

Mayor: Cr K Milne

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

Agenda

Ordinary Council Meeting Thursday 15 February 2018

held at
**Council Chambers, Murwillumbah Civic & Cultural Centre,
Tumbulgum Road, Murwillumbah**
commencing at 5.30pm

Principles for Local Government

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

Guiding Principles for Tweed Shire Council

(1) Exercise of functions generally

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

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

(2) Decision-making

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

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

(3) Community participation

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

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Thursday 14 December 2017

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CONFIRMATION OF MINUTES

- 1 [CONMIN-CM] Confirmation of Minutes of the Ordinary and Confidential Council Meeting held Wednesday 13 December 2017

SUBMITTED BY: Corporate Governance

mhm



Making decisions with you
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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
2.2 Engagement
2.2.4 Councillor and Civic Business - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: **Leader**

The Minutes of the Ordinary and Confidential Council Meeting held Wednesday 13 February 2017 are attached for information and adoption by Council.

RECOMMENDATION:

That:

1. The Minutes of the Ordinary and Confidential Council Meetings held Wednesday 13 December 2017 be adopted as a true and accurate record of proceedings of that meeting.
2. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (f) matters affecting the security of the council, councillors, council staff or council property.

REPORT:

As per Summary.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Attachment 1	Minutes of the Ordinary Council Meeting held Wednesday 13 December 2017 (ECM 4968054).
(Confidential) Attachment 2	Minutes of the Confidential Council Meeting held Wednesday 13 December 2017 (ECM 4968067).

SCHEDULE OF OUTSTANDING RESOLUTIONS

2 [SOR-CM] Schedule of Outstanding Resolutions as at 15 February 2018

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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.2	Engagement
2.2.4	Councillor and Civic Business - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: **Leader**

CODE OF MEETING PRACTICE:

Section 2.8 Outstanding Resolutions

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

16 JULY 2015

ORDERS OF THE DAY

31 [NOM] Parking Requirements for Small Businesses

408

Cr K Milne
Cr P Youngblutt

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

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

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

Unfortunately this investigation has been postponed due to the impact of the March 2017 flood event.

15 SEPTEMBER 2016

REPORTS FROM THE GENERAL MANAGER IN COMMITTEE

C1 [GM-CM] Murwillumbah Railway Station

C 29

That Council:

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

Current Status: Council previously entered into a short term licence for the occupation of the Railway Station which has now expired and is now occupied on a month to month basis. Tomra are currently liaising with Council and John Holland Rail in relation to entering a licence for a small portion of the land for reverse vending machines.

18 MAY 2017

ORDERS OF THE DAY

37 [NOM] Tweed Shire Housing Opportunities

222

**Cr K Milne
Cr C Cherry**

RESOLVED that Council brings forward a report on options to address the lack of social and affordable housing in Tweed Shire particularly the post flood housing issues and opportunities, including but not limited to requirements for new developments.

This report should include immediate, short term and long term options, and areas where Council can lobby State and Federal Government and arrange high level meetings with government representatives.

Current Status: Workshop scheduled for 22 February 2018.

20 JULY 2017

REPORTS FROM THE GENERAL MANAGER

15 [GM-CM] Development Controls Surrounding the Murwillumbah Airfield

311

**Cr K Milne
Cr C Cherry**

RESOLVED that:

1. The Planning Proposal for Bob Whittle Murwillumbah Airfield be prepared and submitted to the NSW Department of Planning and Environment for a Gateway Determination, in accordance with s56 of the Environmental Planning and Assessment Act.
2. The Minister for Planning and Environment or his Delegate be advised that Tweed Shire Council is not seeking plan making delegations for this planning proposal.
3. The Minister for Planning and Environment or his Delegate be advised that public exhibition is not required in this instance.
4. On receipt of the Minister's Gateway Determination Notice to proceed, any 'conditional' requirements of the Minister and any other study or work are to be completed, and included within the public exhibition material.
5. Following receipt of the Gateway Determination the planning proposal be publicly exhibited in accordance with the Gateway Determination and a further report is to be submitted to Council detailing the content of submissions received and any proposed amendment(s).

Current Status: Forwarded for a gateway determination and will be the subject of a further report on receipt of gateway determination from the Department.

21 SEPTEMBER 2017

REPORTS FROM THE DIRECTOR ENGINEERING

36 [E-CM] Demand Management - Assistance for Non-Residential Water Customers

462

Cr C Cherry
Cr K Milne

RESOLVED that this item be deferred for a Workshop.

Current Status: Workshop to be scheduled.

26 OCTOBER 2017

ORDERS OF THE DAY

9 [NOM] Private Native Forestry

505

Cr K Milne
Cr R Byrnes

RESOLVED that Council:

....

4. Calls on the State Government and makes representations for an urgent moratorium on any further issuing of Private Native Forestry licences for native forests (i.e. not native plantation forests) in the Tweed Shire, until a review of the existing legislation is completed.
5. Holds a workshop on the suitability and safety of the external road network for the Hewittville logging vehicles.
6. Undertakes an urgent review of the ecological values of the Hewittville property at Limpinwood to ascertain if this site warrants a rezoning to better reflect and protect the environmental values of the site and brings back a report to Council to consider this matter.

Current Status: Workshop was held and staff are currently considering the implications of resources for Part 6 above.

Following representations by the Mayor and General Manager a response was received from Minister Upton on 12 December 2017 which stated that the Government will not revoke the current Private Native Forestry (PNF) approval for the Fish Limpinwood site, but would continue to offer Council assistance in coordinating compliance matters relating to PNF approvals.

The General Manager has referred this matter to the Member for Lismore seeking further assistance.

10 [NOM] Stop Adani Campaign

506

**Cr K Milne
Cr R Cooper**

RESOLVED that Council:

....

4. In regard to civil construction tenders Council resolve to include additional selection criteria for disclosure of any involvement in providing services to, or contracting for, the development and operation of Carmichael mine.
5. In order to provide guidance to staff for future procurement Council considers a policy position on trading with entities that provide services to the Carmichael mine, and this be done in a workshop to be held as soon as possible followed by a formal resolution of Council.

Current Status: Legal advice has been obtained and a further report is being prepared for the March 2018 Council meeting.

14 [NOM] Tweed Regional Art Gallery and Margaret Olley Art Centre

512

**Cr K Milne
Cr C Cherry**

RESOLVED that Council holds a workshop in regard to the Tweed Regional Art Gallery and Margaret Olley Art Centre.

Current Status: Workshop scheduled for Thursday 22 February 2018.

16 NOVEMBER 2017

ORDERS OF THE DAY

9 [NOM] Support for Australian Research Grant Application - Artificial Surfing Reef

579

Cr J Owen
Cr R Cooper

RESOLVED that Council holds a workshop in relation to this item.

Current Status: Workshop held on 8 February 2018.

12 [NOM] Power Prices

583

Cr J Owen
Cr W Polglase

RESOLVED that Tweed Shire Council requests a briefing from the relevant NSW Government agencies to brief Councillors on current policies, programs and assistance available to Council and the community to reduce energy consumption and green house gas emissions and to ease the cost of living pressure on households.

Current Status: The Director Community and Natural Resources has written to: Mr Thomas George, State Member for Lismore, Mr Geoff Provest, State Member for Tweed and Mr Ben Franklin, Parliamentary Secretary for Renewable Energy and Northern Rivers requesting representatives to facilitate a workshop with Councillors.

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

596

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.

Current Status: Workshop scheduled for 22 March 2018.

13 DECEMBER 2017

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

13 [PR-CM] Development Application DA17/0347 for the Installation of Plant Shelter and the Production and Processing of Edible Flowers in Conjunction with an Existing Rural Industry at Lot 3 DP 1191598 No. 67 Howards Road, Burringbar

635

**Cr K Milne
Cr R Byrnes**

RESOLVED that determination for expansion of this business be deferred until the operational plan of management has been approved for the site at Lot 3 DP 1191598 No. 67 Howards Road, Burringbar. This operational management plan to be submitted by 31 January 2018.

Current Status: Workshop held on 1 February 2018 and a further report will be submitted to Council in March 2018.

17 [PR-CM] Rural Landsharing Communities - Advice from Department of Planning and Environment

639

**Cr K Milne
Cr R Cooper**

RESOLVED that:

...

3. Council holds a workshop on the potential to enable rural landsharing activities to continue in the Shire via an LEP amendment.
4. Further consideration of the suitability for maintaining the permissibility of rural landsharing communities is to be deferred pending the adoption of a Tweed Rural Land Strategy, and its incorporation into its implementation plan.

Current Status: Workshop scheduled for 22 March 2018.

20 [CNR-CM] New Charges for Waste Management - 140 litre Household Organic Waste Bin and Asbestos Test Kits

643

**Cr K Milne
Cr C Cherry**

RESOLVED that:

...

3. A further report is brought back to Council including any feedback received during the public exhibition period for consideration when determining whether to adopt the new fees in February 2018.

Current Status: Report being prepared to March 2018 Council meeting.

MAYORAL MINUTE

3 [MM-CM] Mayoral Minute for December 2017 and January 2018

SUBMITTED BY: Cr K Milne, Mayor



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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.2	Engagement
2.2.4	Councillor and Civic Business - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: **Leader**

Councillors

COMMITTEE MEETINGS

Attended by the Mayor

- 7 December Destination Tweed Board Meeting - Tweed Heads Bowls Club, Corner Wharf and Florence Streets, Tweed Heads.
 - 12 December Aboriginal Advisory Committee - Doon Doon Hall, Crams Farm, Commissioners Creek Road, Doon Doon.
 - 12 December Tweed Coast Koala Management Committee - Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
 - 13 December Tweed Coast Waterways Committee - Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
-

INVITATIONS / MAYORAL REPRESENTATION:

Attended by the Mayor

- 8 December Uki Public School Annual Presentation Awards - Uki Public School, 1463 Kyogle Road, Uki.
 - 8 December Quota International Creative Christmas Trees - Tweed Heads Civic Centre, Wharf Street, Tweed Heads.
-

- 9 December Ceremonial Parade and Awards Presentation - TS Vampire, Dry Dock Road, South Tweed Heads.
- 13 December Tweed Shire Council Australia Day Awards Selection Panel - Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 14 December Mayoral Christmas Appeal photo shoot - Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 14 December Tweed Shire Council Productivity Awards Presentation - Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah. Crs Allsop, Cherry, Cooper and Polglase also attended.
- 21 January Friendship Force - Murwillumbah Golf Club, 233 Byangum Road, Murwillumbah.
- 22 January Tweed Heads Library Official Opening - Tweed Heads Library, Wharf Street, Tweed Heads. Crs Byrnes, Cooper and Polglase also attended.
- 26 January Australia Day Event - Lions Park, Marine Parade, Kingscliff.
- 26 January Australia Day Event - Brian Breckenridge Field, Bawden Street, Tumbulgum.
- 26 January Australia Day Awards and Citizenship Ceremony - Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah. Crs Allsop, Byrnes, Cooper, Owen and Polglase also attended

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

- 11 December Wollumbin High School Presentation Awards - Wollumbin High School, North Arm Road, Murwillumbah. Cr Cherry attended.

Inability to Attend by or on behalf of the Mayor

- 7 December Murwillumbah High School Presentation Awards - Murwillumbah High School, 86 Riverview Street, Murwillumbah. No Councillors available as this event clashed with the Planning Meeting.
- 14 December Banora Point High School Presentation Awards - Banora Point High School, 2 Eucalyptus Drive, Banora Point. No Councillors were available to attend.

REQUESTS FOR WORKSHOPS:

Councillors did not request any additional workshops during December 2017 and January 2018.

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

- 4-6 December LG NSW Annual Conference - Hyatt Regency Hotel, 161 Sussex Street, Sydney. Crs Milne, Owen and Polglase attended.

Information on Conferences to be held

- 12-14 March LG NSW Tourism Conference - Parkes Leagues Club, 194 Clarinda Street, Parkes.

The narrative of tourism is changing; no longer is it about the hotel bookings, guidebooks, coach tours, travel agency promotions, local advertising and family holidays. Tourism practices are developing without their previous boundaries for new audiences allowing a broader role as both the user and provider of services and the challenges this may provide. Existing methods and delivery of tourism options are merging with new ideas, technology, community engagement and experiences. From accommodation to communications, from business events to local events, from information centres to online information, the scene is set to change.

Standard Registration \$ 770 (Earlybird closed), two flights, three night's accommodation. www.lgnsw.org.au/tourismconf

- 15 March FitNSW 2018 - Aerial UTS Function Centre, Building 10, 235 Jones Street, Ultimo.

FitNSW is an annual conference to showcase best practice initiatives utilised to promote healthy built environments for active living and healthy eating. The theme of this year's conference is Placemakers and Cityshapers: The pathway to active and healthy communities. FitNSW brings together multiple disciplines such as health, planning, transport and industry to find collective solutions and co-benefits from encouraging more people to be more active more often.

Registration is Free, two flights., one night's accommodation <https://www.activeliving.nsw.com.au/fitnsw/fitnsw-2018/>

- 20-21 March Cities 4.0 Summit - Melbourne Convention and Exhibition Centre, 1 Convention Centre Place, South Wharf VIC.

The conference program features five international keynote speakers, over fifteen smart city case studies and interactive panel discussions. There are break-out sessions where delegates can come together in focus groups to collectively tackle issues such as economic development, infrastructure, mobility, built environment, safety and sustainability.

Standard Registration \$2295 (Earlybird closed), two flights, two-three night's accommodation. www.cities4pointzero.com.au

- 24-25 March Mayor's Weekend - Local Government NSW, 28 Margaret Street, Sydney.

A two-day program of specialised professional development for Mayors, Deputy Mayors and aspiring Mayors. The program will explore some of the key challenges facing councils and communities, and will cover three broad aspects of the work of mayors in today's local government environment: as community leader, council leader and the Mayor and General Manager.

Registration \$1320.00, two flights, two night's accommodation
<https://www.lgnsw.org.au/events-training/mayors-weekend>

- 27-28 March Off Grid and Stand Alone Power Conference - Radisson Blu Plaza, 27 O'Connell Street, Sydney.

Attend the 2018 Forum to address industry challenges and learn from your peers: how is the off grid and microgrid market evolving ? what are the latest technology applications and innovations ? what are the challenges to adapt to current changes ? how do we transition to a modular network and off-grid alternatives ? how can we best communicate with customers ? what limits are we facing and what are the new opportunities ?

Registration \$ 3514.50 (Earlybird closed), two flights, two night's accommodation. www.informa.com.au/offthegridconference2018

- 29 May-1 Jun Floodplain Management Australia National Conference - Gold Coast Convention and Exhibition Centre, 2690 Gold Coast Highway, Broadbeach QLD.

The theme for the 2018 conference is 'Waterways of Success: Developing flood resilience in our communities', which will focus on Australian and international achievements in flood risk management, with practical examples from the Gold Coast network of waterways, rivers, creeks, lakes, canals and coastline.

Earlybird registration \$ 1050 (closes 23/03/18), Standard registration \$ 1250. Two - three night's accommodation.
www.floodplainconference.com

SIGNING OF DOCUMENTS BY THE MAYOR:

- 8 December Creation of Easement benefitting Essential Energy - Lot 100 DP 1192162 Kings Forest.
-

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

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

c. Legal:

Not applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

RECOMMENDATION:

That:

- 1. The Mayoral Minute for the months of December 2017 and January 2018 be received and noted.**
 - 2. The attendance of Councillors at nominated Conferences be authorised.**
-

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

RECEIPT OF PETITIONS

4 [ROP-CM] Receipt of Petitions

SUBMITTED BY: Corporate Governance



Making decisions with you
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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2 Making decisions with you
2.2 Engagement
2.2.4 Councillors and Civic Business - To make informed decisions in the best interest of the community.

ROLE: Collaborator

SUMMARY OF REPORT:

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

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

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

RECOMMENDATION:

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

- Petition containing 84 signatures received on 20 December 2017 advising as follows:

**"PROPOSED USE OF BORDER PARK AS A CAR PARK
(Park and Ride Facility)**

As a resident of the locality near the land known as Border Park, I hereby object to the development proposed by the Tweed Council Draft DCP Section A17 Border Park for the following reasons:

- Access to the Border Park **must not** be obtained via Binya Avenue, as proposed, as it is a narrow local road which is not suited to further traffic increases. Access to the site must be via the highway, west of the site.
-

- Traffic sight lines entering and exiting our property are already currently extremely compromised by the amount of on street parking within our street including Binya Avenue, Korina Avenue & Appel Street. The proposed increase traffic and vehicle movement with buses and cars will be dangerous to cars accessing and exiting our property.
- Construction of a new access to the Highway is essential. There is no valid reason as to why a temporary access could not be provided west of the site.
- The draft DCP does not offer assurance that the carpark use is limited to duration of the Commonwealth Games. The draft DCP contains statements that the use of the site for park-and-ride "may not be limited to the duration of the games", which indicates that on-going use of Border park for a 'park and ride facility' could occur. This is not acceptable unless alternate access is provided.
- The Commonwealth Games is to be held during the NSW school term, and school children will be using Binya Avenue whilst the games are taking place. The additional traffic would make the area unsafe for school children. Also, the bus route (and numerous vehicles access the 'Park & Ride' facility) would access Border Park through a school zone, which is highly undesirable.
- The proposed access through Binya Avenue and Appel Street will adversely affect the amenity of the locality and create a dangerous traffic situation.
- Korina Avenue residents will also be affected as this street is part of the traffic route that vehicles travel that access the Border Park site.
- The vehicular access gate at the Round-a-Boat to the Kirra Shores complex is often congested with vehicles accessing the complex. Additional traffic and buses will create a significant traffic congestion within the quiet residential street which is not suitable or designed for large traffic volumes and buses.
- We are not 'anti-carpark' or 'anti park-and-ride' however we are against development which will create significant traffic along Binya Avenue and within the Kirra and Tweed Heads area."
- **Petition containing 55 signatures received on 23 January 2018 from the resident of "Elizabeth Grove", 19-27 Elizabeth Street, Pottsville advising as follows:**

" Poor vision for drivers when exiting "Elizabeth Grove"

We, the undersigned, implore Council to address the problem of drivers having no line-of-sight when exiting the complex of 45 units, due to vehicles being parked on Elizabeth Street, on each side of our driveway."

- **Petition containing 23 signatures received on 29 January 2018 address to the "Traffic Committee" advising as follows:**

"We would like to lodge a protest against the amount of traffic which does not adhere to the 50 klm speed limit in Scenic Drive, Bilambil Heights area. It starts at the first turn off to Simpson Drive and continues up the hill and Bilambil Road.

We have all witnessed traffic (trucks, cars, motorbikes) exceeding the speed limit which does create a dangerous situation for all residences getting in and out of their driveways.

We are requesting some sort of speed cameras to be put in place so that the area for residences is not so hazardous."

REPORT:

As per Summary

OPTIONS:

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

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

CONCLUSION:

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

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

ORDERS OF THE DAY



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.2	Engagement
2.2.4	Councillor and Civic Business - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: **Leader**

5 [NOM] Private Native Forestry Hewittville Limpinwood - Rural Zones

NOTICE OF MOTION:

Councillor K Milne moves that Council seeks legal advice about options in regard to concerns with the Hewittville Private Native Forestry at Limpinwood in the rural zones, including but not limited to whether:

1. Approval under other legislation may be required in the rural zones particularly in relation to threatened species, Aboriginal cultural heritage, impacts on water quality, etc;
2. The matter should be referred to the Federal Government under the Environment Protection Biodiversity Conservation Act; and
3. There is a capacity for Council to act on potential breaches of the State Government licence or to challenge that approval.

Councillor's Background Notes

Recommended Priority:

Nil.

Description of Project:

Nil.

Management Comments:

Delivery Program:

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.4 Managing Community Growth
- 1.4.1 Strategic Land-Use Planning - To plan for sustainable development which balances economic environmental and social considerations. Promote good design in the built environment.

ROLE: **Leader**

Budget/Long Term Financial Plan:

The proposed request for legal advice is very broad, therefore making it very difficult to provide a cost estimate of engaging external legal advice.

Further reports on the initial legal recommendations relating to the main Hewittville compliance matters, the Zara Road (Crown Road) and internal roadworks within the environmental zone affecting Lot 136 DP 755 724, are expected to be reported to Council within the next two months. Depending on the preferred legal and enforcement options determined by Council, both actions are likely to generate costs into the hundreds of thousands of dollars.

Any additional legal action arising from the matters identified in this Notice of Motion, are likely to generate a similar range of costs.

It is also important for Council to consider that the current 2017/18 budget for Council's legal services is already exceeded by \$550,000 and any further actions will necessitate additional funding for the upcoming financial years, and subsequent impacts for Council's Long Term Financial Plan.

Legal Implications:

Legal advice from Council's solicitors will need to be sought.

Policy Implications:

Nil.

6 [NOM] Public Dog Park

NOTICE OF MOTION:

Councillor C Cherry moves that:

1. An investigation into the provision of a public dog park in Murwillumbah be conducted as per the request received via petition at the Ordinary Council Meeting dated 13 December 2017; and
- 2, A report be provided to Council detailing the possible sites and costings for provision of such a public dog park.

Councillor's Background Notes

Recommended Priority:

Nil.

Description of Project:

Nil.

Management Comments:

Delivery Program:

mbm



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- | | |
|-------|---|
| 3 | People, places and moving around |
| 3.2 | Places |
| 3.2.7 | Parks and Gardens - To provide and manage quality and accessible public parks and gardens for the enjoyment and wellbeing of the community and visitors to the Tweed. |

ROLE: **Leader**

BACKGROUND

In the Tweed Shire there is a growing desire to exercise and socialise dogs in public places and a significant demand for additional off leash dog areas across the Shire, including some fenced areas to exercise dogs in a secure environment.

Council is currently developing draft Guidelines for Off Leash Areas for Dogs as an operational document to inform the future planning, design and management of off leash dog areas in the Tweed over the next 10 years.

The guidelines will assure that Council balances the needs of dogs and their owners, without compromising the broader community's enjoyment of public places and to minimize any impact on the natural environment.

Across NSW, Councils are required under the *NSW Companion Animals Act 1998* to declare at least one public place in any municipality as an off leash area for dogs. Tweed Shire Council currently provides 14 off leash areas, none of which are fenced.

The off leash dog areas we have now were all approved on a case-by-case basis, in the absence of a longer-term plan. We are currently reviewing the way Council provides off leash dog areas and adopt a more strategic and integrated approach so that off leash dog areas are successful and well received by the broader community. The review will consider off leash dogs areas in Council managed parks and reserves and on beaches.

The guidelines are being developed in response to the community's support for additional off leash areas in Council's open spaces, demand for fenced off leash areas, dog agility equipment, better signage and improved management of off leash areas and dogs in public places.

The development of the guidelines have involved a lengthy consultation period including input from the 2016 Open Space Strategy Community Survey and general community feedback. The establishment of an internal working group, best practices research and benchmarking against seven other councils has also informed our approach to the planning and provision of off leash dog areas.

Council has developed draft site criteria and design guidelines for off leash dog areas. Site inspections of the existing and proposed off leash dog areas are currently being conducted to validate the site criteria and to ensure off leash areas are well sited, designed and equitably distributed across the Tweed.

This process may result in proposed changes to the existing supply of off leash areas, including the off leash areas in Murwillumbah.

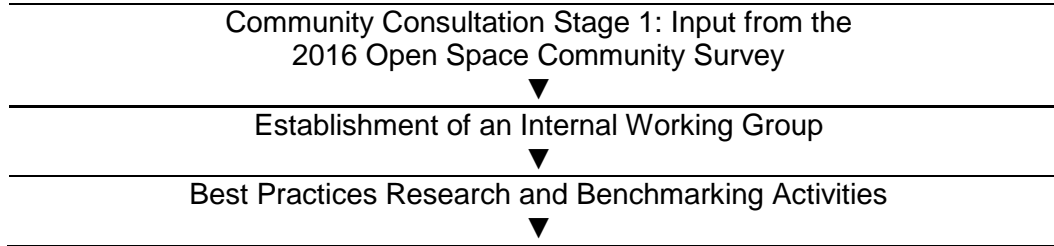
The objectives of the guidelines are to:

- Inform the review of the existing off leash dog areas;
- Inform the future placement, design, operation and management of off dog leash areas;
- Ensure a more equitable distribution of off leash dog areas;
- Ensure that the activities of owners and their dogs do not adversely affect the broader community or the natural environment.

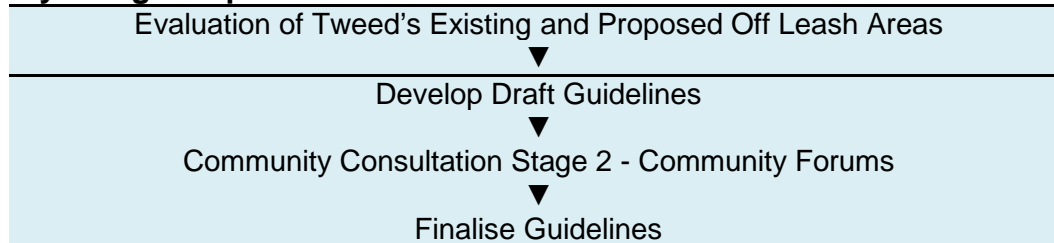
- Ensure Council appropriately manages lands under its care, control and management; and
- Promote socially responsible dog ownership and increase the community's awareness of, and seek compliance with the provisions of the *NSW Companion Animals Act 1998* and *NSW Animals Regulation 2008*.

PROCESS FOR DEVELOPING THE GUIDELINES

Completed



Currently being completed



ESTABLISHMENT OF AN INTERNAL WORKING GROUP

An internal working group was established in 2017 to provide advice on the improvement of existing off leash areas and the planning of additional areas as it pertains to location, design, criteria, legislation and general policy and enforcement. This group was comprised of officers from the Recreation Services Unit, Regulatory Services Unit and the Natural Resource Management Unit

BEST PRACTICE RESEARCH AND BENCHMARKING ACTIVITIES

The planning process included evaluating seven other municipalities' off leash areas. Neighbouring LGA's to Tweed were evaluated as well as other regional councils. The benchmarking activities and conversations with other councils helped to further understand the successes and concerns around the provision and management of off leash areas and will help to shape solutions that best fit the Tweed. The size, the number of off leash areas and preferred locations, design features, level of embellishment and the management of off leash areas were reviewed.

COMMUNITY CONSULTATION STAGE 1

Input from the 2016 Open Space Strategy Community Survey identified support for improving the provision of off leash dog areas, including fenced areas.

Over 456 people responded to the 2016 Open Space Strategy Community Survey conducted from November 2015 to January 2016. A further 88 comment cards were completed at 'pop up' park consultation booths, which travelled to 10 community events across the shire, including an event hosted by the Tweed Heads Canine Club. The survey asked people about dog ownership and their satisfaction with off leash dog areas in the Tweed.

The following comments were received:

- Dog walking was one of the most frequently performed outdoor recreational activities on a daily basis;
- 64 % of the survey respondents (291) were dog owners and were either very satisfied or satisfied with the number of public places to walk their dog;
- 26% were either very unsatisfied or unsatisfied with the number of off leash areas;
- Off leash dog areas and the effective management of dogs was a key priority for improving open spaces;
- Improve the planning and siting of off leash areas,
- Improve signage at off leash and prohibited areas;
- Provide fenced areas for dogs including separate areas for small and large dogs;
- Provide spaces for dog events and dog training;
- Improved park facilities such as dog waste bins and drinking water for dogs;
- Educate dog owners of their responsibilities;
- Promote existing off leash areas;
- Increase enforcement of unleashed dogs and dangerous dogs,
- Dogs off leash can prove dangerous to other park users, including other people, dogs, and other animals - many incidents are not reported;
- Ban dogs in open spaces, including beaches and bushland areas; and
- Provide areas other than beaches to walk dogs.

EVALUATION OF THE EXISTING AND PROPOSED OFF LEASH AREAS

Site inspections of the existing and proposed off leash areas are currently being finalized to validate the site criteria and to ensure off leash areas are well sited and designed, whilst minimizing impact on the broader community and on the natural environment.

PROPOSED STANDARDS OF PROVISION

The draft guidelines propose the following provision standards for off leash areas across the Tweed.

- One 'Regional' off leash area in the Tweed Shire, that is fenced and includes dog agility equipment (Banora Green is the proposed location);
- One off leash area associated with each town or village with a population greater than 5,000;
- Dog waste bins in designated off leash dog areas; and
- Standardised signage in designated off leash dog areas;

The provision of fencing of off leash dog areas comes at a significant cost to Council. The approximate cost to fence an off leash dog area (size approx. 2500m²) is \$35,000, including signage, installation of dog waste facilities, access to water (pending availability) and seating, plus ongoing maintenance costs.

The draft guidelines propose that fencing will be considered for the 'Regional' off leash dog area or where the off leash area is located:

- a) Adjacent to a busy road (sub arterial and arterial roads with a speed limit greater than 60km/hr) or an identified risk (such as water body, steep batter); and

- b) Adjacent to prohibited areas such a children's playground, sport field, public recreation areas including BBQ and picnic areas, event spaces, sensitive natural areas, schools and child care centres.

DOG OFF LEASH AREAS IN MURWILLUMBAH

There are two existing off leash dog areas in Murwillumbah, one in Frangela Drive Reserve and a second in River Street Park. Recreation Services has met with Terri Ann Palmer and telephoned Carol Easton who both submitted petitions. Ms Palmer identified River St Reserve to be fenced, but both focused more on the provision of a fenced area, as opposed to a particular location.

Should Council support the provision of a fenced off leash area in Murwillumbah, the existing site on River Street is not particularly central to all residents and access to car parking is limited. Furthermore, access to Frangela Drive Reserve is poor and minimal car parking available.

Council officers are currently investigating Bray Park Reserve as an alternative site for a fenced off leash area. The site is more central to the broader community which provides adequate street parking, should the off leash area become a popular attraction. The site would require fencing because of its close proximity to Kyogle Rd.

RESOURCING THE DEVELOPMENT OF OFF LEASH DOG AREAS

The demand for additional off leash areas, fenced areas and additional amenities by residents across the shire far exceeds the current funding and resources available. The provision of additional off leash areas will be prioritised along with other Council managed open space development projects in the Open Space Strategy (currently being drafted).

COMMUNITY CONSULTATION STAGE 2

The draft Open Space Strategy is due to be presented to Council early in the year with a view to a comprehensive community engagement process to follow. It is proposed to undertake further consultation with the community on the outcome of the off leash dog area review, specifically on the proposed site criteria and the proposed locations for off leash areas at this time.

Budget/Long Term Financial Plan:

The investigation has largely been undertaken as per the management comments. The cost to produce a subsequent report would be staff time.

The provision of fencing of off leash dog areas comes at a significant cost to Council. The approximate cost to fence an off leash dog area (size approx. 2500m²) is \$35,000, including signage, installation of dog waste facilities, access to water (pending availability) and seating, plus ongoing maintenance costs.

Legal Implications:

Nil.

Policy Implications:

Council is currently preparing draft Guidelines for Off Leash Areas for Dogs.

7 [NOM] Land Audit - Tiny Homes

NOTICE OF MOTION:

Councillor R Byrnes moves that a report be generated by Council listing available and appropriate Council land for the purpose and utilisation of a 'Tiny Homes' project. Further, that Council write to the NSW State Government requesting a list of available and appropriate State owned/Crown Land for the purpose of a 'Tiny Homes' project.

Councillor's Background Notes

Recommended Priority:

Nil.

Description of Project:

Nil.

Management Comments:

Delivery Program:

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Leaving a Legacy
1.4	Managing Community Growth
1.4.1	Strategic Land-Use Planning - To plan for sustainable development which balances economic environmental and social considerations. Promote good design in the built environment.

ROLE: **Leader**

Significant and varied levels of housing stress, unaffordability and homelessness are present across the country and continue to rise largely unabated in the absence of comprehensive and funded national and state-wide reform policy and market based mechanisms. This places a significant burden on local government as well as many other institutions and organisations.

The Tiny Home concept, although also having an origin surrounding environmental sustainability, is increasingly being promoted, for the most part by private landowners and not for profit organisations, as a partial solution to prevailing socially based 'housing' issues and largely without a wider understanding of the social needs that need also to be serviced; these spatial location considerations must also be factored into the infrastructure needs analysis for Tiny Homes. This raises unanswered questions that would make an

assessment along the line of that sought impossible to adequately respond to in a succinct, resource efficient and targeted way.

There must be therefore a clear articulation of what concept of Tiny Housing is being considered, for whom and for what purpose; affordable housing, social housing, emergency or crisis housing or other housing.

Understanding the funding mechanisms and governance structures would also assist with analysing the affordability ratio of the land that may be available. In part, and consistent with current Council resolutions on this topic, Rebecca Richardson, a well-regarded consultant in this subject matter from the consultancy firm Urbanista has been retained by Council to undertake an analysis of the local conditions and to provide Council with guidance on the options available for it to begin work on building a local policy response framework. This work is ongoing with Councillors workshops having already been undertaken and further ones planned; a draft Context and Options Paper has also been prepared for discussion with Tweed Councillors.

This body of work provides the platform to further consider Tiny Homes as one of the potential options, but does so in a holistic context rather than in isolation. This is seen to be critical given the limited resources available relative to the breadth and extent of the issues and the Council noticeable desire to respond on all fronts.

Understanding the issues, the commitment needed to bring about change, the prioritisation areas is a fundamental prerequisite to the further allocation of resources and as such it is the officer's view that undertaking a land audit without the requisite level of information concerning priorities and purpose would amount to an exercise of little utility in this wider context.

Budget/Long Term Financial Plan:

There is no allocated budget to allow for the external resourcing of this body of work.

Legal Implications:

Nil.

Policy Implications:

Given the preliminary nature of the proposed investigations, it is difficult at this stage to predict any future planning policy implications.

8 [NOM] Seniors Exercise Equipment

NOTICE OF MOTION:

Councillor C Cherry moves that a report into the requirements and costings for the provision of seniors exercise equipment, similar to that provided in Kingscliff and Jack Follent Park in Tweed Heads be brought back to the next Ordinary Council Meeting.

Councillor's Background Notes

Recommended Priority:

Nil.

Description of Project:

Nil.

Management Comments:

Delivery Program:

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

3	People, places and moving around
3.2	Places
3.2.7	Parks and Gardens - To provide and manage quality and accessible public parks and gardens for the enjoyment and wellbeing of the community and visitors to the Tweed.

ROLE: **Provider** **Leader**

A function of Council is to provide a range of recreation and leisure facilities for our communities. Whilst outdoor gyms contribute significantly to promoting health and well-being, the provision of playgrounds, youth recreational facilities, off leash dog parks, beaches, waterways and places to rest and relax also provide important recreational and social opportunities.

Council is currently developing a draft Open Space Strategy (OSS), which has included an audit of the open spaces and outdoor recreational facilities available to residents across the whole shire, including Pottsville. We have also assessed the open space needs of the existing and forecast population.

Whilst we have experienced an increase in interest for outdoor gyms since the installation of the equipment at Kingscliff and Tweed Heads, we do need to consider a range of factors before providing additional outdoor recreational facilities in Pottsville, including the existing provision of facilities, existing gaps and future provision.

Pottsville is currently relatively well supplied with public open space and outdoor recreational opportunities.

Council manages the following open spaces and outdoor recreational facilities in Pottsville:

- A total of 511 hectares of open space managed by Council.
- 16.6 hectares of passive community open space (parks, linkages/paths, civic spaces and drainage reserves that provide for passive recreation).
- 12.9 hectares of active open space (4 sports fields).
- Approximately 481 hectares of Council managed bushland.
- 1 regional bushland reserve, 1 district park, 9 neighbourhood park and 33 local parks.
- 1 district playground and 9 neighbourhood playgrounds of varying quality.
- 1 multi-court.
- 1 designated market space.
- 1 Men's Shed at Black Rocks Sports Ground.
- 16kms of shared path and 2.5kms of on-road cycleway.
- Approximately 4.7kms of beach.

Pottsville's open space audit did identify an undersupply of neighbourhood playgrounds in Pottsville Waters and in the north of the suburb, the need for shade improvements, potential for youth recreational activities and an undersupply of sports fields for the future population.

In addition to this request for outdoor exercise equipment, Pottsville residents have also identified the following open space priorities during consultation activities for the OSS:

- a dog park;
- skate and youth facilities;
- playground upgrades, including the provision of artificial shade;
- shared path and cycleway improvements;
- improve access for people with disabilities to recreational facilities and open space;
- improved access to Mooball Creek for swimming and fishing;
- improvements to Pottsville Environment Park; and
- increased opportunities for bushwalking.

The provision of an outdoor gym for Pottsville will be considered along with other priorities for Pottsville and the shire-wide priorities identified in the draft OSS to be delivered over the next 10 years.

There are limited funds to provide these recreational facilities. Council will prepare cost estimates for projects and prioritise funding, we will consider the spread of people across the shire, our densely populated areas and rural villages, the age of the population, local and visitor needs, what recreational facilities or opportunities exist in and around the community and what public open space is available and suitable for a different recreational uses.

The draft OSS is due to be presented to Council early in the year with a view to a comprehensive community engagement process to follow. A recommendation of the draft OSS is that a staged masterplan be developed for Pottsville's key open spaces with the intention of addressing the gaps in the current provision of recreational facilities and meeting future demand. The masterplan will be developed in consultation with the local community and the provision of outdoor gym could be considered as part of this process and together with other requests for open space related infrastructure.

Budget/Long Term Financial Plan:

The preparation of a report will have no financial impact beyond staff time.

Legal Implications:

Nil.

Policy Implications:

These matters will be explored and addressed in the pending Open Space Strategy.

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

9 [GM-CM] Regional Cities NSW

SUBMITTED BY: General Manager

mhm



People, places and moving around

Who we are and how we live



Behind the scenes

Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.1 People
- 3.1.5 Economic Development - To support the local economy and attract new business and employment to the Tweed.
- 4 Behind the scenes
- 4.1 Assurance
- 4.1.1 Governance - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: **Leader**

SUMMARY OF REPORT:

The Inland Forum is an existing group of seven Councils that have worked collaboratively for a number of years to achieve improved outcomes and opportunities for inland NSW. The current Inland Forum members have agreed there is a huge potential in expanding the membership of the group to create a new body to be known as Regional Cities NSW.

Membership excludes those Councils that are located in the coastal development corridor from Newcastle in the North to Shellharbour in the South due to the existing high level focus of the State Government on the development of those regions,

The NSW Government has already expressed their strong support for the formation of this group and the Deputy Premier and relevant senior bureaucrats will also be invited to participate in the discussions.

RECOMMENDATION:

That:

- 1. The Mayor and General Manager meet with current Inland Forum members and other regional cities in Sydney on Thursday 1 March 2018 to discuss participation in Regional Cities NSW.**
- 2. A further report will be prepared following the initial meeting to determine Council's commitment to this forum, including estimated on going costs.**

REPORT:

During 2017 Tweed Heads was recognised as a Regional City. Since that time a number of meetings have occurred with other recognised Regional City Councils and this request is a further step in the recognition of the role that Regional Cities perform within New South Wales. The following letter and attached proposal was received which explains the Regional Cities NSW concept.



Dear Mayor / General Manager

REGIONAL CITIES NSW

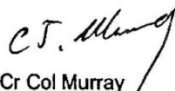
Ref: nh/PB/SF1271

As a major regional city in NSW you would have a clear understanding of the important role that you play in the ongoing growth and prosperity of your city and the broader surrounding region. As one of the 16 largest regional cities in NSW outside of the Newcastle/Sydney/Wollongong area I am writing to invite you to participate in an exciting new initiative that will provide an increased opportunity to influence government policy and spending for the benefit of our collective regions.

The Inland Forum is an existing group of seven Councils that have worked collaboratively for a number of years to achieve improved outcomes and opportunities for inland NSW. The current Inland Forum members of Albury, Armidale, Bathurst, Dubbo, Orange, Tamworth and Wagga Wagga Councils have agreed that there is huge potential in expanding the membership of the group to create a new body to be known as Regional Cities NSW. The attached model/discussion paper is based heavily on the successful model that has been implemented in Victoria where the ten largest cities outside of Melbourne work co-operatively on issues and projects of mutual interest that affect regional cities in that State. That group has achieved some significant outcomes and established a strong partnership with the Victorian State Government.

I invite you to read the attached proposal and indicate whether you would be prepared to meet with the current Inland Forum members and other identified regional cities in Sydney on Thursday 1 March 2018 to further discuss your participation in Regional Cities NSW. The NSW Government has already expressed their strong support for the formation of this group and the Deputy Premier and relevant senior bureaucrats will also be invited to participate in the discussions.

Yours sincerely


Cr Col Murray
Mayor

Contact: (02) 6767 5441

19 December 2017

All correspondence should be addressed to the General Manager:

Telephone: 6767 5555
Facsimile: 6767 5499

PO Box 555 (DX 6125)
Tamworth NSW 2340

trc@tamworth.nsw.gov.au
www.tamworth.nsw.gov.au

~ Toyota Country Music Festival Tamworth 2018 - Friday 19 January to Sunday 28 January 2018 ~ www.tcmf.com.au

Regional Cities NSW

Who is RCNSW?

RCNSW comprises Mayors and CEOs/General Managers of 16 large cities in regional New South Wales. These cities reside outside of the expanded metropolitan areas of Sydney, Newcastle and Wollongong, have distinct regional catchments, and share similar opportunities and challenges for growth and investment. The group meets quarterly and is chaired by a host council which is voted to the position annually.

RCNSW is an alliance of regional cities dedicated to achieving real change in regional New South Wales through policy development and active implementation of those policies.

Regional cities are the heart of regional New South Wales and by improving their infrastructure and liveability, regional cities can help to grow and support wider regional and rural communities.

The RCNSW Vision

Building a sustainable New South Wales through regional growth.

Our Objectives

- Continue to play an important role in the development of strategies that benefit regional and rural New South Wales and inform government policy.
- Develop long-term policy positions that support and encourage the growth of regional New South Wales in its own right, that develop the regions as a viable alternative to metropolitan Sydney, and that encourage, enable and support government to deliver these policies.
- Improve the infrastructure and liveability of regional cities through development of quality services, amenities and transport networks in order to promote economic development in regional and rural communities.
- Encourage new industries and increase workforce capacity and employment opportunities in regional cities.
- Continue to build awareness of RCNSW within government, media, business and RCNSW communities.
- Maintain a reputation for well-considered and evidenced-based positions.

Governance

Regional Cities New South Wales (RCNSW) is an alliance of 16 regional cities that represent the collective interest of regional cities within the regions. Our members work co-operatively on issues and projects of mutual interest that affect regional cities as well as the whole state of New South Wales.

The following councils have been granted the right to membership of RCNSW by virtue of having a distinct city identity that provides services to a broader regional catchment.

- | | | | |
|------------|-----------------|---------------------------|-----------------|
| • Albury | • Coffs Harbour | • Maitland | • Tamworth |
| • Armidale | • Dubbo | • Orange | • Greater Taree |
| • Bathurst | • Griffith | • Port Macquarie-Hastings | • Tweed |
| • Cessnock | • Lismore | • Queanbeyan | • Wagga Wagga |

Membership excludes those councils that are located in the coastal development corridor from Newcastle in the North to Shellharbour in the South due to the existing high level focus of the State Government on the development of these regions.

RCNSW will be governed by an unincorporated arrangement (Memorandum of Understanding) which is effective for a period of five years commencing January 1, 2018. RCNSW will allocate appropriate resources to fulfil the role of a secretariat that will work to an approved Strategic Plan, which will be reviewed annually. A standard membership fee of \$10,000 per annum will apply and voting rights shall be one vote per member Council in attendance.

RCNSW's vision is to build a sustainable New South Wales through regional growth.

Our objectives are:

- Define and develop long-term policies that support and encourage the growth of regional New South Wales as a viable alternative to metropolitan Sydney, Newcastle and Wollongong
- Encourage, enable and support governments to deliver those policies
- Ensure regional cities continue to enjoy quality services, amenities and transport networks
- Increase workforce capacity and employment opportunities in regional cities
- Continue to build awareness of RCNSW among government, media, business and RCNSW communities.

Changes to the above membership of RCNSW is by invitation only and Cities seeking to join must submit an application in writing. Membership will only be granted after unanimous approval of the RCNSW group.

RCNSW members seeking to leave the group will need to advise RCNSW in writing and will be required to give 12 months' notice.

The member Councils will be represented by the Mayor and the Chief Executive Officer/General Manager. Member Council's may nominate alternative delegates only when the Mayor or CEO/GM are absent on approved leave e.g. when an Acting CEO/GM has been appointed by Council.

The meeting schedule for RCNSW in 2018 is: *(actual dates to be advised)*

- February
- May
- August
- November

The position of Chair and Deputy Chair will be subject to election in November of each year and will Chair meetings for the subsequent year.

RCNSW's daily operations will be managed by an Executive Management Group (EMG) consisting of:

- RCNSW Chair
- RCNSW Deputy Chair
- CEO/GM of Chair's Council
- CEO/GM of Deputy Chair's Council

The EMG has delegated authority to:

- Approve expenditure on individual items/projects in accordance with the approved RCNSW Strategic Plan.
- Approve written correspondence on behalf of RCNSW.
- Approve media statements on behalf of the group.
- Nominate RCNSW members to attend delegations and political briefings.
- Instruct the RCNSW secretariat to perform tasks in accordance with the approved RCNSW Strategic Plan.

The EMG will hold fortnightly or as necessary work-in-progress meetings with the secretariat.

Should external consultants be required to undertake work on behalf of or for RCNSW, the secretariat will ensure that all procurement/engagement processes are carried out in accordance with statutory requirements e.g. Local Government Act. A recommendation to appoint an external consultant will then be presented to RCNSW who will be responsible for any appointment.

The amount to be contributed by RCNSW members will be determined annually following the development and approval of an annual budget. Contributions will be paid monthly.

Approval of major items of expenditure will be subject to agreement of the members. Should additional expenditure above the approved annual budget be required, approval will be required from a majority of RCNSW members.

The secretariat is responsible for preparation of communications and advocacy documents required by RCNSW. All external documents will need approval from either the RCNSW Chair or the EMG before public release.

RCNSW's strategic plan will be reviewed annually and achievements will be measured by:

- The consistency of Policy announcements from Government and Opposition with the RCNSW Strategic Plan.
 - The inclusion of RCNSW representatives on relevant working parties, committees or reference groups established by governments, peak bodies or other industry/sector organisations.
 - Achievement of population growth, employment growth and liveability targets.
 - Level of media coverage achieved for issues identified in the approved RCNSW Strategic Plan.
-

Strategy

Over-Arching Objective

Establish RCNSW as the trusted authority and thought leader on regional New South Wales.

To promote RCNSW's aspiration to have a 'seat at the table' when views are being sought and decision made by government regarding regional New South Wales.

Enabler (Underpins All Objectives)

Strategically communicate with government, business, industry and RCNSW community stakeholders in order to derive the best possible outcomes for regional and rural New South Wales.

RCNSW is well-placed to influence the business and industry sectors to ensure the best possible outcomes are achieved for regional and rural New South Wales. Regular exposure to key business and industry leaders is crucial to RCNSW's success in this area.

Our Objectives

- **Objective 1:** Actively promote food and fibre from regional New South Wales into world markets through appropriate avenues.
 - *Promote the positioning of regional New South Wales within world food markets*
- **Objective 2:** Pursue infrastructure financing which supports and enables growth in regional areas.
 - *RCNSW will continue to promote the need for alternative funding models to assist regional cities in addressing funding and financing of infrastructure in fast-growing areas.*
- **Objective 3:** Encourage the development of new and existing industries and advocate for increased funding for re-skilling and training for specialist roles through TAFE facilities, to enable people to remain in their regional communities as industries evolve.
 - *To support growth in regional New South Wales, RCNSW will encourage the development of new industries including research and development opportunities and industry specific workforce training through the local higher education structure. This will enable re-skilling and training for local people that accurately reflects evolving industry needs within their region.*
- **Objective 4:** Advocate for improvements to transport corridors e.g. roads, passenger and freight rail and the regional airport network.
 - *Enhancements to transport corridors which will improve connectedness between key regional cities and to Sydney are critical for economic development in regional New South Wales.*

The objectives of Regional Cities NSW are:

- Continue to play an important role in the development of strategies that benefit regional and rural New South Wales and inform Government policy.
- Develop long-term policy positions that support and encourage growth of regional New South Wales in its own right, that develop the regions as a viable alternative to metropolitan Sydney, and encourage, enable and support Government to deliver those policies.
- Improve infrastructure and liveability of regional cities through development of quality services, amenities and transport networks in order to promote economic development in regional and rural communities.
- Encourage new industries and increase workforce capacity and employment opportunities in regional cities.
- Continue to build awareness of Regional Cities New South Wales (RCNSW) among Government, media, business and RCNSW communities.
- Maintain a reputation for well-considered and evidence-based positions.

OPTIONS:

1. Council determines that the Mayor and General Manager meet with current Inland Forum members and other regional cities in Sydney on Thursday 1 March 2018 to discuss participation in Regional Cities NSW.
2. Council determines that the Mayor and General Manager **do not** meet with current Inland Forum members and other regional cities in Sydney on Thursday 1 March 2018.

CONCLUSION:

Council determines that the Mayor and General Manager meet with current Inland Forum members and other regional cities in Sydney on Thursday 1 March 2018 to discuss participation in Regional Cities NSW.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

It is anticipated the costs involved would be minimal being return flights to Sydney. A further report will be prepared following the initial meeting to determine Council's commitment to this forum, including estimated on going costs.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

10 [GM-CM] Northern Rivers Joint Organisation

SUBMITTED BY: General Manager

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.2 Engagement
- 2.2.4 Councillor and Civic Business - To make informed decisions in the best interest of the community.

ROLE: **Collaborator** **Advocate** **Leader**

SUMMARY OF REPORT:

The Local Government Amendment (Regional Joint Organisation) Act 2017 commenced on 15 December 2017 which has established the pathway for the creation of Joint Organisations and more immediately for Council, the Northern Rivers Joint Organisation.

Council has previously considered reports on this subject at meetings held 16 July 2015 and 18 August 2016. Council is supportive of being a member of the Joint Organisation and is required to confirm the commitment to the establishment of that Organisation.

The report sets out the next steps required from Council, which includes a resolution by Council as a critical part of the process of having the Joint Organisation area recommended to the Governor to enable the appropriate proclamation to be made and this commitment by Council is due to be finalised before 28 February 2018.

RECOMMENDATION:

That, in accordance with Part 7 of Chapter 12 of the Local Government Act 1993:

- 1. Council informs the Minister for Local Government of Council's endorsement of the Minister recommending to the NSW Governor the establishment of the Northern Rivers Joint Organisation in accordance with this resolution.**
- 2. Council approves the inclusion of the Council's area in the Northern Rivers Joint Organisations area.**

3. The Northern Rivers Joint Organisation be established to cover the Council's area and any one or more of the following council areas:

- Ballina Shire.
- Byron Shire,
- Kyogle,
- Lismore City
- Richmond Valley, and
- Tweed Shire.

4. Consideration also be given to extending non-voting associate membership to the following organisations:

- Rous County Council; and
- Gold Coast City Council.

where matters of interest may have relevance.

5. On the expiry of a period of 28 days from the making of this resolution, the General Manager provides the Minister for Local Government:

- a) with a copy of this resolution including the date on which Council made this resolution, and
- b) inform the Minister for Local Government that this resolution has not been rescinded, for the purpose of the Minister for Local Government issuing a certificate under section 400P of the Local Government Act 1993.

REPORT:

The Local Government Amendment (Regional Joint Organisations) Act 2017 commenced on 15 December 2017 which has established the pathway for the creation of Joint Organisations – ‘Working together for regional communities’ and more immediately for council, the Northern Rivers Joint Organisation.

Council has previously considered reports on this subject, at meetings of 16 July 2015 and 18 August 2016. Council is supportive of being a member of the Joint Organisation and is required to confirm the commitment to the establishment of that Organisation.

The definition of a Joint Organisation is as follows:

"A Joint Organisation is a new entity under the Local Government Act comprising member councils in regional NSW to provide a stronger voice for the communities they represent.

A Joint Organisation will provide a more structured, permanent way for local councils, State agencies and other interested groups to collaborate. Each region will decide its own priorities, working on short and long term projects such as attracting a new industry to the region or improving the health of a river system. By putting their resources together and focusing on the unique challenges and strengths of their whole region, Joint Organisation members can drive better outcomes for local residents.

Each Joint Organisation will comprise at least three member councils and align with one of the State's strategic growth planning regions. One of the member council's mayors will be elected chairperson and an Executive Officer may be appointed."

This is an exciting time for council and one that provides greater opportunities for regional collaboration and achieving positive outcomes for the Northern Rivers.

The steps required by council are as follows:

- Plan**
- Identify your council's planning region (map to be provided by the Office of Local Government)
 - Consider the guidance material to be provided by the Office of Local Government (OLG)
 - Review existing arrangements for regional collaboration in your area
 - Consider the Key Design Criteria for Joint Organisations (JOs) (see below)
 - Consider the criteria for seed funding
- Consult**
- Consult with councils within your preferred regional grouping to reach agreement on JO membership
 - Each JO must have a minimum of 3 member councils
 - OLG is available to facilitate and support consultations in your region

- Endorse**
- Once the proposed JO membership is agreed, ensure each member endorses the proposal by a resolution of council
- Nominate**
- Submit your request to establish a JO to OLG by 28 February 2018
- Establish**
- The final JO network will be finalised in March 2018
 - Funding allocations will also be announced in March 2018
 - JOs will be proclaimed in April 2018
 - OLG will support the establishment of Joint Organisations and work closely with them once operational to ensure they are successful
 - JOs will be ready to start in July 2018
- Commence**
- Hold your first JO meeting and elect a chairperson
 - Recruit the Executive Officer
 - Work with member councils, the Department of Premier and Cabinet Regional Director and OLG support team to fully establish the JO
 - Work with member councils to draft the first JO Charter and Statement of Strategic Regional Priorities.

With respect to the Plan and Consult phases of the proposal, at the Northern Regional Organisation of Councils (NOROC) meeting of November 2016 it was resolved to endorse the submission to the NSW Governments *Joint Organisations: Getting the boundaries right* report (16/17:R14). The submission stated that NOROC supported the proposed boundaries for the Northern Rivers Joint Organisation, and that NOROC currently represents the Kyogle, Richmond Valley, Tweed, Byron, Lismore and Ballina Local Government areas and the fact the existing ROC boundaries and the proposed Joint Organisation Boundaries are the same will help ensure a smooth transition to the Northern Rivers Joint Organisation.

As this decision has been previously taken by NOROC, it is now up to Council to endorse this approach and provide its endorsement of joining the Northern Rivers Joint Organisation in the terms that the Office of Local Government have provided. It is also planned that the submission of the nomination process for the formation of the Northern Rivers Joint Organisation will be coordinated through NOROC.

Relevant Sections of the Local Government Act 1993

4000 *Formation of joint organisations*

- (1) *The Governor may, by proclamation, establish joint organisations for the purposes of this Act.*

- (2) *A proclamation under this section must contain the following particulars:*
 - (a) *the name of the joint organisation,*
 - (b) *the council areas that are to form the area of the joint organisation (which is to consist of the whole of 2 or more council areas).*

- (3) *A proclamation under this section may contain transitional provisions to facilitate the establishment and early operation of the joint organisation.*
- (4) *Each council whose area is within the joint organisation area is a member council of the joint organisation.*

400P Council must approve inclusion of council area in joint organisation area

The Minister must not recommend the making of a proclamation under this Part (including an amending proclamation) that includes the area of a council in a joint organisation area unless the Minister certifies that:

- (a) *not less than 28 days before the certificate was given, the council, by resolution, approved the inclusion of the council's area in the joint organisation area, and*
- (b) *when the certificate was given, the resolution had not been rescinded.*

OPTIONS:

1. That Council endorses joining the Northern Rivers Joint Organisation.
2. That Council does not endorse being a participating council in the Northern Rivers Joint Organisation.

CONCLUSION:

That Council endorses the proposal in accordance with the Local Government Amendment (Regional Joint Organisation) Act 2017, that the Northern Rivers Joint Organisation of Councils be established with the membership consisting of Kyogle, Richmond Valley, Tweed Shire, Byron Shire, Lismore City and Ballina Shire Councils. Also, further consideration be given to extending Associate Membership to Rous County Council and Gold Coast City Council where matters of interest may have relevance.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

Local Government Amendment (Regional Joint Organisations) Act 2017

b. Budget/Long Term Financial Plan:

Initial establishment funding of the Joint Organisation is to be provided by the State Government, with \$3.3 million to be allocated to the Joint Organisations.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

Discussions have been held with the participating councils within NOROC with the decision that all councils are supportive of joining the Northern Rivers Joint Organisation.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1. Joint Organisations – *‘Working together for regional communities’* (ECM4937730)
- Attachment 2. Joint Organisations – Frequently asked questions (ECM4937719).
- Attachment 3. Letter from Office of Local Government dated 1 December 2017 (ECM4938768).
- Attachment 4. Nomination form - Joint Organisation NSW Government (ECM4938779).
-

11 [GM-CM] Destination Tweed - 2016-17 Audited Financial Statements

SUBMITTED BY: Economic Development

mhm



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.1 People
- 3.1.12 Tourism - to market the Tweed as a tourism destination.

ROLE: **Leader**

SUMMARY OF REPORT:

This report presents the 2016/17 audited financial statements for Destination Tweed.

RECOMMENDATION:

That:

1. Council receives and notes the 2016/17 audited financial statements for Destination Tweed.
2. ATTACHMENTS 1 and 2 ARE CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (c) *information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.*

REPORT:

Council has received the audited financial statements for Destination Tweed for the 2016/17 financial year.

In 2016 Destination Tweed's Board resolved to proceed to change its corporate structure from an incorporated association to a limited by guarantee company. This proposed change in structure came at the request of Fair Trading NSW who notified Destination Tweed that the current size of their financial statements and returns had triggered a request to move from an incorporated body.

The reporting requirements of incorporated body and a limited by guarantee company are different. As a result of the change in corporate structure by Destination Tweed there are two sets of audited financial statements.

OPTIONS:

The options available to Council are:

1. Receives and notes the Audited Financial Statements for 2016/17; or
2. Does not receive and note the Audited Financial Statements for 2016/17. If Council is not satisfied with the progress Destination Tweed has made in achieving the milestones identified in their funding contract it would be prudent to commence discussions with the Board of Destination Tweed regarding their performance.

CONCLUSION:

This report recommends that Council receives and notes the Audited Financial Statements for 2016/17 from Destination Tweed.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

These financial reports form part of Destination Tweed's reporting requirements to Council.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- (Confidential)* Attachment 1. Destination Tweed Ltd - Financial Report for 9 month period ending 31 March 2017 (ECM 5044678)
- (Confidential)* Attachment 2. Destination Tweed Inc - Audited Financial Statements for period ending 30 June 2017 (ECM 5044677)
-

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 79C

79C Evaluation

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

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

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

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

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

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

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

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

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

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

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

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

12 [PR-CM] Development Application DA16/0795 for a Two Lot Subdivision and Use of an Existing Structure as a Dwelling at Lot 7 DP 1178620; No. 2041 Kyogle Road Terragon

SUBMITTED BY: Development Assessment and Compliance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.1	Built Environment
2.1.2	Development Assessment - To assess development applications lodged with Council to achieve quality land use outcomes and to assist people to understand the development process.

ROLE: **Provider**

SUMMARY OF REPORT:

This application has been brought to Council on four previous occasions with a recommendation for refusal being made on each occasion. The history of the application and Council's recommendations are detailed below:

- PC meeting of 2 Sept 2017 Item deferred for a site visit;
- PC meeting of 5 Oct 2017 Council recommended draft conditions for approval be brought back to Council;
- PC meeting of 2 Nov 2017 Council recommended alternative conditions for approval be brought back to Council;
- PC meeting of 7 Dec 2017 Council recommended further amendments to conditions.

Council officers met with the applicant in January 2018 to discuss proposed conditions and provide clarification on matters relating to plans of management, proposed conservation areas and the habitat restoration plan. It is the Officers understanding that the applicant considers the revised conditions as discussed to be valid and reasonable. These conditions are included as Option 2 at the end of this report.

This report provides comments on the latest amendment to conditions as proposed at the Planning Committee Meeting of 7 December 2017 and provides further clarification on matters relating to Koala Plan of Management, habitat restoration plan, conservation areas and restrictions regarding the conservation area.

The main body of this report incorporates previous Council reports that provided an assessment of the proposal that support the reasons for a recommended refusal of the application.

This report recommends Option 1 for refusal of the application.

Option 2 includes the revised conditions as discussed with the applicant at the meeting of January 2018.

Option 3 includes the draft conditions as amended by Council at the meeting of 7 December 2017.

