Tweed Shire and a set of strategic goals, actions and activities aiming to deliver this vision.

Actions provided in the Strategy have been identified through numerous meetings, discussions and workshops between Council officers and local communities and action groups. Through implementation of these actions, the rural villages and settlements will thrive as sustainable, unique and desirable places to live in and visit.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Budget implications considered within Part 5 Action Plan of the Strategy.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Involve/Collaborate-We will work with you on an ongoing basis to ensure your ideas, concerns and aspirations are considered. We will provide feedback on Council's decisions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Rural Villages Strategy (ECM 3933336)

7 [PR-PC] Planning Proposal PP15/0006 for River Retreat Caravan Park

SUBMITTED BY: Strategic Planning and Urban Design

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.5 Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economical viable agriculture land
 - 1.5.2 Land use plans and development controls will be applied and regulated rigorously and consistently and consider the requirements of development proponents, the natural environment and those in the community affected by the proposed development
-

SUMMARY OF REPORT:

Planning Proposal PP15/0006 has been prepared to justify a site-specific amendment to Tweed Local Environmental Plan (LEP) 2014 to permit *camping ground* land use on land leased by River Retreat Caravan Park, located at Philp Parade, Tweed Heads South. The subject land, being part of Lot 1 DP 100121 is currently zoned R2 Low Density Residential, where *camping ground* is a prohibited land use.

At the Planning Committee meeting of 5 November 2015, Council resolved to support the preparation of this Planning Proposal. Subsequently, the Planning Proposal was referred to the NSW Planning & Environment (DPE) for a Gateway determination, which was issued on 16 November 2015. In their determination, the DPE classified this Planning Proposal as low impact as described in *A Guide to Preparing LEPs*, limiting public exhibition to a minimum of 14 days.

The Planning Proposal was placed on public exhibition from 2 to 18 December 2015, no submissions were received.

Prior to the referral of the Planning Proposal to the DPE, Council and the Proponent will enter into a Voluntary Planning Agreement aiming to ensure consistency of future development with Council policy position towards development on flood liable land.

RECOMMENDATION:

That:

1. Planning Proposal PP15/0006 for part of Lot 1 DP 100121, being Tweed Local Environmental Plan 2014 Amendment No 18, be prepared for forwarding to NSW Planning & Environment with a request that the Plan be made under s.59 of the *Environmental Planning and Assessment Act 1979* subject to Resolution No.2 first being satisfied.

2. **Prior to forwarding LEP Amendment No 18 to the NSW Planning & Environment, a Planning Agreement specifying the agreed future use and duration of that use be prepared in accordance with Section 93(G) of the *Environmental Planning and Assessment Act 1979* and registered on the Torrens Title Register for Lot 1 DP 100121, Philp Parade, Tweed Heads South.**

REPORT:

1. Background

Council has prepared Planning Proposal PP15/0006 in association with compliance action undertaken in response to a complaint regarding the unauthorised use of land at 12 Philp Parade, Tweed Heads South. Part of this land, zoned R2 Low Density Residential and owned by a local family, is currently leased by River Retreat Caravan Park, adjoining to the east, south and west (as outlined on *Figure 1* below). The land is not developed and is utilised as an area for overflow of campervans and tents during peak holiday seasons.



AERIAL PHOTO - April 2015

Lot 1 DP 100121

No.12 Philp Parade, Tweed Heads South

SOURCE:
Aerial imagery was captured
April 2015 © AAMI Pty Ltd and NSW LPI

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representation 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 on this document remains valid for 30 days only from the date of issue.

Cadastre: 12 October, 2015
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& Tweed Shire Council.
Boundaries shown should be considered approximate only.

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1:1,000 @ A4 Portrait
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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geostatic Datum of Australia 1984
G16: Map Grid of Australia, Zone 56

Civic and Cultural Centre
3 Tambourgn Road
Murwillumbah NSW 2484
PO Box 616
Murwillumbah NSW 2484



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W | www.tweed.nsw.gov.au
E | planning@tweed.nsw.gov.au

Figure 1: Aerial photo of the subject site – April 2015.

