

TITLE: [E-CM] Proposed Disposal of Council Land - 218 Kennedy Drive, Tweed Heads West

SUBMITTED BY: Design

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

4	Behind the scenes
4.1	Assurance
4.1.3	Legal Services - To support and advise staff on organisational legal issues and property management of Council controlled assets

ROLE: **Leader**

SUMMARY OF REPORT:

Council purchased Lot A in DP407658, 218 Kennedy Drive, Tweed Heads West in 2015 for the purpose of constructing stormwater drainage, which involved the creation of an easement and then resale.

All works have now been completed and the easement over the land registered under a transfer granting easement.

It is proposed to dispose of the property at 218 Kennedy Drive, Tweed Heads West, in accordance with Council's Disposal of Land Policy.

RECOMMENDATION:

That:

1. Council approves the advertising of its intention to dispose of Council land being Lot A in DP 407658 in accordance with Council's Policy for the Disposal of Land.
2. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

REPORT:

Council purchased Lot A in DP 407658, 218 Kennedy Drive, Tweed Heads West in 2015 for the purpose of constructing stormwater drainage, which involved the creation of an easement and then resale (refer to Diagram 1). A copy of the report dated 19 February 2015 is attached.

Diagram 1 – Lot A DP 407658, 218 Kennedy Drive, Tweed Heads West

To fund the purchase of the property an internal loan was sourced from the Non Domestic Waste Management Concrete Recycling Reserve Fund with the intention of the loan being repaid in full on the resale of the property.

All works have now been completed and the easement over the land registered under a transfer granting easement. Refer to Diagrams 2- 4 over the page.

Diagrams 2 and 3 – Registered Transfer Granting Easement and associated Plan of Easement

Req:R123764 /Doc:DL AK480588 /Rev:26-Aug-2016 /Sts:NO.OK /Pgs:ALL /Prt:02-Aug-2017 13:15 /Seq:1 of 2
Ref:TWEED-NELAT-kennedy /Src:H



Substitute Dealing
Time
Date 26/7/16
CSB2

17 AUG 2015

TRANSFER GRANTING EASEMENT

New South Wales
Real Property Act 1900

AK480588B

C790642

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Registrar is made available to any person for search upon payment of a fee, if any.

REALTORRENS TITLE 2 JUL 2016 (B) LODGED BY TIME: 10.24	Servient Tenement Folio Identifier A/407658	Dominant Tenement TWEED SHIRE COUNCIL EASEMENT IN GROSS
	Document Collection Box IN	Name, Address or DX, Telephone, and Customer Account Number if any Tweed Shire Council Ph: 6670 2400 PO BOX 816, Murwillumbah Reference: AN 8296

(C) TRANSFEROR

TWEED SHIRE COUNCIL

(D)

The transferor acknowledges receipt of the consideration of \$ _____ and transfers and grants—

(E) DESCRIPTION OF EASEMENT

EASEMENT FOR DRAINAGE 3 WIDE TO DRAIN WATER 3 WIDE AS SHOWN IN PLAN ATTACHED AS ANNEXURE 'A'

out of the servient tenement and appurtenant to the dominant tenement.

(F)

Encumbrances (if applicable):

(G) TRANSFEREE

TWEED SHIRE COUNCIL

DATE _____

(H) Certified correct for the purposes of the Real Property Act 1900 by the company named below the common seal of which was affixed pursuant to the authority specified and in the presence of the authorised person(s) whose signature(s) appear(s) below.

Company: TWEED SHIRE COUNCIL
Authority: BY RESOLUTION DATED 19 MAY 2016

Signature of authorised person: *Katie Milne*
Name of authorised person: KATIE MILNE
Office held: MAYOR



Signature of authorised person: *Troy Green*
Name of authorised person: TROY GREEN
Office held: GENERAL MANAGER

Certified correct for the purposes of the Real Property Act 1900 by the company named below the common seal of which was affixed pursuant to the authority specified and in the presence of the authorised person(s) whose signature(s) appear(s) below.