RECOMMENDATION:

That:

- A. Development Application DA16/0795 for a two lot subdivision and use of an existing structure as a dwelling at Lot 7 DP 1178620 No. 2041 Kyogle Road, Terragon, be refused for the following reasons:**
- 1. The development is not considered to be consistent with aims of the Tweed Local Environmental Plan 2000 outlined in clause 4(a) and (d).**
 - 2. The development is not considered to satisfy Clause 8(1)(a) - Consent Considerations of the Tweed Local Environmental Plan 2000 as the development is considered not to be consistent with the primary objectives of the 7(l) Environmental Protection (Habitat) zone.**
 - 3. The development is not considered to satisfy Clause 8(1)(c) - Consent Considerations of the Tweed Local Environmental Plan 2000 as the removal of significant habitat, proposed by bushfire protection measures, is considered to have an unacceptable cumulative impact on the locality.**
 - 4. The development is not considered to comply with Clause 28 of the Tweed Local Environmental Plan 2000 as the development is considered to have an unacceptable impact on flora and fauna in the locality.**
 - 5. The development is not considered to comply with Clause 39A(2)(d) and (e) of Tweed Local Environment Plan 2000 in that consideration was not given to the siting of the development to mitigate the threat from bushfires and that the environmental and visual impacts of clearing of vegetation for bushfire hazard reduction would be unacceptable.**
 - 6. The development is not consistent with Chapter A5.5 of the Tweed Development Control Plan Section A5 Subdivision Manual which relates to Rural Subdivision in regard to its impact on the local native flora and fauna and the need for rural subdivision to have adequate regard to bushfire provisions.**

- 7. The development fails to satisfy the provision of State Environmental Planning Policy 44 – Koala Habitat Protection in that a Koala Plan of Management was not provided.**
 - 8. The applicant has failed to sufficiently evaluate under Section 5A of the EP&A Act the direct and indirect impact of the development (in its current form) on those threatened species known or considered to have a high likelihood of occurrence on or adjacent the subject site. As such significant uncertainty remains as to the extent and level of cumulative impact on threatened species, their habitats and Endangered and Threatened Ecological Communities listed under the Threatened Species Conservation Act 1995.**
- B. Council seeks advice from its solicitors regarding appropriate action to remedy the unauthorised works.**

REPORT:

Applicant: Mr CD Martin
Owner: Mr Clive D Martin & Ms Clare N Miller
Location: Lot 7 DP 1178620 No. 2041 Kyogle Road, Terragon
Zoning: RU2 - Rural Landscape and 7(l) Environmental Protection (Habitat)
Cost: \$10,000

Background:

This application has been brought to Council on four previous occasions with a recommendation for refusal being made on each occasion. The history of the application and Council's recommendations are detailed below:

- PC meeting of 2 Sept 2017 Item deferred for a site visit;
- PC meeting of 5 Oct 2017 Council recommended draft conditions for approval be brought back to Council;
- PC meeting of 2 Nov 2017 Council recommended alternative conditions for approval be brought back to Council;
- PC meeting of 7 Dec 2017 Council recommended further amendments to conditions.

Council officers met with the applicant in January 2018 to discuss proposed conditions and provide clarification on matters relating to plans of management, proposed conservation areas and the habitat restoration plan. It is the Officers understanding that the applicant considers the revised conditions as discussed to be valid and reasonable. These conditions are included as Option 2 at the end of this report.

This report is set out in two parts:

- (a) Discussion and comments of the amended conditions as proposed by Council at the meetings of 2 November and 7 December 2017 and provides further clarification on matters relating to Koala Plan of Management, habitat restoration plan, conservation areas and restrictions regarding the conservation area;
- (b) An assessment of the proposal as contained in the original report brought before Council at the meeting of 2 September 2017 and includes the amendments made to the report for the meeting of 5 October 2017 which addresses additional matters raised by the applicant following the site inspection. The assessment of the report supports the reasons for the recommended refusal of the application.

This report recommends Option 1 for refusal of the application.

Option 2 includes revised conditions as discussed with the applicant at the meeting of January 2018. Included in Option 2 are additional conditions relating to the requirement of a construction certificate and associated occupation certificate conditions related to new building works proposed in accordance with the submitted plans. The inclusion of these conditions was considered appropriate following discussion with Council's Building Services Unit to ensure Council meets its statutory obligations as well as providing certainty regarding completion and occupation of the existing dwelling.

Option 3 includes the draft conditions as amended by Council at the meeting of 7 December 2017.

Comments on proposed variations to draft conditions

Making amendments to a condition has a flow on effect for the application of later conditions. Some of the conditions previously recommend by Council for amendment result in a development consent that:

- does not provide clear requirements for any compensatory planting;
- does not provide clear requirements to be satisfied that allow for the permissible occupation of the existing thereby creating uncertainty for the applicant and Council;
- does not provide adequate protection of the fauna during habitat disturbance phases of the development; and
- has the potential to allow activities in the future that may erode the environmental and conservation values of the site.

Wording of the conditions below have been discussed with the applicant and the applicant has indicated that they wish to manage the site to preserve its environmental values.

It should be noted when comparing various versions of conditions that the numbering of each condition may have been altered due the addition/deletion of conditions.

Condition D

Condition D as included in Option 2 reads:

- D. An individual Site Based Koala Plan of Management (SBKPoM) shall be submitted to Council for approval by the General Manager or his delegate. The SBKPoM shall be prepared generally in accordance with Section 2 of the Department of Urban Affairs and Planning (DoUA&P) Circular No. B35 dated 22 March 1995 and the National Parks and Wildlife Service and DoUA&P Further Guidelines on Preparing a Koala Plan of Management dated 1999. The SBKPoM shall be prepared by a suitably qualified professional.*

This condition was previously recommended for deletion by Council at the meeting of 2 November 2017. The inclusion of this condition has been discussed with the applicant and it is understood that the applicant is accepting of this requirement. The SBKPoM (to be submitted to satisfy the Deferred Commencement conditions) may be included as a part of the Vegetation and Fauna Management Plan as required by condition 10. Many of the conditions of consent are drafted with the aim of protecting flora and fauna of the site and it is envisaged that a SBKPoM will align with actions taken to comply with those conditions. As such the preparation of a SBKPoM is not considered to be particularly onerous.

This condition satisfies requirements as prescribed by State Environmental Planning Policy No 44 - Koala Habitat Protection. Attention should be drawn to clause 9 of SEPP 44 that reads:

- 9 Step 3 - Can development consent be granted in relation to core koala habitat?**
- (1) *Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a core koala habitat, there must be a plan of management prepared in accordance with Part 3 that applies to the land.*
 - (2) *The council's determination of the development application must not be inconsistent with the plan of management.*

The site has been assessed as supporting Core Koala Habitat and therefore it is a legislative and best practice management requirement to prepare a site based Koala Plan of Management before consent is granted to a development application. The consent in this case it not 'active' until all of Schedule A Items have been satisfied.

The determination that the site supports Core Koala Habitat as per SEPP 44 is based on the following evidence as previously reported to Council:

- The single SAT survey, limited to within the disturbance footprint, as completed by Biolink is not sufficient to preclude the presence of core koala habitat;
- Potential Koala Habitat was recognised to occur onsite by Biolink;
- The habitat on site also forms part of a significant habitat node within a Regional Wildlife Corridor;
- As recognised in the submitted Ecological Assessment – 'the Tweed Coast Koala Habitat Study shows generational persistence of Koalas around Uki, Kunghur and Byrrill Creek and sightings as recent as 2013 and 2015 are recorded within less than one kilometre of the site. Of the total 74 records within the area, greater than 98% have been recorded since 2000 and 35 records since 2013';
- Koala pellets were found by Council's Biodiversity Officer within the study area;
- Indicative koala scratch marks were also observed on Eucalyptus propinqua trees within Tallowood dry grassy forest vegetation (TVMS 208) located onsite.

As such, the deletion of this requirement is not supported as it does not allow Council to satisfactorily address the legislative requirements of SEPP 44.

Condition 8

Condition 8 as included in Option 2 reads:

8. *With reference to Figure 2 of Habitat Restoration Plan Terragon dated January 2017 prepared by Bushland Restoration Services all 'Vegetation Community' types identified as 1 to 7 on that plan are to collectively form and be described as the 'conservation area' for the purposes of this consent. The conservation area shall be protected and managed as a natural area for conservation in perpetuity. The conservation area shall be the subject of a habitat restoration program implemented in accordance with an approved Habitat Restoration Plan.*

This condition has been the subject of two previous amendments by Council. The above wording of this condition has been discussed with the applicant as well as the permitted activities within the conservation area as prescribed in condition 38(e).

The condition references Figure 2 of Habitat Restoration Plan Terragon dated January 2017 (reproduced below) and the nominated conservation area is illustrated below.

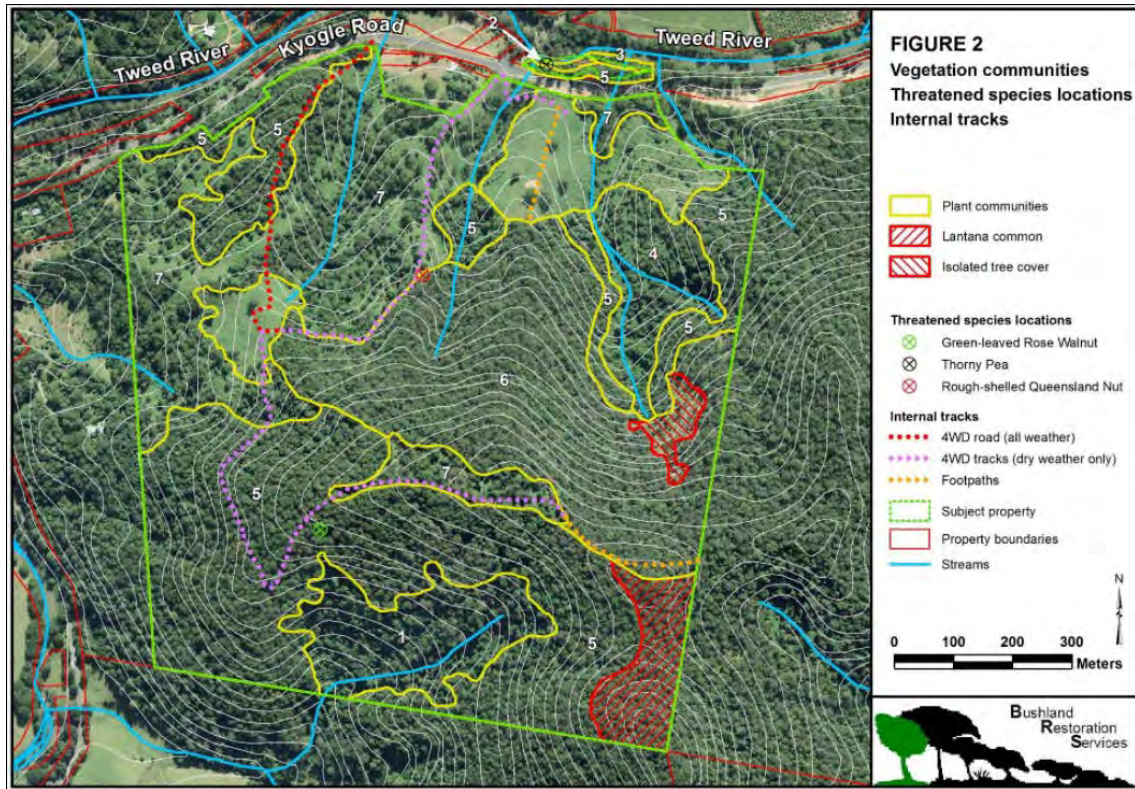
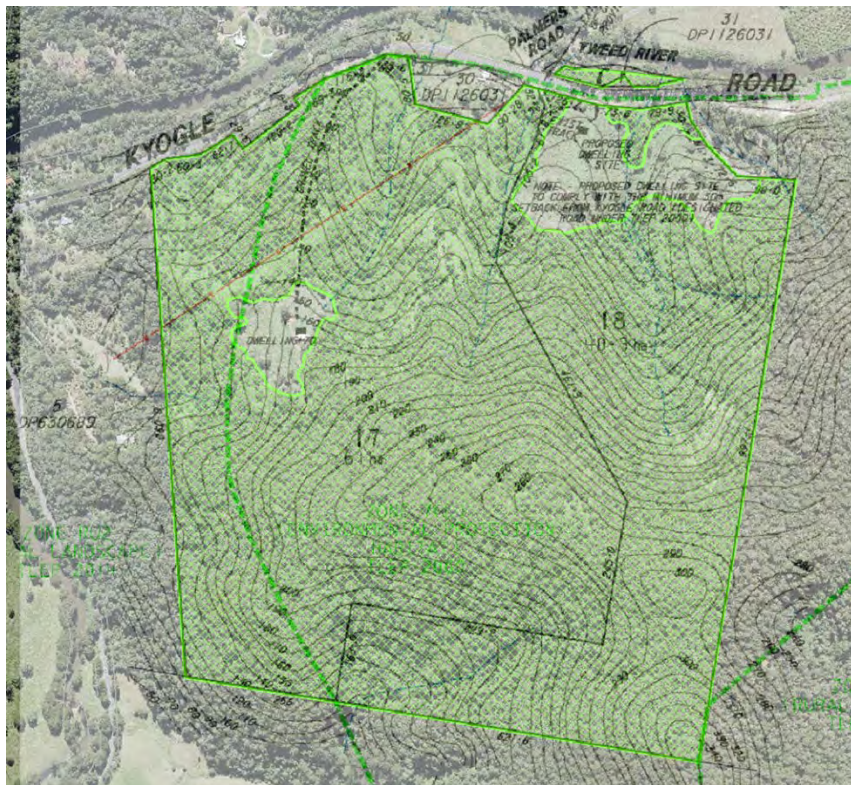


Figure 2 of Habitat Restoration Plan Terragon dated January 2017



Condition 8 (Option 2) Conservation areas (excluding the access driveways) identified by the green hatching to be protected under an 88B instrument burdening proposed Lot 17 and Lot 18 (as adapted from BRS 2017 mapping)

The intent of this condition is to ensure that that the vegetation communities identified on the map are provided appropriate management and protection from any undesirable activities that may be permissible without consent resulting from the proposed habitation and subdivision of the site in to the future.

NRM officers have raised concerns regarding the permissible clearing of native vegetation under the Local Land Services Act 2013 (LLS Act, formerly the Native Vegetation Act 2003) for '*allowable activities*'. Examples of allowable activities include clearing for (but not limited to): permanent boundary fences; permanent internal or temporary fences; farm access tracks; and sustainable grazing. Furthermore, activities involving clearing may be undertaken under the Land Management (Native Vegetation) Code 2017. Such activities may be lawfully undertaken across those areas of high biodiversity value without Council consent and have the potential to result in significant impact on site based biodiversity values. The above wording of the condition together with Condition 38 (88B Instrument) would preclude any future clearing under the LLS Act.

The alternate condition as recommended by Council at the meeting of 7 December 2017 references Works Zones 6, 7 and 8 as identified on Figure 3 of the Habitat Restoration Plan dated January 2017 (reproduced below). Limiting the conservation area to Works Zones 6, 7 and 8 as previously recommended by Council (illustrated below) is not supported as:

- The limited conservation area fails to afford adequate protection to those areas of ecological significance (remnant vegetation and potential threatened species habitat) on proposed Lot 17 and high value riparian zone on proposed Lot 18 (Zone 5); and
- The limited conservation area does not account for any habitat restoration requirements for areas directly and indirectly impacted by the existing structure on proposed Lot 17.

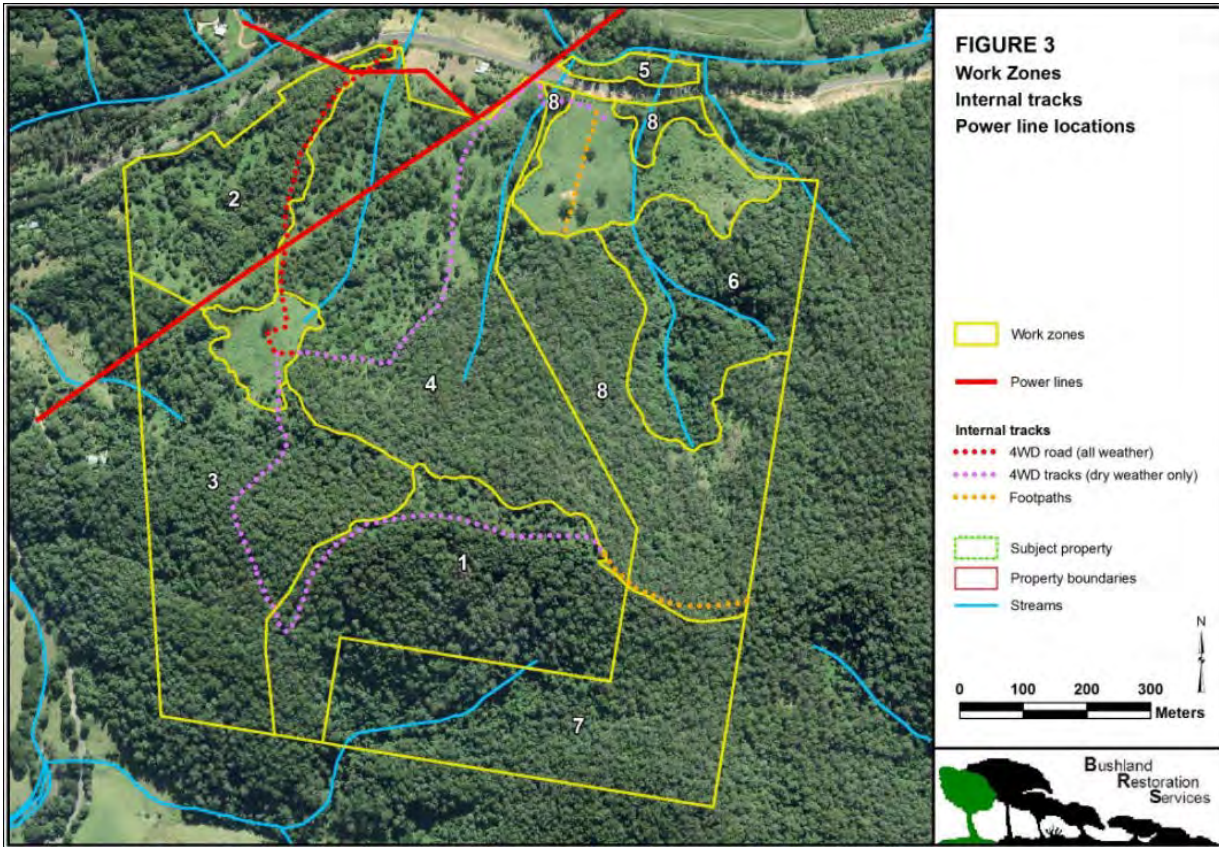
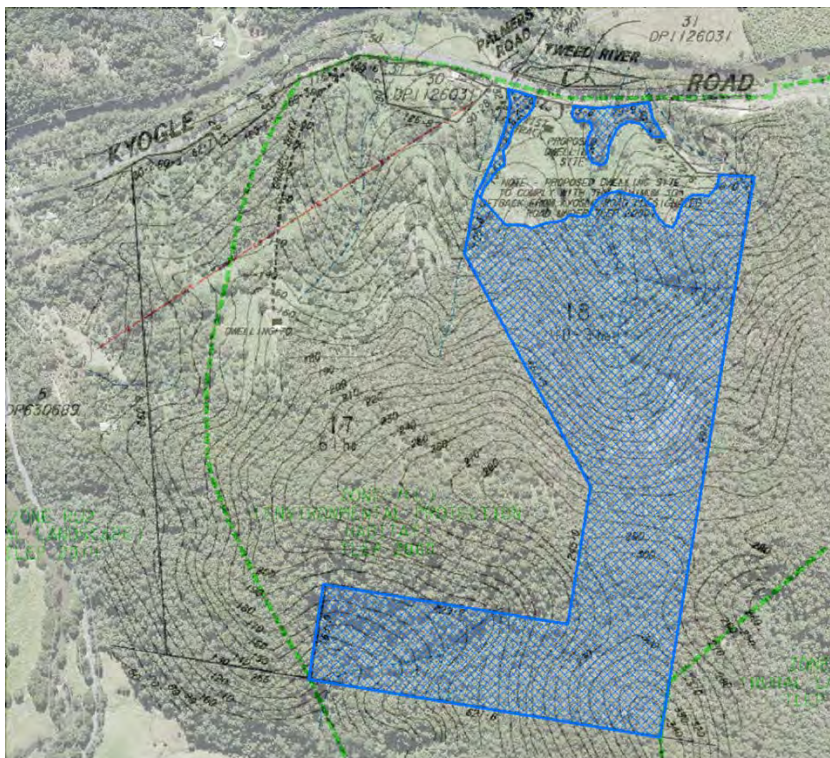


Figure 3 of Habitat Restoration Plan Terragon dated January 2017



Limited conservation area (Works Zones 6, 7 and 8) as proposed by Council is identified by the blue cross-hatched zone and applies to proposed Lot 18 only.

There is no statutory mechanism imposed under the conditions as recommended by Council at the meeting of 7 December 2017 (Option 3) to ensure long term protection of the nominated conservation area (as adapted from BRS 2017 mapping). As such, the reference

to the existing Habitat Restoration Plan dated January 2017 to limit a habitat restoration plan to Works Zones 6, 7 and 8 is not supported. Further discussion with regard the requirement for a development specific habitat restoration plan is provided later in this report (Condition 12).

Condition 11

Condition 11 as included in Option 2 reads:

10. *A Vegetation and Fauna Management Plan (V&FMP) shall be prepared by a suitably qualified ecologist to be implemented during the construction and operational phase (where specified) of the development. The V&FMP shall be submitted and approved by Council's General Manager or delegate prior to the commencement of any works. The V&FMP shall integrate and be consistent with key elements of the approved Tree Survey Plan, approved Site Based Koala Plan of Management and Habitat Restoration Plan. The following (but not be limited to) details shall be addressed in the V&FMP.*

Vegetation Management

- a. *Particulars and locations of vegetation to be removed and vegetation to be retained in order to facilitate the development;*
- b. *A statement of the reasons why the damage is necessary and any relevant factors associated with the purpose of the proposed damage;*
- c. *Details of all proposed infrastructure, site access and services;*
- d. *Details of strategies and methods to be implemented to protect vegetation to be retained generally consistent with Australian Standard AS 4970-2009 Protection of trees on development sites;*
- e. *Quantification of compensatory planting applied to all trees identified to be removed on the approved TSP. Compensatory plantings shall:*
 - i. *Be calculated at a ratio of 1:16 (remove:replace);*
 - ii. *Aim to replace the same species removed;*
 - iii. *Be installed within the approved conservation zone in accordance with the Habitat Restoration Plan;*
- f. *Methods for the reuse of felled vegetation from the subject site;*
- g. *Disposal methods for remaining debris after the above methods have been employed;*
- h. *Specify that all trees to be removed are to be clearly marked prior to any clearing activity.*

Fauna Management

- a. *Identification of known and potential habitat trees (displaying values such as hollows, fissures, nests, drays, arboreal termitaria used as nests etc.) and description of fauna species known/likely to utilise habitat features;*
- b. *Information on how trees are to be inspected for denning or nesting animals including constraints for inspecting trees (to provide acceptable alternative methods) and summary of removal and relocation methods for each faunal group (including observed species and species likely to occur in the area to be disturbed);*

- c. *Considerations relating to time periods for when fauna is to be removed/flushed prior to clearing;*
- d. *Details of special equipment required (such as cameras, elevated platforms etc.);*
- e. *Identification of general locations that wildlife will be relocated/translocated to if required (based on habitat requirements);*
- f. *Specify that a suitably qualified ecologist who holds a fauna survey licence is required to manage wildlife onsite during any tree removal and/or disturbance to wildlife habitat. Fauna management methods employed should be generally consistent with the Draft Queensland Code of Practice for the Welfare of Wild Animals Affected by Clearing and Other Habitat and Wildlife Spotter/Catchers (Hangar & Nottidge 2009) Where translocation is required the proponent shall seek any relevant permits from the state regulating agency (Office of Environment & Heritage). It is the responsibility of the proponents to ensure all relevant licences have been obtained prior to any fauna interactions.*

Council recommended at the meeting of 7 December 2017 that the condition be amended to remove reference to the Site Based Koala Plan of Management and limit application of a V&FMP to:

'...for areas impacted by the dwelling and associated access roads and the 50m buffer around such...'

The proposed limitation on the application of the V&FMP is not supported as it restricts considering any impacts to be managed resulting from the subdivision or around any future dwelling on proposed Lot 18. The wording of this condition was discussed with the applicant who agreed that the impacts of any future dwelling on proposed Lot 18 should be managed appropriately. The application of the V&FMP to the entire site as opposed to a restricted area of the site does not place an unreasonable additional burden on the applicant as many of the requirements of the conditions relate to management activities that are not site specific.

Fauna management conditions (a) to (f) removed in a previous amendment (in error) have been reinstated.

Condition 12

The condition as included in Option 2 reads:

11. *A Habitat Restoration Plan (HRP) shall be prepared for the following areas of the approved conservation area (pursuant to Condition 8) as described in Figure 3 of Habitat Restoration Plan Terragon dated January 2017 prepared by Bushland Restoration Services:*

- *Work Zone 4; and*
- *Work Zone 6; and*
- *Work Zones 8 – fronting Kyogle Road.*

The HRP shall be prepared by a person suitably qualified in Bushland Regeneration or Ecological Restoration and with knowledge and experience in

local vegetation communities (e.g. wetlands, rainforest, open woodland) and generally reflect. The HRP shall be submitted and approved by Council's General Manager or delegate prior to the commencement of any works on site and shall include the following:

- a. An appraisal of the present condition of areas the subject of restoration activity*
- b. Details of any previous habitat restoration works*
- c. Details of the approach to habitat restoration generally consistent with that prescribed in the Habitat Restoration Plan Terragon dated January 2017 prepared by Bushland Restoration Services for each respective works zone detailed above*
- d. Plan overlaying an aerial photograph of the site which divides the area into zones for regeneration and zones for planting, including connections between existing vegetation where appropriate*
- e. Management strategy for each of the zones, including the approach, methods and techniques to be used for habitat restoration*
- f. Detail a revegetation schedule of one (1) plant per square metre including compensatory planting as specified in the Vegetation and Fauna Management Plan*
- g. Schedule of local native plant species to be used for planting*
- h. Program of works to be undertaken to remove invasive weed species;*
- i. Schedule of timing of proposed works*
- j. Set of performance criteria to achieve site capture over a five (5) year management period*
- k. Maintenance, monitoring and reporting schedule with developer commitment for a period of not less than five (5) years*
- l. An adaptive management statement detailing how potential problems arising may be overcome and requiring approval of the General Manager or delegate for such changes.*

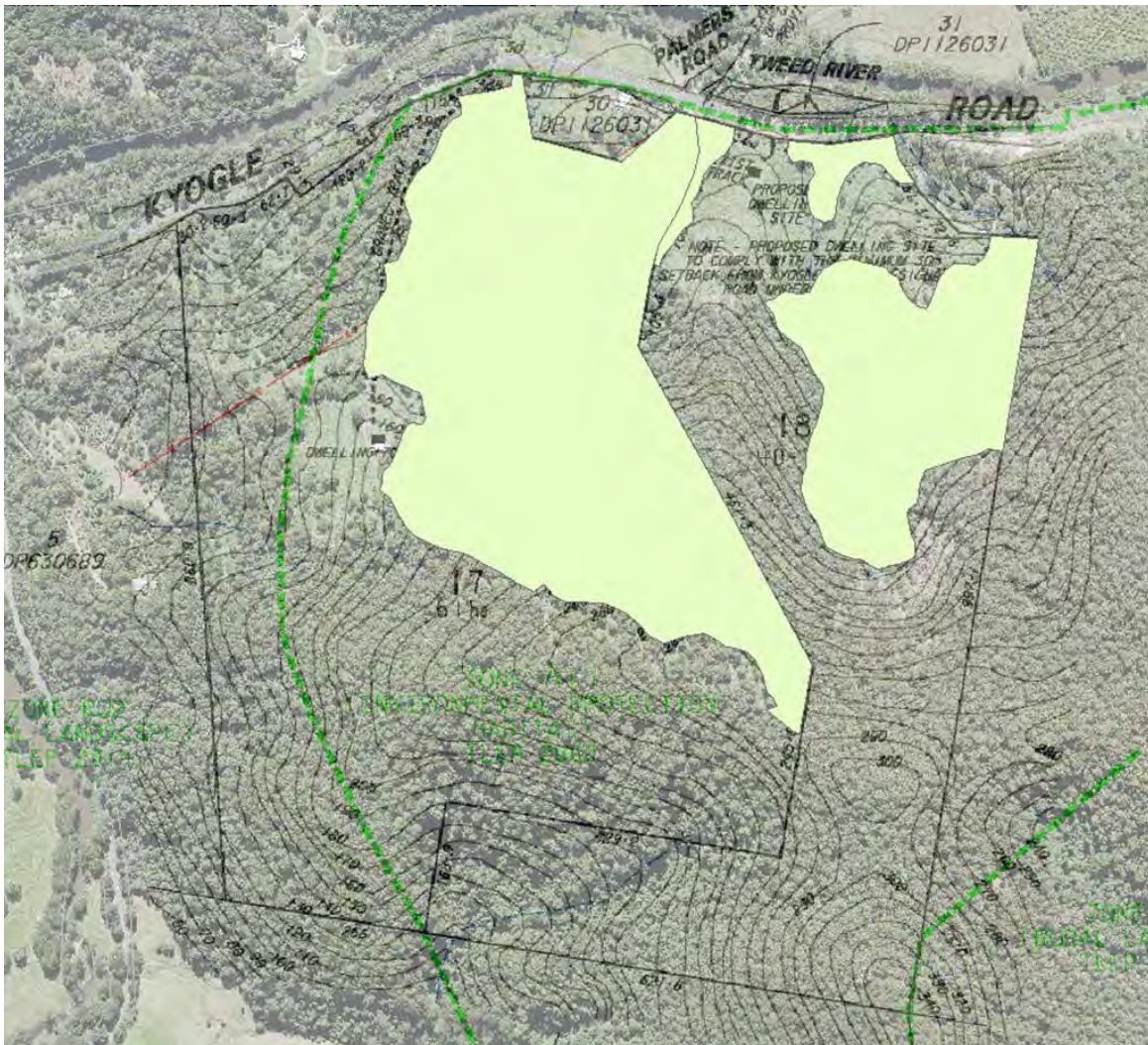
The requirement for a habitat restoration plan prepared specifically for this development was discussed with the applicant and the applicant expressed concern regarding the burden of this condition. The absence of a development specific HRP as required by the above condition results in uncertainty regarding restoration activities required to be completed at various stages of the development, specifically for occupation of the dwelling and the subdivision stage. The applicant has expressed a willingness for the inclusion of conditions that create more certainty with regard to the extent to of habitat restoration activities required to satisfy conditions of consent.

The submitted Habitat Restoration Plan dated January 2017 serves as a foundation for the preparation of the development specific HRP as required by condition 12. Council's NRM Unit is able to provide advice and guidance as required to assist the applicant in the preparation HRP to satisfy this condition.

The above wording of the condition to identify Work Zones 4, 6 and 8 (illustrated below) are considered appropriate for the following reasons:

- Restoration areas which are the subject of public funding were avoided to remove any concern regarding inappropriate use of public funds in the future;

- The select zones are adjacent to those future activity areas on proposed Lots 17 and 18 where a nexus could be drawn between direct/impact and mitigation of such impacts through habitat restoration could be realised;
- Certain areas were selected as they provide opportunity for revegetation purposes required as a compensation measure.



Work Zones 4, 6 and 8 on proposed Lots 17 and 18 to be the subject of a restoration program (as adapted from BRS 2017 mapping)

Council recommend at the meeting of the 7 November 2017 that condition be amended to remove parts (a)-(l) and to read:

'The Habitat Restoration Plan (HRP) dated January 2017 prepared by Bushland Restoration Services be accepted as the required Habitat Restoration Plan for future conservation purposes.'

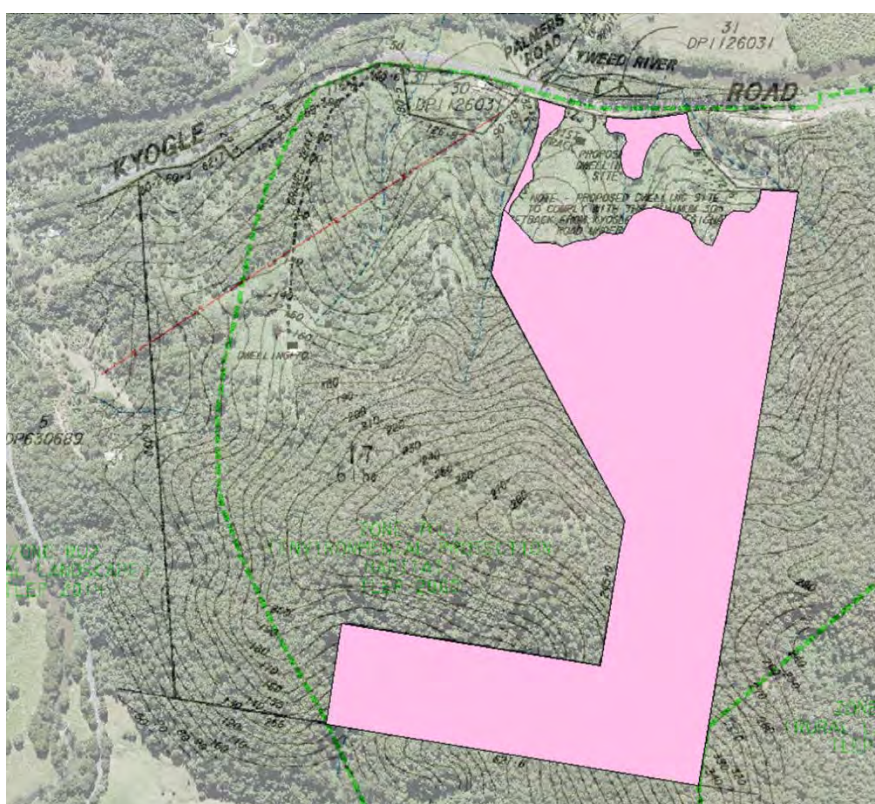
Reference to the Habitat Restoration Plan dated January 2017 is not supported as the plan was not prepared with reference to the development proposal and does not stipulate performance requirements, specific timeframes, revegetation requirements (as required by Condition 10) and an appropriate monitoring and reporting protocol.

Removal of the requirement to submit a Habitat Restoration Plan prepared specifically for the proposed development results in an approval that does not contain any controls relating

to revegetation/regeneration of the site or ongoing maintenance of revegetated areas and creates uncertainty for the applicant and Council with regard to the level of restoration works required to meet other conditions of consent, specifically the issue of an occupation certificate or subdivision certificate.

The HRP dated January 2017 was publically funded under the NSW Environmental Trust project 'Filling the biodiversity gaps connecting Tweed Coast to Border Ranges Stage 2', to which Tweed Shire Council has made a financial and in-kind contribution. The plan was not written for the purpose of meeting development consent conditions associated with the subject application relating to the establishment of a dwelling house and two lot subdivision. Furthermore works within Zone 1 have been undertaken using public funds to date. This zone was specifically not referenced in the consent conditions.

The above wording of the consent as recommend by Council at the meeting of 7 November 2017 lacks clear direction in terms of the standard, timing and scope of any such habitat restoration works. Furthermore, interpretation of Condition 8 would limit any potential habitat restoration activities to proposed Lot 18 and areas remote from the existing structure as illustrated below.



Assumed areas to be the subject of a restoration program are limited to proposed Lot 18 only (as adapted from BRS 2017 mapping)

Condition 15

Condition 15 as included in Option 2 reads:

15. *Environmental restoration works shall be completed to a level specified in the approved Habitat Restoration Plan prior to the issue of the first of any occupation certificate or release of subdivision certificate, whichever occurs first, and shall be maintained at all times in accordance with the approved plans.*

As discussed above, a HRP is required to be prepared to satisfy condition 12 and is to include a schedule of restoration works (item i.). This condition therefore provides certainty for the applicant and Council of the restoration activities required to be completed prior to either the occupation of the dwelling or the issue of a subdivision certificate.

Council recommended at the meeting of 7 December 2017 that the condition be amended to make reference to the Vegetation and Fauna Management Plan (condition 11) and works to be completed prior to the issue of a subdivision certificate.

The proposed amendment is not supported as the Vegetation and Fauna Management Plan as does not specify a schedule of the proposed restoration works nor any details regarding the level at which compensatory planting is to be deemed to be completed. These details are required to be submitted in the Habitat Restoration Plan as per condition 12. The above wording will result in a consent that does not include a clear requirement that any environmental restoration works are to be commenced prior to occupation of the dwelling or issue of the subdivision certificate and creates the risk that proposed development may be completed without any compensatory planting works taking place.

Conditions 16

Condition 16 as included in Option 2 reads:

16. *A building certificate for the existing dwelling on future Lot 17 shall not be issued an Engineering Report demonstrates it is safe for habitation and certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning and Design (BPAD) certified practitioner that all Bushfire safety requirements related to the safe habitation of the existing building have been met are submitted to Council.*

The intent of this condition is to ensure the building is safe for habitation. The wording of this condition and condition 17 have been altered slightly from that recommended by Council at the meeting of 7 December 2017 to ensure the requirements for the occupation of the existing building are clear and reasonable and that there is an orderly progression of events that allow for the safe occupation of the existing building.

Deferred commencement conditions in Schedule A of the consent require structural and geotechnical engineering reports to be provided with the Building Certificate Application. Bushfire safety conditions as recommended by the Rural Fire Service are included at the end of the consent and the requirement for certification that these conditions have been met is required by condition 14.

Condition 17

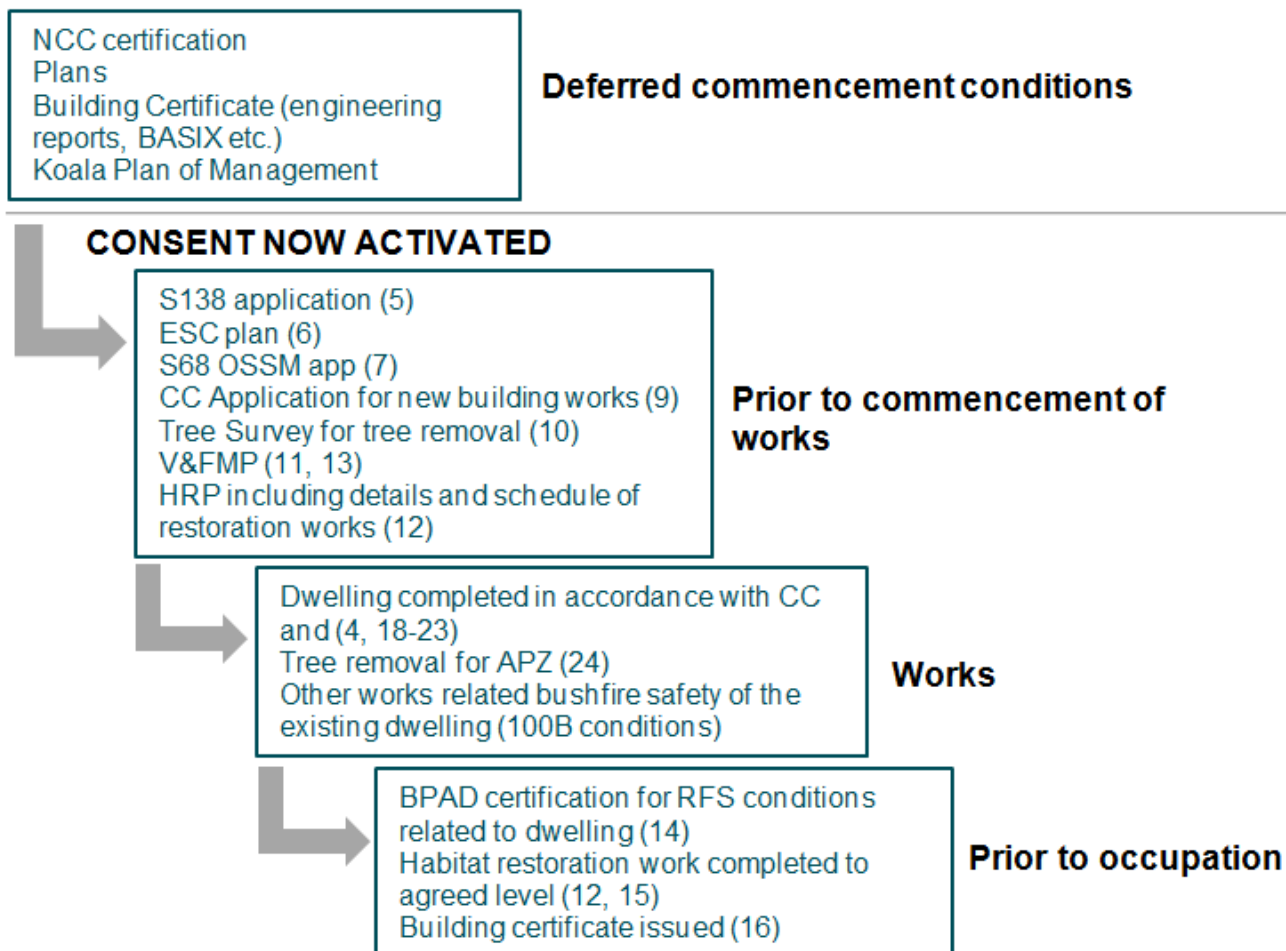
Condition 17 as included in Option 2 reads:

17. *The existing dwelling on future Lot 17 cannot be occupied until a building certificate is issued.*

This condition relates directly to condition 16 and allows for occupation of the existing building once all requirements related to the safety of the building are satisfied. As

mentioned above, the recommended wording of conditions 16 and 17 have changed slightly to provide clarity regarding the safety requirements that are to be met to allow occupation of the dwelling. The intent of the condition is the same as recommended by Council in that permissible occupation of the dwelling is not unreasonably delayed.

The below illustration provides a time line summary of the expected order of works in relation the existing dwelling as required by the conditions of consent.



(Numbers in brackets refer to specific conditions)

Works related to the subdivision component of the consent can run in parallel to the above activities however a subdivision certificate will not be issued until the all conditions relating the subdivision are meet (1,3, 33 - 44) including restoration works to an agreed level as specified in the HRP as per conditions 12 and 45.

Condition 24

Condition 24 as included in Option 2 reads:

24. *A suitably qualified ecologist who holds a fauna survey licence (NSW) must be engaged to supervise any tree removal works onsite. Immediately following completion of tree clearing activity the qualified ecologist shall provide a final report to Council specifying the following:*

- a. *Brief summary of any fauna handling, mortality or other relevant fauna related incidents that may have occurred during tree removal*
- b. *Inventory of species encountered during tree removal*
- c. *If relocation was required, list of species and relocation location.*

This condition was removed by a recommendation of Council at the meeting 2 November 2017. This requirement is considered mandatory to meet legislative fauna management responsibilities and to ensure the welfare of animals is not put at risk during proposed habitat disturbance. The removal of this condition is not supported.

Condition 38

Condition 38 as included in Option 2 reads:

38. *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) *Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006" Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.*
- (b) *Restriction As To User to notify future owners that reticulated sewer is not available to the site and any future dwelling will be required to provide On-Site Sewerage Management in accordance with Council's On-Site Sewerage Management policy.*
- (c) *Restriction As To User to notify future owners that reticulated water supply is not available to the site and any future dwelling will be required to provide a roofwater supply system in accordance with Council's policies and Bushfire Planning requirements (the minimum storage capacity required shall be 15,000L per bedroom with a minimum 20,000L to be provided).*
- (d) *Restriction as to user regarding the 'Conservation Area' pursuant to Condition 8 of this consent – this area must be subject to an approved ecological restoration program (undertaken in accordance with the approved habitat restoration plan) and managed for conservation purposes in perpetuity.*

Burden: Part Lot 12. Benefit: Tweed Shire Council

- (e) *Restriction as to user regarding the 'Conservation Area' pursuant to Condition 8 of this consent – The following activities are not permitted within this area.*
 - i. *Clearing, lopping or removal of any native plants, whether existing at the date of this approval or planted pursuant to conditions of this approval;*

- ii. *Erection of any fixtures or improvements, including buildings or structures;*
- iii. *Construction or maintenance of access trails or paths, other than tracks for non-motorised recreational access and bush regeneration purposes, unless otherwise established prior to issue of this consent;*
- iv. *Depositing of any fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the protected area*
- v. *Keeping or permitting the entry of domestic animals or any other animals that are not indigenous to the conservation area; and*
- vi. *Performance of any other acts which may have detrimental impact on the values of the conservation area. The area must be managed in accordance with the approved habitat restoration plan for the life of the development and the use of the premises.*

Burden: Part Lot 17 and Part Lot 18. Benefit: Tweed Shire Council

- (f) *Restriction as to user – all fauna management measures prescribed in the approved Site Based Koala Plan of Management shall be complied with at all times*

Burden: Lot 17 and Lot 18. Benefit: Tweed Shire Council

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating a Right Of Carriageway or Easement shall make provision for maintenance of the Right Of Carriageway or 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 (as applicable).

Any Section 88B Instrument creating Restrictions as to user, Right of Carriageway or Easements which benefit Council shall contain a provision enabling such Restrictions, Easements or Rights of Carriageway to be revoked, varied or modified only with the consent of Council.

This condition has been the subject of two amendments recommended by Council at the meetings of 2 November and 7 December 2017. The above wording of the condition has been discussed with the applicant and changes have been made to ensure that restrictions placed on the 'Conservation Area' do not limit bush regeneration activities.

Part (d) of condition 38 above was recommended to be removed by Council at the meeting of 2 November 2017. The inclusion of this requirement was discussed with the applicant to clarify the intent of the condition which is to ensure that that the vegetation communities identified on the map are provided appropriate management and protection from any undesirable activities that may be permissible without consent resulting from the proposed habitation and subdivision of the site in to the future. The applicant expressed a desire to maintain the site as natural area with high conservation values.

Part (e) was recommended to be removed by Council at the meeting of 2 November 2017. The wording of this condition has been discussed with the applicant and part (iii) has been amended to allow access tracks to be created to facilitate bush regeneration activities and the normal recreational use of the land.

Part (f) was recommended to be removed by Council at the meeting of 7 December 2017 as it referred to the Site Based Koala Plan of Management that Council had previously recommended for removal. As discussed earlier in this report, a SBKPoM is a legislative requirement and the applicant has been provided further information regarding the information required for the preparation of the SBKPoM. The inclusion of this condition is required to ensure the management of the site is consistent with the SBKPoM into the future.

Removal of any part of condition 38 is not supported as there is a lack of certainty that conservation values of the site will be protected and managed as legislatively required. Zoning alone does not provide adequate security that the site will be managed appropriately to protect its conservation values. Activities permissible without consent may erode the site's environmental and conservation values (refer to discussion under Condition 8 for further explanation of such activities).

Condition 45

Condition 45 as included in Option 2 reads:

45. *Environmental restoration works shall be completed to a level specified in the approved Habitat Restoration Plan prior to the release of subdivision certificate and shall be maintained at all times in accordance with the approved plans.*

This condition was recommended for removal at the Council meeting of 7 December 2017 as it had the same effect as condition 14 as recommended by Council at the same meeting. As discussed earlier in the report, conditions 14, 15 and 16 have been amended to provide a clear sequence of events that is to occur to allow permissible occupation of the existing building on site without an unreasonable delay. This condition serves as further clarification for the applicant and Council of the agreed works required to be completed to allow the subdivision certificate to be issued.

The removal of this condition is not supported as its removal creates uncertainty regarding the extent of works required to be completed prior to the issue of the subdivision certificate.

ORIGINAL REPORT (Planning Committee Meeting 7 September 2017)

Summary of Original Report:

A development application has been received proposing a two lot subdivision and seeking approval for the use of an existing unauthorised structure for the purposes of a dwelling on one of the proposed allotments at Lot 7 DP 1178620; No. 2041 Kyogle Road, Terragon.

The existing subject lot is 101.26 hectares with no dwellings currently approved over the site. The lot is heavily vegetated with some cleared grass areas and is mapped as being bushfire prone and having a high ecological status. The subdivision proposes two new lots with Lot 17 being 61 hectares and Lot 18 being 40.3 hectares. A new proposed dwelling site is nominated for proposed Lot 18 and an unapproved structure is currently located on proposed Lot 17 for which the applicant seeks ongoing approval as a dwelling.

The application was initially lodged seeking consent for a two lot subdivision and minor earthworks at the subject site with a proposed dwelling site nominated for each of the proposed lots. Previous correspondence from the applicant prior to the lodgement of the application indicated that the construction of the unauthorised structure and some earthworks have been completed without development approval. A site visit revealed extensive development works had been previously undertaken without development consent including; earthworks; a habitable structure (the 'unauthorised structure'); three water tanks, on-site sewerage management system; five shipping containers; and a spa.

The applicant was subsequently requested to withdraw the application or alternatively amend the application nominating the existing unauthorised structure as a dwelling. In response to this request the applicant submitted amended plans for a two lot subdivision and nominated the existing unauthorised structure as a dwelling on proposed Lot 17 and a proposed new dwelling site on proposed Lot 18.

The existing unapproved structure is required to comply with Planning for Bushfire Protection 2006, including the establishment of Asset Protection Zones (APZ). Achieving compliant APZs requires a 65m APZ to the east of the existing structure which would necessitate the removal and modification of approximately 4,500m² of additional vegetation to that which has been already undertaken onsite without approval. The vegetation forms part of a Regional Wildlife Corridor and includes area defined as Core Koala Habitat under State Environmental Planning Policy 44 Koala Habitat Protection.

The subject site contains a number of previously cleared areas. The amended application failed to identify alternate dwelling sites on proposed Lot 17 that would result in a more favourable environmental outcome. An application for a two lot subdivision with proposed dwelling sites for each of the proposed lots that do not require extensive vegetation removal would be generally supportable in the absence of the existing unauthorised works.

The removal of vegetation required to achieve compliant APZs for the existing unapproved structure on proposed Lot 17 is considered to have an unacceptable impact on significant habitat and as such the proposal is not supported and this application is recommended for refusal. Should the application be refused it is also recommended that Council seek legal advice in regards to the best way forward for compliance action to restore the site to its previous state prior to the construction of all the unauthorised structures.

Parts of the site have previously been cleared and the application does not consider alternative dwelling sites for proposed Lot 17 that have a more favourable outcome with regard to significant habitat retention.

Original report details

Site details

The site is described as Lot 7 DP 1178620, 2041 Kyogle Road, Terragon, and has an area of 101.26 hectares. The majority of the subject site is located on the southern side of Kyogle Road with a small portion of the lot, approximately 3,521m², located to the north of Kyogle Road adjacent to the Tweed River. The site is accessed from Kyogle Road and is mapped as being bushfire prone and having a high ecological status. The site is within the Drinking Water Catchment area as mapped by the Tweed LEP 2014.

The land is relatively steep and rises up from Kyogle Road to an elevation approximately 290m above the road. The site is dominated with heavily vegetated slopes with some previously cleared areas on the ridgelines of lower portion of the site. Surrounding land uses include forested areas interspersed with land previously used for cattle grazing and agricultural uses. Clarrie Hall dam is located approximately 1km to the east of the site.

Application details

The application was lodged initially seeking consent for a two lot rural subdivision including minor earthworks. A proposed subdivision plan was submitted outlining proposed Lot 17 with an area of 61 hectares and proposed Lot 18 with an area of 40.3 hectares. Each of the proposed lots nominated a proposed dwelling site adjacent to the southern side of Kyogle Road (refer to figure below). The submitted plans and the Statement of Environmental Effects indicated there were no existing dwellings located on the site however the plans showed an "existing shed" is located on proposed Lot 17.

Following a site inspection it was resolved that the "existing shed" was in fact an unauthorised structure capable of being used as a dwelling.

The applicant also acknowledged the unauthorised dwelling and some earthworks being completed without development approval prior to their development application being lodged with Council.

The site visit revealed extensive construction and earthworks previously completed without approval at the location of the unauthorised structure proposed as a dwelling as part of this application. The extent of unauthorised works includes:

- Earthworks;
- Construction of a structure capable of habitation comprising of a single room structure with mezzanine level, bathroom and deck including hot water system and solar panels;
- On-site sewerage management system;
- Location of five shipping containers with various uses (additional rooms or storage);
- Three rainwater tanks; and
- An outdoor spa.



Initial proposal of a two lot subdivision with two proposed dwelling sites and unauthorised structure/shed as shown on Plan. The amended proposal deletes the proposed dwelling site from Lot 17 and proposes the unauthorised structure/shed be the approved dwelling site as part of this DA.

From aerial imagery it appears that the unauthorised structure was started sometime after Council's 2012 imagery as shown by the series of aerial photography below. The imagery also suggests that works have been undertaken to upgrade the access track to the current unauthorised structure.



2012 – no structure in circled location



2016 - structure appears in circled location



2017 Google Satellite - structure, clearing, access track and vegetation works now evident on aerial imagery

The works appeared to be ongoing as demonstrated by the following site photos:



Structure with deck and two shipping containers



Side view of structure showing front door



Internal view of structure showing mezzanine level and bathroom



View from rear showing two rainwater tanks



Two of five shipping containers located on the site

The unapproved works are located within the 7(l) zone under Tweed Local Environment Plan 2000. The structure appears to be capable of habitation and as such may be defined as a dwelling.

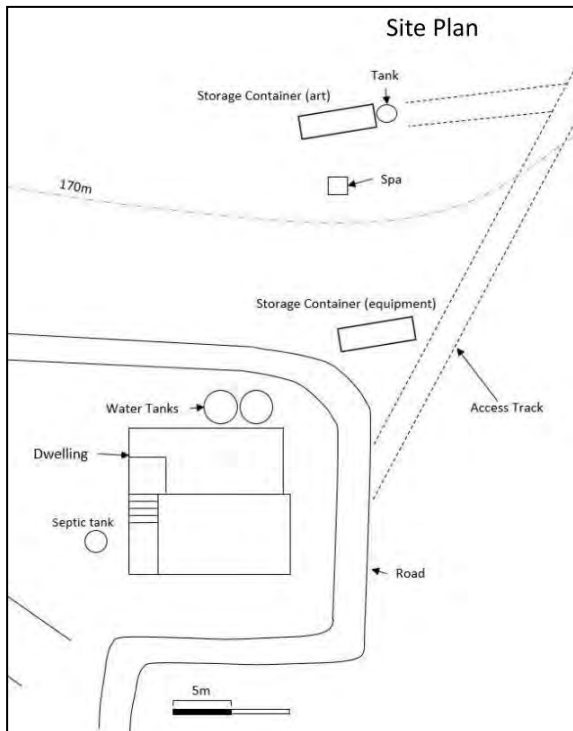
The applicant was given notice to stop all building and development works and requested to withdraw the application or alternatively amend the application to a proposed two lot subdivision and dwelling with the current unauthorised structure located on the site to be

nominated as a dwelling. Revised plans and supporting documentation were requested if the application was to be amended.

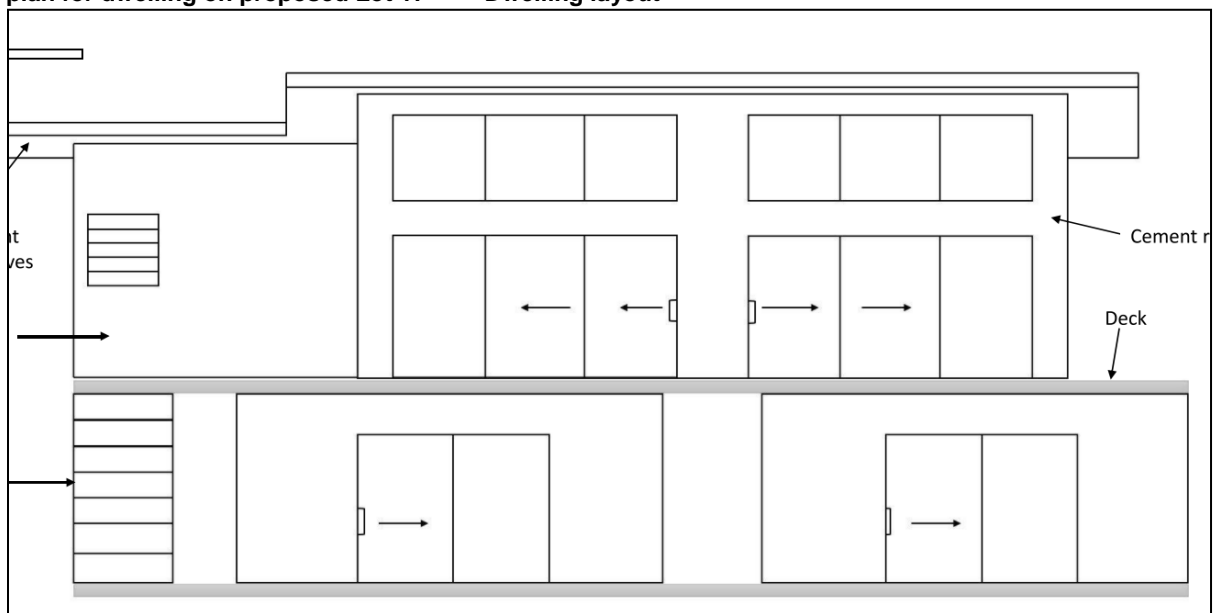
The applicant advised that they wish to proceed with an amended application nominating the current unauthorised structure as a dwelling and submitted amended plans and documentation consisting of plans of existing authorised structure, an amended ecological assessment, on-site sewerage management report and bushfire risk management report.



Current application plan for a two lot subdivision and dwelling (nominating the existing 'shed' as a dwelling)



Site plan for dwelling on proposed Lot 17 Dwelling layout



Elevations of existing dwelling

The existing unapproved structure (proposed dwelling) is split level with a single room open plan living/kitchen area, bathroom and deck on the upper level. This part of the dwelling is constructed from rendered straw bales with a colorbond roof and includes a non-habitable mezzanine area over the living area. The lower level is located below the deck and consists of two shipping containers to be utilised as bedrooms and a bathroom.

The existing unapproved structure (proposed dwelling) is located on the lower portion of a ridge line and benefits from views to the north of Wollumbin (Mt Warning). Land immediately to the north and west of the dwelling slopes down and is primarily grassland. Land to the east has a down slope of greater than 25° and comprises forest vegetation. Land to the north slopes upwards and also comprises of forest vegetation.

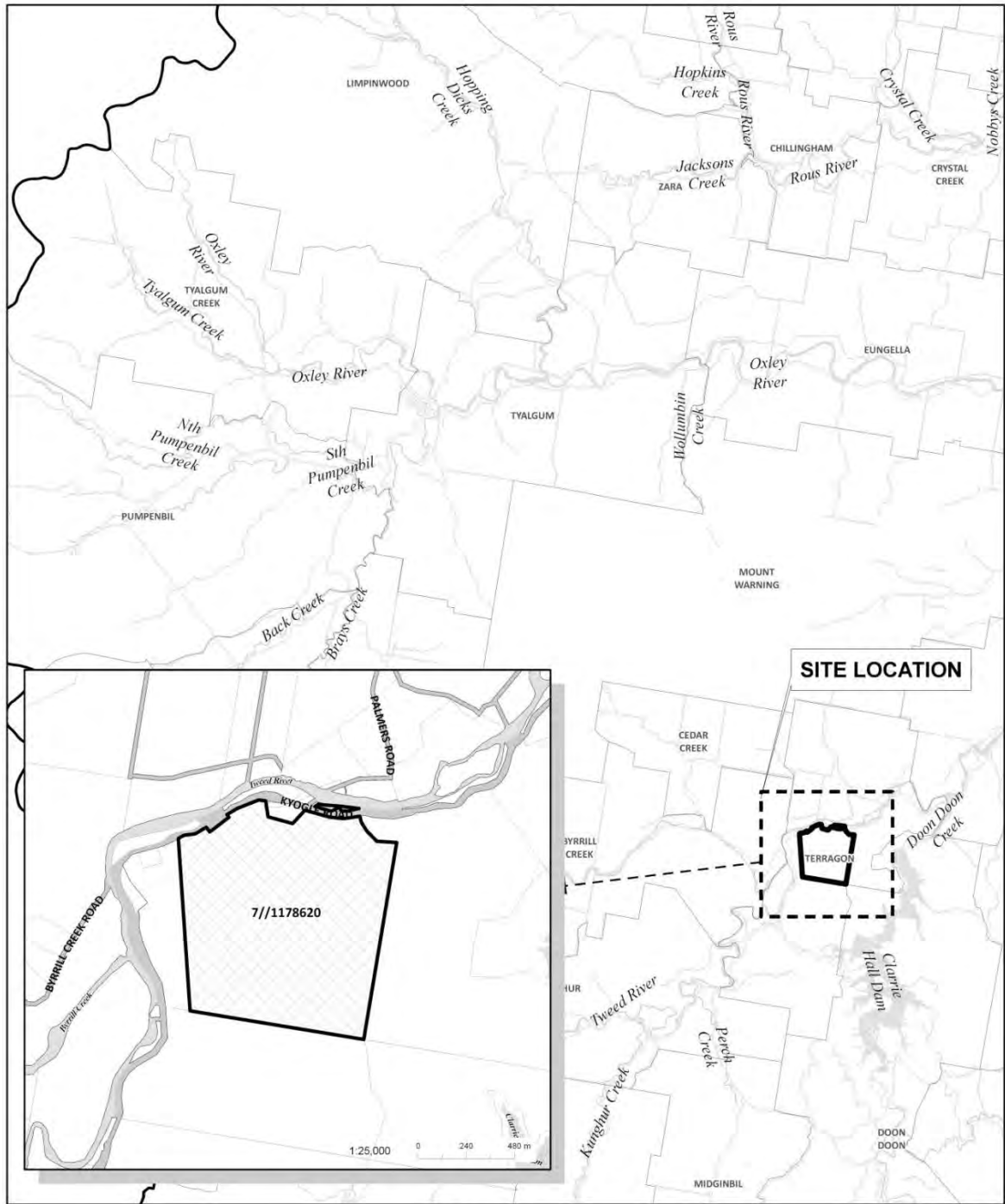
The site is mapped as bushfire prone and the existing unapproved structure is located adjacent to land mapped as vegetation category 1. The proposed dwelling is required to comply with *Planning for Bushfire Protection 2006* and the Rural Fire Service has recommended that an Asset Protection Zone (APZ) of 114m x 43m (8,322m²) is to be established and is to be maintained entirely as an Inner Protection Area (IPA). Due to the steepness of the site, a portion of this area will also require terracing to ensure the IPA can be maintained.