On 5 November 2015 Council resolved that:

1. *A planning proposal pursuant to s.55 of the Environmental Planning and Assessment Act 1979, seeking to facilitate use of Part Lot 1 DP 100121 for “camping ground” associated with River Retreat Caravan Park be prepared and submitted for a Gateway Determination, as administered by the NSW Department of Planning & Environment;*
2. *The Minister for Planning or their Delegate be advised that Tweed Council is not seeking plan making delegations for the planning proposal;*
3. *The Minister for Planning or their Delegate be advised that the minimum exhibition period for this Planning Proposal should be 14 days;*
4. *On receipt of the Minister’s Gateway Determination Notice to proceed any ‘conditional’ requirements of the Minister and any other study or work required by Council for the purpose of making a proper determination of the lands suitability are to be completed, and included within the public exhibition material;*
5. *That the planning proposal be publicly exhibited in accordance with the Gateway Determination; and*
6. *Following public exhibition of the Planning Proposal a report is to be submitted to Council detailing the content of submissions received and any proposed amendment(s).*
7. *Council officers will work with the Proponent to secure a legally enforceable agreement that will have the effect of limiting both the number of sites and type of camping accommodation to RCV’s (Recreational Camper Vans) and Camper trailers.*
8. *Compliance action in relation to the alleged unlawful use of the land for camping ground purposes be ceased whilst the Proponent caravan and camping ground operator makes a genuine attempt to remedy the circumstances calling into effect that compliance action by obtaining all necessary statutory approvals, and only if the caravan and camping ground operator agrees in writing to:*
 - a. *limit the number of camping ground sites to six (6);*
 - b. *restricts the use of these sites to times of over-flow demand;*
 - c. *permits only recreational camper vehicle (motorhome), caravan and camper trailer accommodation on these sites;*
 - d. *provides a copy of an appropriate flood warning and evacuation plan to the occupants of these sites at the time of arrival check-in, and*
 - e. *undertakes to not carry-out any works in association with the use of the land for camping ground purposes prior to and without all necessary approvals being obtained.*

2. Gateway determination and public exhibition

On 6 November 2015, the Planning Proposal was referred to the (DPE) for a Gateway determination. The Gateway determination, dated 18 November 2015, classified this

Planning Proposal as low impact (in accordance with Council's recommendation) which enabled a shorter timeframe of community consultation, which was limited to 14 days.

The Planning Proposal was publicly exhibited from Wednesday 2 December to Friday 18 December at the Murwillumbah Civic Centre, Tweed Heads Civic Centre and on Council's website.

Direct mail notification was sent to adjoining landowners and the Planning Proposal was advertised in the Tweed Link on 2 December 2015. No submissions were received during the public exhibition.

3. Voluntary Planning Agreement

The land is subject to the Flood Planning Area. According to the Ministerial Directions provided under s117 of the *Environmental Planning & Assessment Act 1979 (EP&A 1979)*, rezoning of land must have regard to the NSW Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005* which has been progressively implemented into Tweed's strategic planning framework through Section A3 Development Control Plan (DCP) 2008 *Development of Flood Liable Land*.

The flooding risk affecting the subject site was considered at the pre-Gateway stage and was addressed in Council report of 5 November 2015, which included the following resolution:

Council officers will work with the Proponent to secure a legally enforceable agreement that will have the effect of limiting both the number of sites and type of camping accommodation to RCV's (Recreational Camper Vans) and Camper trailers.

On 13 January 2016, Council Staff and the Proponent held a meeting to workshop the resolution above, and several points of agreement were reached; consisting of:

- use of a s.93F Planning Agreement under the *Environmental Planning and Assessment Act 1979* (the Act), as the legally enforceable instrument;
- restriction on the type of accommodation to RCV's (Recreational Camper Vans) and Camper trailers only;
- a maximum number of sites to 10;
- a maximum duration of use of any one site by any one visitor to 60 days in any 12 month period; and
- an evacuation plan prepared for the site will demonstrate that in the event of flood the site will be vacated within 30 minutes if necessary.