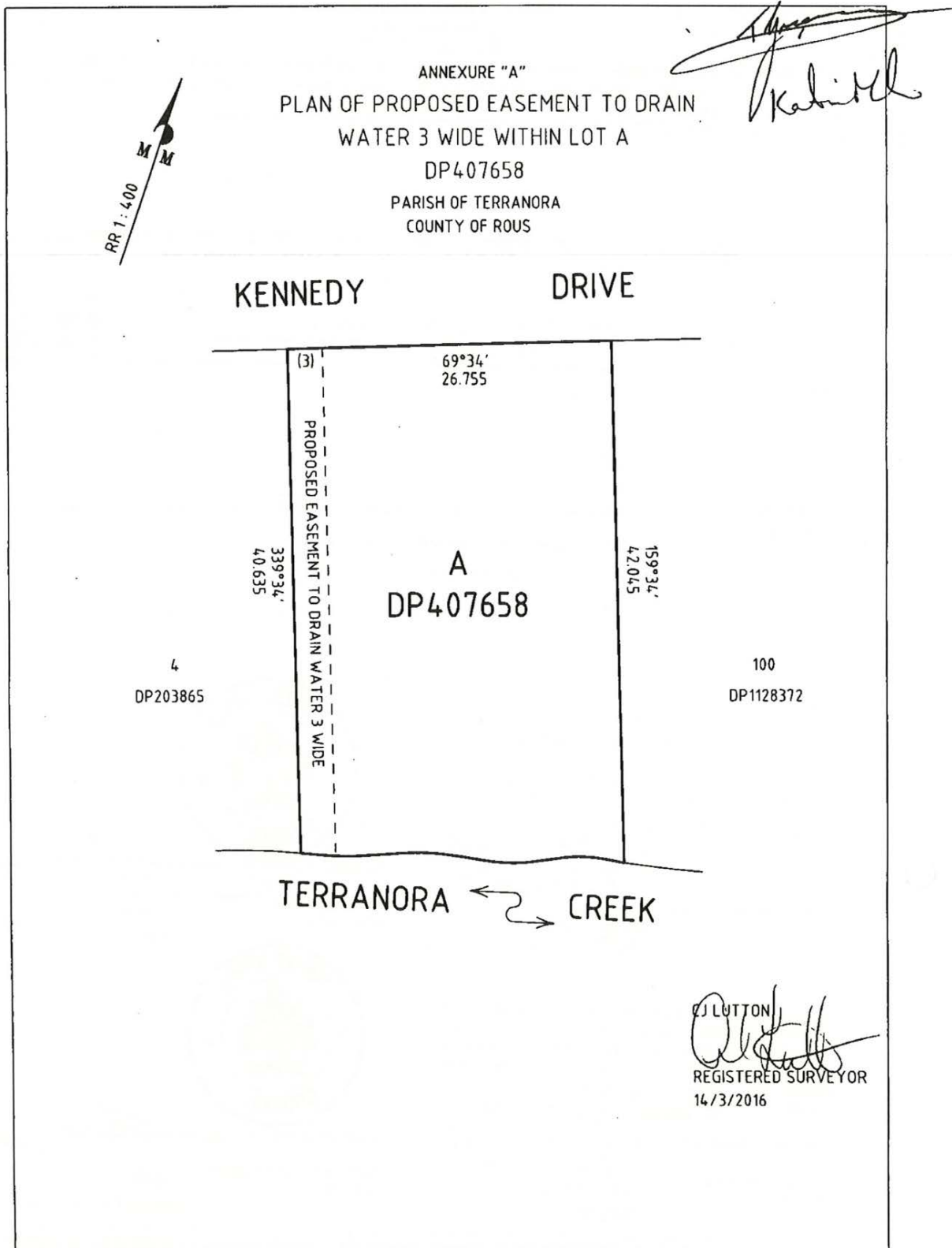
Company: TWEED SHIRE COUNCIL
Authority: BY RESOLUTION DATED 19 MAY 2016

Signature of authorised person: *Katie Milne*
Name of authorised person: KATIE MILNE
Office held: MAYOR



Signature of authorised person: *Troy Green*
Name of authorised person: TROY GREEN
Office held: GENERAL MANAGER

KM
TJG
KATIE MILNE
TROY GREEN 9/8/2016



As the works have now been completed over Lot A DP 407658, it is proposed to dispose of the property at 218 Kennedy Drive, Tweed Heads West, in accordance with Council's Disposal of Land Policy.

The Policy provides that:

"Council owned land held in fee simple under the Real Property Act, 1900 shall be disposed of in the following ways:

- (a) by public auction, or*
- (b) by public tender,*

except in special circumstances as resolved by Council."

There are no special circumstances relevant to the sale of this property and as such it is proposed to advertise Council's intention to dispose of the land and seek public submissions in relation to the disposal.

OPTIONS:

1. Council approves advertising the intention to dispose of Council land in accordance with Council's Policy for the Disposal of Land.
2. Council does not approve the advertising of the proposed sale of land.

CONCLUSION:

It was the original intention of Council upon purchasing Lot A DP 407658 to construct the necessary stormwater drainage, create an Easement over the land benefiting Council and then place the property on the market for sale. The works have been completed and the Easement registered on Title. It is therefore proposed that Council now advertises its intention to dispose of the land and seek public submissions in relation to the disposal.

COUNCIL IMPLICATIONS:

a. Policy:

Disposal of Land v1.1.

b. Budget/Long Term Financial Plan:

Repayment of the internal loan from the Non Domestic Waste Management Concrete Recycling Reserve Fund. Should the sale of the land return a capital value above the loan amount due, it may be directed to currently unfunded projects or be applied to the purchase of properties by Council. It is recommended that if the disposal is approved that the sale proceeds over and above the loan amount due be directed to the land development reserve.

In the event that the tender process fails to attract offers to meet that financial commitment no offers will be accepted and the option remains for listing the property for sale at a nominated price (current land valuation) with an agent, and ensure that we sell the land for a price that would repay the internal loan. Alternatively the land can be retained.

c. Legal:

Not applicable.

d. Communication/Engagement:

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

The proposed intention to dispose of Lot A DP 407658 will be advertised in the Tweed Link with a submission period of 28 days. Advertising will commence on 21 November 2017 and submissions will close on 19 December 2017.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. Confidential Council Report and Resolution dated 19 February 2015 (ECM 4865537).

[\[E-CM\] Proposed Disposal of Council Land - 218 Kennedy Drive, Tweed He...](#)
TWEED SHIRE COUNCIL
MEETING TASK SHEET

User Instructions

If necessary to view the original Report, double-click on the 'Agenda Report' blue hyperlink above.

Action Item - COUNCIL MEETING Thursday, 16 November 2017

Action is required for Item **24.** as per the Council Resolution outlined below.

TITLE: **[E-CM] Proposed Disposal of Council Land - 218 Kennedy Drive, Tweed Heads West**

Cr R Cooper
Cr K Milne

RESOLVED that

1. This item be deferred to conduct a Council workshop which will include details of alternative uses and constraints of Lot A in DP 407658.
2. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

The Motion was **Carried**

FOR VOTE - Unanimous