Achieving the recommended APZ requires the modification and disturbance of approximately 4,500m² of vegetation. This vegetation forms part of a Regional Wildlife Corridor and Council's assessment has identified the portion of vegetation to be impacted by the establishment of the APZs as being Core Koala Habitat as defined under State Environmental Planning Policy 44 Koala Habitat Protection.

Parts of the site have previously been cleared and the application does not consider alternative dwelling sites for proposed Lot 17 that have a more favourable outcome with regard to significant habitat retention.

This extent of clearing to comply with the recommended APZs is considered unacceptable in this sensitive environment and accordingly the application is recommended for refusal.

SITE PLAN:



Site Plan

Lot 7 DP 1178620
2041 Kyogle Road, TERRAGON

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Coordinate System - MGA Zone 56
Datum - GDA 94

Cadastral: 30 June, 2010
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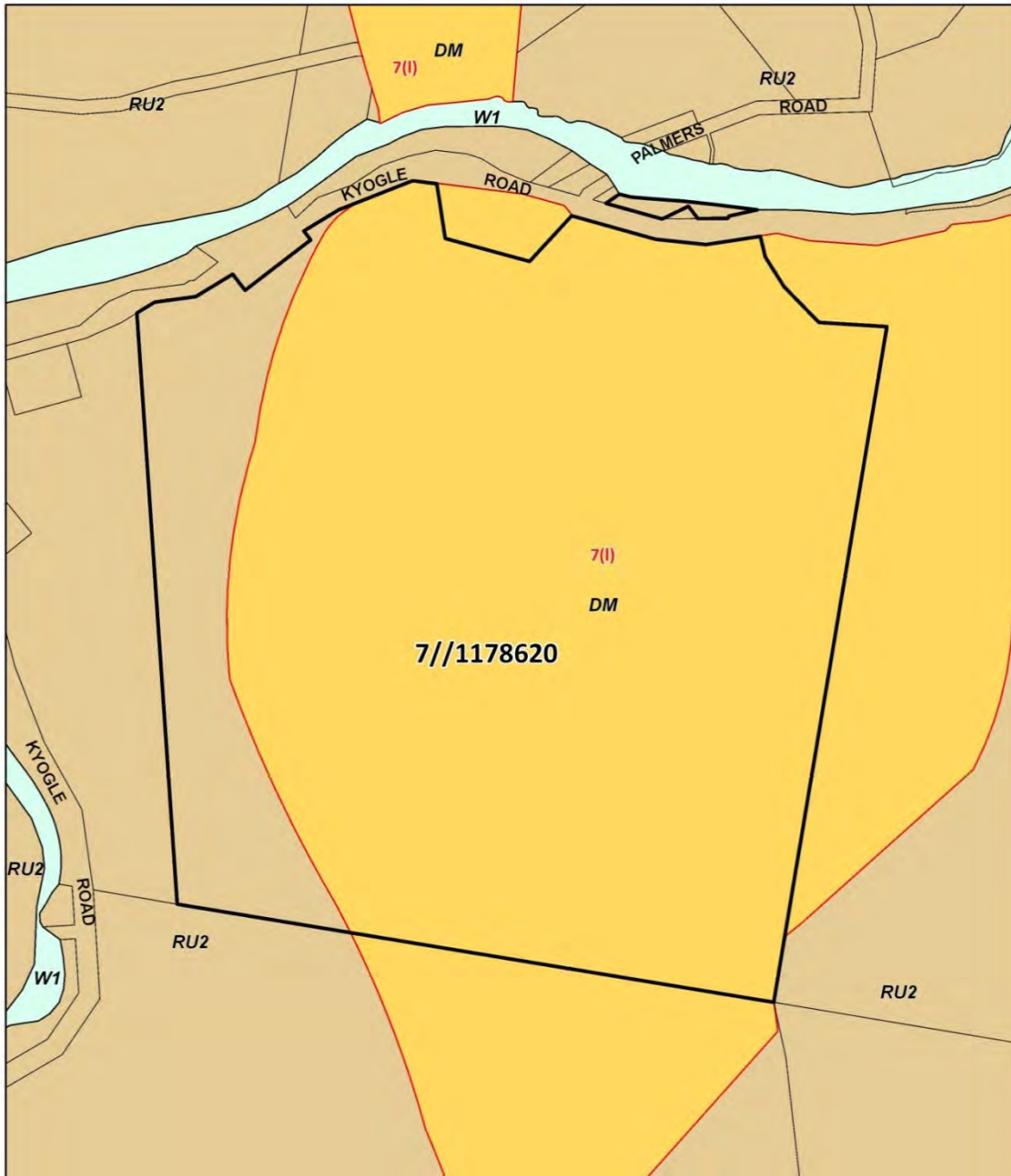
Civic and Cultural Centre
3 Tambulgum Road
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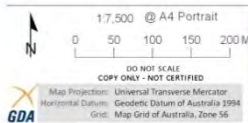
Date Printed: 03 May, 2017

ZONING MAP:



Tweed Local Environmental Plan 2014 Tweed Local Environmental Plan 2000

- | | |
|----------------------|---|
| Zone | ENVIRONMENTAL PROTECTION |
| RU2 Rural Landscape | 7(I) Environmental Protection (Habitat) |
| W1 Natural Waterways | |
| DM, Deferred Matter | |



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Tweed Local Environmental Plan

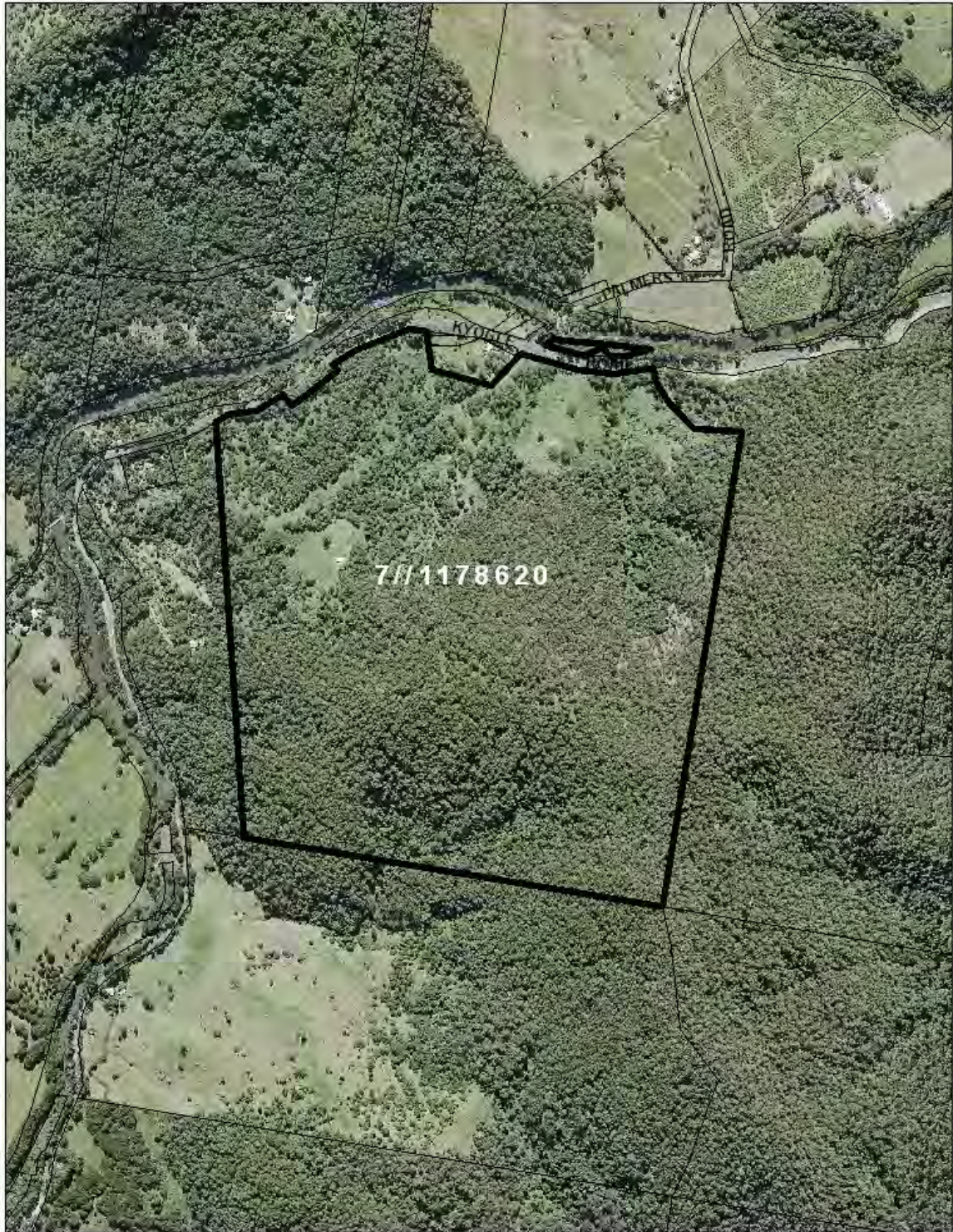
Lot 7 DP 1178620
2041 Kyogle Road, TERRAGON

Base Data 04/10/2016
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Boundaries shown should be considered approximate only

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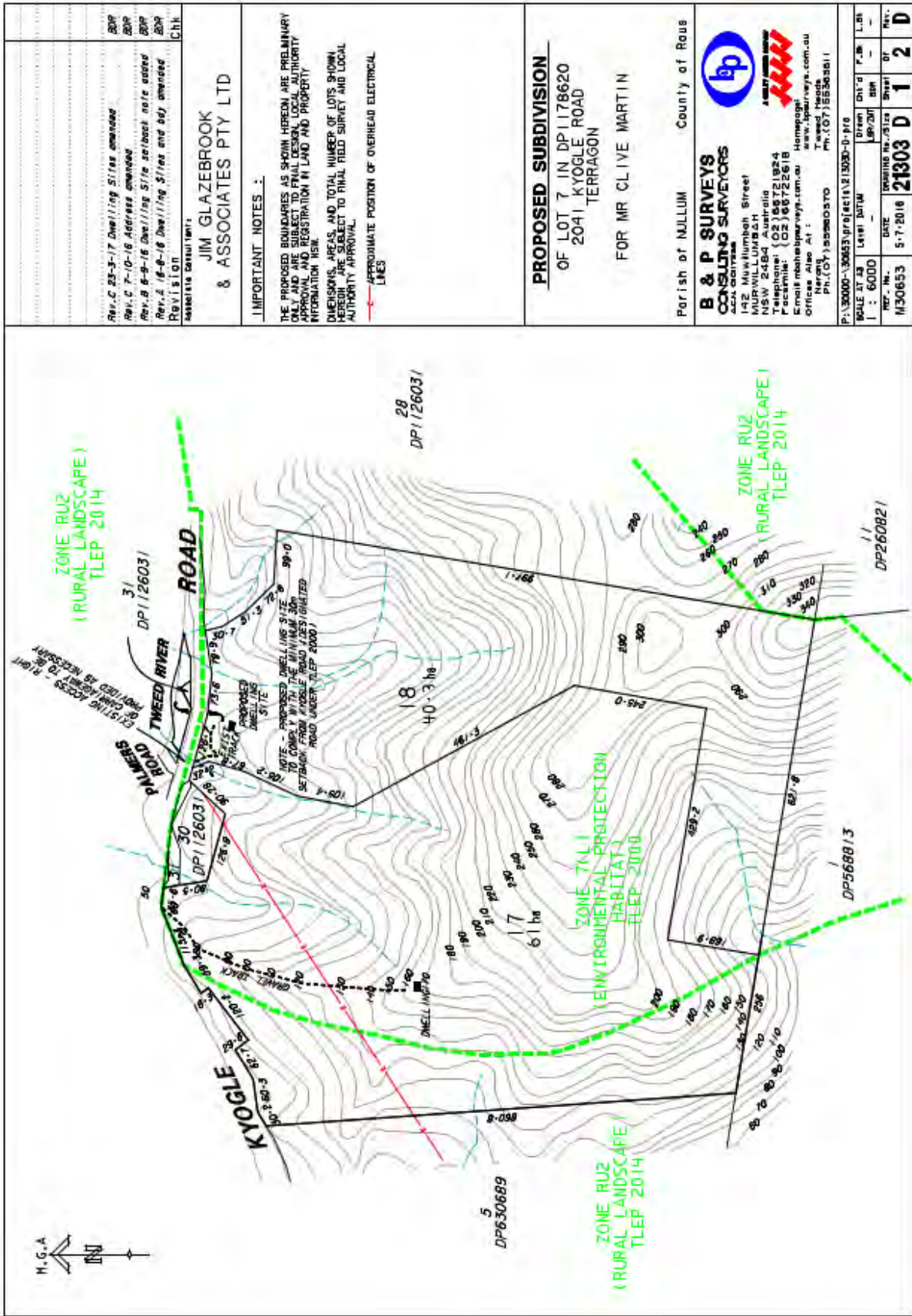
Aerial Photography 2015

Lot 7 DP 1778620
2041 Kyogle Road, TERRAGON

Scale Date 04/10/2015
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courtesy of appropriate maps

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SUBDIVISION PLANS:



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

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

Tweed Local Environmental Plan 2000

Clause 4 - Aims of the Plan

The aims of the plan are:

- (a) *to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan which was adopted, after extensive community consultation, by the Council on 17 December 1996, the vision of which 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", and*
- (b) *to provide a legal basis for the making of a development control plan that contains more detailed local planning policies and other provisions that provide guidance for future development and land management, such as provisions recommending the following:*
 - (i) *that some or all development should be restricted to certain land within a zone,*
 - (ii) *that specific development requirements should apply to certain land in a zone or to a certain type of development,*
 - (iii) *that certain types or forms of development or activities should be encouraged by the provision of appropriate incentives, and*
- (c) *to give effect to and provide reference to the following strategies and policies adopted by the Council:*

Tweed Shire 2000+ Strategy
Pottsville Village Strategy, and
- (d) *to encourage sustainable economic development of the area of Tweed compatible with the area's environmental and residential amenity qualities.*

The subject proposed two lot subdivision and dwelling is considered to be inconsistent with the aims of the plan, specifically 4(d) as the proposal would result in an unacceptable environmental impact not compatible with the area's environmental qualities as it:

- a. Requires removal of remnant vegetation regarded as preferred threatened species habitat within a recognised Regional Wildlife Corridor
- b. Does not utilise available alternative sites to avoid impact to the areas' environmental qualities

Clause 5 - Ecologically Sustainable Development

An objective of the TLEP 2000 is to promote development that is consistent with the four principles of ecologically sustainable development. This clause outlines these four principles including the principle of:

conservation of biological diversity and ecological integrity - namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration

Threaten fauna and flora species are identified as being located on the subject site. It is uncertain if this application is consistent with this principle in that the applicant has failed to sufficiently evaluate the impact of the proposal on threatened species, their habitats and Endangered and Threatened Ecological Communities.

An ecological assessment was provided with the application however the assessment did not include habitat in the vicinity of existing unauthorised structure (proposed dwelling).

Clause 8 - Consent Considerations

Clause 8(1) states that:

- (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.*

The zone objectives as they apply to the proposal are discussed under clause 11 below.

Consideration with regard to subdivision objectives are discussed under clause 20.

The applicant has not satisfactorily established that the proposal will not result in an unacceptable cumulative impact on the locality. The site is within a recognised Wildlife Corridor and the proposal will result in the removal of Core Koala Habitat. Additionally the application has not sufficiently evaluated the impact on threatened species, their habitats and Endangered and Threatened Ecological Communities listed under the Threatened Species Conservation Act 1995.

Clause 11 - Zone Objectives

Two zones apply to the subject lot: Environmental Protection (Habitat) under Tweed local Environment Plan 2000; and RU2 Rural Landscape under Tweed Local Environment Plan 2014. The proposed dwelling, ancillary structures and associated access are located in the 7(l) zone, the objectives of which are:

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.*

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 subdivision is compatible with the primary function of the land.

The dwelling on proposed Lot 17 requires additional earthworks and the removal and modification of approximately 4,500m² of remnant vegetation on steep slopes to achieve compliant Asset Protection Zones to comply with *Planning for Bush Fire Protection 2006*.

The area of vegetation is identified as being Core Koala Habitat and is located within a designated Regional Wildlife Corridor as identified by the Upper North East and Lower East Regions – NSW Comprehensive Regional Assessment 1999 by National Parks and Wildlife Service. The habitat to be disturbed forms part of a significant functional wildlife corridor for the following fundamental reasons:

- The area of vegetation to be disturbed is intact and forms part of a well-connected and contiguous tract of vegetation. There is no significant break in the corridor on the subject site that may act as a barrier to wildlife movement;
- The vegetation to be disturbed offers preferred habitat for a suite of threatened species;
- Threatened species are known to occur onsite within the mapped wildlife corridor.

As such the unauthorised structure (proposed dwelling) on proposed Lot 17 does not meet the primary objectives of the zone in that the proposal fails to protect and enhance land that acts as a wildlife corridor.

Development permissible within the 7(l) zone is itemised as such:

Item 1 allowed without consent:

- *nil*

Item 2 allowed only with consent:

- *bed and breakfast*
- *bushfire hazard reduction that is not exempt development*
- *business identification signs*

- *dwelling houses if on an allotment of at least 40 hectares or an allotment referred to in clause 57 and if the number of dwellings does not exceed one for each 40 hectares of land contained within the allotment*
- *earthworks*
- *environmental facilities*
- *home businesses*
- *noxious weed control that is not exempt development*

Item 3 allowed only with consent and must satisfy the provisions of clause 8 (2):

- *agriculture*
- *camping grounds*
- *emergency service facilities*
- *forestry*
- *public utility undertakings*
- *roads*
- *urban stormwater water quality management facilities*
- *utility installations (other than gas holders or generating works)*
- *works for drainage and landfill*

Item 4 prohibited:

- *any buildings, works, places or land uses not included in Item 1, 2 or 3*

Each of the proposed lots is greater than 40 hectares and development of no more than one dwelling is permissible. Under TLEP 2000 a dwelling is defined as:

dwelling: *a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.*

The existing unapproved structure is nominated as a dwelling for proposed Lot 17 and proposed Lot 18 nominates a proposed house site setback a minimum of 30m from Kyogle Road.

Earthworks that require consent have under Item 2 have previously been undertaken without approval at the site. Details of the extent of these earthworks (e.g. volume of cut and fill) have not been provided.

The plans also indicate two storage containers (for art and equipment) and a spa located on the site ancillary to the dwelling.

Clause 15 - Essential Services

Council water and sewer infrastructure is not available to the site and the development proposes on-site collection, storage and disposal systems for water and waste water. The existing unapproved dwelling on proposed Lot 17 is currently serviced by two water tanks.

An existing unapproved on-site sewage management system (OSMS) currently services the dwelling on proposed Lot 17. An On-site Sewage Management Design report has been submitted with the application recommending rectification

works to improve the functionality of the existing OSMS. Council's Environmental Health Unit has reviewed the report and considers the on-site sewage system treatment system adequate in accordance with AS 1547/2012 and NSW Environment and Health Protection Guidelines "*On-site Sewage Management for Single Households*". An application to obtain approval to install an on-site sewage system under Section 68 of The Local Government Act 1993 would be required for any approval.

An OSMS report submitted with the initial application was considered to be satisfactory with regard to on-site sewerage management for the proposed dwelling site on proposed Lot 18.

Clause 20 - Subdivision in Zones 1 (a), 1 (b), 7 (a), 7 (d) and 7 (l)

The objectives of this clause are to:

- *to prevent the potential for fragmentation of ownership of rural land that would:*
 - (i) *adversely affect the continuance or aggregation of sustainable agricultural units, or*
 - (ii) *generate pressure to allow isolated residential development, and provide public amenities and services, in an uncoordinated and unsustainable manner.*
- *to protect the ecological or scenic values of the land.*
- *to protect the area of Tweed's water supply quality.*

The clause goes on to state that consent for the subdivision of land may only be granted if the area of the lot created is a least 40 hectares. Each of the proposed lots meets this provision being 61ha and 40.3ha respectively.

Clause 22 Development near designated roads

The site has frontage to Kyogle Road which is a designated road and as such this clause applies. The proposal involves the creation of one additional new lot and associated access to an existing unapproved dwelling and a proposed new dwelling site. The proposal has been assessed as being within the capacity of the current road network and no upgrades are required to accommodate the proposal. Proposed site access is not expected to result in any issues. As such the application is considered to compliant with the provisions of this clause.

Clause 24 Setback to designated road

This includes controls for setbacks to designated roads within the 7(l) zone and states that dwelling are to be setback from a designated road being Kyogle Road at a minimum distance of 30m. The plans indicate that the proposed dwelling site nominate on proposed Lot 18 is setback a minimum of 30m.

The existing dwelling on proposed Lot 17 is set back approx. 340m from Kyogle road. The proposal complies with this control.

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

The objective if this clause is to protect wildlife habitat from the adverse impacts of development.

The proposal involves the vegetation clearing of 4,500m² of remnant vegetation on steep slopes recognised as preferred habitat for a suite of threatened species. The area of impact occurs within a designated Regional Wildlife Corridor.

Vegetation clearing is defined in clause 30 as:

For the purpose of this Part, vegetation clearing means any one or more of the following:

- (a) cutting down, felling, thinning, logging or removing any vegetation, or*
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning vegetation, or*
- (c) severing, topping or lopping branches, limbs, stems or trunks of native vegetation, or*
- (d) substantially damaging or injuring native vegetation in any other way.*

The proposed vegetation clearing and associated earthworks required to establish asset protection zones on Lot 17 would be expected to have an unacceptable adverse impact on local ecosystem dynamics and the integrity of the broader contiguous tract of habitat. More specifically, the disturbance to habitat would likely result in the following:

- Increase in edge effects to adjacent habitat;
- Disruption/impediment to movement corridors;
- Removal/exposure of hollows;
- Reduction of reliable flowering species;
- Increased risk of sediment and erosion.

A plan of management showing how any adverse effects arising from the development are to be mitigated has not been provided in accordance with Clause 28(c). The impact associated with establishment of a dwelling on Lot 17 could be avoided through repositioning of the proposed dwelling and associated building envelope within an existing cleared area of the site. Adequate available cleared areas suitable for a dwelling occur elsewhere onsite.

As such the applicant has not adequately demonstrated that the development meets the objective of the zone.

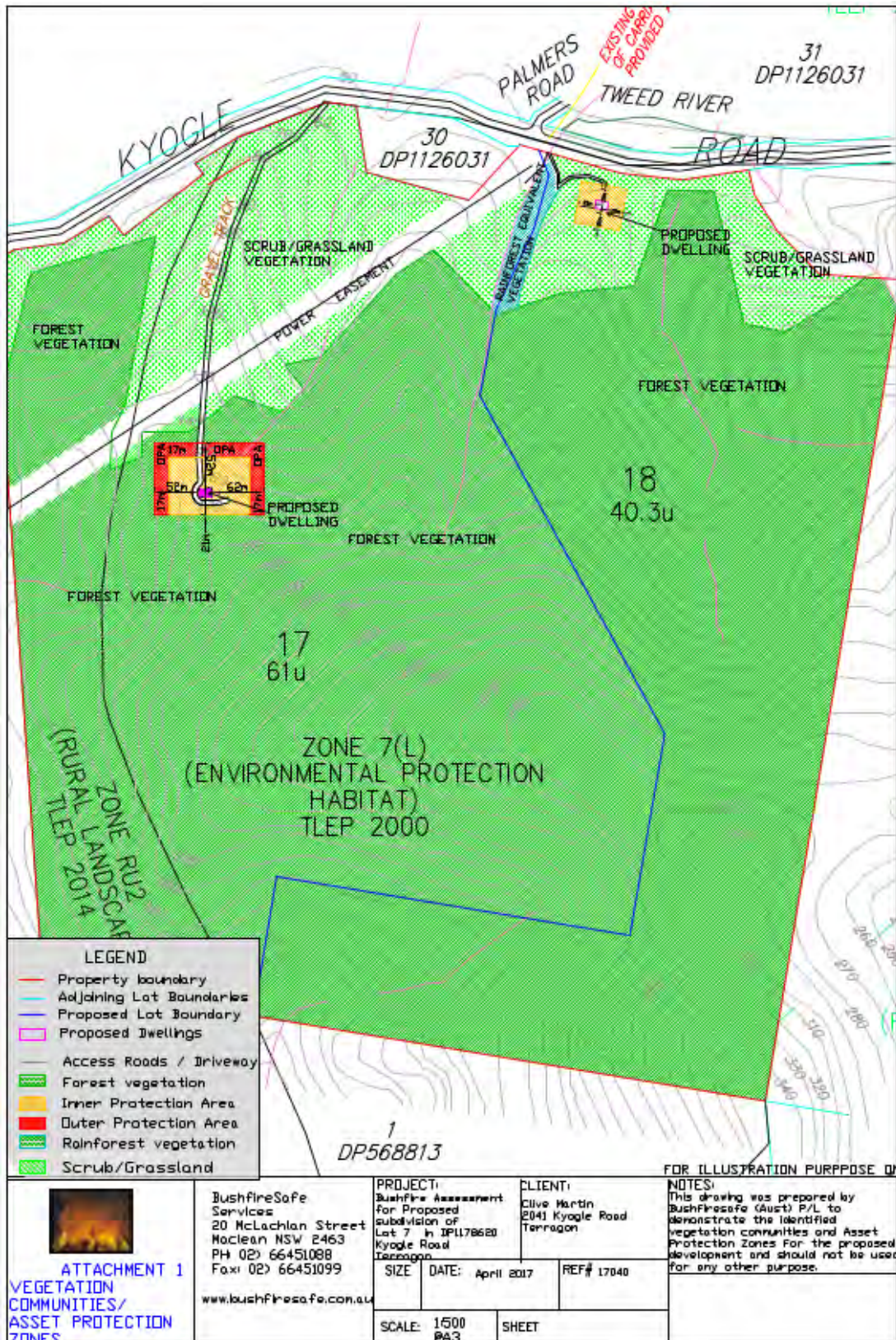
Clause 39A - Bushfire Protection

The objective of this clause is to minimise bushfire risk to built assets and people and to reduce bushfire threat to ecological assets and environmental assets.

In order to establish recommended APZs to be maintained as Inner Protection Area (IPA) for the existing unauthorised structure (proposed dwelling), the removal

of a significant number of trees would be required within an estimated area of 4,500m² (refer to image below). In addition to vegetation removal required to establish an IPA, steep slopes to the east of the unauthorised structure are to be terraced to allow continued maintenance of the IPA which will result in further habitat destruction.

The application is not compatible with clause 39A (d) or (e) in that alternative sites for the unauthorised structure (proposed dwelling) on proposed Lot 17 was not considered in order to avoid or mitigate the threat from bushfires and that the environmental and visual impacts of the clearing of vegetation for bushfire hazard reduction would be unacceptable.



Proposed APZs for the proposed dwelling site on Lot 18 and the existing unauthorised structure (proposed dwelling) on Lot 17

Tweed Local Environmental Plan 2014

Clause 1.2 – Aims of the Plan

The aims of this plan as set out under Section 1.2 of this plan are as follows:

- (a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
- (b) *to encourage a sustainable, local economy, small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed Shire,*
- (c) *to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, the built environment, and cultural heritage,*
- (d) *to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*
- (e) *to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*
- (f) *to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,*
- (g) *to conserve or enhance the biological diversity, scenic quality, geological and ecological integrity of the Tweed,*
- (h) *to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,*
- (i) *to conserve or enhance areas of defined high ecological value,*
- (j) *to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.*

The application is not consistent with the aims of this plan specifically with regards to the conservation of biological diversity and the protection of suitable habitat for the Tweed Coast Koala.

Clause 2.3 – Zone objectives and Land use table

The objectives of the RU2 Rural Landscape zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*

- *To provide for a range of tourist and visitor accommodation-based land uses, including agri-tourism, eco-tourism and any other like tourism that is linked to an environmental, agricultural or rural industry use of the land.*

The proposal relates to the subdivision of land and the establishment of a residential dwelling. The proposal is consistent with the objectives of the zone in that dwellings are permissible on lots that meet the minimum lot size. However the extensive earthworks undertaken and the proposed clearing of vegetation to achieve a compliant Asset protection zone for the dwelling are not compatible with the objective of maintaining the rural landscape character of the land.

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

Clause 4.1 relates to minimum lots sizes for subdivisions and the objectives of the clause are:

- (a) *to ensure minimum lot sizes are appropriate for the zones to which they apply and for the land uses permitted in those zones,*
- (b) *to minimise unplanned rural residential development.*

The site is mapped as being subject to a minimum lot zone of 40 hectares. The subdivision proposes two lots of 61ha and 40.3ha and so complies with the provisions of this clause.

4.2B - Erection of dwelling houses and dual occupancies on land in certain rural and residential zones

This clause states that consent must not be granted for the erection of a dwelling or dual occupancy on land unless the land is a least the minimum lot size shown on the Lot Size Map.

The application proposes a dwelling on proposed Lot 17 which is 61ha and a proposed dwelling site on proposed Lot 18 which is 40.3ha and so complies with the provisions of this clause.

Clause 4.3 - Height of Buildings

The site is mapped as being subject to a 9m building height limit. The proposed dwelling is a maximum of 4.12m high from ground level and so complies with the provisions of this clause.

Clause 4.4 – Floor Space Ratio

The site is a rural lot and is not mapped as being subject to a maximum floor space ratio and so this clause does not apply.

Clause 4.6 - Exception to development standards

Not applicable as no exception to development standards are proposed.

Clause 5.4 - Controls relating to miscellaneous permissible uses

Not applicable as no uses listed under this clause are proposed.

Clause 5.5 – Development within the Coastal Zone

Not applicable as the site is not located within the Coastal zone

Clause 5.9 – Preservation of Trees or Vegetation

This clause relates to prescribed vegetation defined within the Development Control Plan. Whilst some tree clearing is proposed to achieve compliant Asset Protection Zones around the dwelling for the purposes of bush fire management, no trees are proposed to be removed within the RU2 zone under TLEP 2014.

Clause 5.10 - Heritage Conservation

Not applicable as the site is not within a heritage conservation area.

Clause 5.11 - Bush fire hazard reduction

The site is mapped as being bushfire prone and the application was referred to the Rural Fire Service in accordance with Section 91 of the *Environmental Planning and Assessment Act, 1979* (as amended).

The proposal does not impact the provisions of this clause.

Clause 7.1 – Acid Sulfate Soils

The site is not mapped as be affected by acid sulfate soils and so this clause is not applicable.

Clause 7.2 - Earthworks

The objective of this clause is to:

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

Earthworks have been completed without consent prior to the lodgement of this application. However, no earthworks have been complete or are proposed to be completed within an area to which TLEP 2014 applies.

Clause 7.3 – Flood Planning

The site is mapped as being partially within an area that Could Be Affected by flooding. No dwellings or other structures are proposed within the area to which the TLEP 2014 applies and so the proposal is considered to be compliant in this regard.

Clause 7.4 - Floodplain risk management

Not applicable as the subject site is not mapped as being within the area to which this clause applies.

Clause 7.5 - Coastal risk planning

Not applicable as the subject site is not mapped as being within the area to which this clause applies.

Clause 7.6 - Stormwater Management

Not applicable as the subject site is rural land to which this clause does not apply.

Clause 7.7 – Drinking Water Catchments

The site is mapped as being with land identified as Drinking Water Catchment. No development other than the subdivision of land will occur within the area to which TLEP2014 applies and so the application is considered compliant in this regard.

Clause 7.8 – Airspace operations

The development will not impact on airspace operations.

Clause 7.9 - Development in areas subject to aircraft noise

The development is not located in an area subject to aircraft noise.

Clause 7.10 - Essential Services

No development other than the subdivision of land will occur within the area to which TLEP2014 applies and so the application is considered compliant in this regard.

Other Specific Clauses

No other specific clauses apply.

State Environmental Planning Policies

SEPP No. 44 - Koala Habitat Protection

The aims of SEPP 44 are:

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

- (a) *by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and*
- (b) *by encouraging the identification of areas of core koala habitat, and*
- (c) *by encouraging the inclusion of areas of core koala habitat in environment protection zones.*

An ecological assessment was submitted with the initial application for the two lot subdivision which includes an assessment of koala habitat for the development footprint of the two proposed dwelling sites on the northern portion of the site adjacent to Kyogle Road and includes area required for asset protection zones. The assessment determined that whilst Potential Koala Habitat occurs at the subject site, no areas of Core Koala Habitat occurred within the subject site as no koala activity was detected within the development footprint.

Koala habitat is defined for the purposes of the SEPP as being either:

core koala habitat means an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population.

potential koala habitat means areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

An addendum to the ecological assessment was submitted with the amended application for the two lot subdivision and use of the existing unauthorised structure as a dwelling on proposed Lot 17. The addendum provided further assessment with regard to koala habitat focusing on the existing unauthorised structure and required asset protection zones on proposed Lot 17. To achieve a compliant asset protection zone as prescribed for *Planning for Bushfire Protection 2006* vegetation management is required for a distance of 62m to the east; 21m to the south and 52m to the west of the existing dwelling. Excavation to construct several terraces on land east of the dwelling is also recommended by the Bushfire Management Risk Plan to manage areas of the APZ where the slope is greater than 18 degrees.

The ecological assessment determined that the site supports potential koala habitat at the site but did not confirm the presence of core koala habitat only stating:

As per a preliminary assessment based on historical records and recent activities at the site it is considered likely that area of the property would support Koala habitat. However, to be defined as core Koala Habitat a spot assessment would need to be carried out on the impacted area of the subject site.

A spot assessment was conducted at the site by Biolink Pty Ltd focussing vegetation to the south and east of the dwelling and the results reported in a letter submitted with the amended application. The letter reported that no significant koala activity was detected at the site and concluded that whilst the site is an

area of Potential Koala Habitat, the site does not support a resident koala population and as such is not Core Koala Habitat as defined by the SEPP.

Assessing Officers of Council have reviewed the ecological assessment and conducted a site visit of the impacted areas of the development and determined that the disturbance footprint of the site continues to support Core Koala Habitat as defined by the SEPP for the following reasons:

- Potential Koala Habitat was recognised to occur onsite remaining as a significant habitat node within a Regional Wildlife Corridor;
- Evidence of historical records of a population (as specified in the definition for Core Koala Habitat) as indicated in the Addendum to the Ecological Assessment; *“the Tweed Coast Koala Habitat Study shows generational persistence of Koalas around Uki, Kunghur and Byrril Creek and sightings as recent as 2013 and 2015 are recorded within less than one kilometre of the site. Of the total 74 records within the area, greater than 98% have been recorded since 2000 and 35 records since 2013”*;
- Koala pellets were found by Council’s Biodiversity Officer within the study area;
- Indicative koala scratch marks observed on *Eucalyptus propinqua* trees within Tallowwood dry grassy forest vegetation (TVMS 2008).

The establishment of compliant APZs would result in the modification and disturbance of approximately 4,500m² of Core Koala Habitat. Clause 9 of the SEPP states that before Council can grant consent to development on land that has been determined to be Core Koala Habitat, a plan of management must be prepared in accordance with the SEPP. A plan of management has not been submitted with the application.

The provisions of the SEPP have not been satisfied.

SEPP No. 55 - Remediation of Land

A Preliminary Site Investigation HMC Environmental (HMC 2016.099) was submitted with the application to enable an assessment against the provisions of this SEPP. This report was revised when the application was amended to include a dwelling on proposed Lot 17.

Council’s Environmental Health Unit has reviewed the application and Site Investigation report and has made the following comments:

A review of Council’s GIS records of historical aerials, ECM data and topo maps did not indicate any intensive agriculture, cropping, dip sites or other potentially contaminating activity.

The amended site investigation report concluded that the site is suitable for the proposed residential use of the land and Council Officers have determined that the conclusions of the report to be valid. The application is considered to be compliant with the provisions of this SEPP.

SEPP (Building Sustainability Index: BASIX) 2004

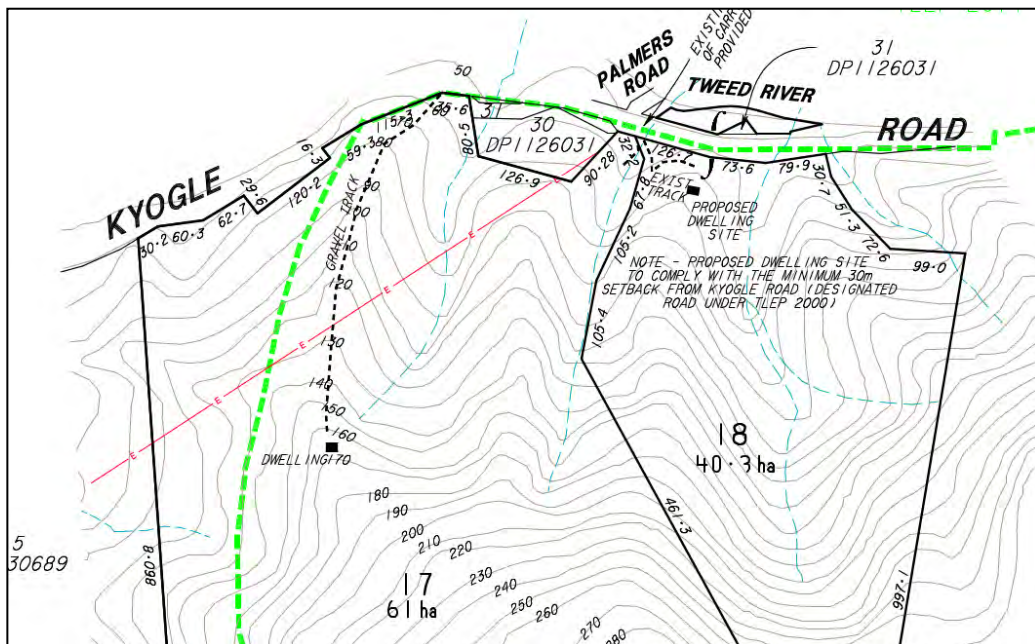
The aim of this policy is to ensure consistency in the implementation of the BASIX scheme for BASIX affected development identified in the *Environmental Planning and Assessment Regulation 2000*. The proposed dwelling is identified as a BASIX affected building for which a BASIX Certificate is required.

No BASIX Certificate was submitted with the application and so the proposal is deemed to be not compliant with the provisions of this SEPP.

SEPP (Infrastructure) 2007

The plans indicate that overhead electricity powerlines transect the site. Subdivision 2 of the SEPP relates to development likely to affect an electricity transmission or distribution network.

There is no formal easement for electricity purposes noted on the deposited plan and the unauthorised structure proposed as a dwelling is not within 5m of the electricity power line (being located approx. 88m distant) therefore the electricity authority is not required to be notified of the application. The application is considered to be compliant with the provisions of the SEPP.



SEPP (Rural Lands) 2008

The aims of this policy are to: facilitate the orderly and economic use and development of rural lands for rural and related purposes; reduce the potential for land use conflicts by identifying Rural Planning and Rural Subdivisions Principles; and the identification of State Significant Agricultural Land.

The site is not identified as State Significant Agricultural Land.

Clause 10 of the policy applies to rural subdivisions and rural dwelling in rural and environmental protection zones and states that the following matters are to be taken into account:

- (a) *the existing uses and approved uses of land in the vicinity of the development,*
- (b) *whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*
- (c) *whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*
- (d) *if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,*
- (e) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).*

The site is mapped primarily as bushland with a high ecological status. A small portion of the site, less than 0.03 percent, adjacent to the Tweed River is mapped as being Significant Non-Contiguous Farmland under the Northern Rivers Farmland Protection Project. The site is not currently utilised for agricultural purposes.

Land to the west of the site is bushland bordering the Clarrie Hall Dam and land to the north, south and west of the site contains a mix of bushland and land used for pasture or grazing purposes.

The proposed two lot subdivision and proposed future dwelling site on proposed Lot 18 would not have an impact on the current or future land uses of the site or surrounding land.

The proposal to seek approval for the current unauthorised structure to be used as a dwelling on proposed Lot 17 requires vegetation clearing within a significant habitat to establish APZs. The predicted impact to significant habitat is incompatible with the existing use of the site as bushland with a high ecological status that is within a designated Regional Wildlife Corridor and zoned as Environmental Protection (Habitat) under TLEP 2000.

The application has not considered any measures to avoid or minimise any impact on the current use as an environmental protection zone as required by clause 10(e). The proposal is not considered to be compliant with the provisions of the Rural Lands SEPP.

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

There are no draft environmental planning instruments applicable to the proposal.

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

Consent is sought for the use of the existing unauthorised structure as a dwelling. The submitted plans did not provide sufficient detail to enable a comprehensive assessment of the structure against the DCP.

Variation – Earthworks

Earthworks have previously been undertaken without consent prior to the lodgement of this application. Slope of the house site is approximately 23° and the controls allow for a cut allowance of 3m within the footprint of the building for slopes up to 18° or 1m where the slope is greater. Control C2 allows for cut and fill outside of the building footprint to 1m for up to 100m² to achieve flatter outdoor living areas. Cut and fill exceeding this may be permitted on steeper sites with justification.

Although the application does not provide details regarding the volume/extent of the cut and fill undertaken, a site visit revealed that the earthworks previously undertaken without approval are unlikely to comply with the controls. Specifically with regard to the extent of the earthworks undertaken outside the building footprint. Data from aerial imagery suggest approximately 1000m² of land has been disturbed for the construction of the dwelling and associated parking areas.

Further earthworks are required for the establishment of recommended APZs as land with a slope of greater than 18° to the east of the site is required to be terraced to allow for ongoing maintenance of the APZ. No details have been provided of the extent of earthworks required to comply with the recommendations of the submitted Bushfire Risk Management Report and the Rural Fire Service.



Ceiling heights

The plans do not provide sufficient detail to confirm that the area below the mezzanine level, bathrooms, or bedrooms comply with the 2.7m ceiling control.

A2-Site Access and Parking Code

The site provides sufficient parking areas to comply with the control. Plans or details of the constructed driveway access to the existing dwelling on proposed Lot 17 were not provided so it is not possible to determine if the access complies with Council's Driveway Design Specification. Current access is an unsealed track approx. 370m in length and climbing approx. 100m in elevation from Kyogle road.

The Bushfire Risk Management Report submitted with the application has stated that the driveway access to the existing dwelling includes two sections where the gradient is greater than 15° and recommends that the driveway access be sealed with bitumen to provide for safe access in the event of a bush fire.

A3-Development of Flood Liable Land

Part of the site shares a boundary with the upper reaches of the Tweed River and is mapped as "Could be Affected" by flooding in the upper Tweed River catchment. There are a number of lower order streams on the site. The proposed dwelling site on proposed Lot 18 is elevated above these gullies and is unlikely to be affected by flooding.

The existing unauthorised structure (proposed dwelling) on proposed Lot 17 is elevated above the mapped flood levels. The proposal is compliant with respect to the provisions of Section A3.

A5-Subdivision Manual

The proposal meets the minimum lot size of 40ha for the 7(l) and RU2 zones proposing Lot 17 with an area of 61ha and Lot 18 with an area of 40.3ha.

Section A5.5 of the Subdivision Manual sets out the guidelines and development standards for rural subdivisions and also reference the general requirements for subdivisions as outlined in Section A5.4.5.

Section A5.4.5 specifies criteria in relation to environmental constraints as they apply to the subdivision of land. Of particular relevance to this application are the following constraints.

Threatened species, population or ecological communities or their habitats

The criteria states that subdivisions and associated works must be assessed in accordance with section 5A of the Environmental Planning and Assessment Act 1979 to determine if there will be a significant effect on threatened species, population or ecological communities or their habitats. An assessment of threatened species was conducted however the assessment only considered the impact created by the two proposed dwelling sites proposed with the original application. The threatened species assessment was not updated for the amended application in which the current unauthorised structure is proposed to be used as a dwelling.

The threatened species assessment did not provide an assessment of the development footprint for the current unauthorised structure (proposed dwelling) and the impact on threatened species, ecological communities or significant habitat from 4,500m² of vegetation clearing required for the establishment of recommended APZs.

Significant vegetation

The criteria specify that areas of significant vegetation are to be preserved. Significant vegetation is defined as including regionally significant natural areas and corridors. The site is mapped as having a high ecological status and is within a designated Regional Wildlife Corridor.

The controls state that proposal for sites that contain significant vegetation must:

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

The area of the proposed dwelling site on proposed Lot 18 is mapped as being highly modified and the Bushfire Risk Management Report indicates that recommended APZs can be established without significantly impacting adjacent forest vegetation.

The current unauthorised structure (proposed dwelling) is located adjacent to significant vegetation (Tallowood forest and rainforest vegetation) and the establishment of the recommended APZs require vegetation clearing of approximately 4,500m² of significant vegetation and so is not compliant with these controls.

Section A5.5.5 specifies the criteria for subdivision of rural lots and states that for residential purposes a building platform must be identified that:

- *has access to a public road that is readily upgraded to all weather two wheel drive standard;*
- *is free from environmental constraints;*
- *is safe from bushfire;*
- *is above Q100 flood level and has high level road and/or pedestrian access to land above probable maximum flood level;*
- *has adequate solar access;*
- *will not impact on rural activities on nearby land;*
- *has appropriate area and dimensions for the siting and construction of a dwelling and any ancillary outbuildings.*

The nominated proposed dwelling site on proposed Lot 18 has been assessed and is considered to be compliant with the above.

The location of the existing unauthorised structure (proposed dwelling) on Lot 17 does not meet the above provisions in that the development footprint is not free from environmental constraints and is not safe from bushfire. The land immediately to the west and south of the existing dwelling is steep and heavily vegetated. To achieve compliant APZs in accordance with *Planning for Bushfire Protection 2006* an approximate 4,500m² of significant habitat within a Regional Wildlife Corridor would have to be modified resulting in:

- Direct loss of Core Koala Habitat;
- Disruption to the movement of fauna/interactions across the site, particularly to the east of the development on Lot 17;
- Improved habitat conditions for invasive species ;
- Loss of critical hollow resources that provide available habitat to an assemblage of fauna known/highly likely to utilise the site for roosting/nesting/refuge;
- Result in increased edge effects/fragmentation of an existing tract of vegetation recognised as a functional wildlife corridor that currently exhibits low levels of disturbance;
- Removal of vegetation from steep slopes (excess of 18°) such as those encountered onsite within the proposed APZ would exacerbate soil erosion;
- Loss of winter flowering Eucalypt species known as a reliable seasonal blossom resource for species such as the Grey headed Flying Fox (*Pteropus poliocephalus*);
- Removal of dead wood and dead trees;
- Loss of hollow-bearing trees – considered significant even where relatively high numbers remain available elsewhere on site given the high conservation value of the tract of vegetation and likely indirect impacts on function suitability of remaining hollows in close proximity to the building envelope preventing occupation through increased activity ;
- Invasion, establishment and spread of *Lantana camara*.

The subject site contains a number of previously cleared areas. The amended application failed to identify alternate dwelling sites on proposed Lot 17 that would result in a more favourable environmental outcome.

A16-Preservation of Trees or Vegetation

Not applicable. No clearing of vegetation is proposed with areas zoned under Tweed Local Environment Plan 2014 to which Section A16 applies.

Section A16 does not apply to the clearing of vegetation within areas identified as Deferred Matter under clause 1.3(a) of Tweed Local Environment Plan 2014. The provisions under Tweed Local Environment Plan 2000 apply to the clearing of vegetation (addressed elsewhere in the report).

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

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

The subject site is not nominated as Coastal Land and therefore this clause is not applicable.

Clause 92(1)(b) Applications for demolition

Not applicable to the subject application as no demolition is proposed as part of this application.

Clause 93 Fire Safety Considerations

The application is seeking consent for the use of a partially completed dwelling. Any approval would be conditioned to ensure compliance with this clause.

Clause 94 Buildings to be upgraded

The application is seeking consent for the use of a partially complete dwelling. Any approval would be conditioned to ensure compliance with this clause.

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

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The site is approximately 6.3km from the coast and not located within a specific area identified under that Plan.

The site is located adjacent to any coastal estuaries covered by this plan.

Coastal Zone Management Plan for the Tweed Coast Estuaries 2013.

The site is located adjacent to any coastal estuaries covered by this plan.

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

The site is not located with the Cobaki or Terranora Broadwater areas to which this plan applies.

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

Context and Setting/Natural Hazards - Bushfire

The proposal of a two lot rural subdivision in which each lot meets the minimum lot size is consistent with the context of the locality and is permissible

development within the zone. As each lot meets the minimum lot size a dwelling is permitted on each lot.

The proposed dwelling site on proposed Lot 18 is located on an area of the site that has been previously cleared and relatively free from environmental constraints including the risk of bushfire. The Bushfire Risk Management Report and indicates that the recommended 40m x 40m (1,600m²) APZ can be established without significant impact on the surrounding vegetation and habitat.

The unauthorised structure (proposed dwelling) on proposed Lot 17 is located adjacent to vegetation identified as Core Koala Habitat. An APZ of 114m x 43m (8,322m²) is required due to the steepness of the slopes surrounding the dwelling and the vegetation types. Vegetation clearing and terracing of approximately 4,500m² is required within the area identified as Core Koala Habitat.

It is therefore considered that the location of the unauthorised structure (proposed dwelling) is not compatible with the context or setting of the surrounding environment being a significant habitat.

Access, Transport and Traffic

Access to the site is required to comply with *Planning for Bushfire Protection 2006* except where provided with an exemption by the Rural Fire Service for an alternative access. The provisions for access within section 4.1.3(2) *Planning for Bushfire Protection 2006* specify that a minimum carriage way with a width of 4m is required with passing bays with a minimum width of 6m to be provided every 200m. Carriage ways are required to have a 4m clearance above ground level.

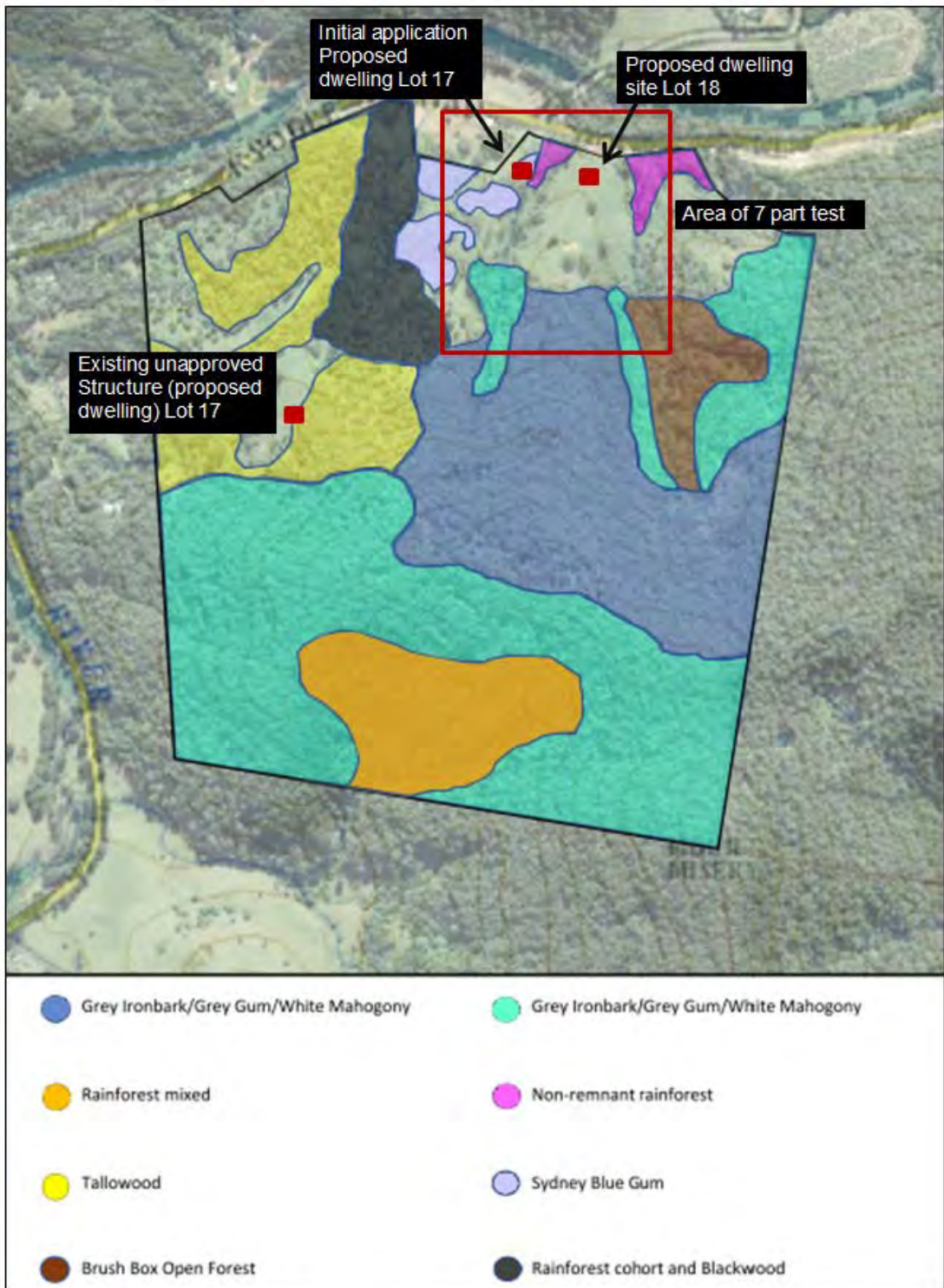
It has not been made clear in the application if further additional vegetation removal is required to comply with the provisions. Aerial imagery suggests that the access track to the unauthorised structure (proposed dwelling) has been upgraded in recent times which may have involved the removal of vegetation.

Flora and Fauna

An Ecological Assessment was submitted with the initial application and further information was provided in an addendum to support the amended application for the two lot subdivision and dwelling. The Ecological Assessment addressed the impact of the proposal on threatened species, population or ecological communities listed within the *Threatened Species Conservation Act 1995* and the *Environment Protection and Biodiversity Conservation Act 1999*. An assessment with respect to State Environmental Planning Policy 44 Koala Habitat protection was also provided which is discussed in an earlier section of this report.

Threatened fauna and flora species are known to occur on site including Koala, Grey headed flying fox and Quoll. The ecological assessment performed a seven part test of significance in accordance with clause 5A of the Environmental Planning and Assessment Act 1979 on 10 threatened flora species and 16 threatened fauna species. The report concluded that the proposed development was unlikely to significantly impact on any threatened species, populations,

ecological communities or their habitat where appropriate mitigation measures are implemented.



Amended Image from Ecological Assessment showing area where 7 part test was conducted in relation to current application which seeks approval for the use of the unapproved structure as a dwelling.

It is noted that the seven part test of significance was performed for the original application for the two lot subdivision and proposed dwellings sites located on the northern portion of the site.

The seven part test did not include an assessment of habitat in the vicinity of the existing unauthorised structure (proposed dwelling) location and does not account for impacts associated with the clearing of vegetation and terracing required for the establishment of an approximate 8000m² APZ.

Furthermore it was noted that flora species known to occur onsite or considered to have a high likelihood of occurrence where not subject to the seven part test as the seven part test did not assess habitat in the vicinity of the existing unapproved structure (dwelling).

As such significant uncertainty remains as to the extent and level of cumulative impact on threatened species, their habitats and Endangered and Threatened Ecological Communities listed under the *Threatened Species Conservation Act 1995*.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The surrounding land use includes rural residential development and agricultural and grazing activities interspersed with areas of natural bushland. The two lot subdivision is permissible within the zone and will not impact existing uses on adjoining lots.

However as the existing unapproved structure (proposed dwelling) requires vegetation removal of Core Koala Habitat within a designated Regional Wildlife Corridor, the proposed dwelling is not considered to be suitable in its current location. Alternate dwelling sites that have less direct impact on significant habitat are available on site.

Farmland of State or Regional significance (Section 117(2) Direction 14 dated 30 September 2005 (Refer to Council resolution of 25 July 2006))

A small portion of the site along the boundary with the Tweed River, being less than 0.03 percent of the site, is mapped as being Significant Non-Contiguous Farmland under the Northern Rivers Farmland Protection Project. This area is within proposed Lot 18 with a maximum width of 3m and it is unlikely that the proposal will impact directly or indirectly on the current or future use of the identified significant farmland. Referral to the Department of Primary Industry is not necessary in this regard.

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

The application for a two lot subdivision was initially referred the Rural Fire Service in accordance with section 100B of the Rural Fires Act 1997. The amended application to for a two lot subdivision and dwelling was referred to the RFS for comment following receipt of the amended plans.

The RFS issued conditions as a bush fire safety authority under section 100B of the Rural Fires Act 1997. The proposal is to comply with the following specified Asset Protection Zones:

- North for a distance of 52 metres as an Inner Protection Zone (IPA);
- South for a distance of 21 meters as an IPA;
- East for a distance of 62 meters as an IPA; and
- West for a distance of 52 meters as an IPA.

The conditions also stated that for APZs on slopes greater than 18°, the property shall be landscaped or managed (e.g. terracing) with suitable access being provided to the APZ for ongoing maintenance of the area. General advice provided by the RFS acknowledged that the establishment of asset protection zones on proposed Lot 17 may require the clearing of vegetation.

Furthermore, clearing of additional vegetation may be required to comply with the requirement for access to satisfy the provisions of *Planning for Bushfire Protection 2006*. The conditions would be applied to any consent issued.

(e) Public interest

The application represents an unacceptable impact on significant habitat and as such the proposal is considered not to be in the public interest.

AMENDED REPORT (Planning Committee Meeting of 5 October 2017)

Addendum Summary

At the Planning Committee meeting of 7 September 2017 a decision for the subject application was deferred for a site inspection and consideration of further information supplied by the applicant prior to the meeting. This amended report addresses the additional information supplied by the applicant and matters raised at the site inspection.

The development application was recommended for refusal and immediately prior to the meeting, the applicant submitted a response to some matters detailed within the Council report and provided some further information, primarily with regard to Asset Protection Zones and ecological considerations.

A site visit was conducted on 15 September 2017 with the applicant, Council staff, and Councillors Katie Milne, Chris Cherry and Ron Cooper, which focused on the unauthorised dwelling and the immediate surrounds which would be impacted by the recommend Asset Protection Zones (APZ). The matters addressed during the site inspection related primarily to vegetation located to the east of the proposed dwelling and the impact of establishing APZs as recommend by the Rural Fire Service. The extent of the proposed APZs as detailed in the Council Report was noted as well as the existing condition of the vegetation and the stepping of the landform beneath the vegetation.

The original Council Report considered at the Planning Committee meeting held on 7 September 2017 is included at the end of this addendum. The application has been recommended for refusal for the reasons contained within the original report.

Addendum Report

Development Application DA16/0795 for a two Lot Subdivision and Dwelling at Lot 7 DP 1178620 No. 2041 Kyogle Road, Terragon was recommended for refusal at the Planning Committee Meeting of 7 September 2017. Immediately prior to the meeting the applicant submitted a response to the Council Report contesting some matters addressed in the report, specifically with respect to the establishment of APZ and ecological assessments.

At the meeting it was recommended that:

"Development Application DA16/0795 for a two lot subdivision at Lot 7 DP 1178620; No. 2041 Kyogle Road, Terragon be deferred for a site inspection and that a report be brought back after the site inspection considering the additional information has been provided."

The additional information supplied by the applicant argues that the recommendation for refusal is based on inaccurate information and the incorrect classification of the subject site a Core Koala Habitat. Further information is provided in the applicants report regarding the area of vegetation to be impacted by the recommended APZ, alternative sites and onsite sewerage management. A detailed response to matters addressed in the applicants report is provided below.

A site visit was conducted on 15 September 2017 which focused on the unauthorised dwelling and the immediate surrounds which would be impacted by the recommend Asset Protection Zones (APZ). The matters addressed during the site inspection related primarily to vegetation located to the east of the proposed dwelling and the impact of establishing APZ as recommend by the Rural Fire Service. The extent of the proposed APZ as detailed in the Council Report was noted as well as the existing condition of the vegetation and the stepping of the landform beneath the vegetation. Councillors also had the opportunity to view the extent of the unauthorised earthworks.

A detailed response to matters addressed in the applicants report and during the site visit is provided below.

Asset protection zones

Applicant's statement from report:

The quoting of 4500sqm of disturbed area in the planning report is inaccurate, grossly overstating the impact of the proposed DA.