Whilst Council Staff had approached the meeting with the Proponent with a view to limiting the total number of sites to less than 10, there were several key matters contemplated that led to a conclusion 10 was appropriate in the circumstances, these were:

1. The Planning Agreement would ensure that there would not be opportunity for any incremental intensification in the future, and would restrict any development application that sought a number greater than 10;
2. The probability of there being a serious or significant flood-safety risk between, for example, 6 sites compared to 10, was seen to be low and to the point of being

indeterminable. Whilst it may follow the risk would be higher with the additional sites it is not such that it would elevate the risk to one where there is a reasonable foreseeability of that higher risk of harm or damage occurring, and if that where the case on such a small quantum of sites it must follow that no number of sites could therefore be acceptable owing to that risk; and

3. If it is accepted, for example, that the elevated risk of damage or harm to 10 sites compared to 6 is statistically negligible there would be no sound reason for impacting on the economic capability of this ongoing business by limiting the number of sites as described.

OPTIONS:

1. The recommendations provided within this report be adopted.
2. The recommendations provided within this report be adopted, but the number of tourist sites be reduced to a number determined by the Council.
3. That Council resolves to discontinue the planning proposal and notify the Secretary of the NSW Planning and Environment of its decision.

Council Staff recommend Option 1.

CONCLUSION:

The Planning Proposal has been prepared with a view to support the Proponent's intention to legalise the use of land adjoining River Retreat Caravan Park for an additional camp site area, suitable for camper vans within the meaning of the *camping ground* land use definition provided under Tweed LEP 2014.

It is considered that this Proposal will lead to a more appropriate utilisation of the subject land, which is currently affected by the aircraft noise and flooding risk, being constraints which exclude further residential development on the subject site.

Prior to the referral of the Planning Proposal to the DPE, Council and the Proponent will enter into a voluntary planning agreement aiming, to ensure consistency of future development with Council policy position towards development on flood liable land.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

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.

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

8 [PR-PC] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards

SUBMITTED BY: Director

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.4 Strengthen coordination among Commonwealth and State Governments, their agencies and other service providers and Statutory Authorities to avoid duplication, synchronise service delivery and seek economies of scale
 - 1.4.1 Council will perform its functions as required by law and form effective partnerships with State and Commonwealth governments and their agencies to advance the welfare of the Tweed community
-

SUMMARY OF REPORT:

In accordance with the Department of Planning's Planning Circular PS 08-014 issued on 14 November 2008, the following information is provided with regards to development applications where a variation in standards under SEPP1 has been supported/refused.

RECOMMENDATION:

That Council notes the December 2015/January 2016 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

REPORT:

On 14 November 2008 the Department of Planning issued Planning Circular PS 08-014 relating to reporting on variations to development standards under State Environmental Planning Policy No. 1 (SEPP1).

In accordance with that Planning Circular, the following Development Application has been supported where a variation in standards under SEPP1 has occurred.

DA No.	DA15/0093
Description of Development:	26 residential units in conjunction with 556m ² of commercial space and existing two room dental surgery and partial demolition of existing structure
Property Address:	SP 84793; No. 13-19 Church Lane; Lots 2, 4, 5 and 6 SP 84793; Nos. 2, 4, 5 and 6/13-19 Church Lane, Murwillumbah
Date Granted:	12/11/2015
Development Standard to be Varied:	Clause 16 - Heights of Buildings
Zoning:	R3 Medium Density Residential
Justification:	This variation applies to Clause 4.3 of TLEP 2014, not Clause 16 of the TLEP 2000
Extent:	The buildings will partially extend beyond the 12.2m maximum height limit as prescribed by this Clause. The buildings at the highest point will be 13.1m from natural ground level.
Authority:	Tweed Shire Council under assumed concurrence

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not Applicable

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.