The area of vegetation to be directly impacted by the establishment of APZs is shown in the image below (Figure 1). The area highlighted plus a 3-5m curtilage around the APZ equates to an *approximate* area of 4,500m² of vegetation that will be impacted by the APZ. The 3-5m curtilage around the APZ is included as the clearing of canopy trees along that edge will result in direct disturbance to vegetation occurring under that canopy.

The areas without canopy are included as these areas would likely colonise with natives over time in the absence of cattle, and the establishment of the APZ would prevent this recolonization.

The extent of the APZ was further clarified during the site inspection.



Figure 1 Area of vegetation to be impacted by the establishment of APZs

Applicant's statement from report:

Out of the 62m within the APZ to the East, the vast majority (53m) can be retained as modified vegetation....The creation of a managed APZ will allow for the regeneration of this area and the restoration of native vegetation to the understory, significantly improving its biodiversity value.

To achieve establishment of an APZ in accordance with NSW RFS Planning for Bushfire Protection and Standard for Asset Protection Zones:

- No greater than 15% canopy cover is to extend across the APZ
- Crowns are to be separated by 2-5m,
- Flammable species such as those trees with rough/flaky/scaly bark should be removed
- Ground fuels need to be maintained at low levels,
- Removal/thinning of shrubs and trees less than 3m in height, lower limbs of trees are to be removed.

Given the stem density, type of vegetation (sclerophyll with high flammability and rough/flaky/scaly bark) and canopy cover within the APZ it would be expected that significant modification to the vegetation community would be required and that opportunities for allowing for the regeneration of typically sclerophyll species would be limited. It is further noted that the entire APZ is to be managed as an Inner Protection Area as required by NSW RFS this results in a higher degree of modification as contemplated in the Bushfire Report where an Outer Protection Area (reducing canopy removal) was proposed.

An attachment from a Bushfire Consultant was included with the applicant's report detailing "Standards for the construction and maintenance for terracing for asset protection zone for DA16/0795". The existing stepping of the land beneath the area of vegetation to be impacted by the recommended APZ was noted during the site visit. Confirmation by the Bushfire Consultant would be required to determine if the existing terracing of the proposed APZ is sufficient to meet the standards detailed by the Bushfire Consultant or if further earthworks would be required.

It is noted that the Addendum to the Ecological Assessment submitted in May 2017 has provided a tree survey of the number of trees with a Diameter at Breast Height of 150mm or greater within the area affected by the proposed APZ. A total of 87 trees with a DBH over 150mm were recorded. A detailed survey and plan detailing which trees would be removed or retained to comply with APZ requirements has not been provided.

Ecological assessment

Applicant's statement from report:

No threatened or endangered species were identified in the impacted area of the original or amended DA. The specific assessment of the APZ area concluded that "no significant impact" would result in any threatened or endangered species in the creation of the proposed APZ for either the original or amended DA.

...proposal was unlikely to significantly impact on any of the occurring or potentially occurring species or communities listed under the TSC Act 1995. Also assessment under the EPBC Act 1999, found that the proposal was unlikely to significantly impact on any Matters of National Environmental Significance. Finally, under SEPP 44 Koala Habitat Assessment, potential koala habitat is present at the site however core koala habitat does not occur.

BushfireSafe Environmental Services

The above quote is from the Ecological Assessment (EA) dated September 2016 submitted with the original proposal for two proposed dwelling sites adjacent to Kyogle Road. The Applicant makes numerous references to this *property wide survey*. The EA dated September 2016 was not a property wide survey. The boundaries of this survey are stated in the report as being:

The subject site consists of land within the immediate development footprint...This area is bound to the north by Kyogle Road, with proposed dwelling footprints of the two allotments located at this northern boundary. The study area extends approximately 100m to the south east and west of the subject site.

The image below is from the September 2016 report and shows the area for which the report was prepared and the area that was the subject of the ecological assessment. The report does take into consideration *potential indirect or residual impacts* only for areas beyond initial immediate development footprint area adjacent to Kyogle Road.

The EA dated September 2016 did not include an assessment of direct impacts for the development footprint (including APZs) for the current unapproved structure.

A seven part test to determine impacts on occurring or potentially occurring species or communities listed under the *TSC Act 1995* for the development footprint of the current unapproved structure was not provided. Furthermore, the *Addendum to Ecological Assessment* submitted 19 May 2017 stated:

Activities under the proposed development will have direct impact on koala habitat in the locality, via the removal of preferred feed trees and habitat with the required APZ setback distances.

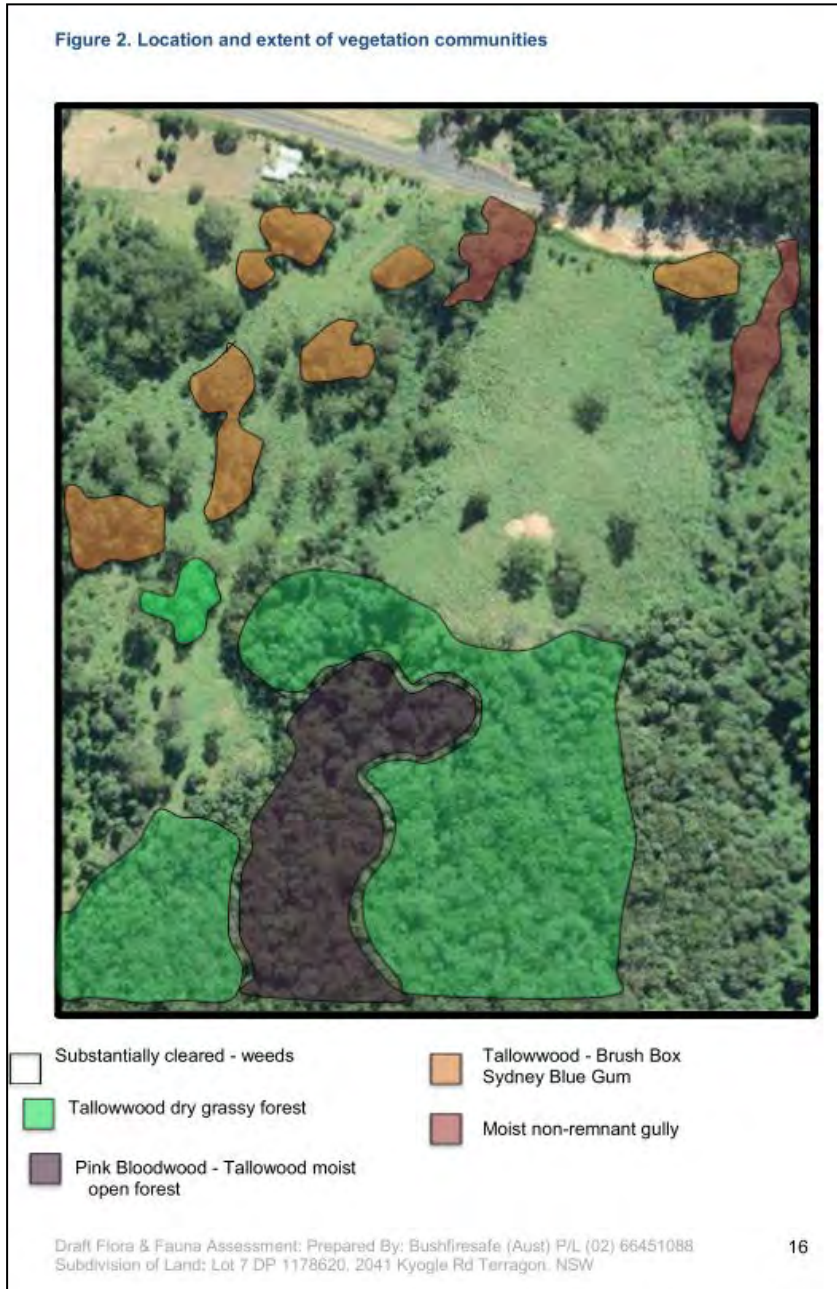


Figure 2 Area of Ecological Assessment Report dated September 2016

Koala Habitat

Applicant's statement from report:

The planning report incorrectly classifies the subject site as Core Koala Habitat

Biolink ecological consultants conducted a koala survey utilizing the Spot Assessment Technique (SAT) and in a report dated 19 May 2017 concluded that no significant koala activity was detected. The report recognises that a Koala population is known to occur in the locality, further noting that *'Koala is likely to occasionally move through forested areas and forage on Eucalyptus microcorys at the study site'*. Notwithstanding these assertions, the report failed to consider previous historical records as part of the SEPP 44 assessment in defining whether core koala habitat occurs onsite and relied on a single survey site only.

It is noted that the definition of 'core koala habitat' for the purposes of the SEPP 44 means *'an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records* of a population'*. Clearly historic records need to be considered as part of determining whether 'core koala habitat' occurs onsite. It is noted that the paper being *'The Spot Assessment Technique: a tool for determining localised levels of habitat use by Koalas Phascolarctos cinereus'* (Stephen Phillips and John Callaghan 2011) similarly states that the technique is suitable for use in conjunction with a range of other sampling techniques including grid based sampling and that a precautionary approach should be applied to activity levels in low use areas.

Furthermore, it is noted that due to difficulties in detecting Koala in low density populations the *Referral Guidelines for the vulnerable koala* (Commonwealth of Australia 2014) provides precautionary advice on the reliance of single surveys to determine presence/absence of Koala. It is suggested that spatial and temporal survey replication using a suite of survey methods is required in order to infer true absence.

Council Officers are of the opinion that regardless of the absence of evidence of Koala returned during the recent **single** SAT survey (Biolink 2017) within the disturbance footprint **only** the site continues to support 'core koala habitat' as defined under SEPP 44 for the following reasons:

Potential Koala Habitat was recognised to occur onsite remaining as a significant habitat node within a Regional Wildlife Corridor.

As indicated in the Ecological Assessment – *'the Tweed Coast Koala Habitat Study shows generational persistence of Koalas around Uki, Kunghur and Byrrill Creek and sightings as recent as 2013 and 2015 are recorded within less than one kilometre of the site. Of the total 74 records within the area, greater than 98% have been recorded since 2000 and 35 records since 2013'*.

Koala pellets were found by Council's Biodiversity Officer within the study area.

Indicative scratch marks were also observed on *Eucalyptus propinqua* trees within Tallwood dry grassy forest vegetation (TVMS 208).

It is noted that the classification of the site as Core Koala Habitat was not discussed at the site visit.

Classification of Remnant Vegetation

Applicant's statement from report:

...the disputed vegetation in the proposed APZ did not exist in 1991

The image provided by the applicant is not an accurate representation of the location of the proposed APZ. The image below is an aerial imagery from Council's mapping data from the year 2000. The image shows the existence of an undisturbed patch of vegetation within the proposed APZ. Figure 4 below provides an estimate of the proposed APZ area on imagery from 1991.



Figure 3 Proposed APZ with imagery from the year 2000.



Figure 4 Proposed APZ on imagery from 1991

Applicant's statement from report:

The location of the existing structure represents the most suitable location of a dwelling when compared to the alternative location on Lot 17 when all issues are taken into consideration.

It is noted that the site of the current unauthorised structure requires a 114m x 43m (8,322m²) APZ due to a combination of vegetation type adjacent to the structure and the steepness of the slopes on which that vegetation is located.

The map submitted with the applicant's Bushfire Report dated April 2017 shows the unauthorised structure is located within an area covered by Forest Vegetation. An area not mapped as containing Forest Vegetation adjacent to Kyogle Road was not considered as an alternative site. There may be other suitable sites however this would require a more detailed assessment of all the constraints of the site which is outside the scope of Assessing Officers.

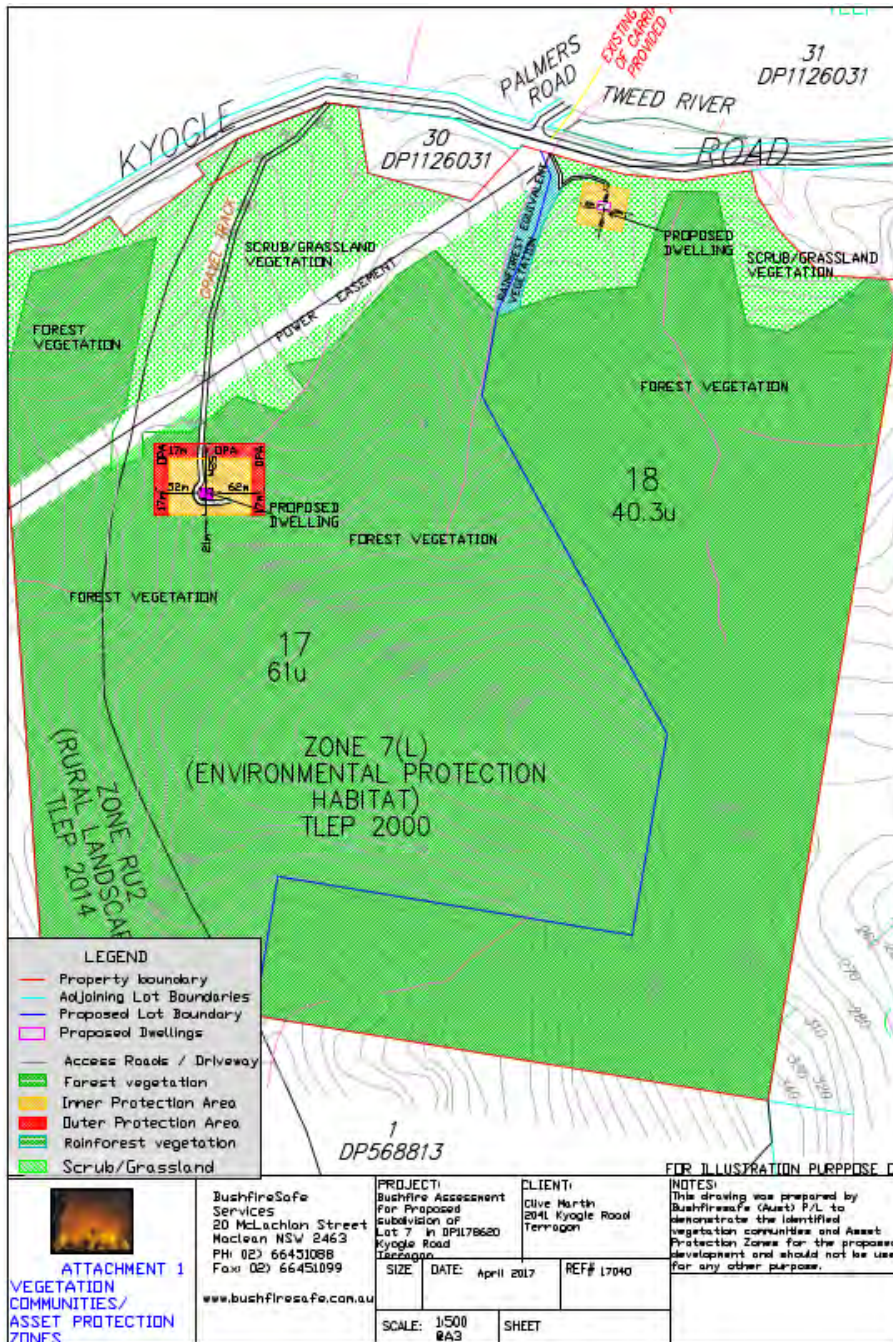


Figure 5 Mapped from Bushfire Risk Report April 2017

It is noted that the proposed dwelling site on Lot 18 is located outside the area mapped as containing Forest Vegetation and requires a smaller APZ of 40m x 40m (1,600m²).

With regard to on-site sewerage management, Council's Officers reviewed the OSSM Report submitted with the original application and found the recommendations of the report to be acceptable.

Other matters noted from the site visit

Earthworks

The applicant noted that the unauthorised earthworks undertaken to create a level area for the building and parking area have not been the subject of any engineering assessment.

It is noted that the applicant has previously been advised (12 May 2015) that earthworks require development consent within the 7(l) zone in a response to an Expression of Interest for Disposal of Fill.

Works

The applicant was given notice to stop all building and development works immediately in a letter dated 8 March 2017. It appears that some minor additional work has been undertaken since the request to stop work in March.

OPTIONS:

Note there are three options presented below:

- Option 1 Refuse the application in accordance with the recommendation and engage Council's solicitors to provide advice regarding a remedy to the unauthorised activity.
- Option 2 Approve the application subject to the conditions below as discussed with the applicant.
- Option 3 Approve the application subject to the alternative conditions proposed at the Planning Committee Meeting of 7 December 2017.

This report recommends Option 1.

Options 2 and 3 are detailed below.

OPTION 2

Approve the application subject to the conditions below previously brought to Council at the Planning Committee meeting of 2 November 2017.

DEFERRED COMMENCEMENT

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within **6 months** of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 95 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE A

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 95 of the Regulations as amended.

- A. A report from an Accredited Building Surveyor detailing works required to the existing structure on proposed Lot 17 (including shipping containers to be utilised as bedrooms) to ensure the structure is able to comply with the requirements of the National Construction Code for Class 1 buildings.
- B. Plans of construction for the existing structure for proposed Lot 17 (floor plan, elevations, roof plans, sections etc.) that include any alterations that may be required to comply with the National Construction Code and BASIX requirements.
- C. An application for a Building Certificate for the existing structure for proposed Lot 17 is to be made to Council with the following information and reports:
 - i. A report from a Geotechnical Engineer that details the soil conditions at the perimeter of the existing structure.
 - ii. A report from a Structural Engineer that details the structural adequacy of the existing structure and that details any structural alterations that may be required to be completed to it prior to Occupation.
 - iii. The submission of an energy efficiency report from an energy efficiency specialist specifying that the existing structure is able to comply with BASIX requirements. Particular reference should also be made to the habitable use of shipping containers that form part of the existing structure. Such report should also be accompanied by the actual BASIX Certificate for the existing structure.
 - iv. Certification in relation to the adequacy of; smoke alarms, termite protection, glazing and waterproofing.
 - v. A report from a quantity surveyor that details the value of all unauthorized building works on the site.
 - vi. A Certificate of Compliance from a licensed plumber for all plumbing and drainage works on the site.
 - vii. Clothes washing facilities shall be demonstrated to the satisfaction of the General Manager or his delegate.
- D. An individual Site Based Koala Plan of Management (SBKPoM) shall be submitted to Council for approval by the General Manager or his delegate. The SBKPoM shall be prepared generally in accordance with Section 2 of the Department of Urban Affairs and Planning (DoUA&P) Circular No. B35 dated 22 March 1995 and the National Parks and Wildlife Service and DoUA&P Further Guidelines on Preparing a Koala Plan of Management dated 1999. The SBKPoM shall be prepared by a suitably qualified professional.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

GENERAL

1. This consent authorises the subdivision of Lot 7 DP 1178620 into two future allotments and the ongoing use of an existing structure on future Lot 17 for the purposes of a dwelling. The development shall be completed in accordance with the amended development application and Subdivision Plan No 21303 prepared by B & P Surveys and dated 5 July 2016, and any other plans ultimately approved as per Schedule A above, including Plans of Management, and Floor Plans, Elevations, Roof Plans, Sections for the existing structure on new Lot 17, except where varied by the conditions of this consent.

[GENNS01]
2. The future house on proposed Lot 18 is to be the subject of a Development Application/Complying Development Certificate Approval as statutorily required only after the subdivision is registered and Lot 18 is lawfully created.

[GENNS02]
3. The subdivision is to be carried out in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design and Construction Specifications.

[GEN0125]
4. A roof catchment water supply source shall be provided for the domestic purposes where a Council reticulated supply is unavailable. Any domestic water supply roof collection system should be fitted with a first flush device and adequately maintained to ensure a safe and suitable drinking water supply, where applicable. The minimum storage tank capacity shall reflect the dry seasonal periods experienced in the locality and shall be in addition to any fire fighting capacity requirements stipulated by the NSW Rural Fire Services. The minimum storage capacity required shall be 15,000L per bedroom with a minimum 20,000L to be provided.

[GEN0310]
5. 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 of a standard rural residential access to service both identified dwelling sites, in accordance with Council's Development Control Plan - Section A2 "*Site Access and Parking Code*" and Council's "*Driveway Access to Property - Design Specification*" (*current version*).
 - (b) Bitumen or concrete sealing of the accesses from the existing road carriageway to the property boundary.

[GENNS03]
6. 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*".

[GENNS04]
7. Prior to the issue of a building certificate the applicant is required to lodge an application to install/operate an onsite sewerage management system under Section

68 of the Local Government Act 1993, for the existing structure for proposed Lot 17 and pay the appropriate fee and be issued with an approval.

Any approval to install an on site sewage treatment and disposal system shall comply with the recommended on site sewage treatment and disposal method as detailed in the Onsite Sewage Management Design Report HMC Environmental, April 2016 (HMC 2016.099.02 Revised) including all recommendations of that report and any addendum to the report or to the satisfaction of Councils General Manager or his delegate.

8. With reference to Figure 2 of *Habitat Restoration Plan Terragon dated January 2017 prepared by Bushland Restoration Services* all 'Vegetation Community' types identified as 1 to 7 on that plan are to collectively form and be described as the 'conservation area' for the purposes of this consent. The conservation area shall be protected and managed as a natural area for conservation in perpetuity. The conservation area shall be the subject of a habitat restoration program implemented in accordance with an approved Habitat Restoration Plan.

PRIOR TO COMMENCEMENT OF WORK

9. Any further construction works in accordance with a development consent must not be commenced until:
 - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]
10. A Tree Survey Plan (TSP) shall be submitted to Council for approval by the General Manager or his delegate prior to the commencement of any works. The TSP shall be of appropriate scale identifying the following trees considered necessary to be removed to enable establishment of a bushfire asset protection zone (APZ) to the proposed dwelling on Lot 17 in accordance with the relevant NSW Rural Fire Service (NSW RFS) General Terms of Approval (GTA):

- Any local native trees greater than 200 mm diameter girth (measured at 1.4 m above ground)
- Any locally recognised preferred Koala food trees regardless of height or girth being either *Eucalyptus robusta* (Swamp Mahogany) (including hybrids), *Eucalyptus tereticornis* (Forest Red Gum), *Eucalyptus propinqua* (Small-fruited Grey Gum) or *Eucalyptus microcorys* (Tallowwood)

The TSP shall:

- (a) Be prepared in liaison with a NSW Bushfire Planning & Design accredited professional;
 - (b) Demonstrate the minimum extent of disturbance necessary to achieve required asset protection zone standards;
 - (c) Details of any earthworks required to comply with the NSW RFS GTA specifically terracing to enable suitable access to enable the ongoing maintenance of the APZ;
 - (e) Where possible seek to retain within the asset protection zone local preferred Koala food trees and/or trees with hollows or evidence of arboreal fauna occupation/use
 - (f) Provide species name, common name, height and girth and description of habitat features of each tree identified to be removed
 - (g) Be overlaid on the proposed plan of development to show the dimensions and outline of the APZ in accordance with the NSW RFS GTA's
11. A Vegetation and Fauna Management Plan (V&FMP) shall be prepared by a suitably qualified ecologist to be implemented during the construction and operational phase (where specified) of the development. The V&FMP shall be submitted and approved by Council's General Manager or delegate prior to the commencement of any works. The V&FMP shall integrate and be consistent with key elements of the approved Tree Survey Plan, approved Site Based Koala Plan of Management and Habitat Restoration Plan. The following (but not be limited to) details shall be addressed in the V&FMP.

Vegetation Management

- a. Particulars and locations of vegetation to be removed and vegetation to be retained in order to facilitate the development;
- b. A statement of the reasons why the damage is necessary and any relevant factors associated with the purpose of the proposed damage;
- c. Details of all proposed infrastructure, site access and services;
- d. Details of strategies and methods to be implemented to protect vegetation to be retained generally consistent with *Australian Standard AS 4970-2009 Protection of trees on development sites*;
- e. Quantification of compensatory planting applied to all trees identified to be removed on the approved TSP. Compensatory plantings shall:
 - i. Be calculated at a ratio of 1:16 (remove:replace);
 - ii. Aim to replace the same species removed;
 - iii. Be installed within the approved conservation zone in accordance with the Habitat Restoration Plan;
- f. Methods for the reuse of felled vegetation from the subject site;
- g. Disposal methods for remaining debris after the above methods have been employed;

- h. Specify that all trees to be removed are to be clearly marked prior to any clearing activity.

Fauna Management

- a. Identification of known and potential habitat trees (displaying values such as hollows, fissures, nests, drays, arboreal termitaria used as nests etc.) and description of fauna species known/likely to utilise habitat features;
 - b. Information on how trees are to be inspected for denning or nesting animals including constraints for inspecting trees (to provide acceptable alternative methods) and summary of removal and relocation methods for each faunal group (including observed species and species likely to occur in the area to be disturbed);
 - c. Considerations relating to time periods for when fauna is to be removed/flushed prior to clearing;
 - d. Details of special equipment required (such as cameras, elevated platforms etc.);
 - e. Identification of general locations that wildlife will be relocated/translocated to if required (based on habitat requirements);
 - f. Specify that a suitably qualified ecologist who holds a fauna survey licence is required to manage wildlife onsite during any tree removal and/or disturbance to wildlife habitat. Fauna management methods employed should be generally consistent with the *Draft Queensland Code of Practice for the Welfare of Wild Animals Affected by Clearing and Other Habitat and Wildlife Spotter/Catchers* (Hangar & Nottidge 2009) Where translocation is required the proponent shall seek any relevant permits from the state regulating agency (Office of Environment & Heritage). It is the responsibility of the proponents to ensure all relevant licences have been obtained prior to any fauna interactions;
12. A Habitat Restoration Plan (HRP) shall be prepared for the following areas of the approved conservation area (pursuant to Condition 8) as described in Figure 3 of *Habitat Restoration Plan Terragon dated January 2017 prepared by Bushland Restoration Services*:

Work Zone 4; and
Work Zone 6; and
Work Zones 8 – fronting Kyogle Road.

The HRP shall be prepared by a person suitably qualified in Bushland Regeneration or Ecological Restoration and with knowledge and experience in local vegetation communities (e.g. wetlands, rainforest, open woodland) and generally reflect. The HRP shall be submitted and approved by Council's General Manager or delegate prior to the commencement of any works on site and shall include the following:

- a. An appraisal of the present condition of areas the subject of restoration activity
- b. Details of any previous habitat restoration works
- c. Details of the approach to habitat restoration generally consistent with that prescribed in the *Habitat Restoration Plan Terragon dated January 2017 prepared by Bushland Restoration Services* for each respective works zone detailed above

- d. Plan overlaying an aerial photograph of the site which divides the area into zones for regeneration and zones for planting, including connections between existing vegetation where appropriate
 - e. Management strategy for each of the zones, including the approach, methods and techniques to be used for habitat restoration
 - f. Detail a revegetation schedule of one (1) plant per square metre including compensatory planting as specified in the Vegetation and Fauna Management Plan
 - g. Schedule of local native plant species to be used for planting
 - h. Program of works to be undertaken to remove invasive weed species;
 - i. Schedule of timing of proposed works
 - j. Set of performance criteria to achieve site capture over a five (5) year management period
 - k. Maintenance, monitoring and reporting schedule with developer commitment for a period of not less than five (5) years
 - l. An adaptive management statement detailing how potential problems arising may be overcome and requiring approval of the General Manager or delegate for such changes.
13. All pre-construction vegetation and fauna management measures shall be satisfactorily completed in accordance with the approved Vegetation and Fauna Management Plan.
 14. Certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to Council, confirming that the dwelling, associated access and Asset Protection Zones in accordance with approved Tree Survey Plan on Lot 17 complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.
 15. Environmental restoration works shall be completed to a level specified in the approved Habitat Restoration Plan prior to the issue of the first of any occupation certificate or release of subdivision certificate, whichever occurs first, and shall be maintained at all times in accordance with the approved plans.
 16. A building certificate for the existing dwelling on future Lot 17 shall not be issued an Engineering Report demonstrates it is safe for habitation and certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning and Design (BPAD) certified practitioner that all Bushfire safety requirements related to the safe habitation of the existing building have been met are submitted to Council.
 17. The existing dwelling on future Lot 17 cannot be occupied until a building certificate is issued.

DURING CONSTRUCTION

18. 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]

19. 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]

20. The spa pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926.1 - 2012 & AS 1926.2 -2007, the Swimming Pool Act 1992 and the Swimming Pool Regulation 2008. Once your pool or spa is complete please register it at www.swimmingpoolregister.nsw.gov.au.

21. The habitat restoration works shall be maintained at all times to the satisfaction of the Council's General Manager or delegate.

22. All operations must comply with the approved Vegetation and Fauna Management Plan. In the event that any threatened species, populations, ecological communities or their habitats not addressed in the report are discovered during operations appropriate Plans of Management for those species must be formulated to the satisfaction of the General Manager or delegate and/or if required the Department of Environment and Heritage. No further site clearing will take place until any respective Plan(s) of Management is/are approved

23. The conservation zone shall be afforded adequate protection during the construction phase.

24. A suitably qualified ecologist who holds a fauna survey licence (NSW) must be engaged to supervise any tree removal works onsite. Immediately following completion of tree clearing activity the qualified ecologist shall provide a final report to Council specifying the following:

- a. Brief summary of any fauna handling, mortality or other relevant fauna related incidents that may have occurred during tree removal
- b. Inventory of species encountered during tree removal
- c. If relocation was required, list of species and relocation location.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

25. 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]

26. 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]

USE

27. 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]

28. 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]

29. The additional shipping containers located on Lot 17 marked as 'Storage Containers' on the site plan submitted on 22 May 2017 (on either side of the spa), shall not to be used or adapted for separate residential habitation or occupation.

[USE0465]

30. The building on future Lot 17 is to be used for single dwelling purposes only.

[USE0505]

31. Bushfire asset protection zones are to be maintained around the house site at all times to the satisfaction of the NSW Rural Fire Service.

[USE0575]

32. The use of the site must be consistent with the approved Plans of Management.

[USENS02]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

33. Prior to issue of a Subdivision Certificate, 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]

34. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's receipt confirming payment.

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

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

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

- | | |
|--|--------------|
| (a) Tweed Road Contribution Plan:
6.5 Trips @ \$2723 per Trips
(\$2,534 base rate + \$189 indexation)
S94 Plan No. 4
Sector13_4 | \$12,400.43* |
| (b) Open Space (Casual):
1 ET @ \$564 per ET
(\$502 base rate + \$62 indexation)
S94 Plan No. 5 | \$400.44* |
| (c) Open Space (Structured):
1 ET @ \$645 per ET
(\$575 base rate + \$70 indexation)
S94 Plan No. 5 | \$457.95* |
| (d) Shirewide Library Facilities:
1 ET @ \$869 per ET
(\$792 base rate + \$77 indexation)
S94 Plan No. 11 | \$616.99* |
| (e) Eviron Cemetery:
1 ET @ \$127 per ET
(\$101 base rate + \$26 indexation)
S94 Plan No. 13 | \$90.17* |
| (f) Community Facilities (Tweed Coast - North)
1 ET @ \$1457 per ET
(\$1,305.60 base rate + \$151.40 indexation)
S94 Plan No. 15 | \$1,034.47* |
| (g) Extensions to Council Administration Offices
& Technical Support Facilities
1 ET @ \$1935.62 per ET
(\$1,759.90 base rate + \$175.72 indexation)
S94 Plan No. 18 | \$1,374.29* |
| (h) Regional Open Space (Casual)
1 ET @ \$1132 per ET
(\$1,031 base rate + \$101 indexation)
S94 Plan No. 26 | \$803.72* |

- (i) Regional Open Space (Structured):
1 ET @ \$3974 per ET \$2,821.54*
(\$3,619 base rate + \$355 indexation)
S94 Plan No. 26

* Includes adjustments which effect compliance with the Directions from the Minister for Planning in relation to the maximum contribution payable per dwelling dated 13 January 2009 and 19 July 2009.

[PSC0175]

35. Any damage to property (including Kyogle Road) as a result of the development is to be rectified to the satisfaction of the General Manager or his delegate prior to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developer's expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0725]

36. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

[PSC0825]

37. Prior to the issue of the Subdivision Certificate, certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to the PCA, confirming that the subject development (including driveway access to dwelling sites) complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.

[PSC0830]

38. 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) Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006" Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.
- (b) Restriction As To User to notify future owners that reticulated sewer is not available to the site and any future dwelling will be required to provide On-Site Sewerage Management in accordance with Council's On-Site Sewerage Management policy.
- (c) Restriction As To User to notify future owners that reticulated water supply is not available to the site and any future dwelling will be required to provide a roofwater supply system in accordance with Council's policies and Bushfire Planning requirements (the minimum storage capacity required shall be 15,000L per bedroom with a minimum 20,000L to be provided).
- (d) Restriction as to user regarding the 'Conservation Area' pursuant to Condition 8 of this consent – this area must be subject to an approved ecological restoration

program (undertaken in accordance with an approved habitat restoration plan) and managed for conservation purposes in perpetuity.

Burden: Part Lot 12. Benefit: Tweed Shire Council

- (e) Restriction as to user regarding the 'Conservation Area' pursuant to Condition 8 of this consent – The following activities are not permitted within this area.
- i. Clearing, lopping or removal of any native plants, whether existing at the date of this approval or planted pursuant to conditions of this approval;
 - ii. Erection of any fixtures or improvements, including buildings or structures;
 - iii. Construction or maintenance of access trails or paths, other than tracks for non-motorised recreational access and bush regeneration purposes, unless otherwise established prior to issue of this consent;
 - iv. Depositing of any fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the protected area
 - v. Keeping or permitting the entry of domestic animals or any other animals that are not indigenous to the conservation area; and
 - vi. Performance of any other acts which may have detrimental impact on the values of the conservation area. The area must be managed in accordance with the approved habitat restoration plan for the life of the development and the use of the premises.

Burden: Part Lot 17 and Part Lot 18. Benefit: Tweed Shire Council

- (f) Restriction as to user – all fauna management measures prescribed in the approved Site Based Koala Plan of Management shall be complied with at all times

Burden: Lot 17 and Lot 18. Benefit: Tweed Shire Council

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating a Right Of Carriageway or Easement shall make provision for maintenance of the Right Of Carriageway or 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 (as applicable).

Any Section 88B Instrument creating Restrictions as to user, Right Of Carriageway or Easements which benefit Council shall contain a provision enabling such Restrictions, Easements or Rights Of Carriageway to be revoked, varied or modified only with the consent of Council.

[PSC0835]

39. Submit to Council's Property Officer for approval an appropriate plan indicating the street/road address number to both proposed and existing lots. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each lot in the new Deposited Plan.

40. Furthermore, prior to the issue of a Subdivision Certificate, each lot shall have its' address number displayed in accordance with Council's procedure on street numbering.

[PSC0845]

41. Prior to registration of the Plan of Subdivision, 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.

[PSC0885]

42. Any boundary fence encroaching into the Kyogle Road road reserve along the developments, deemed by Council to be a safety risk is to be relocated to the correct alignment prior to issuing a Subdivision Certificate. Any road widening deemed necessary shall be dedicated at no cost to Council.

[PSC0945]

43. The production of written evidence from the local telecommunications supply authority certifying that the provision of telecommunications at the front boundary of both allotments has been completed.

Unless agreed otherwise by Council, an acceptable form is Telstra's "*Telstra Network Infrastructure Letter*" or NBN's "*Provisioning of Telecommunication Services - Confirmation of final payment*" letter (for small subdivisions) / "*Certificate of Practical Completion of NBN network infrastructure*" letter (for large subdivisions) (as applicable to the development).

The NBN letter must reference:

- Over which Lot and Deposited Plan the agreement applies to,
- Identification of the number of lots to be serviced.

[PSC1165]

44. The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead electricity (rural subdivisions) and energising has been provided to each allotment.

An acceptable form is Essential Energy's "Notice of Arrangement".

Unless agreed otherwise by Council, the form must reference:

- Over which lot and deposited plan did the arrangement for the provisioning of electricity (and street lighting, as applicable) apply to,

- Identification of the proposed lots to be created that have been serviced, or the development stage to which the arrangement applies,

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

45. Environmental restoration works shall be completed to a level specified in the approved Habitat Restoration Plan prior to the release of subdivision certificate and shall be maintained at all times in accordance with the approved plans.

[PSC1175]

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

1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by B & P Surveys titled 'Proposed Subdivision of Lot 7 in DP 1178620, 2041 Kyogle Road, Terragon' referenced M30653, sheet 1 of 2, revision D and dated 5th July, 2016.

Asset Protection Zones

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

2. At the issue of subdivision certificate and in perpetuity, the land surrounding the dwelling on proposed Lot 17 shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones' as follows:
 - north for a distance of 52 metres as an IPA;
 - south for a distance of 21 metres as an IPA;
 - east for a distance of 62 metres as an IPA; and
 - west for a distance of 52 metres as an IPA.
3. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed upon proposed Lot 18 identifying:
 - a building envelope as identified on the plan prepared by B & P Surveys titled 'Proposed Subdivision of Lot 7 in DP 1178620, 2041 Kyogle Road, Terragon' referenced M30653, sheet 1 of 2, revision D and dated 5th July, 2016; and
 - an asset protection zone around the building envelope for a distance of 19 metres to the north and east and 21 metres to the south and west.

The terms of the restriction to land use shall require the above noted building envelope and asset protection zone to be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'. The asset protection zones shall be established prior to the issue of a subdivision certificate.

4. For asset protection zones (APZ) on slopes greater than 18 degrees, the property shall be landscaped or managed (e.g. terracing) with suitable access being provided to the APZ to ensure the ongoing maintenance of the area. Details of landscaping plans are to be submitted for approval to Council/or the principal certifier with the construction certificate.

Water and Utilities

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

5. In recognition that no reticulated water supply is available to the development, a total of 20,000 litres firefighting water supply shall be provided to the dwelling on proposed Lot 17 for fire fighting purposes. The fire fighting water supply shall be installed and maintained in the following manner:
 - a) Fire fighting water supply tank(s) shall be located not less than 5 metres and not more than 20 metres from the approved structure.
 - b) New above ground fire fighting water supply storage's are to be manufactured using non combustible material (concrete, metal, etc). Where existing fire fighting water supply storage's are constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials, they shall be shielded from the impact of radiant heat and direct flame contact.
 - c) Non combustible materials (concrete, metal, etc) will only be used to elevate or raise fire fighting water supply tank(s) above the natural ground level.
 - d) A 65 mm metal Storz outlet with a gate or ball valve shall be fitted to any fire fighting water supply tank(s) and accessible for a fire fighting truck.
 - e) The gate or ball valve, pipes and tank penetration are adequate for the full 50 mm inner diameter water flow through the Storz fitting and are constructed of a metal material.
 - f) All associated fittings to the fire fighting water supply tank(s) shall be non-combustible.
 - g) Any below ground fire fighting water supply tank(s) constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials shall be shielded from the impact of radiant heat and direct flame contact.

- h) A hardened ground surface for fire fighting truck access is to be constructed up to and within 4 metres of the fire fighting water supply (tank or Storz fitting).
- i) Any fire fighting water supply tank(s) located below ground shall be clearly delineated to prevent vehicles being driven over the tank.
- j) All water supplies for fire fighting purposes shall be clearly signposted as a fire fighting water supply.
- k) Below ground fire fighting water supply tank(s) shall have an access hole measuring a minimum 200 mm x 200 mm to allow fire fighting trucks to access water direct from the tank.
- l) Fire fighting water supply tank(s) and associated fittings, located within 60 metres of a bushfire hazard and on the hazard side of an approved building, shall be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire fighters.
- m) A minimum 5hp or 3kW petrol or diesel powered pump(s) shall be made available to the water supply. A 19mm (internal diameter) fire hose(s) and/or reel(s) shall be connected to the pump. Fire hose(s) and/or reel(s) must be installed so that each elevation of the building can be reached by a fire hose(s). The fire hose(s) and/or reel(s) must be constructed in accordance with 'AS/NZS 1221:1997, Fire hose reels' and shall be installed in accordance with 'AS 2441:2005 Installation of fire hose reels'.
- n) Pumps are to be shielded from the direct impacts of bush fire.
- o) A Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
 - i. Markers must be fixed in a suitable location so as to be highly visible; and
 - ii. Markers should be positioned adjacent to the most appropriate access for the water supply.

Note: The definition of below ground dedicated fire fighting water supply tank(s) is when the outlet valve is located below natural ground level.

6. In recognition that the dwelling on proposed Lot 17 may be connected to a gas supply, the following requirements are to be complied with:
- a) Reticulated or bottled gas is to be installed and maintained in accordance with the current Australian Standard AS/NZS 1596: 'The storage and handling of LP gas' and the requirements of relevant authorities. Metal piping is to be used.
 - b) All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and be shielded on the hazard side of the installation.
 - c) Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal.

- d) Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.
7. Any alteration to electricity supply shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

8. Property access road to the dwelling on proposed Lot 17 shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006', except:
- an alternative property access road is not required;
 - reversing bay may be provided in lieu of a loop road around the dwelling or a turning circle. Where a reversing bay is provided it shall be not less than 6 metres wide and 8 metres deep with an inner minimum turning radius of 6 metres and outer minimum radius of 12 metres; and
 - where the grade of the property access road exceeds 10 degrees, the section of the road shall be sealed with a bitumen surface.

Design and Construction

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

9. Construction of the dwelling on proposed Lot 17 shall comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

Landscaping

10. Landscaping to proposed Lot 17 is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

END OF OPTION 2

OPTION 3

Approve the application subject to the conditions below as recommended and amended by Council at the Planning Committee meeting of 7 December 2017:

DEFERRED COMMENCEMENT

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within **6 months** of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 95 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE A

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 95 of the Regulations as amended.

- A. A report from an Accredited Building Surveyor detailing works required to the existing structure on proposed Lot 17 (including shipping containers to be utilised as bedrooms) to ensure the structure is able to comply with the requirements of the National Construction Code for Class 1 buildings.
- B. Plans of construction for the existing structure for proposed Lot 17 (floor plan, elevations, roof plans, sections etc.) that include any alterations that may be required to comply with the National Construction Code and BASIX requirements.
- C. An application for a Building Certificate for the existing structure for proposed Lot 17 is to be made to Council with the following information and reports:
 - i. A report from a Geotechnical Engineer that details the soil conditions at the perimeter of the existing structure.
 - ii. A report from a Structural Engineer that details the structural adequacy of the existing structure and that details any structural alterations that may be required to be completed to it prior to Occupation.
 - iii. The submission of an energy efficiency report from an energy efficiency specialist specifying that the existing structure is able to comply with BASIX requirements. Particular reference should also be made to the habitable use of shipping containers that form part of the existing structure. Such report should also be accompanied by the actual BASIX Certificate for the existing structure.
 - iv. Certification in relation to the adequacy of; smoke alarms, termite protection, glazing and waterproofing.
 - v. A report from a quantity surveyor that details the value of all unauthorised building works on the site.
 - vi. A Certificate of Compliance from a licensed plumber for all plumbing and drainage works on the site.
 - vii. Clothes washing facilities shall be demonstrated to the satisfaction of the General Manager or his delegate.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

GENERAL

1. This consent authorises the subdivision of Lot 7 DP 1178620 into two future allotments and the ongoing use of an existing structure on future Lot 17 for the purposes of a dwelling. The development shall be completed in accordance with the amended development application and Subdivision Plan No 21303 prepared by B & P Surveys and dated 5 July 2016, and any other plans ultimately approved as per Schedule A above, including Plans of Management, and Floor Plans, Elevations, Roof Plans, Sections for the existing structure on new Lot 17, except where varied by the conditions of this consent.

[GENNS01]
2. The future house on proposed Lot 18 is to be the subject of a Development Application/Complying Development Certificate Approval as statutorily required only after the subdivision is registered and Lot 18 is lawfully created.

[GENNS02]
3. The subdivision is to be carried out in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design and Construction Specifications.

[GEN0125]
4. A roof catchment water supply source shall be provided for the domestic purposes where a Council reticulated supply is unavailable. Any domestic water supply roof collection system should be fitted with a first flush device and adequately maintained to ensure a safe and suitable drinking water supply, where applicable. The minimum storage tank capacity shall reflect the dry seasonal periods experienced in the locality and shall be in addition to any fire fighting capacity requirements stipulated by the NSW Rural Fire Services. The minimum storage capacity required shall be 15,000L per bedroom with a minimum 20,000L to be provided.

[GEN0310]
5. 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 of a standard rural residential access to service both identified dwelling sites, in accordance with Council's Development Control Plan - Section A2 "*Site Access and Parking Code*" and Council's "*Driveway Access to Property - Design Specification*" (*current version*).
 - (b) Bitumen or concrete sealing of the accesses from the existing road carriageway to the property boundary.

[GENNS03]

6. 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".

[GENNS04]

7. Prior to the issue of a building certificate the applicant is required to lodge an application to install/operate an onsite sewerage management system under Section 68 of the Local Government Act 1993, for the existing structure for proposed Lot 17 and pay the appropriate fee and be issued with an approval.

Any approval to install an on site sewage treatment and disposal system shall comply with the recommended on site sewage treatment and disposal method as detailed in the Onsite Sewage Management Design Report HMC Environmental, April 2016 (HMC 2016.099.02 Revised) including all recommendations of that report and any addendum to the report or to the satisfaction of Councils General Manager or his delegate.

8. With reference to Figure 3 of Habitat Restoration Plan Terragon dated January 2017 prepared by Bushland Restoration Services all 'Work Zone' types identified as 6, 7 and 8 on that plan are to collectively form and be described as the 'conservation area' for the purposes of this consent. The conservation area shall be protected and managed as a natural area for conservation in perpetuity. The conservation area shall be the subject to the existing habitat restoration program.
9. A Tree Survey Plan (TSP) shall be submitted to Council for approval by the General Manager or his delegate prior to the commencement of any works. The TSP shall be of appropriate scale identifying the following trees considered necessary to be removed to enable establishment of a bushfire asset protection zone (APZ) to the proposed dwelling on Lot 17 in accordance with the relevant NSW Rural Fire Service (NSW RFS) General Terms of Approval (GTA):

Any local native trees greater than 200 mm diameter girth (measured at 1.4 m above ground)

Any locally recognised preferred Koala food trees regardless of height or girth being either *Eucalyptus robusta* (Swamp Mahogany) (including hybrids), *Eucalyptus tereticornis* (Forest Red Gum), *Eucalyptus propinqua* (Small-fruited Grey Gum) or *Eucalyptus microcorys* (Tallowwood)

The TSP shall:

- (a) Be prepared in liaison with a NSW Bushfire Planning & Design accredited professional;
- (b) Demonstrate the minimum extent of disturbance necessary to achieve required asset protection zone standards;
- (c) Details of any earthworks required to comply with the NSW RFS GTA specifically terracing to enable suitable access to enable the ongoing maintenance of the APZ;
- (d) Where possible seek to retain within the asset protection zone local preferred Koala food trees and/or trees with hollows or evidence of arboreal fauna occupation/use

- (e) Provide species name, common name, height and girth and description of habitat features of each tree identified to be removed
 - (f) Be overlaid on the proposed plan of development to show the dimensions and outline of the APZ in accordance with the NSW RFS GTA's
10. A Vegetation and Fauna Management Plan (V&FMP) for areas impacted by the dwelling and associated access roads and the 50m buffer around such shall be prepared by a suitably qualified ecologist to be implemented during the construction and operational phase (where specified) of the development. The V&FMP shall be submitted and approved by Council's General Manager or delegate prior to the commencement of any works. The V&FMP shall integrate and be consistent with key elements of the approved Tree Survey Plan and existing Habitat Restoration Plan. The following (but not be limited to) details shall be addressed in the V&FMP.

Vegetation Management

- a. Particulars and locations of vegetation to be removed and vegetation to be retained in order to facilitate the development;
- b. A statement of the reasons why the damage is necessary and any relevant factors associated with the purpose of the proposed damage;
- c. Details of all proposed infrastructure, site access and services;
- d. Details of strategies and methods to be implemented to protect vegetation to be retained generally consistent with Australian Standard AS 4970-2009 Protection of trees on development sites;
- e. Quantification of compensatory planting applied to all trees identified to be removed on the approved TSP. Compensatory plantings shall:
 - i. Be calculated at a ratio of 1:16 (remove:replace);
 - ii. Aim to replace the same species removed;
 - iii. Be installed within the approved conservation zone in accordance with the Habitat Restoration Plan;
- f. Methods for the reuse of felled vegetation from the subject site;
- g. Disposal methods for remaining debris after the above methods have been employed;
- h. Specify that all trees to be removed are to be clearly marked prior to any clearing activity.

Fauna management

- a. Identification of known and potential habitat trees (displaying values such as hollows, fissures, nests, drays, arboreal termitaria used as nests etc.) and description of fauna species known/likely to utilise habitat features;
- b. Information on how trees are to be inspected for denning or nesting animals including constraints for inspecting trees (to provide acceptable alternative methods) and summary of removal and relocation methods for each faunal group (including observed species and species likely to occur in the area to be disturbed);
- c. Considerations relating to time periods for when fauna is to be removed/flushed prior to clearing;
- d. Details of special equipment required (such as cameras, elevated platforms etc.);
- e. Identification of general locations that wildlife will be relocated/translocated to if required (based on habitat requirements);

- f. Specify that a suitably qualified ecologist who holds a fauna survey licence is required to manage wildlife onsite during any tree removal and/or disturbance to wildlife habitat. Fauna management methods employed should be generally consistent with the Draft Queensland Code of Practice for the Welfare of Wild Animals Affected by Clearing and Other Habitat and Wildlife Spotter/Catchers (Hangar & Nottidge 2009) Where translocation is required the proponent shall seek any relevant permits from the state regulating agency (Office of Environment & Heritage). It is the responsibility of the proponents to ensure all relevant licences have been obtained prior to any fauna interactions.
11. The Habitat Restoration Plan (HRP) dated January 2017 prepared by Bushland Restoration Services be accepted as the required Habitat Restoration Plan for future conservation purposes.
12. All pre-construction vegetation and fauna management measures shall be satisfactorily completed in accordance with the approved Vegetation and Fauna Management Plan
13. Certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to Council, confirming that the dwelling, associated access and Asset Protection Zones in accordance with approved Tree Survey Plan on Lot 17 complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.
14. Compensatory planting works shall be completed to a specified level in the approved Vegetation and Fauna Management Plan prior to the release of subdivision certificate.
15. A building certificate for the existing dwelling on future Lot 17 shall not be issued until conditions relating to the safe habitation of the dwelling and bushfire requirements have been met.
16. The existing dwelling on future Lot 17 cannot be occupied until an Engineering Report certifying that it is safe for habitation, and certification that Bushfire safety requirements have been met, are submitted to Council.

DURING CONSTRUCTION

17. 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]

18. 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]

19. The spa pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926.1 - 2012 & AS 1926.2 -2007, the Swimming Pool Act 1992 and the Swimming Pool Regulation 2008. Once your pool or spa is complete please register it at www.swimmingpoolregister.nsw.gov.au.
20. The habitat restoration works shall be maintained at all times to the satisfaction of the Council's General Manager or delegate.
21. All operations must comply with the approved Vegetation and Fauna Management Plan. In the event that any threatened species, populations, ecological communities or their habitats not addressed in the report are discovered during operations appropriate Plans of Management for those species must be formulated to the satisfaction of the General Manager or delegate and/or if required the Department of Environment and Heritage. No further site clearing will take place until any respective Plan(s) of Management is/are approved
22. The conservation zone shall be afforded adequate protection during the construction phase.

USE

23. 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]
24. 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]
25. The additional shipping containers located on Lot 17 marked as 'Storage Containers' on the site plan submitted on 22 May 2017 (on either side of the spa), shall not to be used or adapted for separate residential habitation or occupation.
- [USE0465]
26. The building on future Lot 17 is to be used for single dwelling purposes only.
- [USE0505]
27. Bushfire asset protection zones are to be maintained around the house site at all times to the satisfaction of the NSW Rural Fire Service.
- [USE0575]

28. The use of the site must be consistent with the approved Plans of Management.

[USENS02]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

29. Prior to issue of a Subdivision Certificate, 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]

30. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's receipt confirming payment.

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

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

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

- | | |
|---|--------------|
| (a) Tweed Road Contribution Plan:
6.5 Trips @ \$2723 per Trips
(\$2,534 base rate + \$189 indexation)
S94 Plan No. 4
Sector13_4 | \$12,400.43* |
| (b) Open Space (Casual):
1 ET @ \$564 per ET
(\$502 base rate + \$62 indexation)
S94 Plan No. 5 | \$400.44* |
| (c) Open Space (Structured):
1 ET @ \$645 per ET
(\$575 base rate + \$70 indexation)
S94 Plan No. 5 | \$457.95* |
| (d) Shirewide Library Facilities:
1 ET @ \$869 per ET
(\$792 base rate + \$77 indexation)
S94 Plan No. 11 | \$616.99* |

- (e) Eviron Cemetery:
1 ET @ \$127 per ET \$90.17*
(\$101 base rate + \$26 indexation)
S94 Plan No. 13
- (f) Community Facilities (Tweed Coast - North)
1 ET @ \$1457 per ET \$1,034.47*
(\$1,305.60 base rate + \$151.40 indexation)
S94 Plan No. 15
- (g) Extensions to Council Administration Offices
& Technical Support Facilities
1 ET @ \$1935.62 per ET \$1,374.29*
(\$1,759.90 base rate + \$175.72 indexation)
S94 Plan No. 18
- (h) Regional Open Space (Casual)
1 ET @ \$1132 per ET \$803.72*
(\$1,031 base rate + \$101 indexation)
S94 Plan No. 26
- (i) Regional Open Space (Structured):
1 ET @ \$3974 per ET \$2,821.54*
(\$3,619 base rate + \$355 indexation)
S94 Plan No. 26

* Includes adjustments which effect compliance with the Directions from the Minister for Planning in relation to the maximum contribution payable per dwelling dated 13 January 2009 and 19 July 2009.

[PSC0175]

31. Any damage to property (including Kyogle Road) as a result of the development is to be rectified to the satisfaction of the General Manager or his delegate prior to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developer's expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0725]

32. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

[PSC0825]

33. Prior to the issue of the Subdivision Certificate, certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to the PCA, confirming that the subject development (including driveway access to dwelling sites) complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.

[PSC0830]

34. 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) Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006 "Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.
- (b) Restriction As To User to notify future owners that reticulated sewer is not available to the site and any future dwelling will be required to provide On-Site Sewerage Management in accordance with Council's On-Site Sewerage Management policy.
- (c) Restriction As To User to notify future owners that reticulated water supply is not available to the site and any future dwelling will be required to provide a roofwater supply system in accordance with Council's policies and Bushfire Planning requirements (the minimum storage capacity required shall be 15,000L per bedroom with a minimum 20,000L to be provided).
- (d) Removed

Burden: Lot 17 and Lot 18. Benefit: Tweed Shire Council

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating a Right Of Carriageway or Easement shall make provision for maintenance of the Right Of Carriageway or 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 (as applicable).

Any Section 88B Instrument creating Restrictions as to user, Right Of Carriageway or Easements which benefit Council shall contain a provision enabling such Restrictions, Easements or Rights Of Carriageway to be revoked, varied or modified only with the consent of Council.

[PSC0835]

- 35. Submit to Council's Property Officer for approval an appropriate plan indicating the street/road address number to both proposed and existing lots. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each lot in the new Deposited Plan.
- 36. Furthermore, prior to the issue of a Subdivision Certificate, each lot shall have its' address number displayed in accordance with Council's procedure on street numbering.
- 37. Prior to registration of the Plan of Subdivision, a **Subdivision Certificate** shall be obtained.

[PSC0845]

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.

[PSC0885]

38. Any boundary fence encroaching into the Kyogle Road road reserve along the developments, deemed by Council to be a safety risk is to be relocated to the correct alignment prior to issuing a Subdivision Certificate. Any road widening deemed necessary shall be dedicated at no cost to Council.

[PSC0945]

39. The production of written evidence from the local telecommunications supply authority certifying that the provision of telecommunications at the front boundary of both allotments has been completed.

Unless agreed otherwise by Council, an acceptable form is Telstra's "*Telstra Network Infrastructure Letter*" or NBN's "*Provisioning of Telecommunication Services - Confirmation of final payment*" letter (for small subdivisions) / "*Certificate of Practical Completion of NBN network infrastructure*" letter (for large subdivisions) (as applicable to the development).

The NBN letter must reference:

- Over which Lot and Deposited Plan the agreement applies to,
- Identification of the number of lots to be serviced.

[PSC1165]

40. The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead electricity (rural subdivisions) and energising has been provided to each allotment.

An acceptable form is Essential Energy's "Notice of Arrangement".

Unless agreed otherwise by Council, the form must reference:

- Over which lot and deposited plan did the arrangement for the provisioning of electricity (and street lighting, as applicable) apply to,
- Identification of the proposed lots to be created that have been serviced, or the development stage to which the arrangement applies,

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

41. Removed

[PSC1175]

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

1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by B & P Surveys titled 'Proposed Subdivision of Lot 7 in DP 1178620, 2041 Kyogle Road, Terragon' referenced M30653, sheet 1 of 2, revision D and dated 5th July, 2016.

Asset Protection Zones

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

2. At the issue of subdivision certificate and in perpetuity, the land surrounding the dwelling on proposed Lot 17 shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones' as follows:
 - north for a distance of 52 metres as an IPA;
 - south for a distance of 21 metres as an IPA;
 - east for a distance of 62 metres as an IPA; and
 - west for a distance of 52 metres as an IPA.
3. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed upon proposed Lot 18 identifying:
 - a building envelope as identified on the plan prepared by B & P Surveys titled 'Proposed Subdivision of Lot 7 in DP 1178620, 2041 Kyogle Road, Terragon' referenced M30653, sheet 1 of 2, revision D and dated 5th July, 2016; and
 - an asset protection zone around the building envelope for a distance of 19 metres to the north and east and 21 metres to the south and west.

The terms of the restriction to land use shall require the above noted building envelope and asset protection zone to be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'. The asset protection zones shall be established prior to the issue of a subdivision certificate.

4. For asset protection zones (APZ) on slopes greater than 18 degrees, the property shall be landscaped or managed (e.g. terracing) with suitable access being provided to the APZ to ensure the ongoing maintenance of the area. Details of landscaping plans are to be submitted for approval to Council/or the principal certifier with the construction certificate.

Water and Utilities

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

5. In recognition that no reticulated water supply is available to the development, a total of 20,000 litres firefighting water supply shall be provided to the dwelling on proposed Lot 17 for fire fighting purposes. The fire fighting water supply shall be installed and maintained in the following manner:
 - a) Fire fighting water supply tank(s) shall be located not less than 5 metres and not more than 20 metres from the approved structure.
 - b) New above ground fire fighting water supply storage's are to be manufactured using non combustible material (concrete, metal, etc). Where existing fire fighting water supply storage's are constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials, they shall be shielded from the impact of radiant heat and direct flame contact.
 - c) Non combustible materials (concrete, metal, etc) will only be used to elevate or raise fire fighting water supply tank(s) above the natural ground level.
 - d) A 65 mm metal Storz outlet with a gate or ball valve shall be fitted to any fire fighting water supply tank(s) and accessible for a fire fighting truck.
 - e) The gate or ball valve, pipes and tank penetration are adequate for the full 50 mm inner diameter water flow through the Storz fitting and are constructed of a metal material.
 - f) All associated fittings to the fire fighting water supply tank(s) shall be non-combustible.
 - g) Any below ground fire fighting water supply tank(s) constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials shall be shielded from the impact of radiant heat and direct flame contact.
 - h) A hardened ground surface for fire fighting truck access is to be constructed up to and within 4 metres of the fire fighting water supply (tank or Storz fitting).
 - i) Any fire fighting water supply tank(s) located below ground shall be clearly delineated to prevent vehicles being driven over the tank.
 - j) All water supplies for fire fighting purposes shall be clearly signposted as a fire fighting water supply.
 - k) Below ground fire fighting water supply tank(s) shall have an access hole measuring a minimum 200 mm x 200 mm to allow fire fighting trucks to access water direct from the tank.

- l) Fire fighting water supply tank(s) and associated fittings, located within 60 metres of a bushfire hazard and on the hazard side of an approved building, shall be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire fighters.
- m) A minimum 5hp or 3kW petrol or diesel powered pump(s) shall be made available to the water supply. A 19mm (internal diameter) fire hose(s) and/or reel(s) shall be connected to the pump. Fire hose(s) and/or reel(s) must be installed so that each elevation of the building can be reached by a fire hose(s). The fire hose(s) and/or reel(s) must be constructed in accordance with 'AS/NZS 1221:1997, Fire hose reels' and shall be installed in accordance with 'AS 2441:2005 Installation of fire hose reels'.
- n) Pumps are to be shielded from the direct impacts of bush fire.
- o) A Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
 - i. Markers must be fixed in a suitable location so as to be highly visible; and
 - ii. Markers should be positioned adjacent to the most appropriate access for the water supply.

Note: The definition of below ground dedicated fire fighting water supply tank(s) is when the outlet valve is located below natural ground level.

- 6. In recognition that the dwelling on proposed Lot 17 may be connected to a gas supply, the following requirements are to be complied with:
 - a) Reticulated or bottled gas is to be installed and maintained in accordance with the current Australian Standard AS/NZS 1596: 'The storage and handling of LP gas' and the requirements of relevant authorities. Metal piping is to be used.
 - b) All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and be shielded on the hazard side of the installation.
 - c) Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal.
 - d) Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.
- 7. Any alteration to electricity supply shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

8. Property access road to the dwelling on proposed Lot 17 shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006', except:
- an alternative property access road is not required;
 - reversing bay may be provided in lieu of a loop road around the dwelling or a turning circle. Where a reversing bay is provided it shall be not less than 6 metres wide and 8 metres deep with an inner minimum turning radius of 6 metres and outer minimum radius of 12 metres; and
 - where the grade of the property access road exceeds 10 degrees, the section of the road shall be sealed with a bitumen surface.

Design and Construction

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

9. Construction of the dwelling on proposed Lot 17 shall comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

Landscaping

10. Landscaping to proposed Lot 17 is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

END OF OPTION 3

The Officers recommend Option 1.

CONCLUSION:

It is considered that the negative ecological impacts likely to be associated with the proposed development, specifically with the approval of the existing unapproved structure for the purposes of a dwelling, cannot be avoided, minimised or managed to an acceptable level through conditions of approval. As such the application is being recommended for refusal.

The approval of the application with the amended conditions as per Option 3 does not meet legislative requirements and contains numerous inconsistencies that arise due to the proposed amendments that result in uncertainty for the applicant and Council. The conditions as outlined in Option 3 are not supported as they:

- do not provide clear requirements for any compensatory planting;
- do not provide clear requirements to be satisfied that allow for the permissible occupation of the existing thereby creating uncertainty for the applicant and Council;
- do not provide adequate protection of the fauna during habitat disturbance phases of the development; and

- have the potential to allow activities in the future that may erode the environmental and conservation values of the site.

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.

13 [PR-CM] Development Application DA17/0347 for the Installation of Plant Shelter and the Production and Processing of Edible Flowers in Conjunction With an Existing Rural Industry at Lot 3 DP 1191598; No. 67 Howards Road Burringbar

SUBMITTED BY: Development Assessment and Compliance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.1	Built Environment
2.1.2	Development Assessment - To assess development applications lodged with Council to achieve quality land use outcomes and to assist people to understand the development process.

ROLE: **Provider**

SUMMARY OF REPORT:

A Development Application for the installation of a plant shelter and associated activities for the growing and processing of edible flowers at 67 Howards Road Burringbar was submitted in June 2017. The site has a previous approval for a rural industry described as a micro-herbs production facility subject to Development Approval DA13/0712. The current operations at the site associated with this approval have been the subject of numerous noise complaints by neighbouring residents and as such the operator of the site was requested to submit a Noise Impact Study (NIS) Report for approval by Council. Subsequent to the review of the NIS Report, the Environmental Health Unit recommended that the operator of the site prepare and submit an Operation Plan of Management as reported to Council at the Planning Committee meeting of 3 August 2017. Council endorsed the following at the meeting of 3 August 2017:

- 1. Operator to prepare and submit to Council an Operation Management Plan reflecting the mitigation measures for operation of Greenhouse 1, identified in the Noise Impact Assessment prior to 7 September 2017.*

At the meeting of 13 December 2017 Council resolved that determination of DA17/0347 be deferred until the above requested Operational Management Plan has been approved for the subject site.

The requested Operation Management Plan has been submitted and assessed by the Environmental Health Unit and found to be satisfactory. The Operational Management Plan has been developed in consultation with Pocket Herbs and the Community with Council

providing a mediation role. The Operational Management Plan provides adequate controls to reduce noise impacts as low as reasonably practicable and sets transparent performance indicators that will allow Council to undertake compliance checking in the event future complaints are received. The Operational Management Plan has been provided in Attachment 1. The Operational Management Plan was tabled to all Councillors at a workshop on Thursday, 1 February 2018 at which point there was a request of the applicant to reduce the hours of operation of the main water tank pumps from 7am to 10pm to 7am to 7pm. Accordingly, the recommendation in this report is for Council to receive and note the Operational Management Plan subject to this single change being made.

The plant shelter and associated activities that are the subject of this development application DA17/0347, are unlikely to create an unacceptable noise impact and the proposed plant shelter will not contain any fans or other temperature control devices which would generate noise.

It is therefore recommended that Development Application DA17/0347 be approved subject to the conditions below.

The main body of this report includes the assessment of the application previously provided to Council at the meeting of 13 December 2017 without amendment.

RECOMMENDATION:

That:

- 1. Council receives and notes the Operational Management Plan (with one amendment to the main water tank pumps being reduced in hours of operation from 7am to 10pm to 7am to 7pm) which satisfies the request made by Council at the meeting of 3 August 2017.**
- 2. Development Application DA17/0347 for the installation of plant shelter and the production and processing of edible flowers in conjunction with an existing rural industry at Lot 3 DP 1191598; No. 67 Howards Road, Burringbar, 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:**
 - Site plan Dwg No. 22196B prepared by B&P Surveys and dated 13 September 2017;**
 - Footing layout Dwg No. P-02 prepared by Rob Aungle & Associates and dated 16 March 2017;**
 - Framing plan Dwg No. P-03 prepared by Rob Aungle & Associates and dated 16 March 2017;**

except where varied by the conditions of this consent.

[GEN0005]

2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0115]
3. 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. 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]
5. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans. [GENNS01]
6. The following activities are not permitted within the 20m riparian corridor (as detailed in the General Terms of Approval issued by Department of Primary Industries - Water) where associated with this development:
 - a) Clearing, lopping or removal of any native plants;
 - b) Erection of any fixtures or improvements including building or structures (unless required to improve stormwater and/or sediment and erosion control management);
 - c) Depositing of any fill, soil, rock rubbish, ashes, garbage, waste, or other foreign material; and
 - d) Performance of any other acts which may have detrimental impact on the values of the riparian corridor. [GENNS02]
7. The attached GTA issued by DPI Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to DPI Water for a Controlled Activity approval after consent has been issued and before the commencement of any work or activity. [GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or delegate prior to the issue of a Construction Certificate which addresses the following:
 - a. An appropriate screen planting on the southern boundary adjacent to and as a minimum, for the length of proposed plant shelter.
 - b. Landscaping is to contain no noxious or environmental weed species and a minimum 80% of total plant numbers comprised of local native species. [PCC0585]

9. Prior to the issue of a construction certificate for the plant shelter, an application is required to be submitted to Council to seek approval for the stockpiling bays and any other unapproved structures that are not exempt development and are not shown on the plans for DA13/0712.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

10. 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]

11. 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]

12. 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]

13. 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]

14. Prior to the commencement of work on the stormwater system a site inspection is to be arranged with the Principal Certifying Authority to discuss site drainage.

[PCW0995]

DURING CONSTRUCTION

15. 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]

16. Commencement of work, including the switching on and operation of plant, machinery and 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]

17. 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]

18. 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]

19. 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]

20. 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]

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

[DUR2185]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

23. 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]

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

[POC0355]

25. All approved landscaping requirements must be completed to the satisfaction of the General Manager or delegate PRIOR to issue of Occupation Certificate.

[POC0475]

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

[POC1055]

USE

27. 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]
28. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises. [USE0145]
29. Except as may be expressly provided in a licence approval under the Protection of the Environment Operations Act 1997 (POEO) Act, the licence holder must comply with section 120 of the POEO Act 1997 prohibiting the pollution of waters. [USE0155]
30. All deliveries to the premises are to occur only within the approved operating hours of 7:00am to 5:00pm Monday to Sunday, unless otherwise approved by Councils General Manager or his delegate. Urgent or medical related deliveries exempted. [USE0195]
31. 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]
32. Any vehicles that remain on site for periods in excess of two (2) minutes are required to switch off their engines. [USE0255]
33. The use of mechanical plant is limited to a small electric pump for irrigation. The use of mechanical plant shall not be used outside of the approved hours of operation. 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. [USENS01]

GENERAL TERMS OF APPROVAL UNDER s89, 90 OR 91 OF THE WATER MANAGEMENT ACT 2000 (Approval for a Controlled Activity)

Condition Number	Details
	Design of works and structures
GT0009-00004	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Crown Lands and Water Division, and obtained, for a controlled activity approval under the Water Management Act 2000.
	Erosion and sediment controls
GT0006-00001	The following plan(s): - Erosion and Sediment Controls Plan must be: A. prepared in accordance with Managing Urban Stormwater: Soils and Construction, Volume 1 (Landcom, 2004), as amended or replaced from time to time, and B. submitted with an application for a controlled activity approval.
GT0014-00003	A. The consent holder must ensure that any proposed materials or cleared vegetation, which may: i. obstruct water flow, or ii. wash into the water body, or iii. cause damage to river banks, are not stored on waterfront land, unless in accordance with a plan held by Crown Lands and Water Division as part of a controlled activity approval. B. When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.
GT0021-00004	The proposed erosion and sediment control works must be inspected and maintained throughout the construction or operation period of the controlled activity and must not be removed until the site is fully stabilised.
	Plans, standards and guidelines
GT0002-00045	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application 170347 provided by Council to Crown Lands and Water Division. B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Crown Lands and Water Division, Murwillumbah Office, must be notified in writing to determine if any variations to the GTA will be required.
GT0005-00012	A. The application for a controlled activity approval must include the following plan(s): - construction plans - showing all excavation for footings and utilities for the structure. B. The plan(s) must be prepared in accordance

Condition Number	Details
	with Crown Lands and Water Division's guidelines located on the website www.water.nsw.gov.au/water-licensing/approvals/controlled-activity
GT0008-00005	A. Before the proposed activity can commence, a riparian corridor must be clearly marked, protected and maintained in accordance with a plan submitted as part of the controlled activity approval, and approved by Crown Lands and Water Division. B. The corridor must extend for: i. a width of 20 m, measured horizontally landward from the highest bank of the river, and ii. the length of the site directly affected by the activity.
GT0010-00003	All documents submitted to Crown Lands and Water Division as part of an application for a controlled activity approval must be prepared by a suitably qualified person.
GT0012-00002	Any proposed controlled activity must be carried out in accordance with plans submitted as part of a controlled activity approval application, and approved by Crown Lands and Water Division.
<hr/> Rehabilitation and maintenance	
GT0023-00001	Vegetation clearance associated with the proposed controlled activity must be limited to where the controlled activity is to be carried out, as shown on the approved plan(s).
<hr/> Reporting requirements	
GT0016-00002	The consent holder must inform Crown Lands and Water Division in writing when any proposed controlled activity carried out under a controlled activity approval has been completed.

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by DPI Water for integrated development associated with DA17/0347 as provided by Council:

- Council referral letter
- Council DA application
- Owners consent
- SEE and appendix

REPORT:

Applicant: Pocket Herbs & Produce Pty Ltd
Owner: Hydrogarden Australia Pty Ltd
Location: Lot 3 DP 1191598; No. 67 Howards Road, Burringbar
Zoning: RU2 - Rural Landscape
Cost: \$4,000

Background:

Site details

Council is in receipt of an application for the installation of a plant shelter and associated activities related to the growing and preparing edible flowers for sale. The edible flower production is an extension of an existing approved rural industry at the subject site.

The subject site is 2.27 ha (22,700m²) and is roughly rectangular in shape with an 80m frontage to Howards Road. The site is bisected by a perennial stream (Third Order stream) that meanders through the rear portion of the lot. The front portion of the lot is relatively flat and the rear of the lot is elevated approximately 25m above the stream.

The site is currently used for the purposes of a rural industry subject to development consent DA13/0712 for a micro herb production facility including two greenhouses, two pump sheds, potting shed/ office, water tanks, driveway access and associated earthworks granted 1 April 2014. The micro herb production facility will employ approximately 15 staff once fully operational.

A two storey dwelling is approved for the site subject to DA16/0097 granted 4 February 2016. A construction certificate is yet to be issued for the dwelling which is proposed to be located at the rear of the site which is separated from the existing micro herb production facility by the third order stream. An unapproved bridge crossing the stream was washed away in the April 2017 flood event and will require a development application prior to being reinstated.

Application details

This application relates to the construction of an open sided plant shelter and associated activities related to the growing and preparing of edible flowers for sale. The plant shelter, which may be defined as a farm building, is currently located at a site within Byron Shire and is to be relocated to the subject site. The plant shelter measures 20m x 12.8m x 4.8m high and is proposed to be located approximately 5m from the southern side boundary of the subject site at the rear of an existing shed. The plant shelter will not be visible to the casual user of Howards Road.



The plant shelter is to be used for the growing of edible flowers in conjunction with the existing micro herb production facility. The operations associated with the growing and processing of edible flowers will not require any additional staff or result in additional traffic generation. The applicant has stated that the edible flower production will be relatively minor in scale and represents an extension to the existing approved rural industry.

The following details regarding the edible flower production and the use of the plant shelter have been provided by the applicant:

- The structure will remain open sided;
- The edible flowers are to be grown in raised garden beds measuring 2.1m x 1.1m with a height of 800mm;
- There will be no temperature control plant or machinery or other mechanical devices mounted in the structure;
- Irrigation of the plants will occur via drip irrigation which will be operated by a small pump located next to the adjacent metal shed. Irrigation will be on a timer that would run four to five times per day for approximately 15 minutes;
- Flowers will be cut by hand;
- Pesticide spraying if required would be undertaken using a back pack mister and chemicals safe for use on edible plants;
- No additional equipment will be used for fertilising as nutrients will be administered via the drip fed irrigation system;
- The plant and equipment will not require regular cleaning or maintenance apart from regular servicing of the irrigation pump;
- The edible flowers will be delivered with existing produce and as such there will be no additional traffic generation associated with the edible flower production;
- The edible flower production will require the 'occasional' deliveries of punnets and cartons in conjunction with the current operation of the site;
- The growing media and plants are 'long term' and as such waste generation is not envisaged beyond the disposal of dead or diseased plants. The growing media (soil) for the plants will have a life span of 3-5 years;

- Activities associated with the production of the edible flowers will utilise the existing site infrastructure approved by DA13/0712;
- The edible flower production will not require additional staff as the activity is to be undertaken in conjunction with the existing approval micro-herb production facility.

The site contains existing rural infrastructure relating to the approved rural industry which will support the proposed edible flower production including:

- Pump/storage sheds;
- Potting shed/office;
- Water tanks;
- Toilet facilities;
- Driveway access and parking;
- Roof water detention pond.

The application was referred to the NSW Department of Industry, Crown Lands & Water Division (DPI Water) as the application was identified as Integrated Development with reference the *Water Management Act 2000*. General Terms of Approval were issued by DPI Water to be imposed as conditions of constant and includes the requirement for an application for a controlled activity approval to be submitted to Crown Lands and Water Division prior to the commencement of any works.

The application was advertised with a submission period of thirty days from Wednesday 21 June 2017 to Friday 21 July 2017. During this time 13 submissions were received objecting to the application. All the submissions cited noise as being the primary reason for objection to the application with the additional following matters also being raised as reasons for objection: visual amenity impacts; traffic generation; overdevelopment of site; and environmental impacts. Additional matters were included in the submissions that relate to the existing approval and do not directly relate to this application for a plant shelter and include: *flawed* planning process associated with the current approval; current approval not consistent with rural landscape character of the land; impact on property values; suitability of the site for the current approval; misrepresentation by the applicant with regard to the previous application; compliance matters associated with current operations (noise); environmental impacts of current operations; power usage of current operations; and amenity impacts of current operation on rural residential uses of the locality. The submissions are discussed in detail in a later section of this report.

The application was referred internally to the Environmental Health, Building Services, and Natural Resource Management Units who have no objections to the proposal subject to the conditions included within this report.

Existing operational issues

This report provides an assessment of the proposed plant shelter for the production of edible flowers as a discrete application. However it is noted that the operation of the site as approved by DA13/0712 is the subject of ongoing noise complaints by surrounding residents relating primarily to the 24 hour operation of fans located within the largest of the greenhouses. In response to these complaints, the applicant was requested to prepare a Noise Impact Study (NIS) in accordance with the conditions of consent for DA13/0712. The NIS validated affected residents' concerns and recommended mitigation and management

measures to ensure noise emissions do not exceed the adopted criteria. Details of the NIS report were reported to Council at the Planning Committee Meeting of 3 August 2017. The site is subject to an ongoing monitoring program to ensure compliance with the recommendations of Council and the NIS report.

A site inspection undertaken as part of the assessment process for the proposed plant shelter and edible flower production revealed a number of inconsistencies with the approved plans for DA13/0712. The site currently contains a number of structures that are not included in the approved plans for the micro-herb production facility approved subject to DA13/0712. It appears that the structures are not exempt and require approval. This consent is to be conditioned to rectify these matters by requiring the lodgement of a development application or a Section 96 modification application to seek approval for any unapproved structures that are not exempt development, prior to the issue of a construction certificate for the proposed plant shelter.

One of the unapproved structures noted above is used for stockpiling of material (soil and the like) associated with the current approved operations and is located adjacent to the third order stream. Advice from DPI Water has confirmed that the deposition of material on land within 40m of the water way constitutes a controlled activity and the applicant has been advised that a Controlled Activity Approval is required under the *Water Management Act 2000*. Any application to seek approval for the unapproved structure used for the stockpiling of material will be defined as integrated development and will require referral to DPI Water.



SITE DIAGRAM/AERIAL PHOTOGRAPH:



SOURCE: Aerial imagery taken May 2015 by LPI

Aerial Photo - taken May 2015
Lot 3 DP 1191598

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Cadastral: 27 October, 2017
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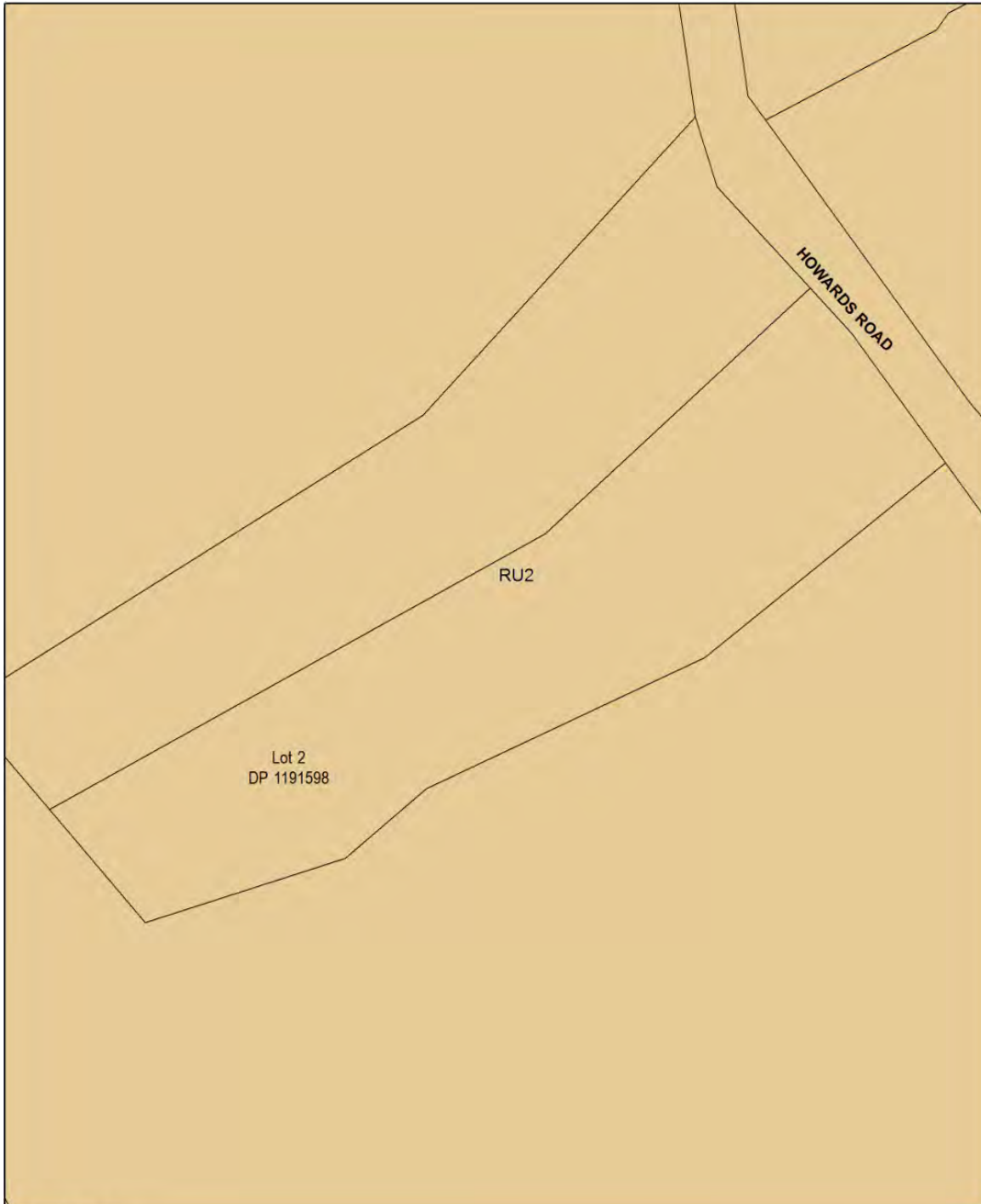
0 10 20 M
1:1,800 @ A4 Portrait
DO NOT SCALE
COPY ONLY - NOT CERTIFIED

Map Projection: Universal Transverse Mercator
Horizontal Datum: Geocentric Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

Civic and Cultural Centre
3 Tumbigum Road
Murrumbidgee NSW 2484
PO Box 816
Murrumbidgee 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



ZONING MAP:



Land Zoning

RU2 Rural Landscape

1:1,628 @ A4 Portrait
0 10 20 30 40 M
DO NOT SCALE
COPY ONLY - NOT CERTIFIED
Map Projection: Universal Transverse Mercator
Horizontal Datum: Geodetic Datum of Australia 1994
GDA
GDA

Civic and Cultural Centre
3 Turbulgum Road
Murwillumbah NSW 2484
TWEED
SHEPHERD
PO Box 816
Murwillumbah NSW 2484
T | (02) 8670 2400 | 1300 292 872
F | (02) 8670 2429
W | www.tweed.nsw.gov.au
E | planningreform@tweed.nsw.gov.au

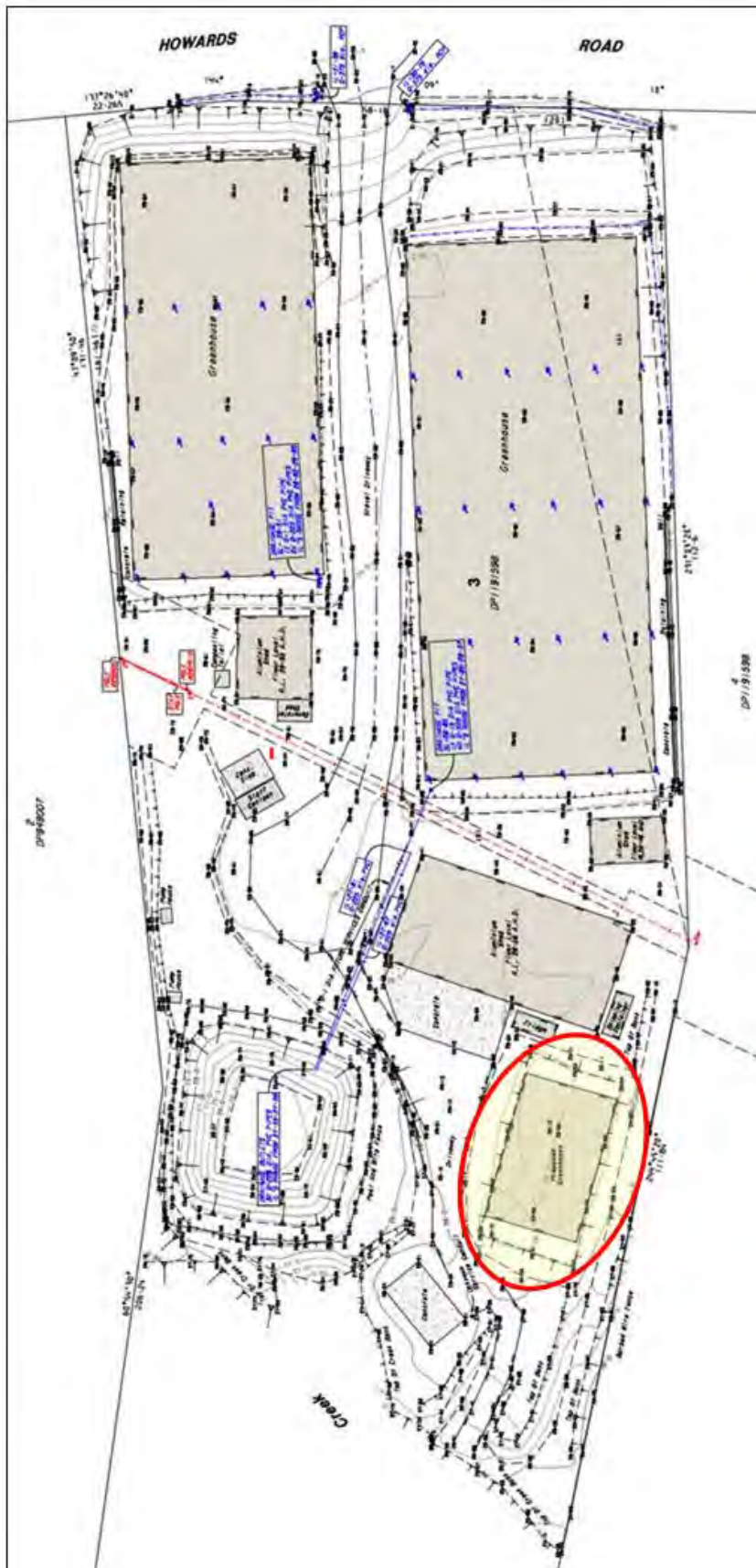
Tweed Local Environmental Plan 2014
Land Zoning
Lot 1 in DP 1185359
No. 16 Naru Street,
Chinderah

Council File | DA16/0647
revised | 03/10/2017

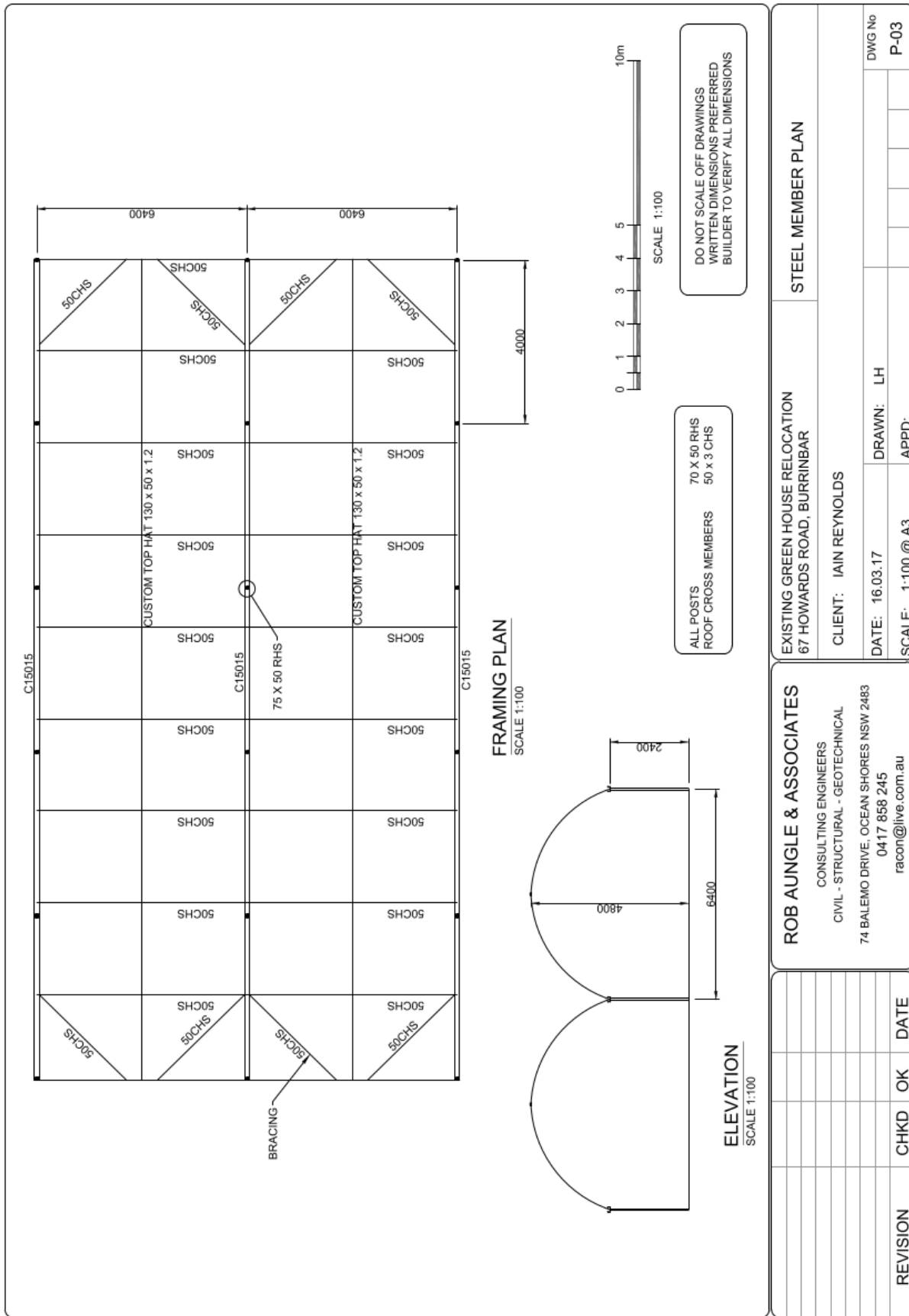
Base Data 04/10/2016
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DEVELOPMENT/ELEVATION PLANS:



Site map with location of proposed plant shelter circled



EXISTING GREEN HOUSE RELOCATION 67 HOWARDS ROAD, BURRINBAR		STEEL MEMBER PLAN	
CLIENT: IAIN REYNOLDS			
DATE: 16.03.17	DRAWN: LH	DWG No	
SCALE: 1:100 @ A3	APPD:	P-03	

ROB AUNGLE & ASSOCIATES	
CONSULTING ENGINEERS	
CIVIL - STRUCTURAL - GEOTECHNICAL	
74 BALEMO DRIVE, OCEAN SHORES NSW 2483	
0417 858 245	
racon@live.com.au	

REVISION	CHKD	OK	DATE

Development plans

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

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

Tweed Local Environmental Plan 2014

Clause 1.2 – Aims of the Plan

The aims of this plan as set out under Section 1.2 of this plan are as follows:

- (a) to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
- (b) to encourage a sustainable, local economy, small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed Shire,*
- (c) to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, the built environment, and cultural heritage,*
- (d) to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*
- (e) to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*
- (f) to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,*
- (g) to conserve or enhance the biological diversity, scenic quality, geological and ecological integrity of the Tweed,*
- (h) to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,*
- (i) to conserve or enhance areas of defined high ecological value,*
- (j) to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.*

The development of a plant shelter in association with an existing approved rural industry is considered to be generally in accordance with the aims of this plan having regard to its nature and permissibility in the subject zone.

Clause 2.3 – Zone objectives and Land use table

The objectives of this RU2 Rural Landscape zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To provide for a range of tourist and visitor accommodation-based land uses, including agri-tourism, eco-tourism and any other like tourism that is linked to an environmental, agricultural or rural industry use of the land.*

The proposed plant shelter and associated activities related to the growing and preparation of edible flowers for sale is proposed in conjunction with an approved rural industry which is permitted with consent within the zone and is defined as:

rural industry means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following:

- agricultural produce industries,*
- livestock processing industries,*
- composting facilities and works (including the production of mushroom substrate),*
- sawmill or log processing works,*
- stock and sale yards,*
- the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise.*

The plant shelter may be defined at a farm building which is permitted with consent:

farm building means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

The specific use of the plant shelter, being the cultivation of edible flowers, may be defined as intensive plant agriculture which is permissible without consent within the zone, however the associated activities related to the preparation of the edible flowers for sale is defined at a rural industry for which development consent is required.

intensive plant agriculture means any of the following:

- (a) *the cultivation of irrigated crops for commercial purposes (other than irrigated pasture or fodder crops),*
- (b) *horticulture,*
- (c) *turf farming,*
- (d) *viticulture.*

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

Not applicable as no subdivision is proposed.

Clause 4.3 - Height of Buildings

The maximum height of the proposed plant structure is 4.8m which is compliant with the 10m height control for the site.

Clause 4.4 – Floor Space Ratio

The objectives of this clause are as follows:

- (a) *to define the allowable development density of a site and for particular classes of development,*
- (b) *to enable an alignment of building scale with the size of a site,*
- (c) *to provide flexibility for high quality and innovative building design,*
- (d) *to limit the impact of new development on the existing and planned natural and built environment,*
- (e) *to encourage increased building height and site amalgamation at key locations in Tweed.*

The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area. Gross floor area is the area of a building measured from the internal face of external walls.

The proposed plant shelter has open sides and therefore the floor space ratio calculation is not applicable to the proposal.

Clause 4.6 - Exception to development standards

Not applicable as no exception to development standards are proposed.

Clause 5.4 - Controls relating to miscellaneous permissible uses

Not applicable as the proposed use is not listed within this clause.

Clause 5.5 – Development within the Coastal Zone

The site is not in area to which the NSW Coastal Policy applies.

Clause 5.9 – Preservation of Trees or Vegetation

The development site is clear of significant vegetation and no vegetation is proposed to be removed to facilitate the construction of the plant shelter. The proposal is consistent with the provisions of this clause.

Clause 5.10 - Heritage Conservation

Not applicable as the site is not mapped as being within a heritage conservation area.

Clause 5.11 - Bush fire hazard reduction

The application does not impact the provisions of this clause.

Clause 7.1 – Acid Sulfate Soils

Not applicable as the site is not mapped as being affected by acid sulfate soils.

Clause 7.2 - Earthworks

No earthworks are proposed to facilitate the construction of the plant shelter. The proposed plant shelter will be located on a level area of the site. Minor soil disturbance will be limited to construction of the footings for the plant shelter. The proposal is compliant with the provisions of this clause.

Clause 7.3 – Flood Planning

Not applicable as the site is not mapped as being flood prone.

Clause 7.4 - Floodplain risk management

Not applicable as the site is not mapped as being within an area subject to the floodplain risk management provisions.

Clause 7.5 - Coastal risk planning

Not applicable as the subject site is not mapped as being within coastal risk planning area.

Clause 7.6 - Stormwater Management

It is noted that this clause applies to residential, business and industrial zones only and is therefore not applicable to this application.

The site has a roof water storage pond located adjacent to the northern side boundary of the site. The applicant has stated that stormwater runoff from the roof of the proposed plant shelter will be directed into the existing storage pond and no additional hardstand areas outside of the plant shelter are proposed.

Clause 7.8 – Airspace operations

Not applicable as the subject site is not mapped as being affected by airspace operations.

Clause 7.9 - Development in areas subject to aircraft noise

Not applicable as the subject site is not mapped as being affected by aircraft noise.

Clause 7.10 - Essential Services

This clause states that development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

(a) *the supply of water,*

Council's reticulated water supply is not available to the site. The existing approved micro herbs production facility has a roof water storage pond and number of rainwater tanks for the onsite capture and storage of rainwater.

(b) *the supply of electricity,*

Electricity is available to the site and it is noted that Council was notified of a power reticulation upgrade to be undertaken on site in relation to the operation of the existing approved rural industry.

(c) *the disposal and management of sewage,*

The site has approval for an onsite sewerage management system

(d) *stormwater drainage or on-site conservation,*

The site has an existing approval for stormwater and drainage works and roof water runoff from the proposed plant shelter will be directed into the existing roof water storage pond.

(e) *suitable vehicular access.*

The site has suitable vehicular access as approved by the consent for the micro herbs production facility.

The applicant has stated that no additional services or upgrading of existing facilities will be required to facilitate the development and operation of the proposed plant shelter.

Other Specific Clauses

No other specific clauses are applicable to this proposal.

State Environmental Planning Policies

SEPP No. 44 - Koala Habitat Protection

The subject site is greater than 1 ha and as such the provisions of this SEPP apply. The development site is within an area approved for use as a rural industry and does not contain any significant vegetation. No native vegetation is proposed to be impacted by the construction and ongoing use of the proposed plant shelter.

The provisions of this SEPP have been satisfied.

SEPP No. 55 - Remediation of Land

The potential for contaminated land was considered during the assessment of DA13/0712 for the micro herb production facility in which the risk of land contamination was considered to be low. The use of the site for the purposes of a micro herbs production facility was considered to be acceptable with respect to contaminated land risk.

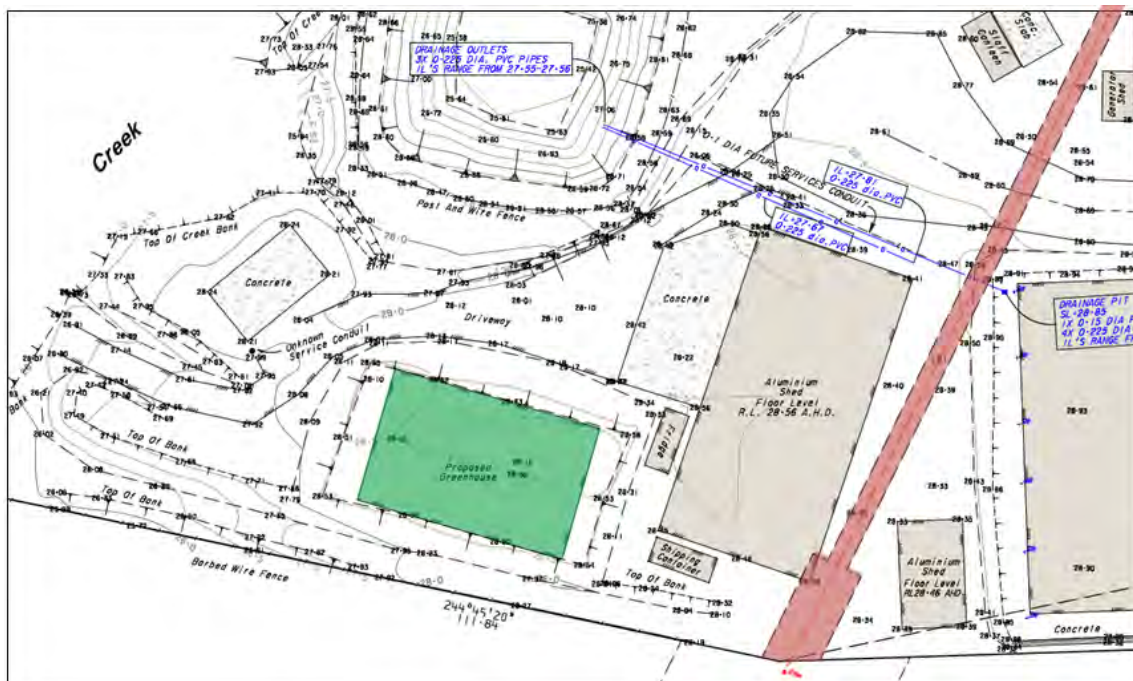
The use of the proposed plant shelter is consistent with existing activities on site and no further assessment with respect to contaminated land is required. The provisions of the SEPP have been satisfied.

SEPP (Infrastructure) 2007

An easement for electricity supply of variable width transects the site. The proposed plant shelter is located at a minimum distance of approx. 20m from the easement. Clause 45 of the Infrastructure SEPP applies to the following development states that before the determination of a development application, the consent authority must notify the electricity supply authority and consider any response to that notification:

- (a) *the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
- (b) *development carried out:*
 - (i) *within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) *immediately adjacent to an electricity substation, or*
 - (iii) *within 5m of an exposed overhead electricity power line.*

Referral to the Essential Energy was not considered to be warranted considering the distance of the proposed structure from the easement and the existence of a number of other structures between the electricity easement and the location of the proposed plant shelter.



Site plan showing electricity easement in red and proposed plant shelter in green

It is noted that DA13/0712 for the micro herbs production facility was referred to Essential Energy for comment and the delegated report for that application notes that no response was received.

SEPP (Rural Lands) 2008

The SEPP outlines the following ‘Rural Planning Principles’:

- *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas;*

The existing approved rural industry is consistent with sustainable economic activities within a rural zone. The proposed plant shelter for the growing of edible flowers is consistent with the existing rural industry and does not jeopardise the ongoing agricultural viability of the subject site or the surrounding area.

- (b) *recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State;*

The plant shelter for the growing of edible flowers is an extension of the existing rural industry on site and is an example of the changing nature of agricultural trends and demand. The proposal is considered to be consistent with the above principle.

- (c) *recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development;*

The proposal is an extension of the approved rural use of the subject site and provides social and economic benefits to the local rural community through the employment of local workers and generation of profit for the landholders.

- (d) *in planning for rural lands, to balance the social, economic and environmental interests of the community;*

The current operations at the site are the subject of noise complaints from residents of neighbouring properties and this application for a plant shelter has received thirteen objections to the proposed development citing potential additional noise, visual amenity and environmental concerns as reasons for objection. The applicant has provided sufficient information to demonstrate that the proposed plant shelter and associated activities are unlikely to result in significant additional noise impacts. The consent will be conditioned to ensure potential intensification and cumulative impacts in relation to noise disturbances are prevented and also to provide vegetation screening to reduce the visual impact of the proposal. The consent will also be conditioned to ensure the any potential environmental impacts are minimised.

As such the proposed development is not considered to impact negatively on the social, economic and environmental interests of the broader community.

- (e) *the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land;*

The proposed plant shelter will not require the removal of any native vegetation and will not impact the biodiversity of the area. The plant shelter is proposed to be located approximately 30m from a water way and is considered not to result in a detrimental impact to the water way. The application was referred to the NSW Department of Primary Industries – Water who have issued General Terms of Approval to be imposed on the consent which includes the requirement of obtaining a Controlled Activity Approval. Additionally the approval is to be conditioned appropriately to limit any potential impact on the waterway or riparian areas.

- (f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities;*

The proposed development, given its nature and scale is not considered to have any significant impacts on the local community in terms of social and economic welfare, notwithstanding the potential positive impacts outlined under principle (c) above.

- (g) *the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing.*

The proposal is not considered to have any ramifications for rural housing.

- (h) *ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

Consideration of the application with respect the North Coast Regional Plan 2036 is required. The subject site is not mapped as being within an Urban Growth Area or Investigation Area under this Plan. The proposal relates to an additional use in relation to an existing approved rural industry. As such the proposal is consistent with visions and goals of the North Coast Regional Plan 2036.

Based on the above, the proposal is considered to be generally in accordance with SEPP (Rural Lands) 2008.

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

There are no draft environmental planning instruments applicable to the site or the proposed development.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

The plans for the existing micro herb production facility approved by DA13/0712 indicate 16 approved parking spaces on-site. The delegated report for DA13/0712 noted that Section A2 of the DCP does not contain specific controls applicable to this rural industry and as such the proposal was assessed on its merits with regard to car parking. A site visit confirmed that parking has been provided in accordance with the approved plans.

The SEE submitted with this application for the plant shelter states that no additional staff will be required for operations associated with the new plant shelter and that existing staff will attend to the produce in the new shelter. Furthermore the SEE states that the proposed plant shelter will not result in additional vehicles visiting the site as produce from the site will utilise existing delivery vehicles.

It is considered that the proposal is compliant with DCP A2 as the proposal will not require additional parking for staff and existing access arrangements are adequate as approved by DA13/0712.

A11-Public Notification of Development Proposals

The application was advertised in accordance with Section 79A of the Environmental Planning and Assessment Act 1979 with a submission period of 30 days from Wednesday 21 June 2017 to Friday 21 July 2017. During this time 13 submissions were received in relation to this application.

A detailed review and discussion of the submissions is provided in a later section of this report. It is noted that many of the submissions raised objections to the

proposal based on dissatisfaction with current operations of the site as approved subject to DA13/0712.

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

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

The subject site is not nominated as Coastal Land and therefore this clause is not applicable.

Clause 92(1)(b) Applications for demolition

Not applicable to the subject application as no demolition is proposed as part of this application.

Clause 93 Fire Safety Considerations

Not applicable as the subject application does relate to a change of use of an existing building.

Clause 94 Buildings to be upgraded

Not applicable as the subject application does not relate to alteration, enlargement or extension of an existing building.

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

Tweed Shire Coastline Management Plan 2005

The subject site is not located within the area that is affected by the Tweed Shire Coastline Management Plan 2005.

Tweed Coast Estuaries Management Plan 2004

Not applicable as the subject site is not located in the area to which this plan applies.

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

Not applicable as the subject site is not located in the area to which this plan applies.

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

Context and Setting

The proposal relates to the construction and use of a plant shelter associated with the growing and processing of edible flowers in conjunction with the existing approved micro herbs production facility on site (rural industry). The proposal represents a minor extension to an existing approved rural industry and the applicant has stated that no additional staff are required nor will the proposal result in additional traffic generation. As such it is considered that the proposal does not represent an intensification of use of the site but merely a diversification of operations of an existing approved rural industry.

The plant shelter will be located on a previously cleared and level portion of the site and does not require any vegetation removal. The proposed plant shelter will be located a minimum of 5m from the southern side boundary of the subject site and will be located at a minimum distance of approximately 64m from neighbouring residences. The plant shelter is of a smaller scale than existing greenhouse structures on site and the associated activities are consistent with the current approved rural industry. As such the proposed plant shelter and associated uses is considered to be consistent with the existing use and surrounding rural development on rural zoned land.

Amenity

This application relates to the construction and use of a plant shelter in association with an existing rural industry as approved by DA13/0712. As previously noted there are existing and ongoing noise complaints associated with the use of the site as approved under DA13/0712 and these are the subject of separate investigation and monitoring by Council.

With respect to the use of the proposed plant shelter and edible flower production the applicant has stated the following:

- The structure will not contain any temperature control plant or machinery;
- There will be no mechanical devices mounted in the structure and mechanical equipment will be limited to an electric irrigation pump to be located next to the adjacent shed;
- Equipment required for the growing of the edible plants is limited to the raised growing beds and drip filter irrigation equipment;
- The raised growing beds ('Plantapods') are maintenance free and do not require regular cleaning. The irrigation pump will require occasional serving;
- Harvesting will be done by hand;
- The operations associated with the plant shelter will not require additional staff;
- The use of the plant shelter will not result in a significant increase in deliveries to and from the site as produce will be collected with existing produce and the crop is a long term crop (3-5 years) requiring limited deliveries of growing media and the like.

The application has been review by Council's Environment Health Services who have recommended conditions of consent to be applied to the consent to ensure the potential intensification and cumulative impacts in relation to noise disturbances are prevented. Council is satisfied that the use of the plant shelter will not contribute significantly to the existing noise generation activities on site.

With regard to visual amenity, the proposed plan shelter for edible flower production is of a smaller scale than existing greenhouses on site and will be open sided. To reduce any potential visual amenity impacts, particularly with respect to the adjoining property to the south, the consent will be conditioned to provide screening vegetation along the boundary adjacent to the proposed plant shelter.

Access, Transport and Traffic

The existing access arrangements as approved by DA13/0712 are considered to be acceptable. The applicant has stated that the proposal will not result in additional traffic generation to and from the site as the proposal will not require additional staff and delivery of product will be incorporated with existing product delivery arrangements.

Farmland of State or Regional significance

The site is within an area mapped as being Regionally Significant Farmland. Previous correspondence from NSW Department of Primary Industries has indicated that the Northern Rivers farmland mapping project (from which the Regionally Significant status derives) was not intended to be used in assessing and determining individual development applications, but rather to manage future growth and the preparation of LEPs. Nevertheless, the site is currently used for agricultural purposes and the subject application is consistent with this use. As such the application is considered to be consistent with the site's status as Regionally Significant Farmland.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The site is located in an area typified by rural lots of less than 40ha used predominately for rural residential and primary production purposes. There are approximately three dwellings within 200m of the proposed plant shelter and approx. 10 dwellings within 500m of the proposed plant shelter.

The current operations at the site have been the subject of numerous noise complaints and Council is actively managing and monitoring noise related matters related to the current approval and operations. The proposed plant shelter and associated activities are relatively smaller in scale than the current operations and the applicant has confirmed that no plant, machinery or noise generating devices will be installed in the proposed plant shelter. Potential sources of noise associated with the use of the plant shelter are limited to an irrigation pump that will be located next to the adjacent shed.

Flora and Fauna

The development footprint of the proposed plant shelter is clear of vegetation and no vegetation is proposed to be removed to facilitate the proposal. The proposed plant shelter will be located approximately 30m from a third order stream which

triggered referral to NSW DPI Water who recommended general terms of approval (GTAs) which address (among others) potential issues associated with sediment and erosion control and protection of riparian vegetation (to be addressed through lodgement for a controlled activity approval). The GTAs stipulate the need for the establishment of a 20m riparian corridor where the aim is to maintain or improve the shape, stability and ecological functions of a watercourse.

Site Drainage

Roof water from the existing greenhouses is directed to an onsite storage pond. The applicant has stated that roof water from the proposed plant shelter will also be directed to the existing storage pond.

No additional hardstand areas are proposed in association with the proposed plant shelter. Stormwater management at the site is subject to an existing Stormwater Drainage Works approval SWD14/0418. It is noted that the stormwater management at the site does not currently comply with approved plans for SWD14/0418 in that an approved treatment device was not installed. Communications with Councils Engineering Unit confirmed that amended stormwater drainage plans may be submitted to remedy this non-compliance and the applicant has stated that they are in the process of preparing amended plans.

Natural Hazards - Bush fire

The site is mapped as bushfire prone as such consideration against the criteria for infill and commercial and development section of 4.3 Planning for Bushfire Protection 2006 (PBP) is required. Specifically the bushfire safety objectives for the proposal require that: risk to adjoining properties is not increased; a minimum defendable space is required; general PBP objectives in relation to access, water, services and emergency management are met.

The proposed plant shelter is steel framed open sided structure which is a Class 10 structure (non-habitable) for which there is no specific bushfire safety performance requirements and it will not be located within 10m of any habitable structure. The development site is clear of vegetation and the proposed structure is to be located approximately 30m from the fire hazard being Vegetation Category 2.

The structure is proposed in association with an approved rural industry for which bushfire safety issues were addressed during the assessment of DA13/0431. The consent for the rural industry is conditioned to comply with the submitted Bushfire Threat Assessment Report which included recommendations relating to the provision of Asset Protection Zones, fire fighting water supply, protection of services, access and landscaping. This application does not propose any changes to access arrangements, water supply or the provisions of services and a defendable space consistent with the recommended asset protection zone is able to be provided. As such the proposed additional plant shelter is considered to be consistent with the recommendations of the Bush Fire Threat Assessment Report and the objectives of section 4.3 of PBP.

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

The application was advertised in accordance with Section 79A of the Environmental Planning and Assessment Act 1979 with a submission period of 30 days from Wednesday 21 June 2017 to Friday 21 July 2017. During this time 13 submissions were received in relation to this application.

Many of the submissions note issues related to the current approval (DA13/0712) and operations at the site. Matters raised that are not directly related to this application for a plant shelter include: 'flawed' planning process associated with the current approval; current approval not consistent with rural landscape character of the land; impact on property values; suitability of the site for the current approval; misrepresentation by the applicant with regard to the previous application; compliance matters associated with current operations (noise); environmental impacts of current operations; power usage of current operations; amenity impacts of current operation on rural residential uses of the locality.

Whilst this report does consider any cumulative impacts resulting from the proposed plant shelter, the purpose of this report is not to review the previous approval or potential compliance issues associated with the current operations on the site. As such the review of the submissions below is limited to matters that specifically relate to the installation of the plant shelter and its associated use.

Summary of matters raised in submissions	Response to submissions
<p><i>Noise</i></p> <p>Each of the 13 submissions mentioned noise as being a primary area of concern. Many of the submissions referenced excessive noise generated by the fans in the existing approved greenhouses as well as noise from other sources such as pressure cleaning. All the submissions objected to the development on the grounds that any further approvals over the site would lead to an increase in the current noise emissions from the site.</p>	<p><u>Applicants response</u></p> <p>The applicant has stated that the additional plant shelter that is the subject of this application is operationally completely different from the existing greenhouses and that the plant shelter <i>is not an enclosed environment containing fans or other plant. The small irrigation pump, which would be occasionally used, is no bigger than a domestic pump used for rainwater tanks...noise impacts are considered to be negligible</i>'. Furthermore the applicant has stated that: <i>that high pressure cleaning is not required for the operation of the plant shelter</i>'.</p> <p><u>Councils response</u></p> <p>It is acknowledged that noise generated from the site is an ongoing issue for residents and Council is actively managing and monitoring this matter. Primary sources of noise that are the subject of complaints are from the fans within the existing greenhouses and noise associated with pressure cleaning.</p> <p>With regard to potential noise generation</p>

Summary of matters raised in submissions	Response to submissions
	<p>associated with the operation of the proposed plant shelter, the applicant has stated that there will be no fans or temperature control devices mounted in the structure and no other mechanical equipment is operationally required other than an irrigation pump. Harvesting will be undertaken by hand and as this crop is a long-term crop (3-5years) and the growing trays are maintenance free, cleaning or regular maintenance of plant and equipment is not required. Further information provided by the applicant has stated specifically that no high pressure cleaning will be undertaken in association with the plant shelter operations.</p> <p>The application has sufficiently demonstrated that potential noise generation from the operation of the plant shelter is negligible. Any approval would impose conditions stating that the installation of any fans or other mechanical devices in the shelter is not permissible and that the operation of the plant shelter must not cause disruption to the amenity of the local community by way of noise.</p>
<p><i>Visual amenity</i></p> <p>Seven of the submissions objected to the proposed plant shelter on the grounds of visual amenity and include descriptions of the existing greenhouses as: '<i>ugly</i>'; '<i>an eyesore</i>' '<i>unsightly</i>' and '<i>horrible</i>'. Privacy is also a concern of a resident on an adjacent property.</p>	<p><u>Applicants response</u></p> <p>The applicant has stated that the land where the proposed plant shelter is to be located is low lying, not part of a viewing corridor and not visually prominent. The plant shelter is to be located at the rear of the existing development and is screened from casual viewing from Howards Road. The applicant has expressed a willingness to undertake planting to screen the proposed plant shelter from the adjacent property to the east of the site to address the visual impact from the proposed plant shelter.</p> <p><u>Councils response</u></p> <p>The proposed plant shelter is 20m x 12.8m with a maximum height of 4.8m and will be open sided. The proposed plant shelter is off a smaller scale comparable to the existing greenhouses which are a maximum size of 72m x 32m and 5.2m high. The plant shelter is consistent with structures associated with the rural agricultural use of the land and will not</p>

Summary of matters raised in submissions	Response to submissions
	<p>be visually obtrusive from Howards Road.</p> <p>The plant shelter will be visible from the neighbouring residence located approximately 65m to the south of the proposed plant shelter. The consent will impose a condition requiring a plan of landscaping that includes planting along the southern side boundary of the site adjacent to the plant shelter to provide screening to reduce the visual impact of the proposal.</p>
<p><i>Traffic generation</i></p> <p>A number of submissions have mentioned the increase in traffic associated with the current approved development and expressed concerns that the proposed new plant shelter will further increase traffic to the subject site.</p>	<p><u>Applicants response</u></p> <p>The applicant has stated: <i>'the amount of traffic associated with in the shelter would be negligible, The growing of edible plants is not as labour intensive as other aspects of the operation...Staff levels for the entire facility when fully operation would be within the maximum advised with DA13/0712'</i>.</p> <p>Additionally in response to a request for further information the applicant has stated: <i>'there would also be occasional deliveries of punnets and carton, as presently occurs with the existing operation. Both would be relatively small as this is a small product in terms of volume'</i>.</p> <p><u>Councils response</u></p> <p>The application has provided sufficient information to satisfy Council that the activity associated with the proposed plant shelter is of a nature and scale that will not significantly increase traffic volume to and from the site specifically noting that:</p> <ul style="list-style-type: none"> • The proposed activity will be utilising existing staff; • The crop is a longer term crop than the current micro-herb production thereby requiring few deliveries of growing media to the site; • Deliveries of product from the site will be included with current deliveries;
<p><i>Environmental impacts</i></p> <p>Two submissions raise concerns</p>	<p><u>Applicants response</u></p> <p>The applicant has stated: <i>'Harmful chemical</i></p>

Summary of matters raised in submissions	Response to submissions
<p>with regard to potential impacts on the adjacent waterway specifically, potential chemical and nutrient contamination of the waterway.</p>	<p><i>will not, and cannot be used as the flower are for eating. Only organic registered products are used... there is no additional equipment for fertilising as the water (drip fed) will contain all the nutrients required.'</i></p> <p><u>Councils response</u></p> <p>This application has been reviewed by Council's Environmental Health Unit and Natural Resource Management Unit as well as the NSW Department of Primary Industries – Water (DPI Water). The consent is to be conditioned requiring a Controlled Activity Approval which manages activities adjacent to a waterway.</p> <p>The consent will be conditioned to comply with stormwater management requirements for the site.</p>
<p><i>Overdevelopment of site</i></p> <p>A number of the submissions considered that site was currently overdeveloped and further development will result in additional detrimental impacts including environmental impacts, traffic generation and amenity impacts (visual and noise).</p>	<p><u>Applicants response</u></p> <p>The application has stated the proposal '<i>...makes use of existing site infrastructure (access, parking, water management etc.....and is a minor addition with regard to the existing operation.'</i></p> <p><u>Councils response</u></p> <p>Sufficient information has been provided demonstrating that the proposed plant shelter is compatible with the existing operation at the site and will not result in significant additional traffic generation or additional staffing requirements. Noise generating plant and equipment (other than an irrigation pump) is not required for operations associated with the plant shelter and harvesting will be undertaken by hand. Existing stormwater management approvals for the site is considered adequate for the proposal.</p> <p>As such it is considered that the scale of the proposal is consistent with the current operations of the site and the proposal does not constitute an intensification of the site but rather a diversification of existing activities. Any potential impacts are able to be managed by appropriated conditions placed on the consent.</p>

(e) Public interest

The proposal relates to a rural activity within a rural zone and provides employment opportunities. The proposal has been assessed against the relevant environment planning instruments and is considered: to be suitable to the site; unlikely to cause any significant long term negative impacts to the surrounding built and natural environment; and meets all of Council's applicable requirements within the TLEP and relevant DCPs. The application has been assessed by Council's technical officers with no objections being raised subject to the attached conditions of development consent. The proposed plant and production of edible flowers is therefore considered to warrant approval.

OPTIONS:

1. Approve the application for the plant shelter and production of edible flowers subject to the conditions in this report.
2. Refuse the application for reasons specified.

Council officers recommend Option 1.

CONCLUSION:

It is considered that the proposed plant shelter and production of edible flowers is compatible with the existing approved rural industry at the site and is consistent with the objectives of the rural zone. The proposal is of a smaller scale than existing operations at the site and the applicant has provided sufficient information to demonstrate that the proposal is unlikely to generate significant additional detrimental impacts, including noise impacts, upon surrounding rural residential development. The proposed plant shelter is considered to be acceptable.

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:

Attachment 1.

Pocket Herbs & Produce Operational Noise Management
Plan (ECM 5056028)

14 [PR-CM] Development Application DA17/0498 for Shop Top Housing, Serviced Apartments, Swimming Pool and Demolition of Existing Structures at Lot 1 DP 169524; No. 26 Marine Parade Kingscliff

SUBMITTED BY: Development Assessment and Compliance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.1	Built Environment
2.1.2	Development Assessment - To assess development applications lodged with Council to achieve quality land use outcomes and to assist people to understand the development process.

ROLE: Advocate

SUMMARY OF REPORT:

Council is in receipt of a Class 1 Appeal in the NSW Land and Environment Court (LEC) for deemed refusal of DA17/0498 for the demolition of the existing structures and construction of a shop top housing development and serviced apartments comprising of four units, a ground floor retail area, at grade car parking from Marine Parade and Hungerford Lane, a swimming pool and associated earthworks and landscaping.

It is not clear whether the four units are for residential purposes or for tourist and visitor accommodation.

The development proposal seeks to undertake works in two (2) stages.

- Stage 1: Site Preparation and Demolition of existing shop top housing development and;
- Stage 2: Construction of a new Shop Top Housing development and units comprising of:
 - 39m² Ground floor retail area;
 - At grade vehicle access from Marine Parade to facilitate parking for 6 vehicles associated with the Shop Top Housing component of the development and installation of a turntable to facilitate vehicle access to the parking spaces;
 - Additional at grade vehicle access from Hungerford Lane (to the rear of the site) to three car parking spaces. One space is for visitor parking and the other two are associated with, what is assumed to be, the Serviced Apartment and component of the development.

It is note that as mentioned in the development description, the application lacks detail to properly articulate the two land uses which are proposed to occur on the site.

Based on careful perusal of the plans submitted and in the absence of clarification from the applicant, it has been assumed by Council officers that due to potential permissibility issues (discussed later in this report), the shop top housing component applies to the three units occurring directly above the retail and at grade parking component of the building, and the serviced apartment is provided to Unit 4 which occurs at the rear portion of the building and comprises of a two storey three (3) bedroom apartment with exclusive use of the rooftop terrace and swimming pool.

The application was received on 1 August 2017. Following the preliminary assessment of the application and receipt of 10 submissions from adjoining residents, a request for information letter was issued to the applicant on 13 October 2017 (see Attachment 1). Key concerns with the development relate to:

- Non-compliant building height under Tweed LEP 2014;
- Non-compliant setbacks and building depths;
- Excessive bulk and scale;
- Further information on principles of view sharing and concerns regarding view loss impacts to surrounding dwellings;
- Further information regarding shadow analysis due to a lack of solar access to private open space areas within the development;
- Impacts on visual privacy;
- Lack of parking for the ground floor retail component;
- Extent of excavation works;
- Further information following concerns regarding the viability of proposed landscape concept within the building;
- Lack of delineation between vehicle and pedestrian access and movement within the development;
- Concerns regarding traffic and safety impacts resulting from a conflict between the proposed vehicular access arrangements and the outdoor dining blister (in regard to sightlines, driveway widths etc);
- Lack of consideration for waste storage and disposal for the units;
- Building design and lack of pedestrian safety due to no provision of highlight pedestrian access points to the building;
- Lack of information for proper assessment of retail fit out details (i.e. ducting for cooking gases, compliance with BCA);
- Non-compliant wall construction at the property boundary which contravenes National Construction Guideline;
- A request for the applicant to respond to the matters raised by objectors during the notification period and;
- Further detail of proposed tree removal.

Given the time that has lapsed since lodgement of the DA, the applicant has lodged an appeal to the NSW Land and Environment Court (LEC) against Council's 'deemed refusal' of the development application.

In order for Council staff to act on behalf of the Council in the LEC proceedings, it is requested that Council delegate its authority to the General Manager of Tweed Shire Council to act on its behalf.

It is noted, a directions hearing for the appeal occurred on 29 January 2018 and a Section 34 Conference is scheduled for 29 June 2018. In order for Council staff to act on behalf of the Council to defend its decision, it is requested that Council delegate their authority to the General Manager of Tweed Shire Council to act on their behalf.

RECOMMENDATION:

That:

A. Development Application DA17/0498 for a shop top housing, serviced apartments, swimming pool and demolition of existing structures at Lot 1 DP 169524; No. 26 Marine Parade KINGSCLIFF be refused for the following reasons:

- 1. Pursuant to Section 79C (1) (a)(i) the proposed development is not considered to be in accordance with State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development.**
- 2. Pursuant to Section 79C (1) (a)(i) the proposed development exceeds the building height limit prescribed by Clause 4.3 (Height of Building) of Tweed Local Environmental Plan 2014 and the applicant has not satisfactorily justified the departure from the development standard as required by clause 4.6 of the Tweed Local Environmental Plan 2014.**
- 3. Pursuant to Section 79C (1) (a)(i) the proposed development is unsuitable taking into consideration the objectives of and matters identified in Clause 7.2 (Earthworks) of Tweed Local Environmental Plan 2014.**
- 4. Pursuant to Section 79C (1) (a)(i) the development proposal is not considered to be consistent with Clause 7.10(e) (Essential Services) of Tweed Local Environmental Plan 2014 as vehicular access to and from the site with sight distances at Marine Parade is considered to be dangerous and not compliant.**
- 5. Pursuant to Section 79C (1) (a)(iii) the proposed development is contrary to the provisions of Tweed Shire Council Development Control Plan Section A1 – Part C Residential and Tourist Code.**
- 6. Pursuant to Section 79C (1) (a)(iii) the proposed development is contrary to the provisions of Tweed Shire Council Development Control Plan Section A2- Site Access and Parking Code, as car parking provisions and minimum sight distance to access the site at Marine Parade, is not considered adequate.**
- 7. The proposed development will have unacceptable amenity impacts (section 79C(1)(b) Environmental Planning and Assessment Act 1979).**

8. The development is not considered to be in the public interest given the number and scale of variations to development standards and controls required, as well as the extent of general public concern raised over the proposal (Section 79C(1)(e) Environmental Planning and Assessment Act 1979).
- B. Council, in respect of the Class 1 Appeal lodged in the NSW Land and Environment Court regarding Councils refusal of DA17/0498 for the shop top housing and serviced apartments development, associated swimming pool and demolition of existing structures at Lot 1 DP 169524; No. 26 Marine Parade KINGSCLIFF endorse the following:**
1. Refuse the development application and;
 2. Provide delegation under Section 377(1) of the Local Government Act 1993 to Council's General Manager to provide instruction to Councils solicitor in the LEC Class 1 appeal (including in any Section 34 conference);
- C. ATTACHMENT 3 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

REPORT:

Applicant: KP Qld Pty Ltd
Owner: Pershouse Produce Pty Ltd
Location: Lot 1 DP 169524; No. 26 Marine Parade KINGSCLIFF
Zoning: B4 - Mixed Use
Cost: \$4,500,000.00

Site and Surrounds

The subject site comprises of a 539m² rectangular allotment with dual frontage to Marine Parade and Hungerford Lane. The site features a lot frontage of 13.4m to each road respectively and an overall depth of 40.235m. The land is steep with a 25% cross fall toward Marine Parade. The land measures a low point of RL4.96 at the Marine Parade frontage, and a high point of 15.80m at the Hungerford Lane frontage.

There is a significant amount of low lying vegetation and scattered trees to the rear of the site which screen views of the building from the Hungerford Lane interface.

The site is currently occupied by a clay brick and concrete slab two storey shop top housing development (approved 24 September 1979, Approval No. 799). The development comprises of a ground floor retail component with two separate tenancies; 'Chang Mai Thai' restaurant and 'Paula's Hair Design' hairdressing Salon. The Chang Mai Thai restaurant also includes an ancillary covered outdoor dining area within Marine Parade which is a licensed footpath dining area. Vehicular access to the site is provided via a crossover to the northern extent of the site.

Since this date, several consents have been granted on the site for change of use to the ground floor retail area which originally comprised of one (1) large shop but has since been split into two separate shops, now a Thai Restaurant and Hairdressing Salon.

A chronology of approvals relevant to the site and its current operations is as follows:

- Change of use to hairdressing salon – Approved 5 August 1991;
- Establishment of a restaurant in an existing building and the erection of a deck – Approved 14 April 1994;
- Erection of an awning (extends from the approved restaurant deck area, over the footpath to the outdoor dining blister) - Approved 14 February 2000



Figure 1: Google maps street view of subject site - 26 Marine Parade, Kingscliff (edited by Council 11 January 2017)

Surrounding Development

A review of the surrounding development indicates that the Marine Parade mixed use zone comprises of predominately three storey developments which include ground floor retail space and residential accommodation directly above.

Development further inland (west) of Marine Parade comprises of low density residential zones and comprises of an eclectic mix of single and two storey dwellings which are considered to be typical coastal homes located in the 'cliff precinct' of the Kingscliff village.

The majority of already established mixed use and shop to housing development within the vicinity on the site has occurred under preceding local planning instruments which limited Shop Top Housing Development to three storeys or a maximum building height of 13m. Where variations are observed within the streetscape, none are greater than 13.6m and mostly occurs to the rear portion of the upper storey of the building footprint. Such examples were observed closer to the village core which sits much lower than the subject site which is considered to be within the 'Cliff precinct'. As such, there is a strong precedent for urban forms within the mixed use zone to embrace the quaint coastal village character of the area and protect the views from the adjoining low density residential zones.

The adjacent building located north of the subject site at 28 Marine Parade, Kingscliff comprises of a shop top housing development which was consented to by Council 9 January 1989 under D88/0728.

Planning considerations in regard to the above consent included the provision of a fourth storey component of the development, and in order for the application of a merit based assessment of this matter, a SEPP 1 objection was lodged as additional information on 28 February 1994.

Given the extent of objections and variation to development standards in regard to the fourth storey component, the application was referred to Development Assessment Panel (DAP) for determination.

It was found that the variation affects a very minor upper portion of the building and the rear portion of the site (which interfaces Hungerford Lane) maintains a low scale nature of development, being at grade car parking area. The overall building design of the shop top housing at this site, despite featuring a minor extension to the three storey limitation was found to suitably integrate and protect the low density residential zones to the rear of the subject site and within the vicinity of Hungerford Lane.

It was further concluded that the provision of an additional storey to accommodate a stairwell and rooftop area only occurred to a small portion of the overall building footprint and therefore was worthy of support.

An extract of the elevation plan for the development at 28 Marine Parade, adjacent to the subject site is provided in Figure 2 and Figure 3 below.

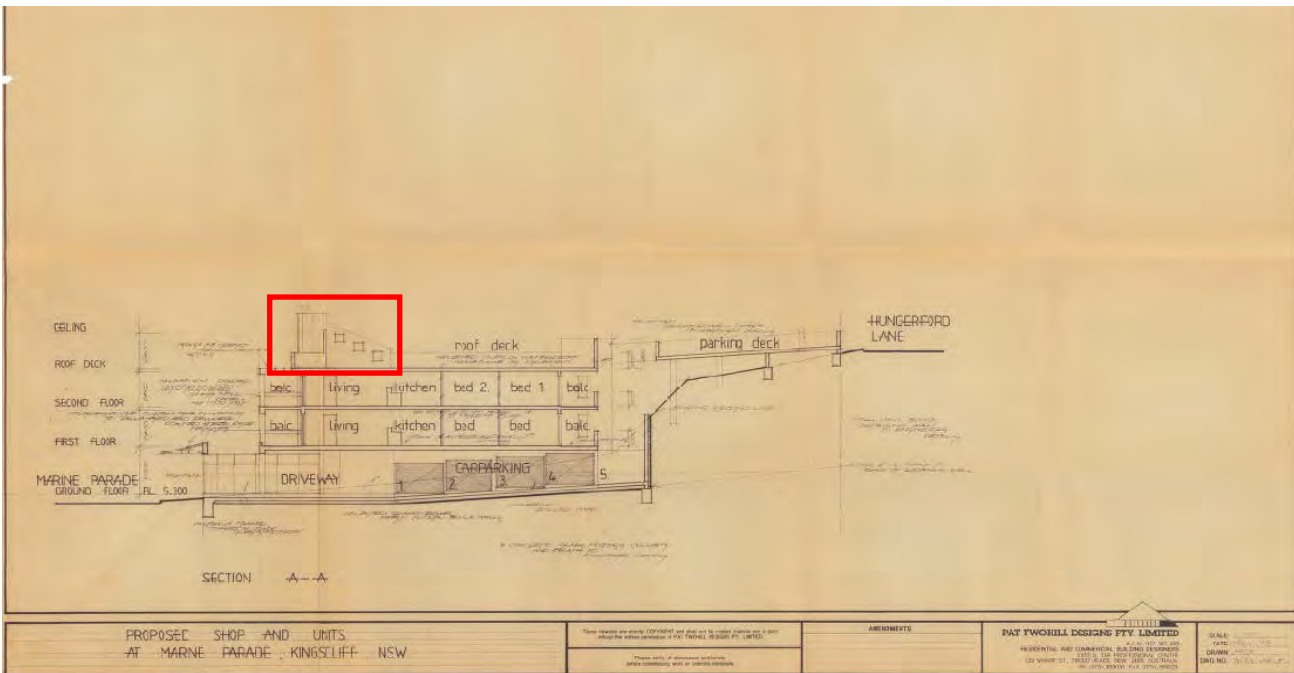


Figure 2: Extract of stamped approved section plan for building at 28 Marine Parade, Kingscliff (red box highlights extent of variation to fourth storey component)

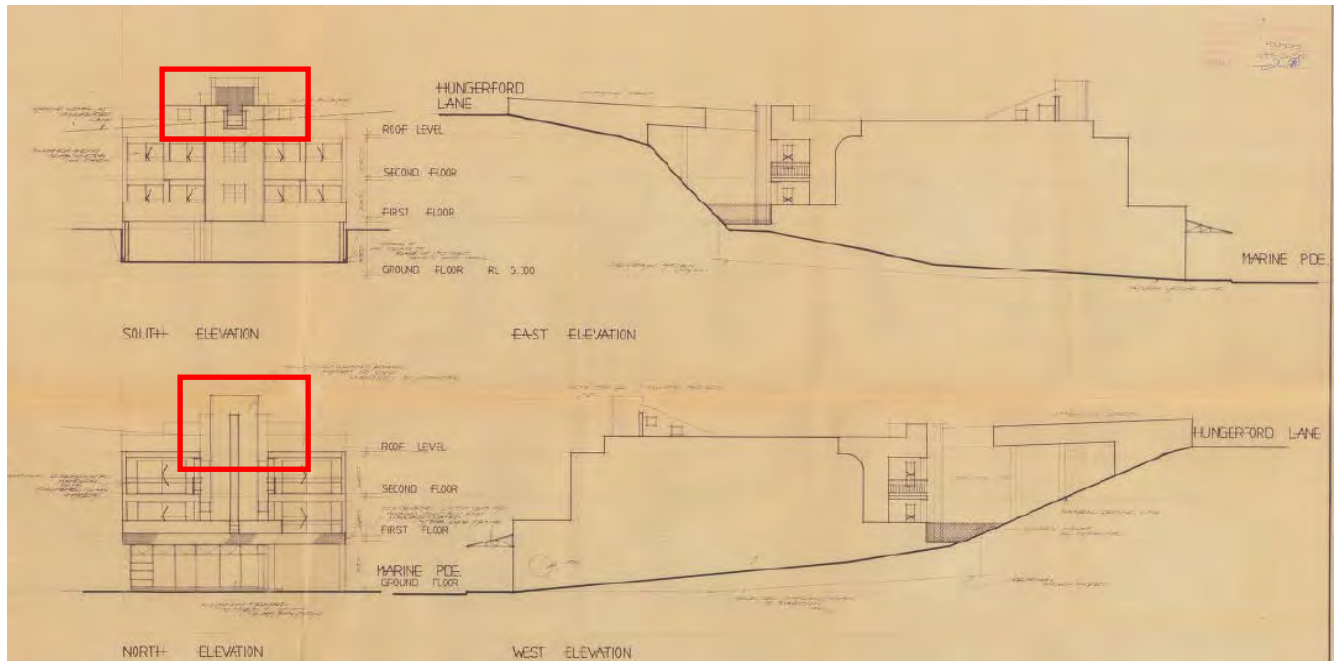


Figure 3: Extract of stamped approved elevation plan at 28 Marine Parade Kingscliff highlighting extent of variation to building height approved by Council

The above development remains on the site today.

Background:

On 1 August 2017, Council received a development application for a shop top housing development comprising of four (4) units and 39m² of ground floor retail premises. The development includes a swimming pool, landscaping and associated on site car parking.

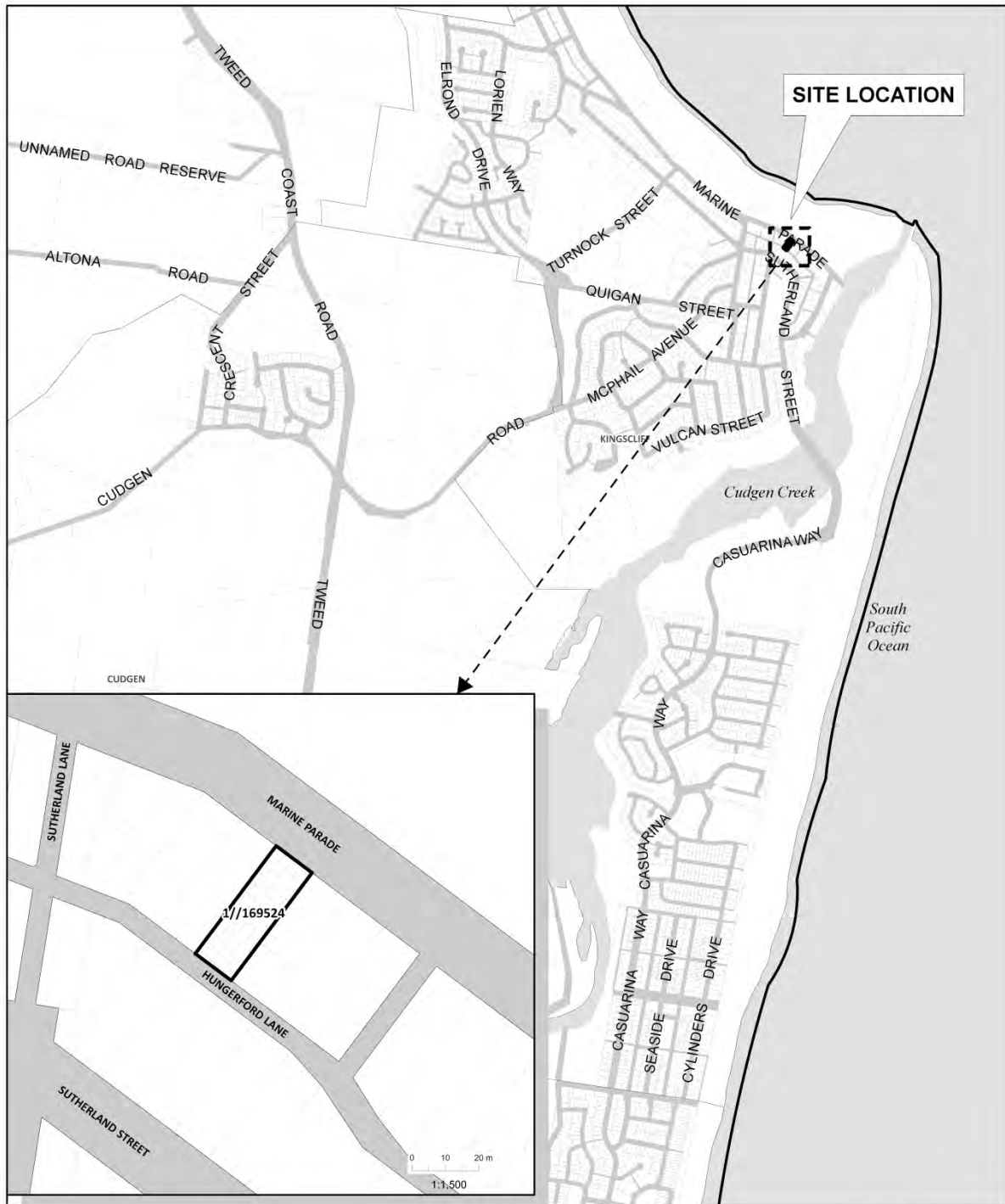
The application was notified and advertised for a period of 14 days from Wednesday 16 August 2017 – Wednesday 30 August 2017 in accordance with Section A11 of DCP 2008. As a result of the consultation process, a total of ten (10) submissions were received and have been considered as part of this assessment. A summary of the submission details are contained later in this report.

Following consideration of the submissions and a full assessment of the proposal having regard to the matters for consideration under Section 79C of the Environmental Planning & Assessment Act 1979, concerns were raised over the bulk and scale of the development on the subject site and several areas of non-compliance which indicate the development exceeds an appropriate envelope relative to the narrow and steep nature of the land. In turn, it was evident that further assessment of the associated impacts that the development would have on the amenity and streetscape character of the area would need to be undertaken to perform a high order assessment of the development having regard to the matters for consideration under Section 79C. A letter outlining all the areas of concerns was issued to the applicant on 13 October 2017.

Despite several follow up emails and a final request for information letter dated 6 December 2017, a formal response to Councils request was not received.

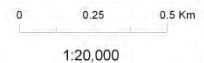
On 22 December 2017, a Class 1 Appeal for deemed refusal of the application was received by Council. A directions hearing was undertaken on 29 January 2018 and at that hearing, a Section 34 conference is tentatively booked for 1 June 2018.

SITE DIAGRAM:



Site Plan

Lot 1 DP 169524
No. 26 Marine Parade, Kingscliff



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Coordinate System - MGA Zone 56
Datum - GDA 94

Cadastre: 22/01/2018
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TWEED
SHIRE COUNCIL

Date Printed: 22 January, 2018

DEVELOPMENT/ELEVATION PLANS:



SITE ADDRESS
26 MARINE PARADE, KINGSCLIFF
NSW, 2487

RPD
LOT 1 ON DP186624
PARKING COORDEN
CORNER 186624
CORNER 186624

SITE AREA
529 sqm TOTAL

DEVELOPMENT & PLANNING
PLAN : TWEED LEP2014
ZONE : B4 (MIXED USE)
GUIDELINES : SECTION 4.11 RESIDENTIAL DESIGN CODE
OF THE LOCAL GOVERNMENT BUILDINGS &
SHOP TOP DEVELOPMENT

SUMMARY
GFA TOTAL : 813sqm
FLOOR SPACE RATIO : 1.52:1 (21 PERMISSIBLE)

CARPARKING
RESIDENT (4 x APTS) : REQ: 8 PROVIDED: 8
VISITOR (4 x APTS) : REQ: 1 PROVIDED: 1

GROUND FLOOR TENANCY
IF RETAIL (3sqm) : REQ: 1705 PROVIDED: 0
IF OFFICE (3sqm) : REQ: 078 PROVIDED: 0

- AC000 26 MARINE PARADE, KINGSCLIFF
- AC001 SITE PLAN
- AC002 SITE CONTEXT
- AC003 SITE ANALYSIS - VIEWS FROM SITE
- AC004 SITE ANALYSIS - VIEWS TO SITE
- AC005 SITE ANALYSIS - VIEWS TO SITE
- AC006 CONCEPTUAL PLAN
- AS006 EXISTING SITE - MATURE GARDEN
- AS007 BASE BOARD SCREENING
- AS008 FLOOR PLAN - GROUND
- AS009 FLOOR PLAN - LEVEL 1
- AS010 FLOOR PLAN - LEVEL 2
- AS011 FLOOR PLAN - LEVEL 3
- AS012 FLOOR PLAN - LEVEL 4
- AS013 FLOOR PLAN - LEVEL 5
- AS014 FLOOR PLAN - LEVEL 6
- AS015 FLOOR PLAN - LEVEL 7
- AS016 ROOF PLAN
- AS017 ELEVATIONS - SHEET 1
- AS018 ELEVATIONS - SHEET 2
- AS019 ELEVATIONS - SHEET 3
- AS020 ELEVATIONS - SHEET 4
- AS021 SECTION - SHEET 1
- AS022 SECTION - SHEET 2
- AS023 SECTION - SHEET 3
- AS024 SECTION - SHEET 4
- AS025 VERB 9 WIND ANALYSIS - SHEET 1
- AS026 VERB 9 WIND ANALYSIS - SHEET 2
- AS027 VERB 9 WIND ANALYSIS - SHEET 3
- AS028 VERB 9 WIND ANALYSIS - SHEET 4
- AS029 PLUMBING PLAN
- AS030 INSULATION - SHEET 1
- AS031 INSULATION - SHEET 2







20.12.16

1

AC002 SITE CONTEXT

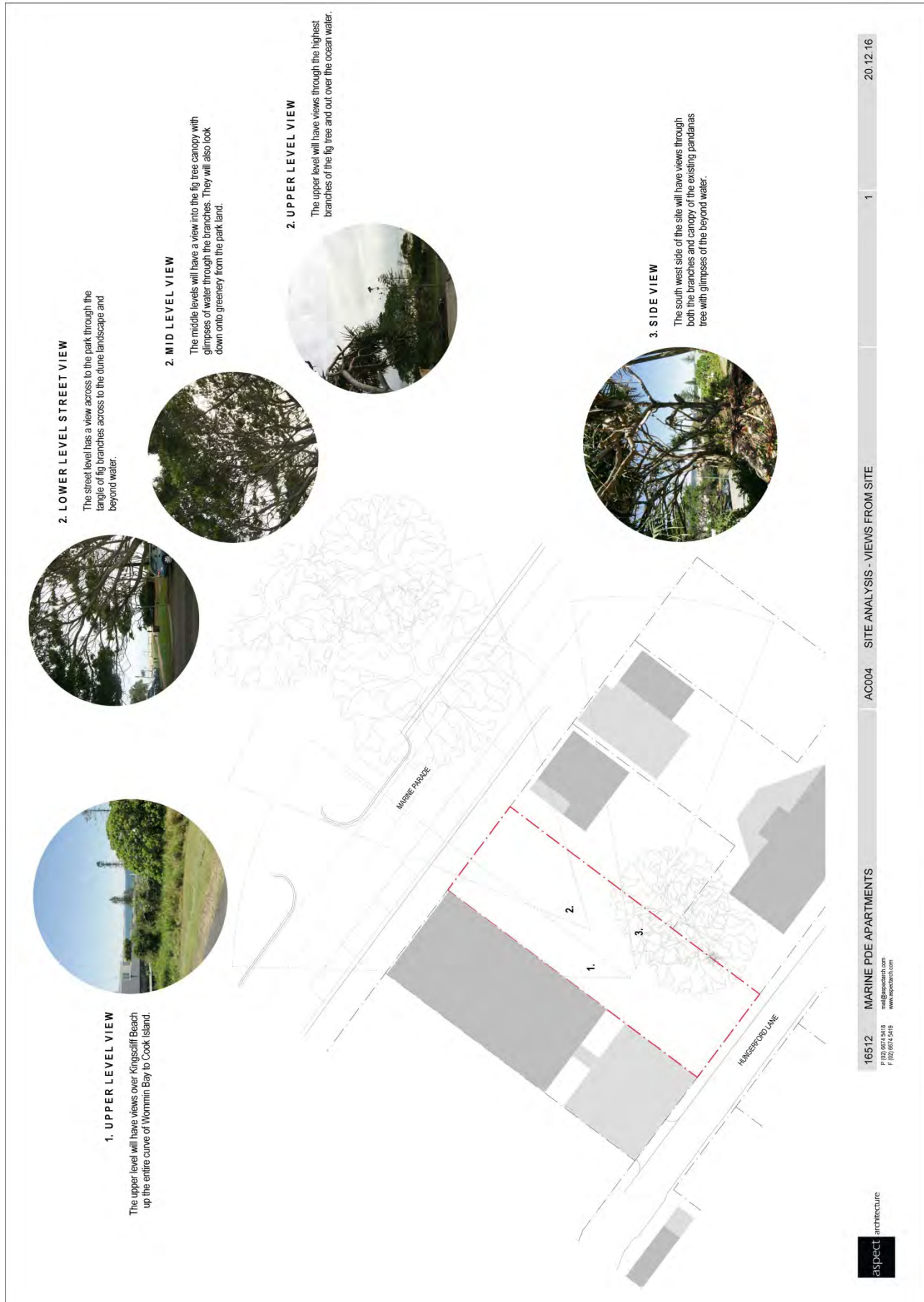
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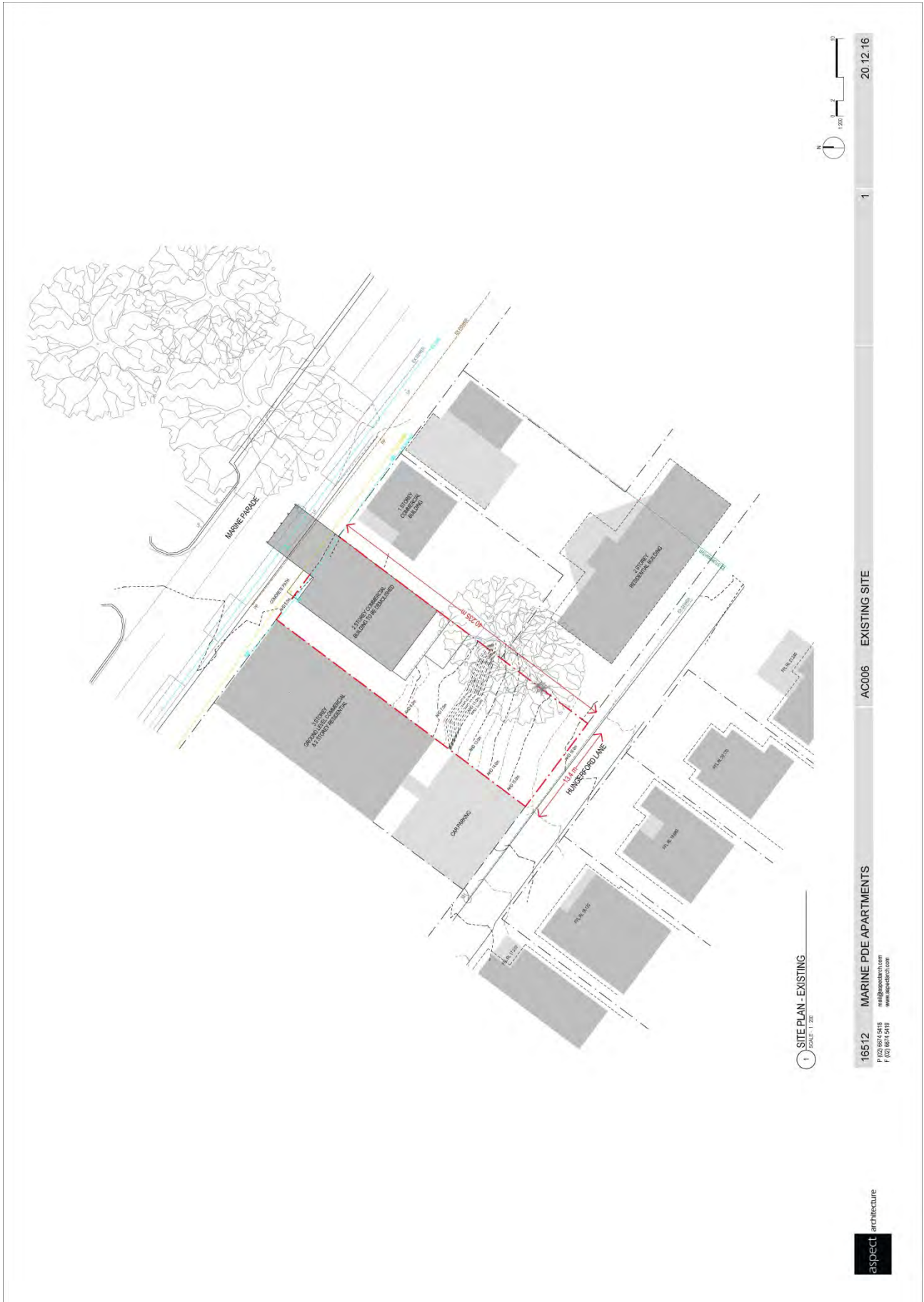


VENTILATION CORRIDOR

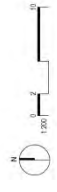
The best opportunities for air flow will be from the north east and given the enclosure created by neighbouring buildings it will be important to create a corridor for it to travel through.







1 SITE PLAN - EXISTING
SCALE 1:200



20.12.16

1

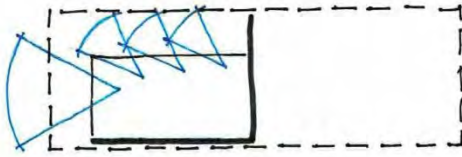
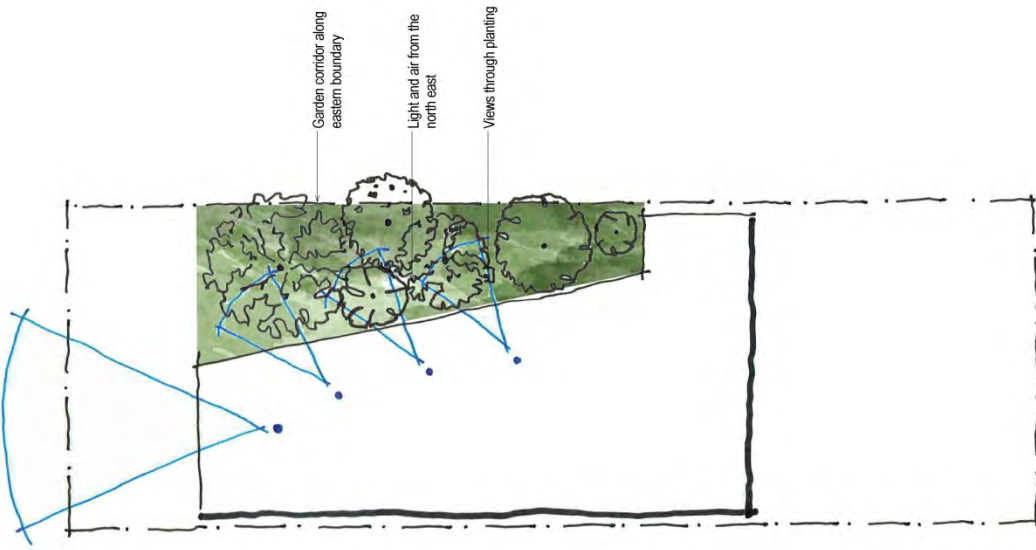
AC006 EXISTING SITE

16512 MARINE PDE APARTMENTS

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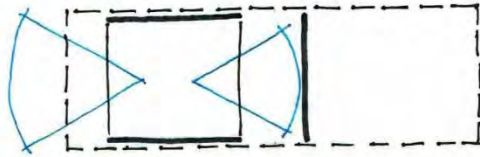






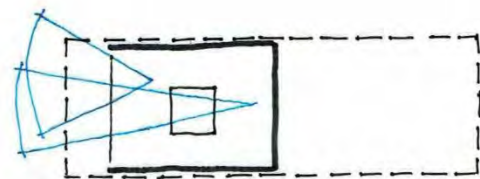
CORRIDOR OF OPEN SPACE

Allows all apartments at the front of the site to have immediate access to light, air and views.



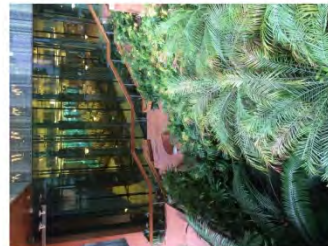
REAR OPEN SPACE

Creates a front / back relationship, with light and air from two directions and views to the front.



CENTRAL OPEN SPACE

Orders space around a central courtyard and creates apartments that look inward with light and air from above.





22.05.17

2

IMAGE BOARD - WEDGE GARDEN

AS191

MARINE PDE APARTMENTS

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www.aspectarch.com







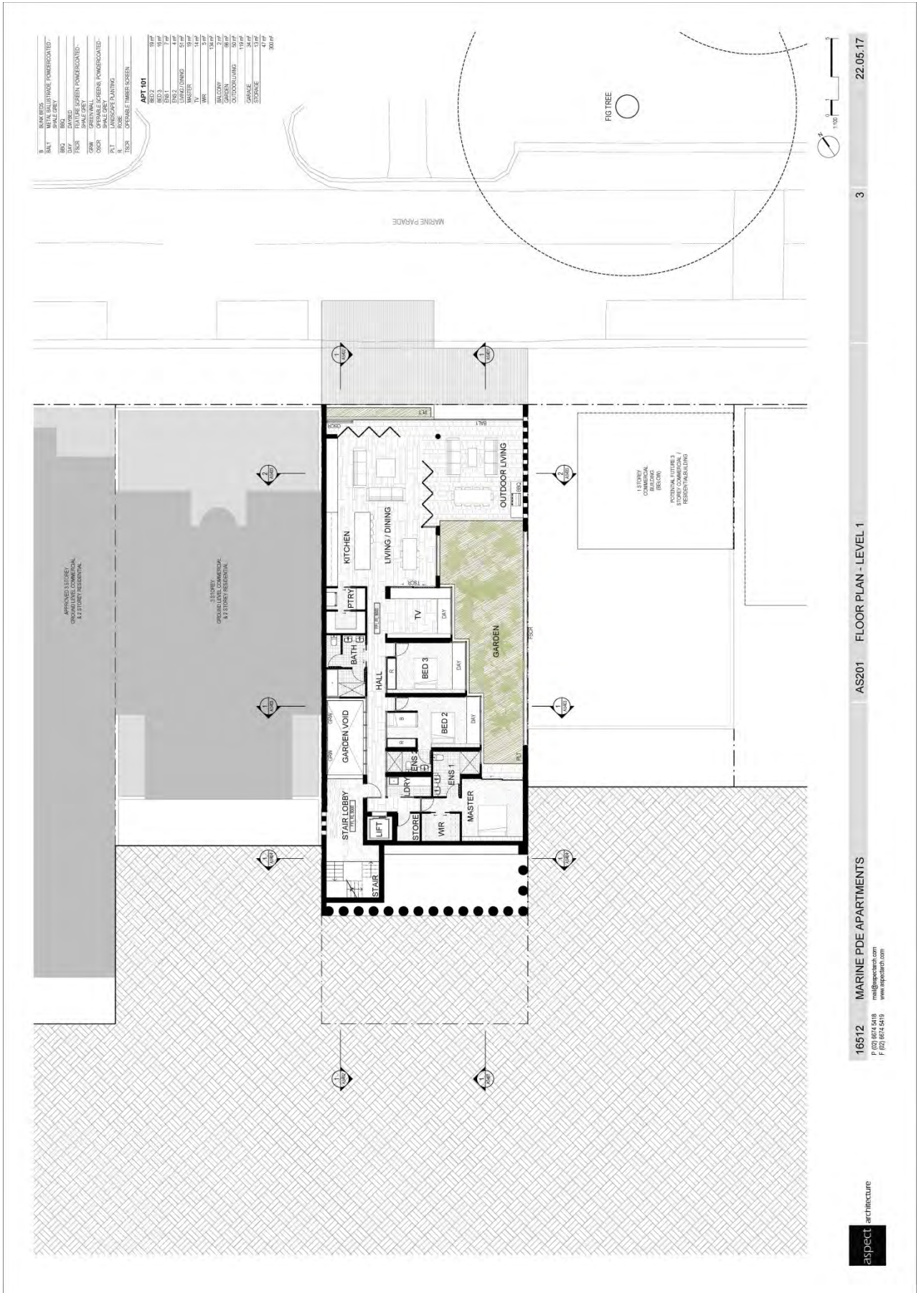
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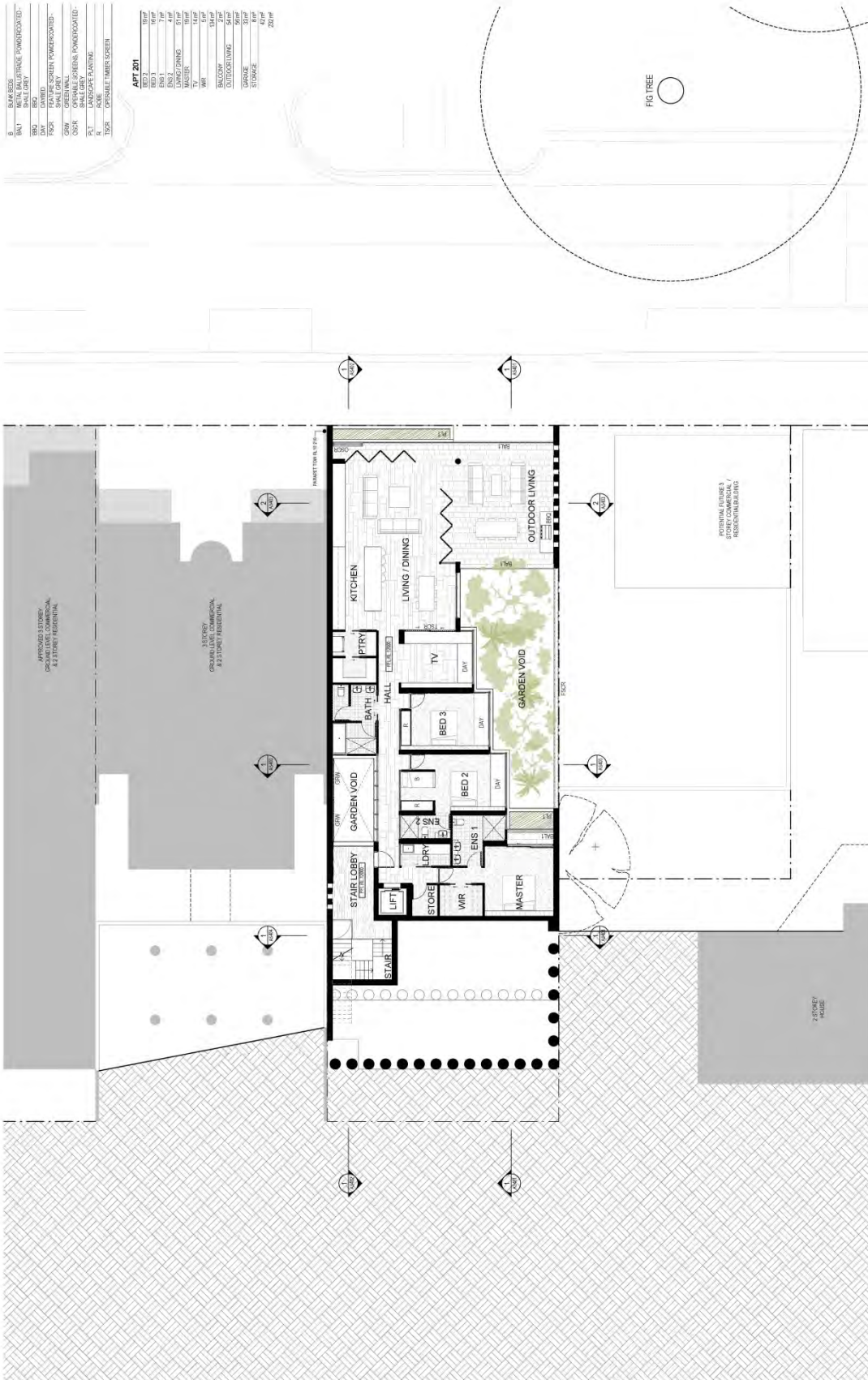
2

AS194 IMAGE BOARD - LOBBY GARDEN

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B	BANK BEDS
BALY	BANK WALLS - POWERCOATED
BB	BANK GROUND
BRD	BANK
BRD	BANK
FRGR	FEATURE SCREEN POWERCOATED
FRGR	FRONT WALL
GRW	GREEN WALL
OSKR	ORNAMENTS SCREENS POWERCOATED
PCT	LANDSCAPE PLANTING
PL	PLANTING
TR	TRIM
TR	TRIM
TR	TRIM

AS201

BB1	BRD	TRIP
BB2	BRD	TRIP
BB3	BRD	TRIP
BB4	BRD	TRIP
BB5	BRD	TRIP
BB6	BRD	TRIP
BB7	BRD	TRIP
BB8	BRD	TRIP
BB9	BRD	TRIP
BB10	BRD	TRIP
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BB97	BRD	TRIP
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BB99	BRD	TRIP
BB100	BRD	TRIP

22.05.17

3

AS202 FLOOR PLAN - LEVEL 2

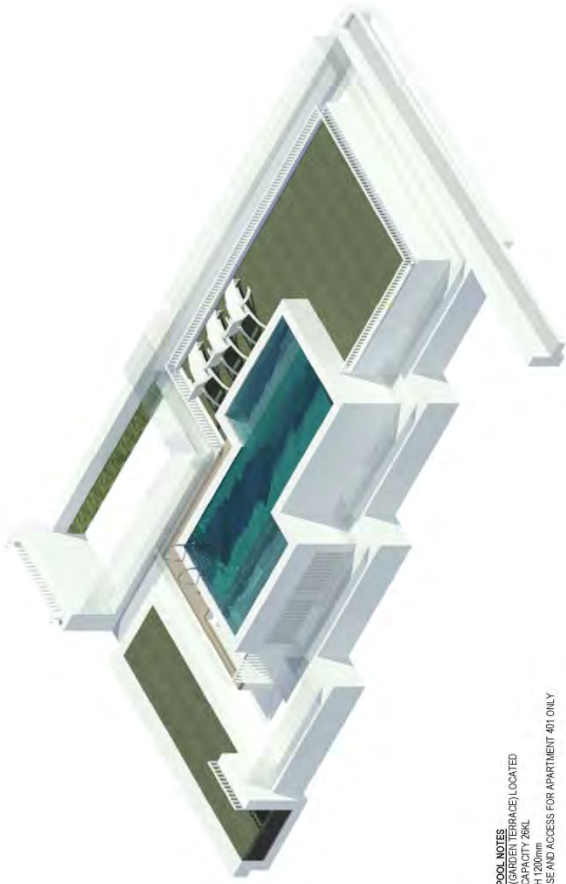
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 F 03 8624 5419
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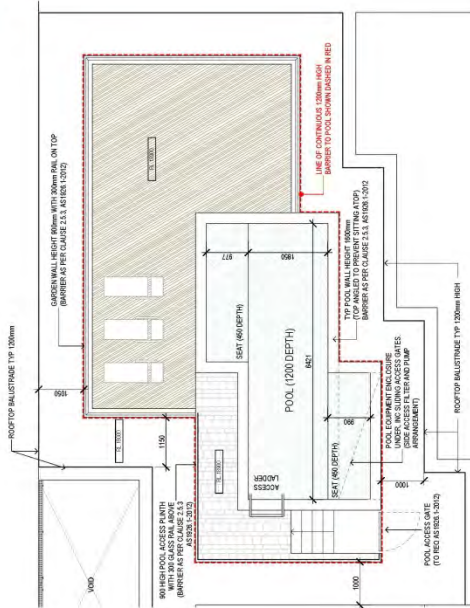


DATE: 22.05.17
3
AS205 FLOOR PLAN - LEVEL 5
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SWIMMING POOL NOTES
 - ROOFTOP (GARDEN TERRACE) LOCATED
 - VISUAL CAPACITY 200L
 - MAXIMUM CAPACITY 200L
 - PRIVATE USE AND ACCESS FOR APARTMENT 401 ONLY



1 ROOFTOP SWIMMING POOL
 SCALE: 1:50

aspect architecture	client	RF GOLF PTY LTD	project	25 MARINE PDE KNISGSCLIFF NSW	drawing	A3006 FLOOR PLAN - ROOFTOP POOL	date	18/02/2018	drawn	18/02/2018	checked	18/02/2018	scale	1:50
	author	RF GOLF PTY LTD	project	25 MARINE PDE KNISGSCLIFF NSW	drawing	A3006 FLOOR PLAN - ROOFTOP POOL	date	18/02/2018	drawn	18/02/2018	checked	18/02/2018	scale	1:50

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PROJECT NO: A3006
 DRAWING NO: A3006-01
 DATE: 18/02/2018
 SCALE: 1:50

PROJECT NO: A3006
 DRAWING NO: A3006-01
 DATE: 18/02/2018
 SCALE: 1:50

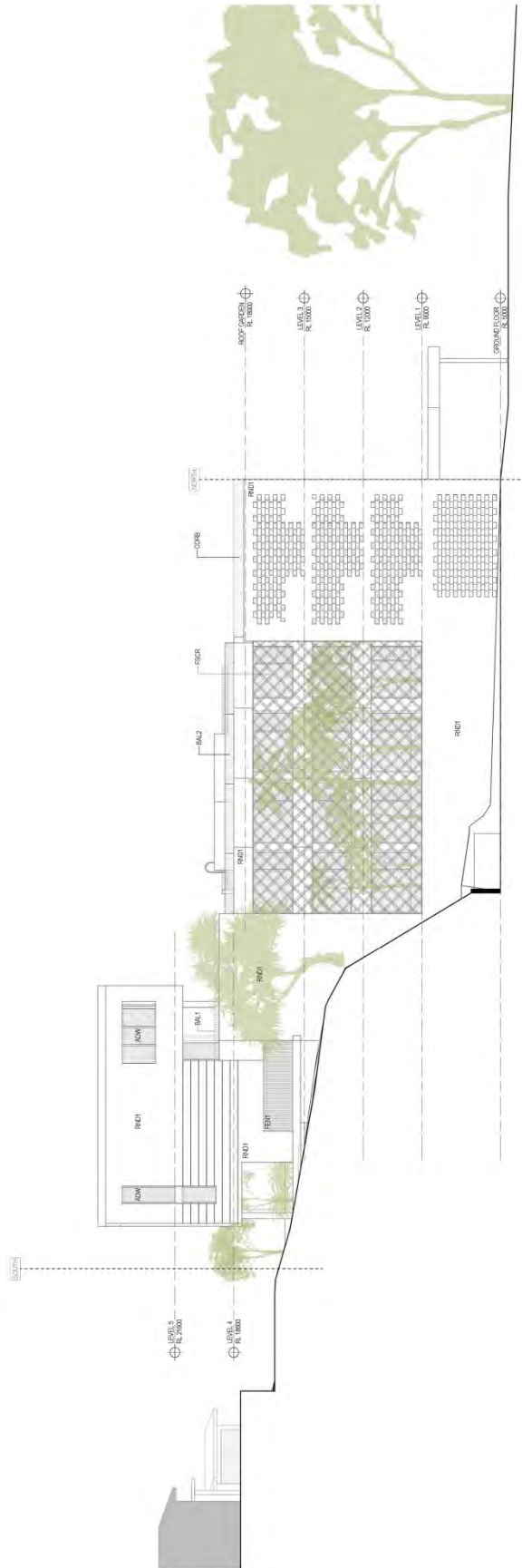
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 DATE: 18/02/2018
 SCALE: 1:50

PROJECT NO: A3006
 DRAWING NO: A3006-01
 DATE: 18/02/2018
 SCALE: 1:50

PROJECT NO: A3006
 DRAWING NO: A3006-01
 DATE: 18/02/2018
 SCALE: 1:50

- AWW ALUMINUM FRAME WINDOWS AND DOORS, POWDERCOATED, ANTI-REFLECTIVE GLASS
- BAL METAL BALUSTRADE, POWDERCOATED, SHALE GREY
- CBR CONCRETE BLOCK CURB, POWDERCOATED, SHALE GREY
- CSB CONCRETE CURB, POWDERCOATED, SHALE GREY
- FIN VISUAL SCREENING, POWDERCOATED, SHALE GREY
- FRM FORMWORK, POWDERCOATED, SHALE GREY
- GRN GRASS, MULTIFINISH, TERRAZZO, POLISHED
- RMT ROYAL OAK, MULTIFINISH, TERRAZZO, POLISHED



1 SOUTH EAST ELEVATION
SCALE: 1:100



22.05.17

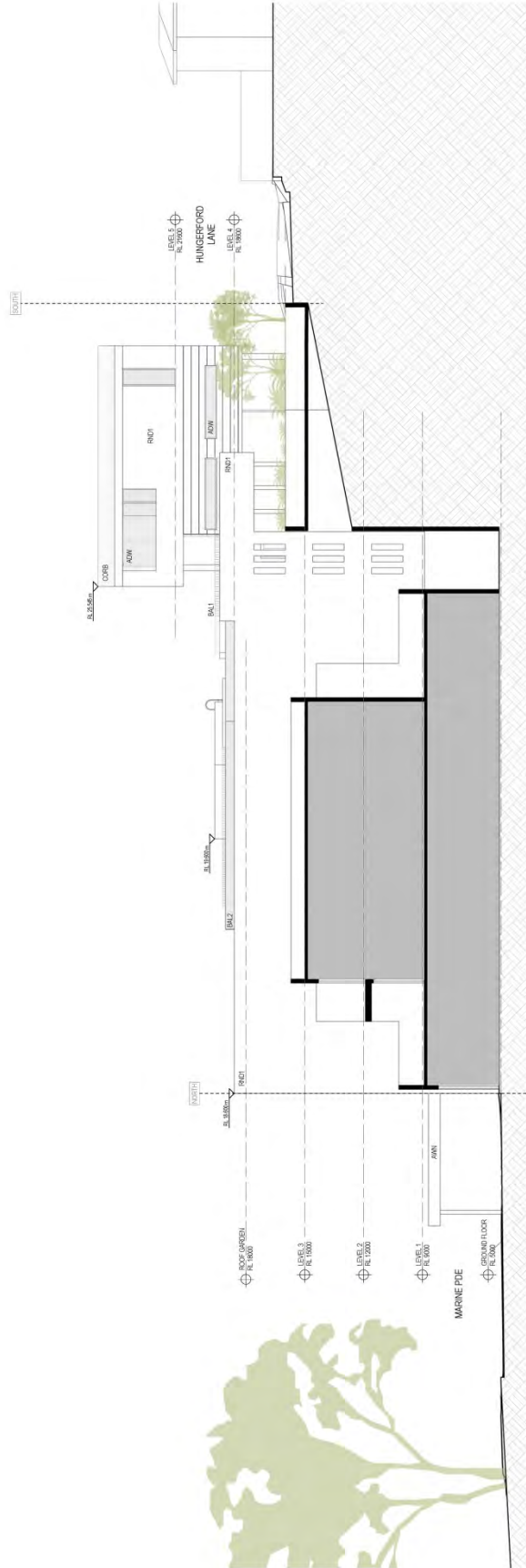
2

AS301 ELEVATIONS - SHEET 1

16512 MARINE PDE APARTMENTS
P: 03 9574 5418
F: 03 9574 5419
www.aspectarch.com



- A2W ALUMINIUM FRAMED WINDOWS AND DOORS POWERCOATED
- A2V ALUMINIUM FRAMED VENTILATED ROOF
- A2X ALUMINIUM FRAMED FULLY FRAMED GLAZED
- B1 BALCONY POWERCOATED, SHALE GREY
- B2 BALCONY POWERCOATED, SHALE GREY
- B3 BALCONY POWERCOATED, SHALE GREY
- C03B COLOURING CUSTOMORS FINISH SHEETING, SHALE GREY
- R01 CERAMIC TILES UNIT FINISH, BEIGE, ICE WHITE



1 NORTH WEST ELEVATION
SCALE 1:100



22.05.17

1

AS303 ELEVATIONS - SHEET 3

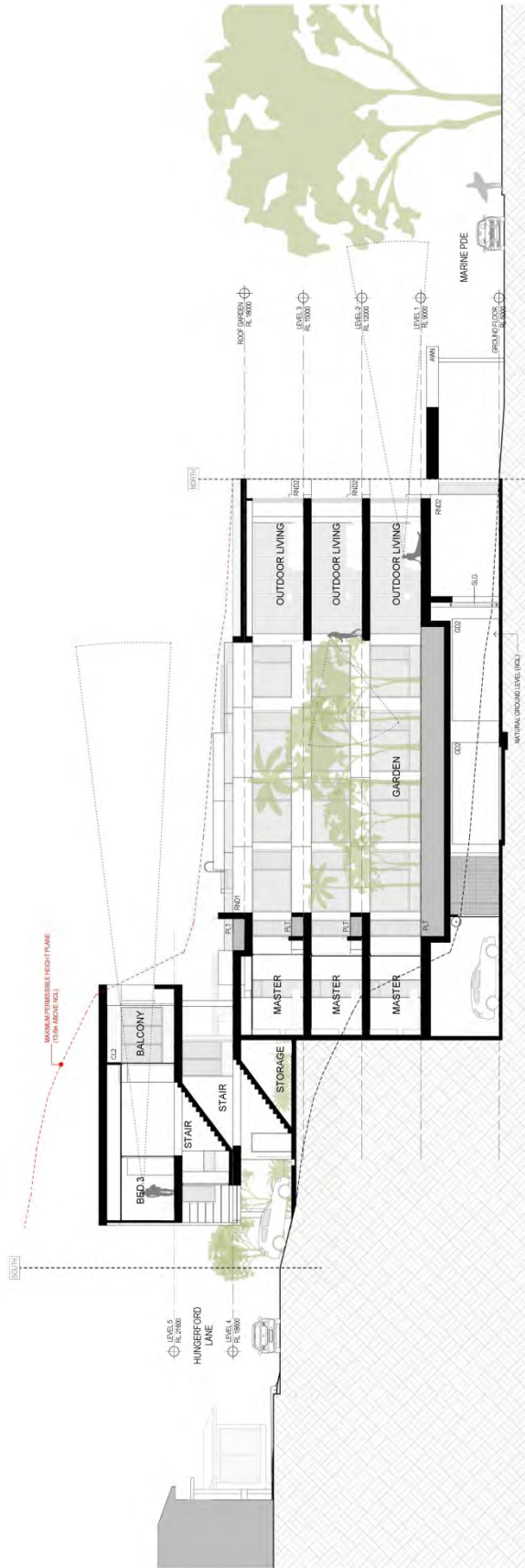
16512 MARINE PDE APARTMENTS

P (02) 8574 5418
F (02) 8574 5419

mail@aspectarch.com
www.aspectarch.com



AW	WALLS - FINE FINISHES AND GLASS
CF	CERAMIC FLOOR FINISHES - POLISHED CONCRETE
CG	CERAMIC WALL FINISHES - POLISHED CONCRETE
CO	CERAMIC FLOOR FINISHES - POLISHED CONCRETE
CP	CERAMIC WALL FINISHES - POLISHED CONCRETE
CR	CERAMIC FLOOR FINISHES - POLISHED CONCRETE
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CD	CERAMIC WALL FINISHES - POLISHED CONCRETE
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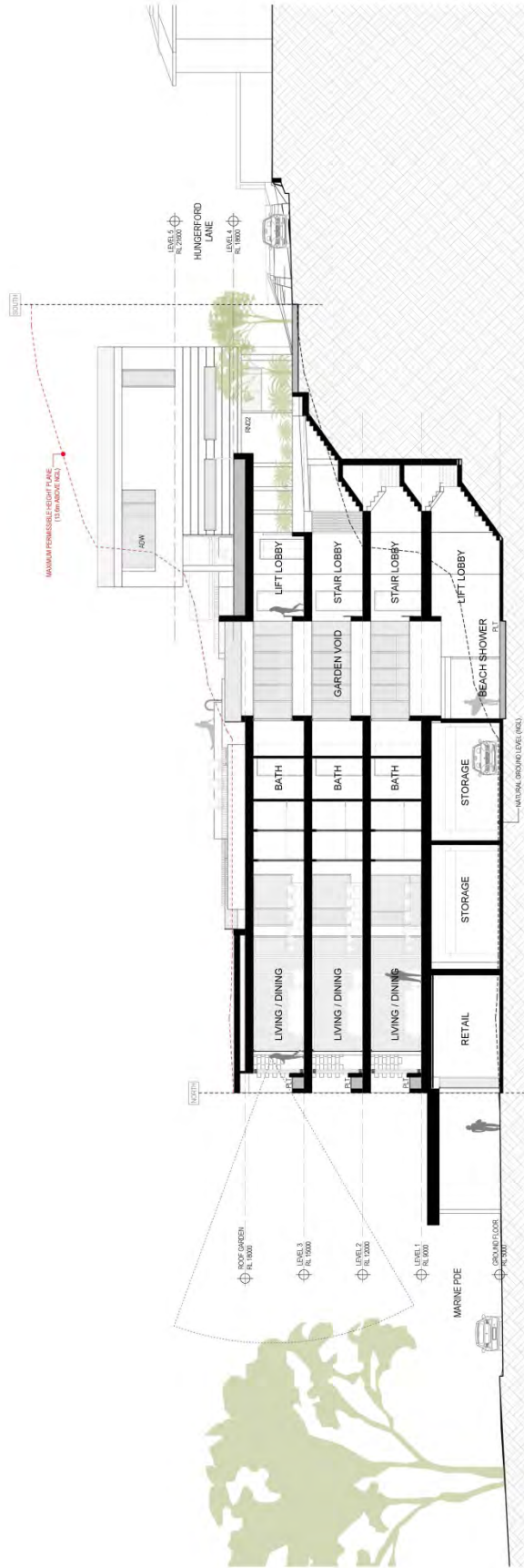
16512 MARINE PDE APARTMENTS
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 P (02) 8614 5418
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AS401 SECTIONS - SHEET 1

2

22.05.17

AWP - WINDOW FINISHES AND DOORS
 P - PAINTS AND FINISHES
 L - LANDSCAPE PLANTING
 RL - ROOF LEVEL
 RL - ROOF LEVEL
 RL - ROOF LEVEL
 RL - ROOF LEVEL



1:100

22.05.17

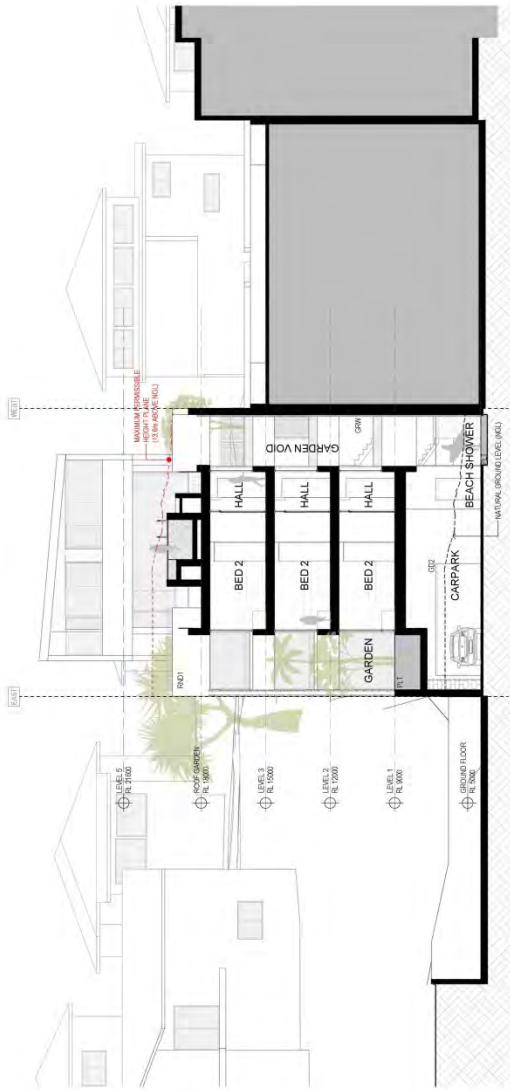
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AS402 SECTIONS - SHEET 2

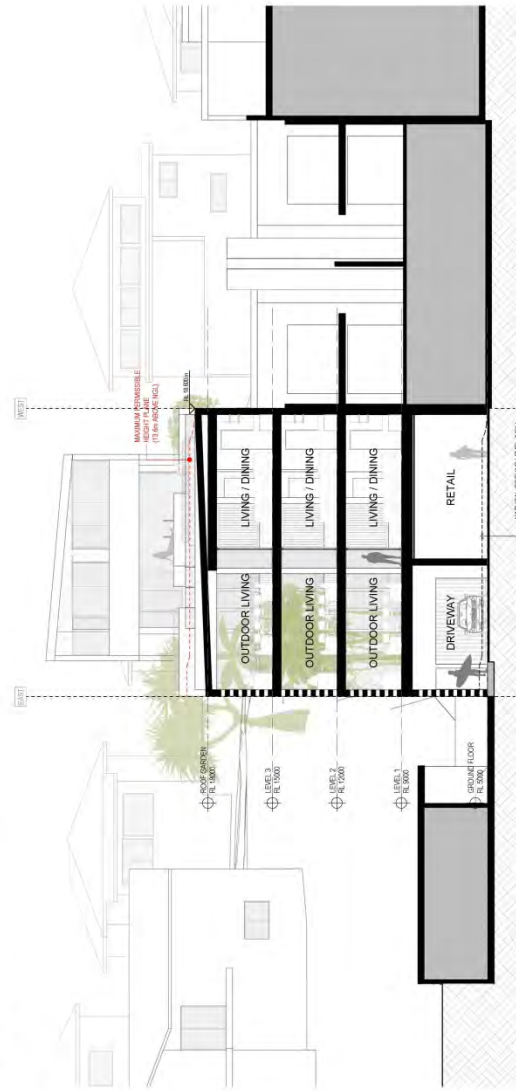
16512 MARINE PDE APARTMENTS
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 mail@aspectarch.com
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003 - CLAUDE ROSE COLOURING - 3/4/07
 004 - GREEN WALL
 005 - LANDSCAPE PLANTING
 006 - CURB, KERB, PAVEMENT, RESERVE DATE



1 SECTION
SCALE: 1:100



2 SECTION
SCALE: 1:100



22.05.17

2

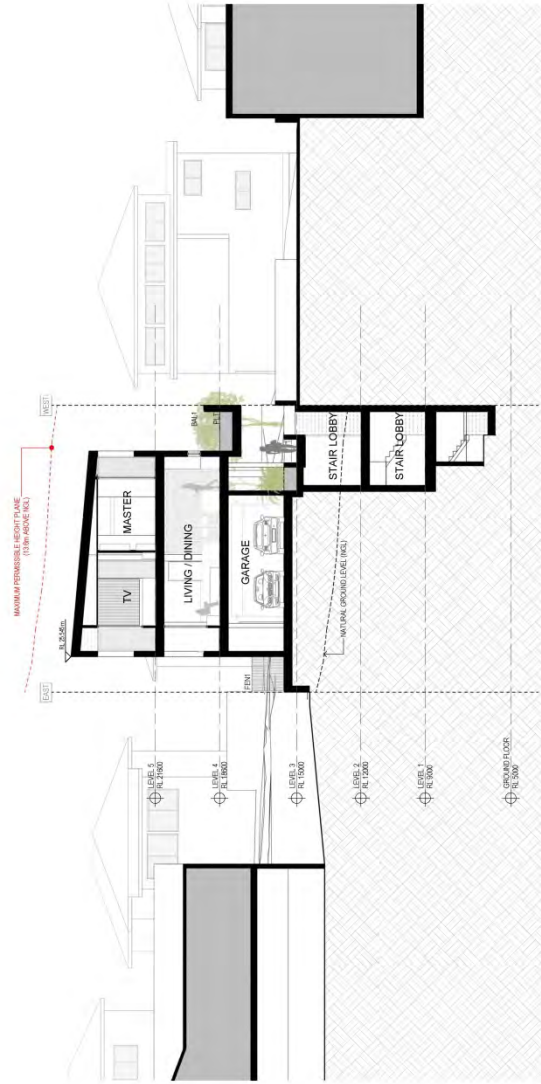
AS403 SECTIONS - SHEET 3

16512 MARINE PDE APARTMENTS

P (07) 6974 5418
 M 0411 6974 5418
 F (02) 6611 5415
mia@aspect.com
www.aspect.com



- BA1 METAL BALUSTRADE, UNPAINTED
- FE1 VINYL SCREENTEX, GREY
- PL1 LANDSCAPE PLANTING



1 SECTION
SCALE: 1:100



22.05.17

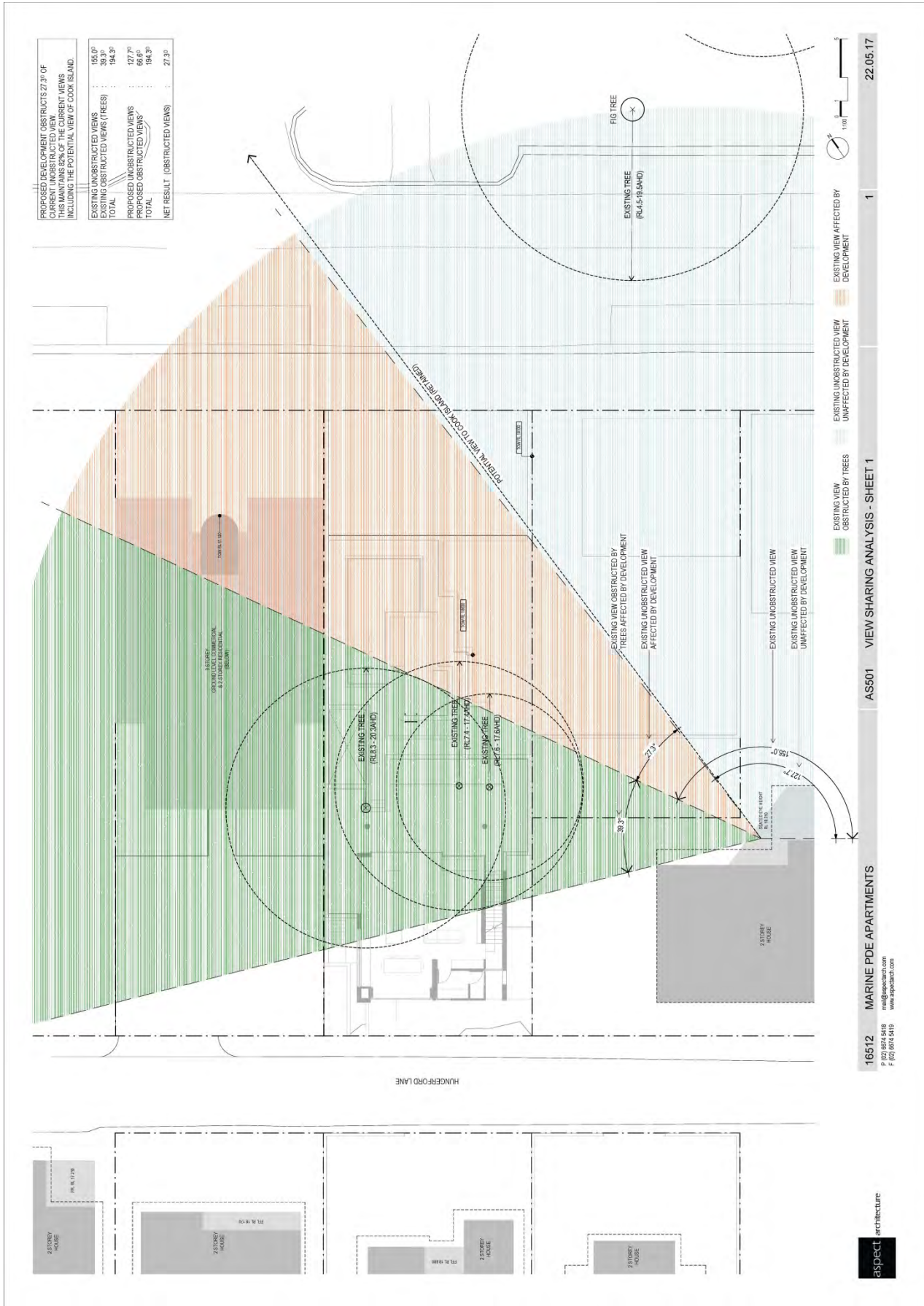
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AS404 SECTIONS - SHEET 4

16512 MARINE PDE APARTMENTS

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www.apco.com



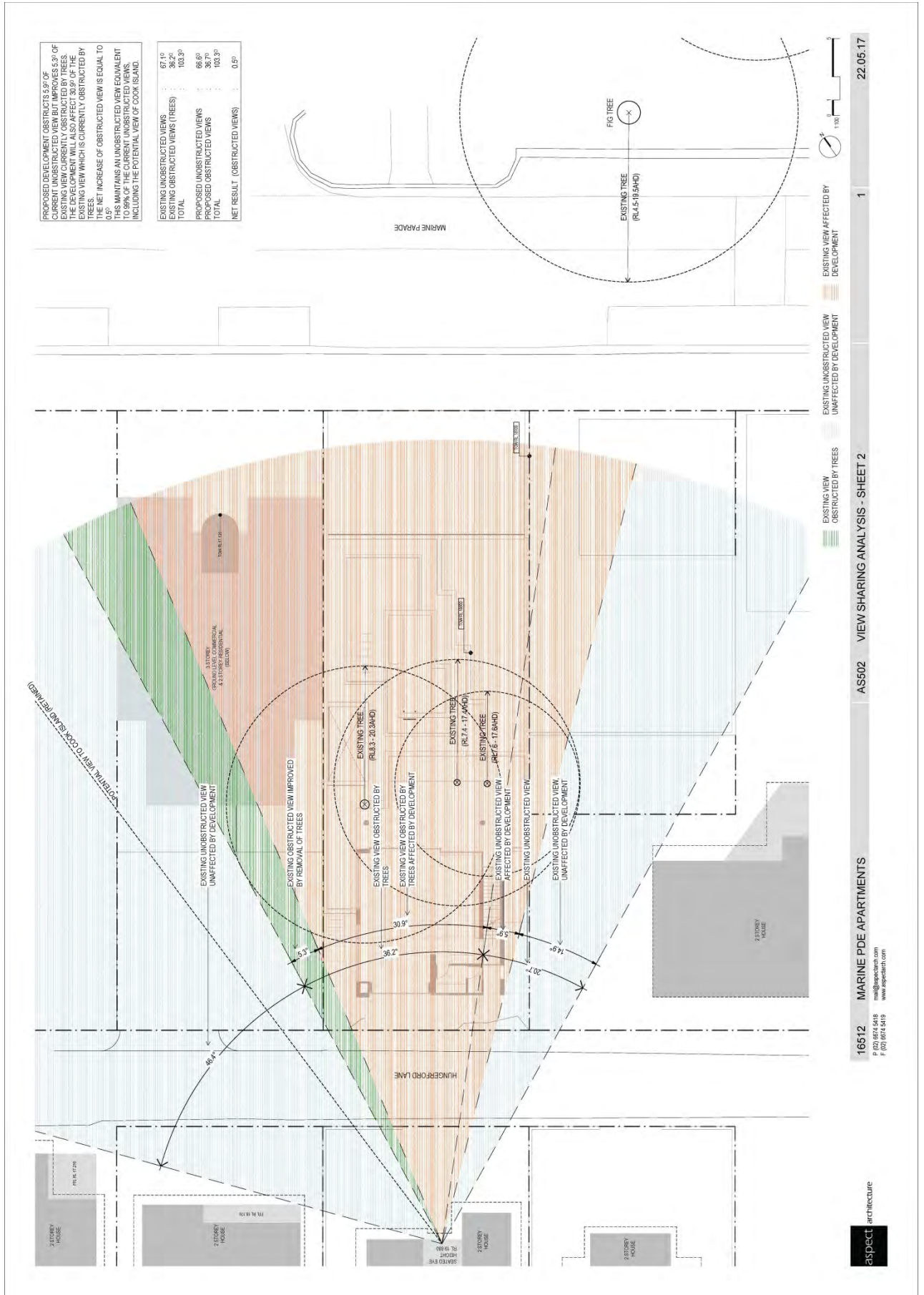


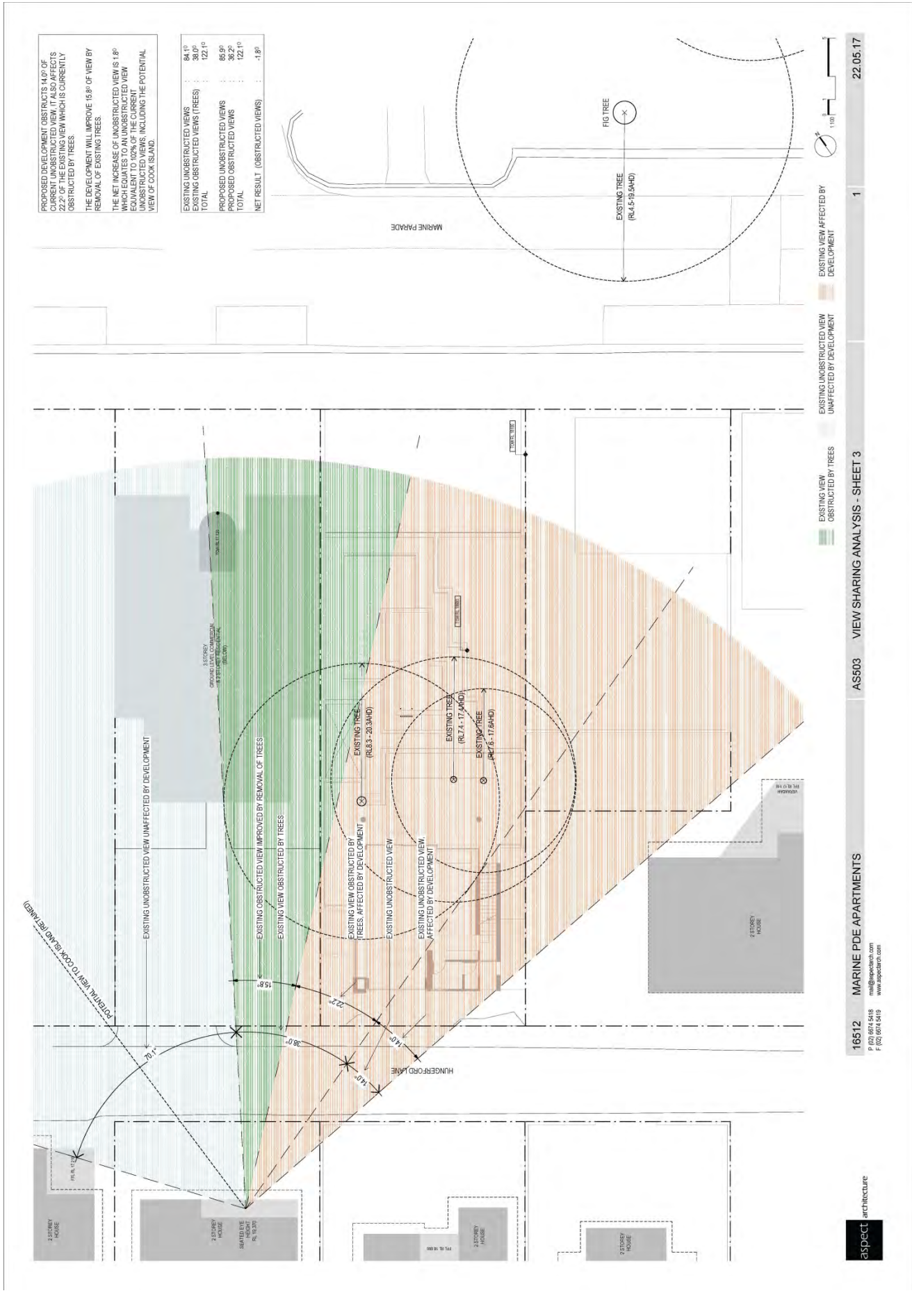
16512 MARINE PDE APARTMENTS
 P 021 6624 6416
 F 021 6624 6419
 www.aspectarch.com

AS501 VIEW SHARING ANALYSIS - SHEET 1

22.05.17







PROPOSED DEVELOPMENT OBSTRUCTS 14.0% OF CURRENT UNOBSTRUCTED VIEW. IT ALSO AFFECTS 38.2% OF CURRENT UNOBSTRUCTED VIEW WHICH IS CURRENTLY OBSTRUCTED BY TREES.

THE DEVELOPMENT WILL IMPROVE 15.8% OF VIEW BY REMOVAL OF EXISTING TREES.

THE NET INCREASE OF UNOBSTRUCTED VIEW IS 1.8% WHICH EQUATES TO AN UNOBSTRUCTED VIEW EQUIVALENT TO 102% OF THE CURRENT UNOBSTRUCTED VIEWS, INCLUDING THE POTENTIAL VIEW OF COOK ISLAND.

EXISTING UNOBSTRUCTED VIEWS	84.1%
EXISTING OBSTRUCTED VIEWS (TREES)	122.1%
TOTAL	206.2%
PROPOSED UNOBSTRUCTED VIEWS	85.9%
PROPOSED OBSTRUCTED VIEWS	38.2%
TOTAL	122.1%
NET RESULT (OBSTRUCTED VIEWS)	-1.8%

16512 MARINE PDE APARTMENTS
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AS503 VIEW SHARING ANALYSIS - SHEET 3

22.05.17

16512 MARINE PDE APARTMENTS
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 www.aspectr.com

aspectr architecture

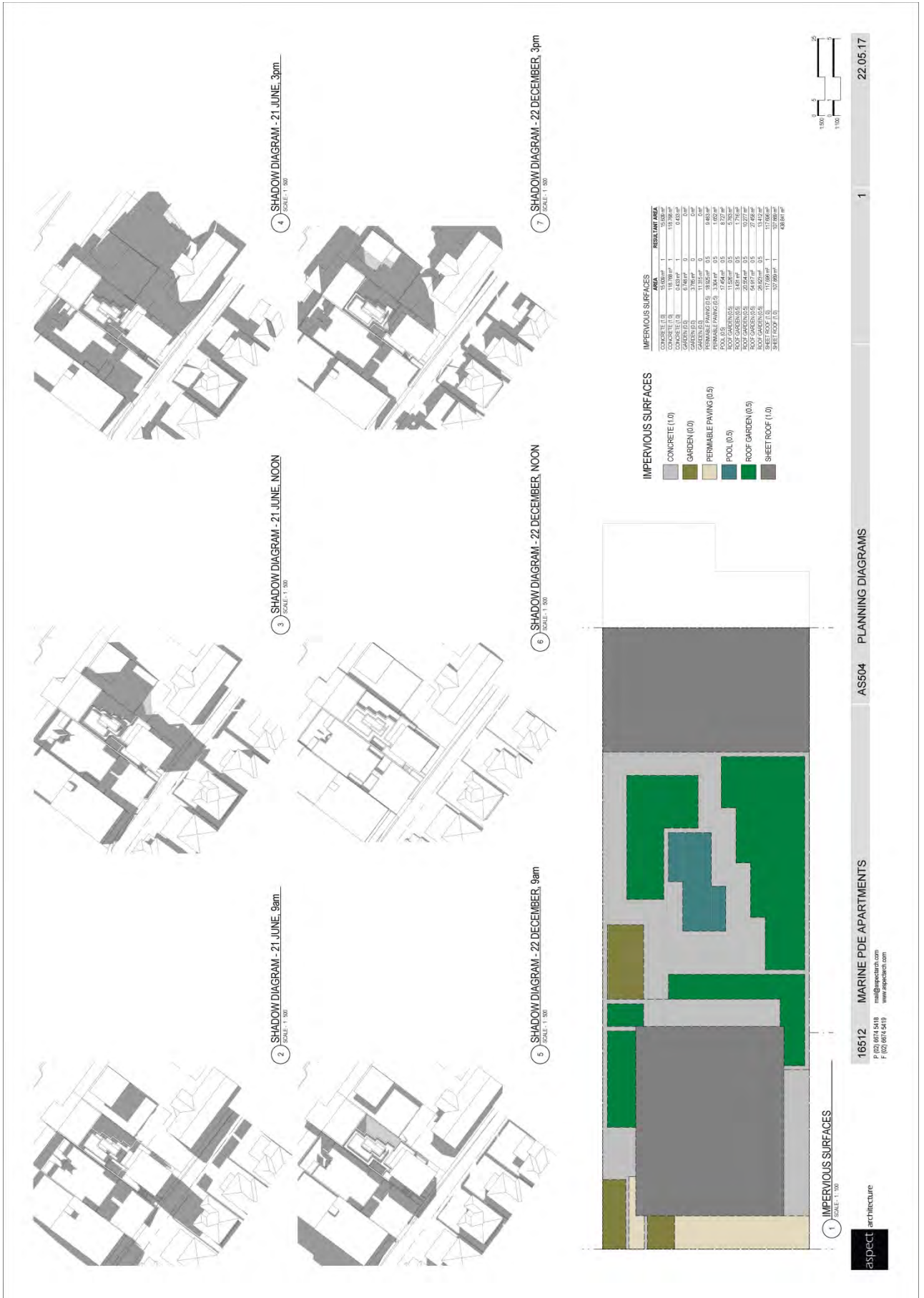




IMAGE 1A:
VIEW TOWARDS PROPOSED DEVELOPMENT FROM EXISTING COUNCIL
CARPARK, ACROSS MARINE PARADE LOOKING IN A SOUTHERLY DIRECTION.
INDICATION OF BUILDING WITHIN EXISTING CONTEXT.



IMAGE 1B:
VIEW TOWARDS PROPOSED DEVELOPMENT FROM EXISTING COUNCIL
CARPARK, ACROSS MARINE PARADE LOOKING IN A SOUTHERLY DIRECTION.
INDICATION OF BUILDING WITHIN POTENTIAL (COMPLIANT WITH CURRENT
PLANNING REQUIREMENTS) CONTEXT.



IMAGE 2A:
WARDS PROPOSED DEVELOPMENT FROM LIONS PARK, ACROSS
MARINE PARADE LOOKING IN A WESTERLY DIRECTION.
INDICATION OF BUILDING WITHIN EXISTING CONTEXT.



IMAGE 2B:
WARDS PROPOSED DEVELOPMENT FROM LIONS PARK, ACROSS
MARINE PARADE LOOKING IN A WESTERLY DIRECTION.
INDICATION OF BUILDING WITHIN POTENTIAL (COMPLIANT WITH CURRENT
PLANNING REQUIREMENTS) CONTEXT.

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 aims of this plan as set out under Section 1.2 of this plan are as follows:

- (1) *This Plan aims to make local environmental planning provisions for land in Tweed in accordance with the relevant standard environmental planning instrument under section 33A of the Act.*
- (2) *The particular aims of this Plan are as follows:*
 - (a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
 - (b) *to encourage a sustainable, local economy, small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed Shire,*
 - (c) *to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, the built environment, and cultural heritage,*
 - (d) *to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*
 - (e) *to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*
 - (f) *to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,*
 - (g) *to conserve or enhance the biological diversity, scenic quality, geological and ecological integrity of the Tweed,*
 - (h) *to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,*

- (i) *to conserve or enhance areas of defined high ecological value,*
- (j) *to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.*

The proposed development is considered to be generally in accordance with the aims of this plan having regard to the proposed land use and its permissibility in the zone.

Clause 1.4 – Definitions

Notwithstanding that the applicant has provided insufficient information about the proposed use (discussed in further detail below), the Statement of Environmental Effects characterises the development as:

Serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

Note: Serviced apartments are a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

Shop top housing means one or more dwellings located above ground floor retail premises or business premises.

Note. Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

Clause 2.1 – Land use zones

The subject development site is zoned B4 Mixed Use under the provisions of this clause.

Clause 2.3 – Zone objectives and Land use table

The objectives of the B4 Mixed Use zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The *Shop Top Housing* component of the development occurs at the Marine Parade interface. This component of the development comprises of 39m² ground commercial premises (suitable for retail use) with an additional three (3) storeys of residential units above. Shop top housing is expressly permissible with consent in the B4 zone.

Serviced apartments are innominately permissible with consent in the B4 zone as a form of *tourist and visitor accommodation*. The *Serviced Apartments* appears to

occur at the Hungerford Lane interface, at the rear portion of the site. This portion of building fronting Hungerford Lane which comprises of one (1) unit split over Level 4 and 5 with an expansive outdoor living area including a rooftop swimming pool, which is provided exclusively for this unit.

It is assumed that given a ground floor retail component is absent in this portion of the development and residential accommodation is prohibited in the zone; the 'serviced apartment' will occur at this rear portion of the site in an effort to respond to permissibility given it is questionable as to whether 'Shop Top Housing' would be permissible in this portion of the development in absence of a ground floor retail component extending into the depth of the site to the Hungerford Lane interface.

This matter has not been suitably addressed by the applicant and is not clarified in the information submitted with the DA (including the Statement of Environmental Effects). Whilst Shop Top Housing and Serviced Apartments are permitted in the zone, the information contained in this application lacks detail about the portions of the development defined under the separate land uses and ongoing management of the units forming serviced apartments.

It is further noted that based on the plans submitted to Council; the ground floor retail component occupies 11% of the overall ground floorplate.

This equates to approximately 2.78% of the shop top housing component forming the commercial/retail component, and an even smaller percentage when including the serviced apartment component which interfaces with Hungerford Lane. In addition, almost half the Marine Street frontage is occupied by the vehicle access point for the residences above the commercial/retail component resulting in a significant loss of retail frontage to activate the public domain.

Despite the above mentioned disparity over land uses, and the tokenistic portion of the development dedicated to ground floor retail/commercial use, from a statutory planning perspective; the proposed development is permissible in the zone. As such, it is considered the development contains compatible land uses to activate the street frontage and meet the objectives of the B4 Mixed Use zone.

Clause 4.3 - Height of Buildings

The objectives of this Clause are:

- (a) *to establish the maximum height for which a building can be designed,*
- (b) *to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,*
- (c) *to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,*
- (d) *to encourage greater population density in less car-dependant urban areas,*
- (e) *to enable a transition in building heights between urban areas comprised of different characteristics,*
- (f) *to limit the impact of the height of a building on the existing natural and built environment,*
- (g) *to prevent gross overshadowing impacts on the natural and built environment.*

Subclause (2) states the height of a building on any land is not to exceed the maximum height shown for the land on the height of building map. The height of building map limits development of the subject site to a maximum building height of 13.6m.

The proposed building height is a maximum of 18.2m at the extreme slope of the site which represents a significant non-compliance with the maximum height permitted.

The applicant has submitted an application to vary the height of building development standard under Clause 4.6 of the LEP and as discussed later in this report, Council cannot be satisfied the development meets the objectives of this Clause. Therefore, the application is not supported in this regard.

Clause 4.4 – Floor Space Ratio

The objectives of this Clause are:

- (a) *to define the allowable development density of a site and for particular classes of development,*
- (b) *to enable an alignment of building scale with the size of a site,*
- (c) *to provide flexibility for high quality and innovative building design,*
- (d) *to limit the impact of new development on the existing and planned natural and built environment,*
- (e) *to encourage increased building height and site amalgamation at key locations in Tweed.*

Subclause (2) states the maximum floor space ratio for a building on any land is not to exceed the floor space ratio for the land on the floor space ratio map. The *floor space ratio* of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

The floor space ratio map limits development on the subject site to a maximum floor space ratio of 2:1. The land area of the site is 539m² and the proposed gross floor area for the development is 819m² resulting in a floor space ratio of 1.52:1, which complies with the standard prescribed under Clause 4.4.

Clause 4.6 - Exception to development standards

The objectives of this Clause are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The applicant has submitted a written request which seeks to justify the contravention of the development standard for building height under Clause 4.3 of the LEP.

Consideration of the written requesting having regard to the relevant matters for consideration under Clause 4.6 is provided below.

Pursuant to Clause 4.6(3)(a) which requires the applicant to justify the departure from the development standard by demonstrating that *compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*, the following commentary is provided.

Justification provided by the applicant in the submitted Clause 4.6 variation report states:

“The requirement for a maximum 13.6m building height is unnecessary in the case. The small encroachment above the 13.6m building height is the direct result of significant drop off and slope on the site, therefore making for a difficult and restrictive building height envelope. On the portion of the site affected by the variations, there is a ground level drop of 6.0m across 4.0m of the site (1.5:1m slope). Accordingly, elements of proposed Unit 5 extend outside the 13.6m above NGL building height envelope. The variation ranges from 0.9m to 4.6m due to the additional cross-site slope.

Notwithstanding the above, the proposed variation does not negatively impact on the bulk or scale of the proposal, does not result in setback variations, or result in overlooking concerns.

Upholding the maximum 13.6m height standard is considered unnecessary in these circumstances, given that:

- 1) The building height envelope is only surpassed as a result of the significant and steep slope on the site; hence the variation sought is only minor.*
- 2) The area of variation is not immediately visible to surrounding residents on Hungerford Lane, as the variation is screened by the compliant building design. Therefore, there is no additional planning benefit that would arise from enforcing compliance.*
- 3) The architectural merit awarded to the design is consistent with the visions of the Kingscliff town centre.*
- 4) The bulk and scale of the development is appropriate for the site, considering it is located within the B4 Mixed Use precinct and is consistent with the desired future character of the surrounding town centre environment.*
- 5) The portion of the development outside the building height envelope will not result in any detrimental overshadowing, overlooking or lack of privacy on adjoining development as height variation is contained generally within the middle of the building (refer to submitted plans).*
- 6) The proposal is consistent with the objectives of the Tweed Local Environmental Plan 2014 zone objectives (discussed in more detail below).*
- 7) The proposal will contribute to housing availability and diversity in the local area.*

Councils' assessment of the above found that whilst it is acknowledged the subject site features a steep topography with a significant increase in grade approximately 28m into the site from Marine Parade, the proposed building height is not surpassed as a result of this topography.

The submitted information demonstrates up to 7m of cut into the site at this point of the development is proposed. This is to facilitate at grade ground level parking for proposed Unit 1-3 at Marine Parade. It further seeks at grade vehicle access to Hungerford Lane for Unit 4. Therefore the extent of excavation and the location of excavation will facilitate a larger building footprint for the site and fails to consider the impacts on amenity for surrounding sites. As such, both the building height and extent of excavation do not respect the natural topography of the land nor the character of the area, and therefore this justification is not well found or supported.

The development at the rear of the site (Hungerford Lane interface) comprises of a suspended slab construction to facilitate a two storey development. Given the height of the slab is to facilitate undercroft parking, the vertical height plane of the development (RL from natural ground level up to the RL at the top of roof) represents a three storey development which is not consistent with the existing character of the streetscape at the Hungerford Lane interface which adds to the overall bulk and scale of the development resulting from the exceedance in permitted building height.

The area of variation is visible from Marine Parade resulting in the presentation of six (6) storeys of development in a location characterised by three storeys of development. In addition, whilst it is screened from the built form at the Hungerford Lane interface; that built form is connected to the area of the building which exceeds the maximum permitted building height and is not consistent with the existing or desired streetscape character at Hungerford Lane, therefore the justification provided in item (2) of the applicants submission under Clause 4.6(3)(a) is not well founded.

The architectural merit awarded to the design is not consistent with the vision of Kingscliff town centre. Several community consultation processes have been undertaken by Council in an effort to develop a locality plan and define a strategic framework to translate the community's vision for Kingscliff coastal village area. As part of the consultation process, there was (and still is), a strong community drive to limit the number of storeys for development within the Marine Parade interface for both Shop Top Housing and Residential Flat Building developments. Historically, Council has limited development for the proposed land use to three storeys or a maximum building height of 13m. As previously mentioned, variations have been permitted by Council; but based on an analysis of those approvals, none beyond appear to be beyond the existing maximum building height of 13.6m.

Whilst there is no weighing from a statutory planning perspective to Councils recent initiatives to amend the current Tweed LEP 2014; it is noted that the Shop Top Housing Development within the Kingscliff area is proposed to be limited to 12.2m (representing three storeys in height) under Clause 4.3 of Tweed LEP 2014. This application to amend Clause 4.3 of Tweed LEP 2014 is current

undergoing the gateway planning process through the NSW Department of Planning & Environment. This, in itself demonstrates there is little architectural merit to support the design of the proposal having regard to the scale and nature of the existing and future development character and vision for the Kingscliff Town Centre. It further demonstrates the bulk and scale of the development is not appropriate for the site nor is it consistent with the desired future character of the area.

There is no information contained in the application to demonstrate that the proposed development will be contribution to affordable housing stock given the proposed land use forms Serviced Apartments and no information regarding the split of shop top housing and serviced apartments is provided. Therefore the justification that the proposal will form affordable housing and diversity in the area is not well founded.

Pursuant to Clause 4.6(3)(b) which requires the applicant to justify the departure from the development standard by demonstrating that *there are sufficient environmental planning grounds to justify contravening the development standard*, the following commentary is provided.

The justification provided by the applicant in the submitted Clause 4.6 variation report states:

'Lot 54 is zoned B4 Mixed Use Zone. Shop-top Residential Flat Buildings are permitted with consent in the B4 zone under the LEP. The objectives of the zone are:

- To provide a mixture of compatible land uses.*
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The proposal seeks to establish a Shop-top Housing / Serviced Apartment development on the site. This will contribute to delivery of a mixture of compatible land uses including various housing choices and retail opportunities. The proposed bulk and scale of the development provides a good level of amenity for future residents onsite and for adjoining properties and minor surpass in height limit would not have any negative effect on this.

The residential development component in this zone is an important element in revitalising and sustaining the area, and increasing housing diversity close to Commercial Cores and major transport routes. The proposed development is permissible with consent, consistent with B4 zone objectives and consistent with the intent of the B4 zone under the Standard Instrument LEP.

With regard to the above, it is considered that there are sufficient planning grounds to justify the contravention of the standards and that compliance with these standards would seem unnecessary in the case'.

The above mentioned justification is based on strategic land use and location and fails to response to the matters for consideration as part of the development assessment process in regard to design merit of the proposal.

Councils review of the matters for consideration under Clause 4.6(3)(b) indicate that from a site and context (basic statutory planning approach); the topography of the site results in a the three storey height plane at the Hungerford Lane interface in addition to the four (4) storeys height plane at Marine Parade, resulting in a staggered six (6) storey building (as identified by the applicant in the Clause 4.6 Variation Report submitted in the application). The proposed variation to building height which occurs into the mid-section of the site where excessive cut is occurring, and extends from the three storey component of the unit at the rear of Hungerford Lane which protrudes roof lines and results in a view loss to residences at the rear, contributes to the excessive bulk and scale of the development from Marine Parade. Having regard to the existing development which has occurred in Marine Parade, the proposal will set an undesired precedent for the future character and structure for the coastal village centre.

To this extent; in order to carefully consider whether there is sufficient environmental planning ground to justify contravention to this standard based on precedent, an analysis of existing buildings heights and urban forms within the Hungerford Lane interface which comprise of three storey developments and/or exceedances in permitted building heights has been undertaken. This higher level of assessment demonstrates that based on the existing streetscape character of Hungerford Lane which comprises of outbuildings, vacant land, single and two storey dwellings and some examples of a three storey development at the lower end of Hungerford Lane.

There are examples of three storey development to the lower side of Hungerford Lane (specifically No. 52 Marine Parade which features a three storey interface at Hungerford Lane).

In the absence of an RL on the stamped approved plans associated with the approved development at 52 Marine Parade. Council officers have undertaken a desktop assessment of the maximum building height comprising of a three storey component to the rear of the site (at Hungerford Lane interface). Existing ground level RL's at the rear portion of the site are 5m AHD and the approved building height based on the stamped approved building plans associated with DA03/162 (3 storey mixed use development at 52 Marine Parade KINGSCLIFF) are maximum of 13m including basement car parking. Therefore, it can be assumed that the maximum RL of this building is approximately 18m AHD at Hungerford Lane.

Comparatively, the proposed development seeks approval for a maximum building height which reaches a maximum RL of 25.545m AHD. Therefore, the proposal represents a roof plane height which exceeds existing roof plane heights within both Marine Parade and Hungerford Lane by 7.55m. It is considered that the location of vehicle access and parking combined with the two storey flat building at the Hungerford Lane interface is inconsistent with the streetscape character and drastically exceeds existing rooflines.

It is further noted that within the broader mixed use zone in the Kingscliff village core, any variation that has been granted to maximum permitted building height does not exceed a maximum overall height of 13.6m, which in the past, was considered generous due to building height limitations of 13m for shop top housing developments.

Based on a proper design based assessment of the proposal having regard to the matters for consideration under Clause 4.6(3)(b), Council cannot be satisfied there is sufficient environmental planning grounds to justify contravening the development standard.

Pursuant to Clause 4.6(4)(a)(i) which states *development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)* the following commentary is provided.

The applicant's written request seeking to justify a variation to the maximum height of building provision under Clause 4.3 of Tweed LEP2014 does not adequately address the matters required to be demonstrated by clause 4.3(3).

Pursuant to Clause 4.6(4)(a)(ii) which states *development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*, the following commentary is provided.

As previously mentioned in this report, the development generally satisfied the objectives of the zone however, fails to satisfy the objectives of Clause 4.3 (height of Building) under Tweed LEP 2014. In particular, the following objectives cannot be satisfied:

- *Ensuring the building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity;*

The proposed building height impacts the visual amenity of the area, particularly having regard to the existing roof plane height along Marine Parade and Hungerford Lane interface. The exceedance in building height will further impact view sharing opportunities to dwelling at the rear of the site. This amenity impact combined with the existing roofline of development at Marine parade, and noting the fact that the area of the building which exceeds the permitted building height is visible from the Marine Parade streetscape, results in a bulk and scale that will diminishes the streetscape and urban character of the area. That being a coastal village environmental with a high level of natural aesthetic qualities attributed to the opportunity for open view corridors to the ocean and foreshore area.

- *Enabling a transition in building heights between urban areas comprised of different characteristics and;*

The development fails to respond to the existing and low set residential character of the Kingscliff Hill Precinct. This is especially the case given the low density residential zone further inland (west) of Hungerford Lane. The proposed three storey development at this interface results in a bulk and scale that protrudes existing roof lines and obstructs existing views of the coast for surrounding residences.

As such, the proposed development fails to provide an appropriate character for the transitional part of the size which interfaces with the adjacent low density residential zones.

- *Limiting the impact of the height of a building on the existing natural and built environment.*

As demonstrated previously in this Section of the report, the proposed contravention in maximum permitted building height exacerbates the impact of the development in regard to amenity, bulk, scale, streetscape character and urban character. The extent of variations to state and local policies and controls is discussed later in this report. However, the exceedance in building envelope limitations result in an over development of the site and is likely to set an undesired precedent for the area.

Pursuant to Clause 4.6(4)(b), the concurrence of the secretary has been obtained by way of Planning Circular PS02-003 which states that Council has the assumed concurrent of the Secretary of NSW Department of Planning and Environment to approve the proposed variation to Clause 4.3.

Pursuant to Clause 4.6(5)(b) of the LEP, Council (as the as the concurring authority) cannot be satisfied that a decision to grant concurrence to the contravention to permitted building height, would maintain a public benefit given the adverse impact on visual amenity, existing scenic views from surrounding residences and Hungerford Lane, impact to the streetscape character in terms of bulk and scale, and based on the undesired precedent it will create for future urban forms in the Kingscliff village centre.

As such, the justification under Clause 4.6 to vary the development standard under Clause 4.3 is not supported and forms a reason to recommend refusal of the DA.

Clause 5.5 – Development within the Coastal Zone

The subject site is located within the Coastal Zone and therefore the provisions of Clause 5.5 apply to the site.

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

- (a) *existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*

- (i) *maintaining existing public access and, where possible, improving that access, and*
- (ii) *identifying opportunities for new public access, and*

Comment: The proposal does not seek to modify existing public access to or along the coastal foreshore. Therefore, Council can be satisfied the proposed development is unlikely to affect the immediate coastal environment and the provision of public access to and along the coastal foreshore.

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

Comment: Council cannot be satisfied the subject site is suitable having regard to the bulk, scale, size and overall built form design of the building is appropriate in relation to the surrounding area and its impact on the built and natural scenic quality of the coastal village environment.

The development is a split level six (6) storey building with exceedance in building height, setbacks, building depth and lacks an appropriate level of articulation to reduce the perceived bulk, scale, size and design of the building.

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

Comment: The 20 metre wide Marine Parade road reserve separates the proposed development from the coastal foreshore. Therefore, it is not considered to impact on the amenity of the foreshore by virtue of overshadowing.

However, given the topography of the site and the design features of the development, the development is likely to have an impact on the amenity from public places given the extent of view loss at the rear of the site (i.e. Hungerford Lane).

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

Comment: The proposed development is unlikely to compromise scenic qualities of the coast as it represents a land use which is consistent with the zone. However, the urban form of the proposal is not consistent with the surrounding

environment and will occupy the view plane from Marine Parade as well as cause view loss to existing areas of visual amenity and scenic qualities to the coast at the rear of the site. As such, based on the merits of the proposal, whilst the land use is appropriate the built form is not conducive to the sensitive location of the site within the coastal village and fails to demonstrate how the visual amenity and scenic qualities of the coast can be protected.

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

Comment: The proposed development is likely to set an undesired precedent as to the appropriate bulk and scale of development within the Kingscliff Coastal Village area. The zoning of the land combined with standards prescribed under Tweed LEP 2014; aims to facilitate an appropriate built form to protect the amenity of the coastal village. Should the proposal be supported, it is unlikely to set a precedent for split level six storey developments on similar sites which are located within the Marine Parade frontage. Thus, future urban form will continue to impact aspects of views to surrounding properties due to the height and lack of articulation to the upper storeys of the development at the Marine Parade interface, impacting the future character of the coastal village environment.

This clause goes on to further state:

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

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

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

(b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and

Comment: The subject development does not propose to dispose effluent by non-reticulated system.

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

Comment: It is noted that the application has been reviewed by Council's Development Engineering Unit with respect to stormwater, who has raised no concerns with respect to stormwater subject to the application of appropriate conditions of consent. It is considered that the subject application would be in

accordance with the above controls, with no untreated stormwater being discharged to the sea, beach or the like.

(d) *the proposed development will not:*

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

Comment: The proposed development is considered to be acceptable having regard to coastal hazards as outlined above due to its nature, permissibility and the spatial separation between the site and coastal hazards at this location.

Based on the above mentioned planning merits, the development is not considered to satisfy Clause 5.5(2)(b)(c) and (d) of the LEP. However, remains generally consistent with the objectives of the zone.

Clause 5.10 - Heritage Conservation

The subject site is not located within a Heritage Conservation Area and is not within proximity of a Heritage Item and this clause does not apply.

Clause 5.11 - Bush fire hazard reduction

No bushfire hazard reduction is proposed.

The subject site is however mapped as bushfire prone and as such the proposal was referred to the NSW Rural Fire Service for assessment in accordance with Section 100B Rural Fires Act 1997.

The Rural Fire Service has issued General Terms of Approval which, if approved, would form conditions of consent.

Clause 7.1 – Acid Sulfate Soils

The site is Class 5 Acid Sulfate Soils. The proposed development does not include excavation work within 500m of Class 1, 2, 3 or 4 Acid Sulfate Soils. Review of the plans indicate any cut will be above 5m AHD and the Geotech Report further indicates no groundwater was encountered but seepage was detected at borehole 3 at a depth of 3.7m. The report also indicates that '*Excavation of fill, surficial soils and low strength rock should be readily achieved in bulk excavation*'.

It is not considered likely, despite the depth of excavation into the hill batter, that potential ASS will be disturbed, or the site actively dewatered. A condition will be applied regarding water quality of any seepage waters prior to stormwater discharge and restrictions over dewatering.

Subject to the imposition of conditions of development consent, the proposed development at the site is considered not to impact on Acid Sulfate Soils.

Clause 7.2 - Earthworks

The subject site features a 25% cross fall toward Marine Parade with a low point of RL4.96 at the Marine Parade frontage, and a high point of 15.80m at the Hungerford Lane frontage.

Due to the topography of the site, extensive earthworks are proposed to facilitate ground (street) level parking for the development at Marine Parade. Based on the information provided, it is estimated that up to 7m of excavation will be required at the mid-section of the site. Having regard to the extent of excavation, the narrow arrangement of the lot and the existing development immediately north of the subject site, the extent of earthworks combined with exceedance in building height and proposed three storey construction to the rear of the site (Hungerford Lane) is likely to impact the amenity of the adjoining residences in regard to solar penetration as well as the perceived bulk and scale to all surrounding residences and associated loss of existing views to the coastal foreshore and surrounds.

Having considered the matters identified in clause 7.2(3), the proposal should be refused as due to the effect of the development on the existing and likely amenity of adjoining properties.

Clause 7.3 – Flood Planning

The site is not identified as being prone to flooding.

Clause 7.5 - Coastal risk planning

The objectives of this Clause are:

- (a) *to avoid significant adverse impacts from coastal hazards,*
- (b) *to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards,*
- (c) *to enable the evacuation of land identified as coastal risk in an emergency,*
- (d) *to avoid development that increases the severity of coastal hazards.*

The north east portion of the site is affected by this Clause and located within the 2100 Hazard line and it appears a portion of the proposed development is located between the 2100 and 2050 Coastal Hazard Lines.

As such, a Coastal Risk Management Plan has been prepared and submitted to Council (prepared by Cozen Regan Group, referenced 17444 and dated July 2017) as part of the assessment. The report identifies that underlying soils on the site comprise of sand which is considered to be highly erodible. However, an appropriate level of risk assessment and review of proposed construction method has been undertaken to determine the building is sufficiently protected from erosion. Therefore, the development is considered to be consistent with the objectives of this Clause.

Clause 7.6 - Stormwater Management

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

Council officers have considered the engineering assessment report submitted as part of the DA and are satisfied the development is capable of meeting the objectives of this Clause.

Clause 7.8 – Airspace operations

The subject site is located within the take-off and landing area under the Obstacle Limitation Surface (OLS) maps for Gold Coast Airport. The OLS height at the subject site is approximately 150m AHD. The proposed maximum height of the development is 25.545m AHD. As such, the proposed development will not infringe the OLS and does not require further consideration under this Clause.

Clause 7.9 - Development in areas subject to aircraft noise

The subject site is not mapped to be within an area affected by Aircraft Noise Exposure forecast (ANEF).

Clause 7.10 - Essential Services

(a) the supply of water,

The subject application has been reviewed by Council's Water Unit and Development Engineering Unit with respect to the above, with it being noted that adequate water supply could be provided to service proposal. Further detail with respect to this is outlined elsewhere in this report.

(b) the supply of electricity,

Electricity services are currently provided to the area. Appropriate Conditions of Consent shall be imposed to ensure that the applicant provides services in accordance with the standards of the supply authority.

(c) the disposal and management of sewage,

The disposal and management of sewage has also been reviewed by Council's Water and Development Engineering Units with it being determined that this can be adequately serviced through infrastructure available to the area. The proposal is acceptable in this regard.

(d) stormwater drainage or on-site conservation,

Stormwater management has been reviewed by Council's Development Engineering Unit with the proposal being considered to be acceptable with respect to stormwater drainage subject to the application of appropriate conditions of consent.

(e) *suitable road access.*

Vehicular access to the development is to be provided to the site via a single width crossover to the Marine Parade frontage which provides access to at grade vehicular parking to service Units 1- 3 carpark. Councils Traffic Engineer has considered the proposed access arrangements and raises concerns over the location of the access and conflict with the proposed outdoor dining area for the ground floor retail area. Based on the information provided, sightlines in accordance with AS2890 are likely to be compromised by the development and proposed access location. As such, this vehicle access arrangement is not support and forms a reason for recommendation of refusal.

It is noted, separate vehicular access is provided via Hungerford Lane which provides access to at grade vehicular parking by way of a double lock up garage for Unit 4 as well as a separate uncovered visitor car parking space Lane. The location of the visitor parking is not considered acceptable; however access arrangements at Hungerford Lane are satisfactory.

State Environmental Planning Policies

SEPP No. 55 - Remediation of Land

The Statement of Environmental Effects states that the subject site has not been used for potentially contaminating activities.

Council officers have undertaken further investigation as to previous land uses and based on Council records it appears the existing structure on the site was approved in 1979 comprising of a commercial slab on ground with clay brick walls. Council historical aerial (GIS) indicates dwellings were present within Marine Parade since 1944 and no active sand minding was occurring within the vicinity of the site despite GIS lays suggesting that sand mining paths extended on the front of the subject site.

It was concluded that the sand minding path layers are indicative only and that the accuracy of the layer is not definitive. It was therefore concluded that given dwellings were present within the vicinity of the site, along Marine Parade, Council can be satisfied that the land is not contaminated.

SEPP No. 65 - Design Quality of Residential Flat Development

The objective of this policy is to promote a high level of design quality for residential apartment developments in NSW.

Whilst the submitted information includes a SEPP 65 Statement of Compliance signed and dated by a Registered Architect (Mr Matthew Cooper of Aspect Architecture), the application does not adequately address the SEPP 65 principles as it fails to provide written information regarding the developments performance against the principles established in Schedule 1 of the SEPP.

Notwithstanding, Council's Urban Design Architect has reviewed the proposed development having regard to Part 4 and Schedule 1 – Design Quality Principles of SEPP 65 – Design Quality of Residential Apartment Development and provided the following comments.

Schedule 1: Design Quality Principles

The following assessment of the proposed residential flat building against SEPP 65 - Schedule 1: Design Quality Principles highlights how the proposal is considered to be inconsistent with Principle 1: Context and Neighbourhood Character, Principle 2: Built Form and Scale and Principle, Principle 5: Landscaping, Principle 6: Amenity, Principle 8: Housing diversity and social interaction, and Principle 9: Aesthetics. These inconsistencies are also reflected in non-compliances revealed in the assessment of the proposal against SEPP 65 Apartment Design Guide following.

Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including adjacent sites, streetscape and neighbourhood.

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

The context of this development is clearly a shop top housing development with a strong emphasis on residential accommodation on a highly constrained site in regard to topographical features and the surrounding context being a mix of vacant land, single and two storey dwellings to the rear and built to boundary shop top development to the north (adjacent to the subject site) representing varied densities and architectural forms of development and setbacks. The existing character is in a transitional form to respond to the desired coastal village character of this location.

Council's Urban Designer has provided the following comments:

The Marine Parade streetscape experience is characterised by the generally low set building height ranging from single to three storey buildings (approximately 5-13m), narrow retail shop frontages and series of outdoor dining areas running along its length which make it an appealing and valued people place.

In recognition of the community's preference to retain the low set scale of Marine Parade, one of the key strategies within the draft Kingscliff Locality Plan is to reduce the building height from 13.6m to 11.0m. This process of reducing building height has recently been enacted through the

commencement of a planning proposal which has been submitted to the Department of Planning and Environment for gateway determination.

In terms of the existing built form, the age and physical condition these low rise buildings vary as do the architectural style and material finish. It is this diversity of the buildings that do not conform to a singular architectural style or material palette, which largely underpins its eclectic built form character.

The larger three storey buildings within the precinct represent 'newer' developments including Paradiso (shop top tourist accommodation), NorNor east (shop top tourist accommodation). These newer buildings occupy larger consolidated sites and all have basement car parking configurations, retail uses to the ground floor and two storeys' of residential accommodation over. The upper levels are generally articulated with open generous sized verandahs which wrap around the buildings street elevations taking advantage of views over the coastal reserve and to the ocean beyond.

In terms of other existing surrounding buildings No.28 Marine Parade, which is a three storey building has setback the upper level residential component resulting in elevation depth and layering as well as reduce the bulking bulk to the street edge which presents as single storey. Further, the three storey building at No. 32 which has a total of five storeys and zero side setback, steps up the site and presents only three stories to the street. This stepping built form in this neighbouring building ameliorates some of the potential built form impacts which may otherwise arise from having both a four storey building form to the street edge and a zero side setback.

The southern portion of Marine Parade where the mixed use development is proposed is characterised by the steeply sloping land between Marine Parade (approx. RL5 AHD) and Hungerford Lane (approx. RL1AHD6) to the west. The character of Hungerford Lane is predominantly low scale residential with one and two storey detached dwellings reflective of the 9.0m height limit, most of which have large verandahs capitalising on the elevated views to the north east.

The proposal is a split six storey development comprising of a four storey development to the east which exceeds the maximum building height. This, combined with zero side setback and a three storey vertical plane at the Hungerford Lane interface, fails to respond to the existing and low set residential character of the Kingscliff Hill Precinct. This is especially the case given the low density residential zone further inland (west) of Hungerford Lane. The proposed three storey development at this interface results in a bulk and scale protrudes existing roof lines and obstructs existing views of the coast for surrounding residences.

The Marine Parade interface is considered excessive in terms of height, bulk and scale. The proposed zero side setback and lack of street setback for the upper levels results in a four storey largely unarticulated vertical wall along the length of the northern elevation and southern elevations which would be highly visible from the northern and southern approaches along Marine Parade. The southern elevation is somewhat broken by perforations in the masonry wall to an internal garden. The overall street presentation result is one which presents as a solid largely unarticulated rectilinear form and as such is considered to overly visually

dominate the existing streetscape character of this part of the town centre precinct.

For this reason, the proposal is not considered to be consistent with the context and existing and desired neighbourhood character.

Built form amendments to ameliorate some of these concerns include:

- Reduction of building height from four to three storeys at the street edge;
- Setback upper levels (front and sides) to reduce the bulk of the buildings rectilinear form;
- Articulate the northern elevation (wrapped decks, windows with sunhoods) to reduce the bulk of the vertical plane.

Principle 2: Built form and scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

As stated above, the existing neighbourhood features a mix of single to three storey buildings of varied densities and architectural roof features. The existing character is relatively consistent with the desired neighbourhood character of this location, with the only transition towards a subtly higher density.

A review of similar developments within the vicinity of the site further establishes an appropriate height, bulk and scale for development within the area. It is considered that examples of existing development suitably protect the character of the area as well as the amenity of the adjoining low density residential development further west of Hungerford Lane. The proposed development sets an undesired precedent for future urban forms in terms of amenity, bulk, scale, height and overall building design in terms of architectural merit.

Council's Urban Designer provided the following comments:

The proposed height of four storeys to Marine Parade and three storeys to Hungerford Lane would exceed the building heights of other surrounding buildings. The large form of the build is exacerbated by the zero side setback and lack of podium or upper level setback. This results in large unarticulated northern and elevation (apart from the horizontal banding) which would be highly visible along Marine Parade. Whilst the perforations in the masonry wall on the southern elevation provide some form of articulation the penetrations combined with the zero side set back would

need to be infilled if the adjoining site were to be redeveloped. Further, notwithstanding the 'openings' in the southern elevation, the height of these interface walls define the buildings envelope remain the dominant overall form in comparison to surrounding development. There is opportunity to potentially delete this southern wall and open up this elevation.

In consideration of the potential built form and scale issues, a more compatible scheme with surrounding development may include stepping the upper levels back to reduce the bulk of the built form to the street and deliver a building form more reflective of the sloping topography. Side setbacks of the upper levels would also provide opportunity for north (and south) facing windows to the units and provide additional building articulation particularly along the northern elevation.

Given the above, the proposed building is considered to be relatively top heavy and exceeds the maximum permitted building height under TLEP2014 and TDCP2008. As such, it is evident that the proposed bulk and scale is not consistent with the existing or desired character of the Marine Parade and Hungerford Lane streetscape. The provision of a built to boundary development with no articulation to the upper storeys of the residential components at any part of the Marine Parade interface results in a visually dominate built form and an over development of the subject site. Further, the heavy building form is not considered to contribute positively to the public domain nor does it appropriate respond to the low density residential zone to the rear of the site. It is considered a more integrative approach is suited to this site to respond to the context of the site and its surrounds. As such, the built form and scale in its current form is not considered appropriate for this location.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities are sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Notwithstanding comments regarding excessive building height and building form, the development is general consistent with the objectives of B4 Mixed Use zone, and as such the proposal land use is considered to be in accordance with Principle 3. It is noted that the apartment compositions consists of four large three bedroom units and have been designed to achieve a high level of occupant amenity. Whilst the building reflects a generally low yield for a building this size, there is potentially a lack of family sized units within the town centre precinct where there is a predominance of two bedroom apartments.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross

ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.

The proposed design generally adopts energy efficient measures like natural cross ventilation and is to meet Basix Certificate requirements. The internal vegetated atrium will also achieve good internal amenity for residents and assist with stack ventilation for the entire building. As such, the proposal is considered to achieve many of the objective intents of Principle 4. However as the building proposes a zero side setback, many of the units will not benefit from sunlight access along the northern-west elevation. As such there will be additional reliance on artificial lighting and mechanical ventilation within each of the units. This could otherwise be achieved if the development included a side setback which would then provide opportunity for additional north facing windows.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.

Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, and provides for practical establishment and long term management.

The development exceeds the maximum permitted impervious surface area as prescribed under TDCP2008. Information in the Statement of Environmental Effects claims that due to the development comprising of Shop Top Housing, the provision of landscaping and permeable areas is unnecessary.

Whilst landscaping is proposed via a first floor and third floor internal garden area (with voids above) and a fourth floor garden area and swimming pool, it appears the fourth floor landscaping and swimming pool will only benefit one (1) unit within the development. The cumulative amount of landscaping provided for the site 150m² with 382.5m² of impervious area remaining. The amount of impervious area comprises of 71% of the site (greater than the 65% maximum permitted in the DCP) and the overall landscape design is provided within the development, with little to no landscaping treatment at the interface of the development.

The proposed built form has little regard to the natural topography of the site and fails to respond to its local context. The landscape design fails to optimise

useability, opportunity for social interactions and equitable access given the lack of communal landscaping and open space within the development.

The provision of rooftop gardens and a swimming pool with exclusive access to one (1) unit is considered to be inequitable, and given this part of the development is likely to be the serviced apartments, ongoing use of this part of the development will not be favourable to other residences within the building.

As such, the development fails to satisfy the landscape design principle.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.

Council's Urban Designer provided the following comments:

"Given the sites north east aspect and context opposite a coastal reserve with opportunity for elevated views to the ocean beyond, the proposed design seeks to capitalise on these attributes. Each of the living areas is configured along the north-east street elevation with a good transition between internal spaces and generous north east facing external living areas taking advantage of the outlook. Each of the units are also configured around a landscaped atrium running along the southern elevation contributing to occupant amenity visual.

However, as the buildings long northern (north-western) elevation has a zero side setback there are no windows or openings along its length. This would reduce the amount of natural light into the units and increase reliance on artificial lighting and mechanical ventilation through some rooms of the units layout.

Although the proposal would result in a high level of amenity for the buildings occupants in terms of generously sized rooms and outlook, this needs to be balanced with contextual and streetscape considerations. Potentially stepping the building form back from the street and integration of landscape features as a contribution to the streetscape (rather than internalised landscaped atrium) would be one way to further coalesce a large multistorey mixed use with the context and streetscape. As such there is opportunity to remove the southern wall and open this elevation up to the street."

Units have been designed to maximise the coastal foreshore views with each indoor and outdoor space oriented toward the east. However, as outlined elsewhere in the report, the proposal has attempted to design a split six storey

development with a maximum building height of 18.3m. The consequences of this are diminished amenity outcomes including a lack of solar penetration within the apartments, nominal window openings along the southern elevation and no openings along the northern elevations diminish opportunity for natural sunlight within each of the units. Further, as there is no side setback proposed, the development will achieve no building separation and limited opportunity for deep soil zones for stormwater infiltration and communal outdoor amenity areas. This is considered to be inconsistent with Principle 6.

Principle 7: Safety and security

Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

The development design provides:

- casual surveillance of the public street and communal open space.
- Generally clear visibility of the main pedestrian entry point from Marine Parade and Hungerford Lane.

This is considered to be consistent with Principle 7.

Principle 8: Housing diversity and social interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.

Despite the buildings overall size and GFA, it would only facilitate four large three bedroom units with a typical unit totalling 233sqm. Whilst this represents a relatively low yield and a lack of apartment mix within the building, there may be a broader local need for larger family sized apartments.

The development proposes a swimming pool and rooftop terrace area for the exclusive use of one (1) apartment abating opportunity for social interaction among residents. Each unit contains three (3) bedrooms and no information has been provided as to the dwelling mix selection and how it responds to existing and future needs for the community based on a proper demographic analysis. As such, the development is considered to be inconsistent with Principle 8.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Notwithstanding previous comments regarding building height, bulk and form, the proposed building materials and textures comprising predominantly of rendered masonry, glass (sliding doors, balustrades) and powder coated aluminium is generally acceptable considering the marine influence and is consistent with other mixed use buildings within the immediate area. The Hungerford Lane elevation proposes to utilise additional material composites including render, light weight cladding and powder coat aluminium screens.

However, the lack of articulation at the Marine Parade interface, particularly the four storey unarticulated northern elevation and the addition of the three storey component at the Hungerford Lane interface lack a sense of cohesion with surrounding built form and streetscape character. The development presents as a large rectilinear form to Marine Parade and is likely to block a number of neighbouring views from adjoining properties in Hungerford Lane.

Council's Urban Designer provided the following comments:

"Whilst the landscape concept which has been employed to organise the internal layout, to high level of occupant amenity, the external form of the building could be amended to achieve a more compatible form in its streetscape context. This would include consideration of side setbacks to achieve additional windows/articulation to the northern elevation and stepping the floor plates back from the street to achieve a form which reflects the sloping topography but also serve to reduce building bulk on the street.

There is also opportunity to delete the southern wall and open up the landscaped atrium to the street contributing to the sites balance of built form and landscape and visual amenity whilst reducing building bulk on the street edge. This may however necessitate a basement or a reconfigured car park which may be difficult to achieve on this relatively small site. Otherwise the ability for an elevated planter area over a carpark to facilitate substantial vegetation is questionable.

Whilst the proposed development presents as a strong architectural form, the development in its current form would visually dominate this part of Marine Parade and existing adjoining development principally by way of height to the street edge and the northern elevation presenting as a four storey unbroken and unarticulated vertical plane. If consideration was given to setting back the upper levels from the street edge (present 3 storey's to the street) and/or considering a side setback to the northern elevations, the

development would be more visually compatible with adjoining development and within the streetscape context without compromising the architectural integrity. ”

Given the assessment above considering SEPP 65; Schedule 1: Design Quality Principles, the proposal is considered to be inconsistent with Principle 1: Context and Neighbourhood Character, Principle 2: Built Form and Scale and Principle, Principle 5: Landscaping, Principle 6: Amenity, Principle 8: Housing diversity and social interaction, and Principle 9: Aesthetics. These inconsistencies are reflected in non-compliances revealed in the following assessment of the proposal against SEPP 65 Apartment Design Guide.

Apartment Design Guide

This Design Guide contributes to the development of place-based plans that are oriented specifically to local issues. It reinforces the need for local government to have a clear vision, which reflects the community's needs and wants for the future of their area.

Parts 3 and 4 set out objectives, design criteria and design guidance for the siting, design and amenity of residential apartment development. It is noted that objectives, design criteria and design guidance in Parts 3 and 4 of the Apartment Design Guide that are referred to in SEPP 65 will prevail over any inconsistent DCP control.

Furthermore it is advised that the design code gives direction for defining local development controls, which support and facilitate good residential flat design. It provides design guidelines, which assist in establishing consistent minimum standards across local government areas. It will also assist planners in assessing the design merit of proposed development.

It is noted that the assessment under TDCP 2008 Section A1 and A2, and the SEPP 65 Design Quality Principles establishes that the proposal is not supported and it is recommended for refusal.

Under this document the proposed development is considered to be a *shop top apartments* building type.

Part 2 Developing the Controls

This part of the Apartment Design Guide explains the application of building envelopes and primary controls including building height, floor space ratio, building depth, separation and setbacks. It provides tools to support the strategic planning process when preparing planning controls rather than applying specific design controls. In this instance it is noted that the proposal would be subject to some of these controls through the Tweed Local Environmental Plan 2014 (building height and floor space ratio) while the remainder of the controls are administered through the Shirewide Development Control Plan Section A1 – Residential and Tourist Development Code. These are addressed in detail elsewhere in this report under the specific assessments of these various documents.

A Zero setbacks are provided for the entire horizontal plane of the development at the Marine Street interface, and the provision of a solid wall at the north eastern aspect of the site obstructs ocean views from the private open space areas for the adjoining development at No 28 Marine Parade.

In addition to the above, Objective 2D implies the appropriate building depth for the proposed development is 12m-18m. The ADG further outlines '*depths of mixed use developments should transition from deeper commercial and retail uses at the lower levels to narrower building depths for the residential uses at upper levels*'.

Whilst it is acknowledged the subject site is relatively narrow, the proposed building depth of 37m with no transitional podium style forms or setbacks to the upper residential floors of the development is not supported due to its impact on views from the adjoining development.

As such the development fails to satisfy 2C - Building Height, 2E Building Depths, and 2E Street setbacks (refer to *Attachment 2* for a full assessment table).

Part 3 Siting the development

This part provides guidance on the design and configuration of apartment development at a site scale. Objectives, design criteria and design guidance outline how to relate to the immediate context, consider the interface to neighbours and the public domain, achieve quality open spaces and maximise residential amenity.

3A Site analysis

A site analysis plan demonstrating winter and summer sun orientation, prevailing breezes, available views and beach access/pedestrian walks has been submitted as part of this application. This is considered to adequately demonstrate that site conditions have been considered in the formulation of the proposed development design.

Whilst opportunities for the proposed development are identified, constraints in term of equitable access to views from surrounding developments and loss off existing views are not sufficiently demonstrated in the DA.

3B Orientation

Objective 3B-1 Building types and layouts respond to the streetscape and site while optimising solar access within the development.

The building is considered to face the street and offers direct street access. The layout is such that it is built to boundary and exceeds primary controls such as Building Height (2C), Building Depths (2E) and Street setbacks for the upper storey components (2G).

Solar Access

The shadow diagram provided fails to demonstrate that solar penetration will occur to the site in accordance with the minimum requirements prescribed under 4A (Solar and daylight access) of the ADG. Under this section, living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9am – 3pm.

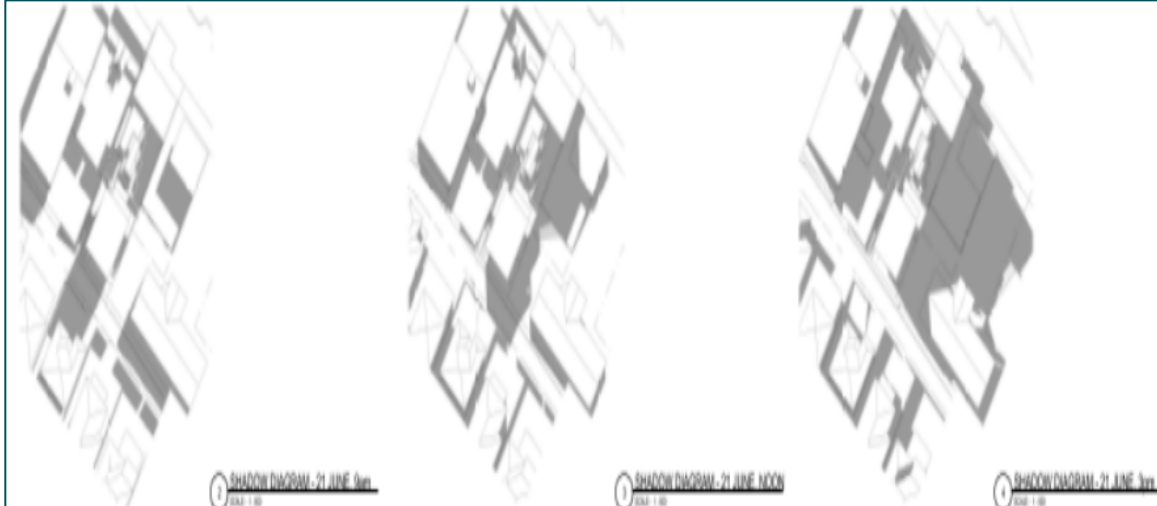


Figure 4: Extract of shadow diagram submitted with the DA

The proposed development is not considered to be acceptable with respect to the solar penetration within the development. The north east orientation of the development appears to cast heavy shadows to the south west. This combined with the existing shadow of the adjacent building to the north result in minimal solar penetration for the site. The submitted shadow diagrams do not adequately demonstrate how solar penetration will occur within the proposed units to meet the requirements under Section 4A of the ADG. In particular, concerns are raised over solar penetration to principal private open space areas located to the southern extent of the site for the residential units. The submitted shadow diagrams demonstrate that no part of the principal private open space areas and open garden area identified on the architectural plans will receive sunlight between 9am – 3pm on 21 June.

The applicant states the following in regard to Objective 3B-1:

the proposed development defines the street by building parallel to the boundaries of the site, incorporating units with balconies and windows which overlook the street. The lush landscaping to the ground floor assists in defining the street and provide delineation between public and private domain. The building layout has been designed to optimise solar access as best as possible as well as defined the street edge. The form of the development will be contemporary and will provide an attractive appearance to the streetscape by means of an extensive landscape proposal.

A review of the proposed Landscape Concept in consultation with the proposed eastern elevation plan indicates the provision of landscaping at the front setback of the development is minimal (see Figure 5 and 6 below) and therefore any such

claim that the development is capable of achieving compliance with the Objective 3B-1 based on the proposed landscaping treatment at the Marine Parade interface fails to ameliorate the perceived bulk and scale of the development based on the existing streetscape character of the area.

Therefore, in accordance with the design criteria contained in this section of the ADG, a podium style development for upper storey components of the building are more appropriate on the subject site given the site context and existing streetscape character.



FIGURE 1 | LANDSCAPE PLAN | GROUND FLOOR

Figure 5: Proposed Ground floor landscaping scheme



Figure 6: Photo montage (including proposed landscaping treatment) - proposed four storey shop top housing component of the development at 26 Marine Parade interface.

An assessment of the submitted plans demonstrates the development is not consistent with the Objective 3B – Orientation for the following reasons:

- a. The proposed design seeks a 'built to boundary' design at the Marine Parade interface with solid brick walls along the northern and southern side setbacks. This design element is not accepted as it is likely to obstruct views from the adjacent development, cause overshadowing to the southern adjoining lot and increase the perceived bulk and scale of the development at the Marine Street interface.
- b. The rear portion of the development comprises of a proposed serviced apartment which presents as a two storey development on suspended slab construction (to allow for undercroft vehicle parking of proposed Unit 4). This design elevation presents a vertical height plane of a three storey development.

A merit assessment of this portion of the development has revealed that the proposed bulk, scale and height is inconsistent with the existing streetscape at the Hungerford Lane interface and will protrude the roofline of the Shop Top Housing component of the building (at Marine Parade interface). As such, the development is likely to have adverse amenity impacts to the existing view corridors of dwellings to the rear of the subject site.

- c. The three storey height plane afforded to the rear (south western) portion of the development combined with the overshadowing from the adjoining development further north of the site, will compromise solar penetration within the proposed indoor and outdoor living areas of the development.

The submitted shadow diagrams do not adequately demonstrate how solar penetration will occur within the proposed units, nor does the overshadowing impact to the adjoining development suitably account for solar access. In particular concerns are raised over solar penetration to the principal private open space areas and open garden area identified on the architectural plans will receive sunlight between 9am – 3pm on 21 June.

It is noted, the above planning concerns were raised with the applicant in a letter dated 13 October 2017. However, no response was received.

Objective 3B-2: Overshadowing of neighbouring properties is minimised during mid winter

The submission includes a vague shadow diagram that generally outlines the extent of overshadowing from and to neighbouring properties.

The Guide includes the following design guidance:

- *Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access.*

As mentioned previously, the shadow submitted provided fail to demonstrate the solar penetration into residential units to comply with Section 4A.

- *Solar access to living rooms, balconies and private open spaces of neighbours should be considered.*

Concerns are raised over the proposed development and its impact on the future development of the adjoining southern lot in regard to solar penetration. Whilst it is acknowledged that the site is currently occupied by commercial premises and therefore habitable living areas are not impacted based on the current land use, the adjoining southern lot is likely to become highly constrained for future development as a result of shadows cast from the solid blank walls at the southern side boundary of the site; this is further impacted by the built to boundary envelope for the entire vertical plane at the Marine Parade interface. As such, it is noted that the economic and orderly development of the site is likely to become severely constrained by the shadow casts due to the lack of building articulation at the north eastern aspect of the development.

- *Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.*

Based on the information provided, it appears the adjoining property to the south receives the required hours of solar access given the subject site comprises of a two storey development. However, existing shadow diagrams for the site and surrounds are not provided and are not held on Council files.

- *If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.*

The proposed development achieves a zero setback at the side boundaries. However, where concerns may be raised over privacy and overshadowing, solid wall construction or internal landscaping treatment is provided to appease such concerns.

To protect the amenity of future development on the southern adjoining lot, a greater separation from the southern side boundary *or* an increased setback to the residential component of the development at the Marine Parade frontage would assist solar penetration and aid visual privacy to the southern adjoining land.

Notwithstanding, the above, as the development stands, in its current form, despite the separation not being provided and zero setbacks being proposed, the provision of an increased setback between the proposed development and buildings on the adjoining lots to meet the required minimum 3m setbacks from habitable to habitable rooms.

- *Overshadowing should be minimised to the south or down hill by increased upper level setbacks.*

As mentioned previously in this report, the development fails to achieve this design objective with a lack of articulation to the residential component of the development at the eastern extent of the site. The provision of zero setbacks at

both side boundaries as well as the Marine Parade interface negates any opportunity for solar penetration to the southern lot.

- *It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development.*

The privacy impacts have been minimised by way of building orientation however overshadowing, remains prevalent.

- *A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.*

Aerial images of the surrounding properties do not indicate there are any solar collectors which are to be impacted.

3C Public domain interface

The proposed development is considered to be appropriate when considering the public domain interface and the objectives of this clause which include the following:

Objective 3C-1 - Transition between private and public domain is achieved without compromising safety and security

Objective 3C-2 - Amenity of the public domain is retained and enhanced.

To the Marine Parade and Hungerford Lane elevations, public interface is treated via upper level balconies which provide interaction and casual surveillance over the public domain. The amenity of the public domain is retained through the provision of shop top housing which provides a ground floor retail component and outdoor dining area.

The proposal is considered to adequately provide transition between private and public areas and does not impact on the amenity of the public areas in accordance with the Objectives.

3D Communal and public open space

Communal open space is an important environmental resource that provides outdoor recreation opportunities for residents, connection to the natural environment and valuable 'breathing space' between apartment buildings.

The function of open space is to provide amenity in the form of:

- landscape character and design
- opportunities for group and individual recreation and activities
- opportunities for social interaction
- environmental and water cycle management
- opportunities to modify microclimate

- amenity and outlook for residents.

The useable part of the communal open space area may be supplemented by:

- additional landscape area, circulation space and areas for passive use and outlook
- public land used for open space and vested in or under the control of a public authority.

Communal open space has not been nominated on the plans and no facilities have been noted beyond a swimming pool. The swimming pool is provided exclusively for one (1) unit which forms the serviced apartment and therefore does not function as a communal open space area for the development.

To justify a relaxation to the requirements contained in this Section, the applicant refers to the Design Guideline for this criterion which states:

'Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:

- *Provide communal spaces elsewhere such as a landscaped roof top terrace or a common room;*
- *Provide larger balconies or increased private open space for apartments;*
- *Demonstrate good proximity to public open space and facilities and/or provide contributions to public open space'*

The applicant has highlighted that the subject site is located within a coastal village core, with good amenity and access to public open space such as parks, reserve area and Kingscliff beach directly opposite the site.

Large expansive balconies are provided with outlook to the beach together with amenities to facilitate the storage of equipment as well as beach shower facilities within the ground floor component of the development.

Given the poor solar penetration to the site, it is considered the provision of COS would be obsolete and ample opportunity for such functions and uses are provided in surrounding public and private open space areas.

Based on the above scenario, and having regard to the limitations of the site, it is considered that there is sufficient planning merit to support a relaxation on this design criterion for the proposal.

3E Deep soil zones

The objective and design criteria with respect to deep soil zones are outlined below:

Objective 3E-1

Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality

Design criteria

1. Deep soil zones are to meet the following minimum requirements:

Site area	Minimum dimensions	Deep soil zone (% of site area)
less than 650m ²	-	7%
650m ² - 1,500m ²	3m	
greater than 1,500m ²	6m	
greater than 1,500m ² with significant existing tree cover	6m	

The proposal includes approximately 115m² or 21% of the site for deep soil zones consisting of the landscapes area of the Level 1 Garden, the Level 3 Garden and the Level 4 rooftop Garden.

3F Visual Privacy

This element of the Guide details that visual privacy allows residents within an apartment development and on adjacent properties to use their private spaces without being overlooked and balances the need for views and outlook with the need for privacy. This control further outlines that degrees of privacy are also influenced by a number of factors including the activities of each of the spaces where overlooking may occur, the times and frequency these spaces are being used, the expectations of occupants for privacy and their ability to control overlooking with screening devices.

The objective and design criteria 3F-1 for Visual Privacy is outlined below:

Objective 3F-1
Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy

Design criteria

1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:

Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)

Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties

The proposed development provides a minimum separation distance of 4.5m for non-habitable rooms, and all habitable rooms are fully screened by the solid wall construction and the proposed internal garden void. Whilst it is acknowledged that this will aid visual privacy, given the viability of plant growth is solely relied upon to screen views from the development to the southern lot, a request for additional information was issued to the applicant on the xx October 2017 in regard to the proposed schedule and location of openings at the southern elevation of the building. This request was considered to be reasonable given the close proximity of the proposed building to the southern boundary (less than 9m as per the ADG requirement for habitable rooms).

To date, no response to the above request has been received and therefore Council cannot be satisfied the development fully satisfies the Visual Privacy objective of the ADG.

Objective 3F-2: Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.

Theoretically, the provision of garden voids within the development at areas that are not screened by solid wall construction would facilitate privacy without compromising access to light and air as well as balance outlook and views from habitable rooms and private open space. However, further information from the applicant (as mentioned above) has been requested to ensure that this can be achieved. Such information has not been provided and therefore, concerns are raised over the provision of visual privacy for the proposed development having regard to the potential future developments on the southern lot.

3G Pedestrian Access and entries

Objective 3G-1: Building entries and pedestrian access connects to and addresses the public domain

Pedestrian access points to the residential component of the shop top housing is considered to be very poor. Pedestrians would be expected to access the building through a concealed gate to the side of the vehicle entry point from Marine Parade and continue to walk through a confined car parking area to access the building. No landscaping or pavement is provided to delineate pedestrian and vehicle access and the arrangement is contrary to urban design principles as far as providing highlight building access and entry points from both the Marine Parade and Hungerford Lane interface. There is a lack of visual connection for pedestrian links and pathways and the building access has no address to the public domain.

As such, based on the design merit of the proposal, the proposed concealed pedestrian access from Marine Parade is not supported.



Figure 7: Extract of proposed landscaping plan for ground floor component

Objective 3G-2: Access, entries and pathways are accessible and easy to identify

As mentioned above, access and entry to the development does not facilitate pedestrian wayfinding. Given the location of the site, it is considered that highlight pedestrian access to the building is equally as important as vehicle access. It is noted that the proposed vehicle access point occupies approximately 50% of the site frontage and provides at grade vehicle access from Marine Parade. This arrangement results in a loss in opportunity for built and natural aesthetics and also pedestrian focused amenity at the human scale to the Marine Parade interface.

Whilst it is acknowledged that vehicle access from Marine Parade is reasonably easy to identify, the plans indicate pedestrian access is concealed by the ground floor component and bulky upper floor components. This combined with a shrubby patch of landscaping close to the driveway entry demonstrates a concealment of space which is contrary to this design objective. As such, the proposed access, entries and pathways are not considered to be favourable to pedestrian orientated development in which the proposed development is ideally

situated to benefit from, and poses a risk to the safety of pedestrians accessing the building.

In addition, visitor parking within the building is located at the Hungerford Lane interface and is unlikely to be identifiable to people wishing to access the visitor parking area from the primary access off Marine Parade. Once the visitor parking space is located, pedestrians access is further complicated due to various access points to the units being provided depending on which unit the visitor is attempting to access. Visitors wishing to access Unit 4 would need to enter the lockup garage via a pass door, walk up the stairs and enter this Unit. Alternatively, for other units, the visitor would need to pass to enter via the lift lobby to the north of the site and travel in the lift which, if accessed by another resident, would stop inside the unit of another resident. In turn, visitors to the building would have direct access into any unit, which poses impact on safety and privacy.

As such, concerns are raised over pedestrian and public access arrangements for visitors and pedestrians utilising the lift to the rear of the site.

Objective 3G-3: Large sites provide pedestrian links for access to streets and connection to destinations

The subject site is not considered to be large and therefore it is unlikely that Objective 3G-3 would be necessary for the proposal.

3H Vehicle access

Objective 3H-1 Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.

Access to the development is proposed via dual access from both Marine Parade and Kingscliff Lane.

As previously mentioned in this report, the provision of vehicle access from Marine parade results in 50% of the lot width being occupied by the driveway crossover, this combined with the proposed zero setback for the units above at both the side and front boundary, adds to the visual bulk of the development from the Marine Parade interface. The proposed access from Marine Parade is at grade with no basement car parking, it lacks pedestrian amenity and poses a conflict with the design guidelines under this Section of the ADG. Further, the provision of pedestrian access is also provided via this entry point, with no delineation between the two modes of movement.

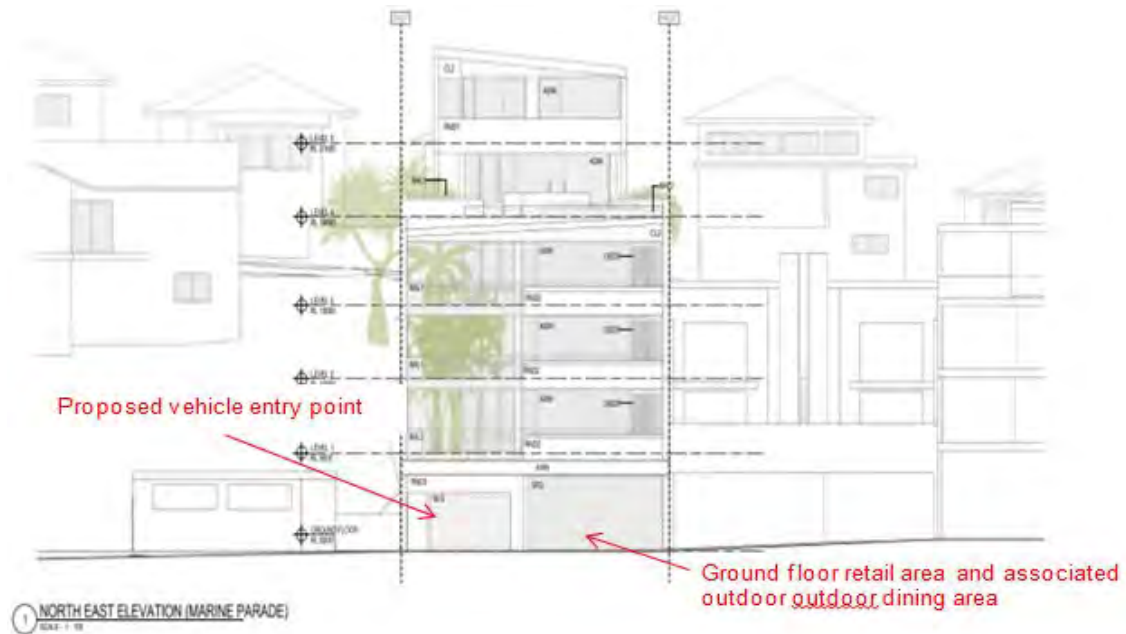


Figure 8: Extract of North East Elevation Plan (Marine Parade streetscape) submitted with the DA

Vehicle and pedestrian access from Hungerford Lane will accommodate two vehicle parking spaces associated with the Serviced Apartments, as well as a visitor parking space to service the entire development. Hungerford lane is narrow in width and it is considered that the proposed at grade access and parking for three (3) vehicles is the maximum that the site could accommodate under this arrangement.

Objective 3J - Bicycle and car parking

Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas

The proposed development is located in a 'nominated regional centre' and therefore car parking is to comply with the local parking controls, as stipulated in criteria 1 for this design objective.

Based on the proposed plans, it is assumed the split in land uses is as follows:

- 39m² of ground floor retail (to be used as a restaurant or café) and associated outdoor dining area;
- 3 x three (3) bedroom shop top housing units and;
- 1 x three (3) bedroom serviced apartment.

The car parking rates in Section A2 (Site Access and Parking Code) of Tweed DCP 2008 are as follows:

- Restaurants or cafes – 1 staff at peak operating time + 3.5 spaces/100m² dining area;
- Shop Top Housing – 2 spaces per 3 bedroom unit + 1 visitor car parking spaces per four (4) units and;

- Serviced Apartments – 1 space per unit + 1 visitor car parking space per four (4) units

A total of nine (9) off street car parking spaces are provided for the development and based on the plans provided it appears that:

- Six (6) spaces are provided via the Marine Parade vehicular access point (2 per shop top housing unit);
- Two (2) vehicle parking spaces are provided for the serviced apartment via the Hungerford Lane access point (via a lock-up garage) and;
- One (1) visitor parking space is provided for the entire development, which is reasonable given the material outcome of the development will be four (4) residential units (no matter the split between shop top housing and serviced apartments).

Whilst the development caters for the residential component of the development, the provision of staff and customer parking for the restaurant is not catered for within the development.

The information submitted does not include internal floor plans for the proposed restaurant component and therefore dining areas are not included in the DA. The applicant has stated the proposed car parking complies with the DCP. However, a conservative calculation of (25m² (outdoor) and 23m² (indoor)) 48m² is the approximate dining area available for the ground floor of the development. As such, a total of 1.68 spaces are required for customers and 1 space is required for staff (round up to 3 parking spaces).

Based on the above breakdown, the development fails to satisfy the parking requirements under Part A2 of Tweed DCP 2008 as the development lacks onsite parking for three (3) spaces associated with the ground floor restaurant.

Objective 3J-2 Parking and facilities are provided for other modes of transport

The development fails to include any parking or facilities for other modes of transport.

Objective 3J-3 Car park design and access is safe and secure

As previously mentioned in this report, concerns are raised over parking access and design for the at grade Marine Parade carpark and access. The provision of a concealed access way for pedestrians combined with and delineation between pedestrian and vehicle movement poses a risk to safety.

In addition, the following concerns are raised over the Hungerford Lane access and car park design:

- a. visitor car parking is not functional and its location obstructs access to the bin store area.
- b. The building access and pedestrian entry/wayfinding at the Hungerford Lane interface (outlined in the landscape intent statement) is not accepted as

there is no clear connection for pedestrian moving from the parking area to the building access and associated pathways.

- c. The extent of excavation on the site to facilitate at grade parking and access from Marine Street is not supported. Excavation for the purpose of sub or basement parking may be considered in order to achieve an appropriate design solution to other planning concerns.

Council officers issued formal advice to the applicant on 13 October 2017 raising the above concerns, it was recommended the applicant consider revising the plans to provide basement access to accommodate vehicle parking and reduce the overall bulk and scale of the development throughout the mid portion of the site. This would potentially resolve some of the car park design, access and safety issues. No response to this matter was received.

Objective 3J-5 Visual and environmental impacts of on-grade car parking are minimised

The guidance provided under this objective seeks to avoid at grade parking for such developments.

However, the development seeks to provide two at grade access points from two street frontages. The provision of car parking and access will be visible from both street interfaces and little landscaping is provided to ameliorate views of the vehicle access and parking areas.

Objective 3J-6 Visual and environmental impacts of above ground enclosed car parking are minimised

Whilst the development provides at grade access to the primary parking area from Marine Parade, it is acknowledged that it is partially concealed due to the setback to somewhat ameliorate views of parking areas. However, this in isolation does not give rise to support the proposal given the cumulative impacts of the parking to the overall bulk and scale of the development combined with the deactivation of 50% of the street frontage at Marine Parade that could otherwise form ground floor retail uses to activate this portion of the frontage.

As such, based on the design guidance, particularly in regard to activating street frontages and guidance to encourage basement parking, it is considered the proposal does not fully satisfy this objective of the ADG.

Part 4 Designing the building

Amenity

4A Solar and daylight access

Objective 4A-1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.

Objective 4A-2 Daylight access is maximised where sunlight is limited.

Objective 4A-3 Design incorporates shading and glare control, particularly for warmer months

The submitted solar access diagrams fails to demonstrate living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am – 3pm.

Given the existing shadows of the northern lot and the location of principal open space areas for each unit are at the southern extent of a narrow site; a shadow diagram was requested by Council to demonstrated solar penetration to each floor. This applicant has failed to provide a response this concern and therefore Council cannot be satisfied the development meets the design objectives contained in Section 4A of the ADG.

4B Natural ventilation

Objective 4B-1 All habitable rooms are naturally ventilated

Objective 4B-2 The layout and design of single aspect apartments maximises natural ventilation

Objective 4B-3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents

Given the overall depth of the units and the proposed built to boundary arrangements, concerns are raised over the ability for the development to benefit from natural ventilation. In particular, cross ventilation.

The applicant has stated that greater than 60% of all apartments are naturally cross ventilated and further states that *'all apartments are naturally cross – ventilated'*.

No information has been provided to demonstrate this is the case, and therefore it is unclear as to how this is achieved. As such, Council cannot be satisfied the development meets the objectives contained in Section 4B of the ADG.

4C Ceiling heights

Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access

Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well proportioned rooms

Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building

The design requirement under this objective is as follows:

Design criteria

1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:

Minimum ceiling height for apartment and mixed use buildings	
Habitable rooms	2.7m
Non-habitable	2.4m
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use

These minimums do not preclude higher ceilings if desired

The ground floor retail floor is measured at RL 5m AHD and ground floor level 1 is measured at RL 9m AHD. Slab construction is assumed at 300mm, therefore 3.7m floor to ceiling height is available. Given the use will require a fit-out for the kitchen, a 400mm buffer for bulk head installations is appropriate.

The proposed floor to floor heights for Level 1 - 5 is 3m. Based on an assumed 300mm slab construction, this is considered to meet the minimum finished floor to finished ceiling height.

Therefore the development complies with the design objectives under Section 4C of the ADG.

4D Apartment size and layout

Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity

Based on the proposed three bedroom apartment type, a minimum internal area of 90m² is required. An addition 5m² is required for each additional bathroom.

The smallest unit proposed is 134m² and contains three bedrooms and three bathrooms. Windows are provided to each habitable room and are considered to be compliant with the above.

Objective 4D-2 Environmental performance of the apartment is maximised
Within this section of the guideline, the following design criteria is prescribed:

Design criteria	
1.	Habitable room depths are limited to a maximum of 2.5 x the ceiling height
2.	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window

Ceiling heights of approximately 2.7m are proposed throughout this development. This would equate to a maximum depth of 6.75m to these rooms. The proposed apartment designs do constitute open plan layout. From review of the submitted plans, a conservative calculation of depths of habitable rooms for Unit 1,2 and 3 (east/west dimensional value) is approximately 9.5m which is greater than the 8m maximum permitted in the ADG. Unit 4 is approximately 8.5 which is generally consistent with the guideline.

Objective 4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs

Within this section of the guideline, the following design criteria is prescribed:

Design criteria	
1.	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)
2.	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)
3.	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments
4.	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts

As demonstrated in the table below, all bedrooms comply with the above.

Unit	Master bedroom size	Standard bedroom size	Bed min. Dimension	Living/Dining room dimension
Unit 1	19m ²	16m ²	Yes	3.8 (D) x 7.1 (W)
Unit 2	19m ²	16m ²	Yes	3.8 (D) x 7.1 (W)
Unit 3	18m ²	16m ²	Yes	3.8(D) x 7.1 (W)
Unit 4	20m ²	12m ²	Yes	5.7 (D) x 6.8 (W)

The development is considered to be acceptable when assessed against the requirements of 4D.

4E Private open space and balconies

Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity

The design criteria under this control stipulate that all apartments are required to have balconies with a minimum depth and area dependant on the number of bedrooms proposed (see below).

1. All apartments are required to have primary balconies as follows:

Dwelling type	Minimum area	Minimum depth
Studio apartments	4m ²	-
1 bedroom apartments	8m ²	2m
2 bedroom apartments	10m ²	2m
3+ bedroom apartments	12m ²	2.4m

The minimum balcony depth to be counted as contributing to the balcony area is 1m

The proposed design achieves the minimum depth and area required under this control with each apartment providing a minimum outdoor living area of 50sqm.

The Design Criteria goes on to states that for apartments at ground level, a private open space is provided instead of a balcony. It is noted that no apartments with ground level access proposed.

Objective 4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents

Primary private open space areas for Level 1 to 3 units are predominately located to the south with an aspect to the east which is contrary to the design guidance in this objective.

As such, the development fails to meet this objective.

Objective 4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building

The development includes solid blank walls at the side interface of each balcony and principal private open space. Whilst this aids privacy, the development fails to provide an integrative form at the Marine Parade interface for these balcony spaces.

The design guideline suggests that *'projecting balconies should be integrated into the building design and the design of soffits considered'*.

It is considered that the stepping and alignment of balconies to the upper storey components of the building would deliver a more integrated urban form which is consistent with the above objective.

Objective 4E-4 Private open space and balcony design maximises safety

The proposed development has minimised changes in ground levels and landscaping, and the design and detailing of balcony ensures that balconies are not climbable and maximise safety.

4F Common circulation and spaces

Objective 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments

The Design Criteria under this control outlines that "the maximum number of apartments off a circulation area on a single level is eight."

In this instance as there are only four apartments in the building, with one on each floor, the development meets the objective and is acceptable with regards to this design control.

Objective 4F-2 Common circulation spaces promote safety and provide for social interaction between residents

As previously mentioned in this report, concerns are raised over the provision of direct and legible access between vertical circulation points around the building and also within the building.

The provision of lift access providing direct entry into each apartment fails to optimise the security of each unit and could be considered as a confronting form of casual interactions between residents.

There is no common open space area for units and co-location of facilities to promote social interactions are provided.

4G Storage

Objective 4G-1 Adequate, well designed storage is provided in each apartment

Objective 4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments

The submitted application has identified that individual dedicated residential storage is provided to each unit per the required rates and split between basement storage areas and internal storage within each apartment.

This is considered to be an appropriate response to the requirements of this design objective.

4H Acoustic privacy

Objective 4H-1 Noise transfer is minimised through the siting of buildings and building layout

Objective 4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments

A review of this objective based on the architectural plans provided, it is demonstrated that design suitably co-locates walls of rooms with a similar use alongside each other. This is considered to minimise acoustic privacy issues in the proposal. Beyond this, in the event of any approval, conditions of consent with respect to maintaining amenity could be applied.

4J Noise and pollution

Objective 4J-1 In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings

Objective 4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission

With respect to noise and pollution the upper level units all face onto Marine Parade, however passive living areas are located to the rear of the floorplate and therefore are substantially set back from the roadway and are protected from pedestrian and vehicle level noise.

This is considered to be an appropriate design in order to minimise potential noise/pollution impacts on the development.

4K Apartment mix

Objective 4K-1 A range of apartment types and sizes is provided to cater for different household types now and into the future

Objective 4K-2 The apartment mix is distributed to suitable locations within the building

The apartment mix fails to comply with the ADG given that all four (4) apartments feature the same typology and size. However, the proposed apartment provision is appropriate, taking into consideration surrounding development types, the distance to public transport and public amenities as well as the current market demands and projected future demographic trends within the area and therefore is acceptable in this instance.

4L Ground floor apartments

No ground floor apartments are proposed.

4M Facades

Objective 4M-1 Building facades provide visual interest along the street while respecting the character of the local area

Objective 4M-2 Building functions are expressed by the façade

The façade of the development at both the Marine Parade and Hungerford Lane represents an excessively bulky urban form. The development exceeds maximum permitted building heights which further adds to the bulk and scale of the development and is likely to dominate the view plane of development from the rear of the site (from dwellings on the high side of Hungerford Lane and beyond) as well as the Marine St interface.

The heaving appearance of the building is further attributed by the lack of a defined 'base, middle and top' as outlined in the Design guidance. Articulated edges and podium style design could be incorporated to reduce the visual impact of the development within the Marine Parade and to improve access to views from adjoining properties to the north on Marine Parade.

It was recommended to the applicant that a revised design consider the roof design and building façade to improve the aesthetics of the development and future urban form of the area. However, to date, no response has been received.

4N Roof design

Objective 4N-1 Roof treatments are integrated into the building design and positively respond to the street

Objective 4N-2 Opportunities to use roof space for residential accommodation and open space are maximised

Objective 4N-3 Roof design incorporates sustainability features

The roof design proposed is considered to be acceptable in terms of design. The roof top area has been incorporated into private open space for Unit 4 and sustainability features are provided on the roof.

4O Landscape Design

Objective 4O-1 Landscape design is viable and sustainable

Objective 4O-2 Landscape design contributes to the streetscape and amenity

The ADG outlines that landscape design should be viable and sustainable and that it contributes to the streetscape and amenity. The proposed landscaping scheme includes the provision of garden beds within the development to provide open 'voids' of landscaping at various points throughout the development. It is unclear, based on the information provided, how these voids would be accessed for ongoing maintenance. This is particularly important due to their location, at the southern extent of the building in which the viability of the plant growth is relied

upon to protect the privacy and amenity of internal residents and future development on the southern adjoining lot (given the lack of building separation).

4P Planting on structures

Objective 4P-1 Appropriate soil profiles are provided

Objective 4P-2 Plant growth is optimised with appropriate selection and maintenance

Objective 4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces

As previously mentioned above, the provision of landscaping and planting on structures within raised garden beds (as proposed in the subject application) raises concerns in regard to viability, maintenance and whether the quality of landscaping (in terms of species selection, maximum mature heights and density) will suitably respond to the development to improve the amenity impacts the development poses.

Given the proposed planting scheme is relied upon to appease visual privacy, improve sunlight and ventilation, further information is required in regard to the ongoing maintenance of the landscaping and the species selection. Detail in regard to the proposed means of access to the garden beds given they are located adjacent to private open space areas or private units and not within common areas is required as well as the specie selection to achieve minimum mature height to screen views to active living areas and the adjacent lot.

The above information was requested by Council on 13 October 2017. However, no information has been provided and therefore the development fails to demonstrate how it performs against this design objective.

4Q Universal design

Objective 4Q-1 Universal design features are included in apartment design to promote flexible housing for all community members

Objective 4Q-2 A variety of apartments with adaptable designs are provided

Objective 4Q-3 Apartment layouts are flexible and accommodate a range of lifestyle needs

The applicant has stated that the proposed development complies with Australia Standards 1428.1 and 2890.1 for access requirements. However, perusal of the submitted plans indicates that hallway and door widths and internal circulation for units and bathrooms are unlikely to comply with the standard.

4R Adaptive reuse

As this proposal relates to a new development on vacant land this does not apply to the subject application.

4S Mixed Use

Objective 4S-1 Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement

Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents

The proposal relates to a mixed use development, with residential accommodation combined with retail premises to the ground level. The proposed mix of uses is located in an appropriate part of Kingscliff given the site zoning and the site specific DCP controls

4T Awnings and signage

Objective 4T-1 Awnings are well located and complement and integrate with the building design

Objective 4T-2 Signage responds to the context and desired streetscape character

An awning has been proposed along the Marine Parade ground floor roof feature which integrates with the building design and ground floor active use.

No signage is proposed for the building or ground floor component at this stage and a condition of development consent could be imposed to require a separate DA for signage.

4U Energy efficiency

Objective 4U-1 Development incorporates passive environmental design

Objective 4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer

Objective 4U-3 Adequate natural ventilation minimises the need for mechanical ventilation

As previously mentioned in this report, concerns are raised over the provision of cross ventilation due to the overall depth of the units and the proposed built to boundary alignment of the building and whether the building will benefit from natural cross ventilation especially toward the western extent of the apartments buildings (inward of the site).

The applicant has stated that greater than 60% of all apartments are naturally cross ventilated and further states that *'all apartments are naturally cross – ventilated'*.

No information has been provided to demonstrate this is the case, and therefore it is unclear as to how this is achieved.

Notwithstanding, a BASIX Certificate has been issued which demonstrates that some measures have been employed to improve the performance of the building in terms of thermal comfort and energy efficient.

4V Water Management and conservation

Objective 4V-1 Potable water use is minimised

It is noted that the applications includes a BASIX certificate. The BASIX scheme ensures that new buildings are designed to minimise potable water use and reduce greenhouse gas emissions. Thus the design as proposed is considered to adequately address this component of the Guide.

Objective 4V-2 Urban stormwater is treated on site before being discharged to receiving waters

A Water Sensitive Urban Design Strategy (WSUD) to treat stormwater runoff and improve the quality of stormwater being discharged to receiving waters downstream.

The strategy was received by Councils Development Engineer whom raised no objection the strategy, subject to the imposition of conditions of consent to ensure the stormwater design and works is delivered to the satisfaction of Council.

Objective 4V-3 Flood management systems are integrated into site design

The subject site is not affected by flooding and therefore no additional provisions for flood management are required for the water management design of the development.

4W Waste management

Objective 4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents

Objective 4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling

Bin storage is provided to the rear of the site, at the Hungerford Lane Interface. The storage area is considered to be inappropriate due to it being blocked by the proposed visitor car parking space.

In addition, no detail regarding the operational waste management plan for the development has been submitted.

Council officers raised this issue with the applicant in its letter dated xx October 2017 and no response was received.

As such, the application does not satisfy the objectives of Section 4W of the ADG and reconsideration of the location, size and function of waste storage and management for the proposed development is required.

4X Building maintenance

Objective 4X-1 Building design detail provides protection from weathering

This control relates to careful design to reduce the long term maintenance obligations of apartment development. The proposal is not considered to contravene the objective outlined under this element of the guide.

Objective 4X-2 Systems and access enable ease of maintenance

As previously mentioned, concerns have been raised with the applicant over the provision of access and maintenance to the proposed garden beds and voids. This matter has not been addressed by the application and therefore the development in its current form does not satisfy the objective of this design element.

Objective 4X-3 Material selection reduces ongoing maintenance costs

This controls related to material selection that can reduce the long term maintenance obligations of apartment development.

The proposal is not considered to contravene the objective outlined under this element of the guide. The proposal is considered to be acceptable from a building maintenance perspective.

Part 5 Design review panels

Not applicable to the subject application

Overall, given the number and scale of the variations required and subsequent cumulative impact on streetscape and character, view loss, height bulk and scale as well as amenity, it is considered that the proposal is not consistent with State Environmental Planning Policy No 65 and as such cannot be supported by Council officers.

SEPP No 71 – Coastal Protection

The provisions of SEPP No.71 affect the subject site. The subject site is not identified as being a sensitive coastal location (land within 100m above mean high water mark) nor a significant coastal development (development within 100m below mean high water mark).

An assessment of the development having regard to the provisions contained under Part 2 Clause 8 has been undertaken. The conclusions previously discussed in this report in regard to excessive bulk and scale, impact to existing view corridors for the surrounding residences and impacts in regard streetscape character demonstrates the development is not a suitable design nor does it form a cohesive relationship with the surrounding area and therefore compromises its performance against some of the provisions contained under Clause 8. The design of the development is therefore unworthy of support for the purposes of Clause 8(d) of SEPP 71.

SEPP (Building Sustainability Index: BASIX) 2004

This policy ensures the implementation of the BASIX scheme is established for new residential development that is affected by the policy. It requires that residential development such as that proposed, be accompanied by a list of commitments to be carried out by applicants.

BASIX Certificate No. 821692M was submitted with the application, demonstrating compliance with established sustainability targets for water and energy efficiency as well as thermal comfort.

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

Draft SEPP (Coastal Management) 2016

The subject site is mapped within the extent of this plan and therefore assessment is required.

The subject site is mapped within the Coastal Use Area, and therefore assessment against Divisions 3, 4 and 5 is required.

Division 4 Coastal use area

15 Development on land within the coastal use area

Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:

- (a) is satisfied that the proposed development:*
 - (i) if near a foreshore, beach, headland or rock platform - maintains or where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and*
 - (ii) minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and*
 - (iii) will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and*
 - (iv) will not adversely impact on Aboriginal cultural heritage and places, and*
 - (v) will not adversely impact on use of the surf zone, and*
- (b) has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.*

The subject site is not located adjacent to the coastal foreshore, and so there is no opportunity to improve existing public access.

It is considered that the proposal is inconsistent with Division 4 of the draft SEPP, in that it will have significant impacts in relation to overshadowing, loss of views from both internal and external public and private land to the foreshore, impact on the visual amenity and scenic qualities of the local village coastal environment.

It is considered that the development type of development is suitable in this location based on the land use. However, further amendments to the bulk, scale, size and design of the development are required to protect the amenity and streetscape character of the area. Specific areas of non-compliance with development standards and controls are outlined elsewhere in this report.

Division 5 General

16 Development in coastal zone generally—development not to increase risk of coastal hazards

- (1) *Development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

Note. *Clause 13 (2) (b) contains a development control provision that substantially mirrors the effect of this provision.*

- (2) *This clause ceases to have effect at the end of 31 December 2021.*

17 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of the following:

- (a) *a coastal management program that applies to the land,*
(b) *a coastal zone management plan (within the meaning of the Coastal Protection Act 1979) that applies to the land that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016.*

It is considered that the proposal will not result in increased risk of coastal hazards on that land or other land.

All relevant coastal management programs (NSW Coastal Policy) have been considered in the assessment of the application.

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

Tweed Development Control Plan 2008

A1-Residential and Tourist Development Code

The purpose of this Section is to guide the planning and design of residential and tourist development and development ancillary to residential and tourist development within Tweed Shire.

The proposed development is described as Shop Top Residential Buildings under the Tweed Development Control Plan (DCP) 2008.

The objectives of this section of the plan are:

- *To provide a building form that complements commercial uses.*
- *To provide more compact housing in proximity to centres.*
- *To create an urban building form and strong built edge along the street.*
- *To define the street space.*
- *To provide quality commercial buildings.*

Whilst the subject site is suitably located for shop top housing in accordance with the plan, the design of the building fails to respond to development controls which are provided to facilitate the developments performance against the above objectives.

The following overarching development controls are provided in this section of the Tweed DCP 2008:

- a. *Shop-top development is to have a street elevation consistent with other buildings in the street in terms of height and vertical and horizontal proportions. The buildings street elevation is to be designed to give emphasis to enclosing the street space along the street boundary.*
- b. *Colonnades are generally not acceptable along main streets unless there is a historic precedent of colonnades along the street.*
- c. *Uses on ground level are to be commercial (generally retail). Circulation spaces used to access upper level dwellings may occupy up to 15% of the lot frontage.*
- d. *Uses on the first floor can be either residential or commercial.*
- e. *The internal space of the ground floor of the development is to be at the ground level of the street.*
- f. *Basement car parking is to be fully underground.*
- g. *Footpath trading must comply with the procedures and guidelines contained in the Tweed Footpath Trading Policy.*
- h. *The design and layout of commercial spaces is to demonstrate:*
 - *the intended type of commercial uses proposed and the suitability of the building design to accommodate these uses,*

- *the immediate and long term economic feasibility of proposed commercial space,*
- *the way in which the proposed commercial space complements and extends the quality and attractiveness of the existing centre.*

An assessment of the proposed design having regard to the above design controls demonstrates the development fails to meet the overall objectives for Shop Top Housing and this is demonstrated having regard to the following areas of non-compliance:

- Contrary to design control (a) (mentioned above); the proposed four storey development at the street frontage comprising of built to boundary structures at the street elevation for the entire vertical plane (including the upper residential component) which is inconsistent with existing buildings in the street.

Adjacent Shop Top Housing developments comprise of the entire ground floor area at the street being made of commercial and retail uses with podium style setbacks to the residential development above.

Examples of development that exceed the three storey presentation to the street can be observed at the adjacent site, however the fourth storey component is appropriately articulated and setback from Marine Parade and comprises of non-residential uses (stair well and rooftop area). The overall building height of these developments does not exceed 13.6m with the majority remaining under 13m.

- Contrary to control (a) and (c); the proposed access and vehicle circulation area for the development is provided via at grade vehicular access from Marine Parade. This access arrangement results in a 46% (see figure 9) of the street frontage being occupied by hardstand area and a vehicle crossover which fails to enclose the site and enhance opportunity for active street frontages.



Figure 9: Extract of proposed ground floor plan which demonstrates the extent of retail frontage and vehicle circulation area for the development

- The design and layout of the ground floor retail fails to include detail regarding the intended use and demonstrate the suitability of the use as outlined in control (h). In particular, based on the plans it could be assumed that the use would be a restaurant (give the outdoor dining blister), however the size of the area demonstrates that provision of toilet facilities, and a compliant kitchen fitout can be achieved within the retail component.
- Concerns are raised that the location of any ducting and cooking facilities would impact on the amenity of the residential units above. Based on these considerations, Council at this stage cannot be satisfied that development has been considered having regard to the matters prescribed in development control (h).

Further to the above controls which aim to guide development to meet the overall objectives for Shop Top Housing, in accordance with the DCP, a comprehensive assessment of the proposal against specific design controls for various elements of the development has been undertaken. It is noted that the controls from this Section are similar in nature to those of SEPP 65 and as such, when inconsistent, the SEPP prevails.

The assessment identified that the proposal requires variations to the following controls:

- Design Control 1: Public Domain Amenity
- Design Control 2: Site Configuration
- Design Control 4: Carparking and Access
- Design Control 6: Height
- Design Control 7: Building Amenity

- Design Control 9: External Building elements

The design controls are a development guideline and represent a possible acceptable solution to meet the design theme objectives and planning and design principles. Where a development application seeks an alternative solution to a design control this must be documented within the Statement of Environmental Effects (SEE), and include:

- Identification of the design control being varied; and
- Justification, supported by a detailed site analysis:
 - detailing why the design control cannot be met; and
 - demonstrating how the alternate proposal achieves the design theme objectives and planning and design principles.

It is noted that the proponent did not provide justification and formally request variations to many of the listed controls.

Building and Wall plate Height

The objectives of this control are:

- *To design new development appropriate to the existing building scale in the street and the local area.*
- *To ensure new development maintains an appropriate residential character*

The DCP states that the maximum permitted building height for Shop-top Housing is 13.6m and this height limit is further enforced under Clause 4.3 of Tweed LEP 2014.

The proposed maximum building height of the development is 18.2m which represents a 33.8% variation from the permitted building height under this section of the DCP. The variation occurs at the mid-section of the building, at the location where deep excavation works are proposed to allow a greater floor area to be provided through the depth of the development (see fig 10 below).



Figure 10: Extract of section plan – note: exceedance to building height resulting from excavation

Having regard to the depth and extent of excavation that is occurring on the site and the fact that such excavation will facilitate more floor area for the development and fails to resolve the provision of basement car parking to reduce the at grade parking access and allow an overall drop in building height across the entire plane of the development, the proposed variation is not supported.

The variation in building height is such that it allows an additional two storeys of development as well as approximately 3m of building depth this resulting in a development which presents a split six (6) storey development at the Marine Parade elevation which is predominately three storey shop top housing development with some examples of fourth storey components.

Furthermore, the additional floor area to the overall depth of Unit 1,2 and 3 results in poor cross ventilation and solar penetration to these units due to their deep narrow configurations with little provision of access to northern sunlight.

Finally, the building mass which contravenes the permitted building height forms part of the second storey component of the proposed serviced apartment at Hungerford Lane interface. The design of which is unacceptable due to its three storey vertical height plane in a location which is predominately surrounding by low density residential development.

The surrounding character of Hungerford Lane is that which predominately comprises of low density residential development and views and vistas to the ocean are protected by this character. The subject site is located on the higher end of Hungerford Lane and whilst it is acknowledged there are some examples of three storey developments at the lower side of the laneway, they are sited so to maintain a two storey vertical height plane. As such, based on the topography of the land, it is considered that a building (such as that proposed) which contains a three storey vertical height plane (which is relative to development at the Marine Parade interface) causes a significant impact on existing views, amenity,

solar access and causes a de-characterisation of the area in regard to what is considered to be an appropriate bulk and scale for development on a higher part of land which interfaced with low density residential and mixed use zones within a coastal village environment.

Further, the design also exceeds the maximum wall plate height of 11m at the point where excavation is occurring within the site. The proposed maximum wall plate height is 14.2m. This exceedance in wall plate height combined with variation to building height; clearly demonstrates an inappropriate bulk and scale which is attributed to the extent of excavation for the purpose of increasing floor area for development on the land as opposed to facilitated an urban form which is consistent with the surrounding character of the area.

Based on the above key planning concerns in regard to exceedances in building height and wall plate heights, Council cannot be satisfied the objectives of this section of the DCP can be met.

Public Domain Amenity - Streetscape

The public domain relates to those aspects of the urban environment which are either owned publicly or accessible to and enjoyed by the public.

The objectives of this Section of the DCP are:

- *To ensure the existing landform and topographic setting along the street is respected.*
- *To ensure new development is compatible with the positive characteristics of the existing streetscape.*
- *To ensure new development enhances the character of the existing streetscape.*
- *To encourage dwellings to be well designed.*
- *To ensure streets provide a high level of pedestrian amenity, access and safety.*
- *To ensure garages do not dominate the street.*

In order for the development to meet the above objectives, design controls are provided to guide the development. Design controls which relative to this Section of the DCP are:

- a. *Site design, building setbacks and the location and height of level changes are to consider the existing topographic setting of other buildings and sites along the street, particularly those that are older and more established.*
- b. *The design of the front deep soil zone and boundary interface to the public domain is to complement or enhance streetscape character by: - providing for landscaping; lawn, trees or shrubs characteristic with existing properties or of such design as to enhance the quality and appearance of the dwelling and surrounding area,*

- *reflecting the character and height of fences and walls along the street, or of such design as to enhance the quality and appearance of the dwelling and surrounding area,*
 - *reflecting the character and layout of established front gardens of other allotments in the street, particularly older and well established garden landscapes,*
 - *retaining, protecting or replacing existing vegetation and mature trees,*
- c. *Carports and garages visible from the public street are to; - be compatible with the building design, including roofs,*

The plan requires site design, building setbacks and the location and height of level changes are to consider the existing topographic setting of other buildings and sites along the street, particularly those that are older and more established (See control a).

The proponent stated the application complied with the proposal however; Council officers are not of the opinion that the building design, heights and setbacks have considered the existing buildings and more established sites along the street.

Marine Parade is a popular location within the shire which is fast transitioning into a coastal village core compromising of an urban form which is predominately three storey in height and features a mix of residential flat buildings further north of the subject site and shop top housing within the immediate surrounding mix use zoned area.

The subject site is located within an area which is strategically located to provide ground floor retail uses to further activate the streetscape and provide a high level of public amenity within the coastal village centre. Each similar shop top housing development features a maximum of two upper storeys of residential development overlooking parkland and coastal foreshore to the east. The western extent of sites featuring dual frontage to Marine Parade and Hungerford Lane (to the rear) feature a mix of large single dwellings or single storey outbuildings such as garages or car parking areas with only some examples of partial three storey development at the lower end of Hungerford Lane.

Within the Hungerford Lane streetscape, as the land inclines the existing buildings feature generous side setbacks (greater than 1.5m) which facilitates visual separation and a transitional urban from the 'built to boundary' three storey shop top housing developments at the Marine Parade to the low density residential development on the western side of Hungerford Lane. It is noted that the zone boundary results in a sensitive design merit assessment when considering streetscape which is appropriate for the mixed use zone at Marine Parade and the existing low density character of the streetscape in Hungerford Lane and beyond. This is further exacerbated by the existing view corridors which rear portions of the houses and yards along the western side of Hungerford Lane benefit from. These developments are located within the low density zones and therefore it is considered that building height, scale and design at the Hungerford Lane interface for shop top housing developments should suitably respond to the

character of the area to provide a cohesive balance between built form and visual separation to maintain and protect the intrinsic view of the Kingscliff foreshore, Cook Island and Cudgen headland from the Hungerford Lane view point.



Figure 11: Google street view: example of existing streetscape looking south toward Marine Parade.



Figure 12: Google street view: example of recently established shop top housing development looking north at Marine Parade

The proposed development featuring a split six storey development with heavy material composition, no vertical articulation or podium style setback to the public domain interface at Marine Parade, and zero side setbacks respectively to the north and south side boundaries.

The heavy bulk and scale of these design elements is of significant detriment to the public domain and Marine Parade streetscape character. As demonstrated in figure 11 and Figure 12, the proposed development is not compatible with other shop top housing developments in the streetscape.

It is noted that having regard to the objectives of the Public Domain Amenity, which relate to the protection and enhancement of the existing character and streetscape, a six storey split level development of heavy rectilinear building form, with no vertical articulation and minimal setbacks is not considered to be

compatible with the positive characteristics of the existing streetscape, nor enhances the character of the existing streetscape.

The existing streetscape character is defined by predominately three storey development to which entire street frontages are occupied by retail uses, further activating the public domain and providing architectural form that is befitting of a subtropical coastal context.

If Council were to support the proposal, it is likely to set an undesired precedent for future mixed use shop top housing development in the area. The following inconsistencies between the proposed development as compared to existing similar development in the area have been identified:

- The proposed development underutilises opportunity for basement vehicle parking or single vehicle access arrangements to the site;
- The proposed development underutilises opportunity for street activation at the ground floor public domain;
- The proposed development fails to provide podium style articulation to the upper elevations of the building to complement the existing development to the north of the site. In turn, obstruction views to the foreshore for adjoining units and exposing solid blank wall construction at the Marine Parade interface from both the south and north approach;
- The lack of articulation and excessive bulk and scale of the development impacts the visual amenity and character of the area, especially from a human scale perspective given the strategic direction of the zone and land use is that which aims to facilitate pedestrian activity and activate the public domain environment which is surrounded by cafes, restaurants, shops, parks, reserve areas and the beach environment;
- The proposed development provides a four storey development at the Marine Parade and three storey vertical plane at Hungerford Lane, appearing as a six storey development in an area which is defined by a three storey height plane along the entire streetscape of Marine Parade and maximum two storey height plane along the Hungerford Lane streetscape.
- The proposed development fails to provide a highlight building entry point within the street elevation of the façade to suitably address the public domain.



Figure 13: Photo montage of the proposed development looking south toward the site from Marine Parade (submitted in the DA by the applicant)

Public Domain Amenity - Public Views and Vistas

Public views and vistas are enjoyed from public places such as foreshores, parks and along streets. Views are generally contained by buildings in the streetscape, such as view corridors down a residential street. Vistas are long wide views, generally across a locality. Vistas are generally defined by ridgelines and valleys.

The objectives of this Section of the DCP are:

- *To ensure existing public views and vistas particularly those of important natural features such as ridgelines, water or bushland are retained, in so far as it is practical to do so.*
- *To ensure public view corridors, particularly those down street and between buildings, are not unnecessarily reduced or obliterated.*
- *To ensure public views of important public places or buildings are protected.*

In order for the development to meet the above objectives, design controls are provided to guide the development. Design controls which relative to this Section of the DCP are:

- a. The location and height of new developments is not to significantly diminish the public views to heritage items, dominant landmarks or public buildings from public places.*
- b. The location and height of new development is to be designed so that it does not unnecessarily or unreasonably obscure public district views of major natural features such as the water, ridgelines or bushland.*

- c. *The location and height of new development is to be designed so that it does not unnecessarily or unreasonably obscure public view corridors, for example, down a street.*
- d. *The location and height of new development is to be designed to minimise the impact on public views or view corridors between buildings.*

The public domain area of Hungerford Lane facilitates pedestrian movement from the surrounding neighbourhood area further west of the laneway (i.e. Sutherland Road and beyond). Whilst this is a passive area of pedestrian movement, it still benefits from a views and vistas to the public open space and the coastal foreshore. This facilitates pedestrian wayfinding and highlights the character of the area.

The proposed height of the development drastically exceeds existing building heights in the area which, at the Hungerford Lane interface, are predominately single and two storey developments. The proposed building height and three storey vertical height plane at the South Western elevation of the building is of a bulk and scale that compromises the existing and desired character of this area which benefits from views and vistas to the coastline.

In addition, the exceedance in building height through the mid portion of the building is likely to obstruct vistas from both the Marine Parade and Hungerford Lane.

Site Configuration – Impermeable Site Area

The impermeable site area is the total area of impervious surfaces within an allotment following completion of the development. Excessive impermeable areas on a lot can increase the volume of stormwater discharged off the site as it reduces the lands capability to infiltrate water in storm events.

The objectives of this Section of the DCP are:

- *To promote residential development that is sympathetic with the existing topography, water cycle and amenity of the site and neighbourhood.*
- *To retain the lands ability to infiltrate stormwater.*

In order for the development to meet the above objectives, design controls are provided to guide the development. Design controls which relative to this Section of the DCP are:

- a. *An allotment's runoff shall be dispersed onto grassed, landscaped or infiltration areas, of the allotment, unless this is inconsistent with the geotechnical stability of the site or adjacent/downstream land.*
- b. *The concentration, collection and piping of runoff to the street gutter or underground stormwater system shall be minimised unless this is inconsistent with the geotechnical stability of the site or adjacent/downstream land.*
- c. *Rain water shall be collected in tanks and reused.*

- d. *Site surface depressions in landscaping are to be utilised for on-site detention and infiltration unless this is inconsistent with the geotechnical stability of the site or adjacent/downstream land.*
- e. *Runoff is to be minimised, delayed in its passage and where possible accommodated within the landscape of the development site unless this is inconsistent with the geotechnical stability of the site or adjacent/downstream land.*
- f. *A schedule of the breakdown/calculation of impermeable site area must be submitted with the development application.*
- g. *The maximum areas for impervious surfaces are: - 70% of the allotment - On lot sizes less than 500m².
- 65% of the allotment - On lot sizes between 500m² and 750m² inclusive.
- 60% of the allotment - On lot sizes greater than 750m²*

A schedule of the breakdown and calculation of impermeable site area has been submitted with the application and as previously mentioned in this report, the amount of impervious area comprises of 71% of the site which is inconsistent with control (g) mentioned above.

Having regard to the lack of external landscaping and building integration with the natural topography of the site, combined with a large impervious area, Council cannot be satisfied the development meets the objectives of this control as far as providing a development which respond to the amenity of the site and neighbourhood.

Site Configuration - External Living Areas

External living area refers to an external space that extends the living and recreation space of a dwelling to provide private outdoor recreational and relaxation space. These spaces generally take the form of courtyards, decks, terraces and balconies, they can be paved or decked and maybe covered. External living areas may be located either on ground or above ground. Small balconies and similar structures from bedrooms are not considered as external living areas.

External living areas should not adversely impact on the amenity of neighbours. The location of the external living area needs to be carefully considered with regard to maintaining privacy. The location of external living areas can assist in controlling sun access by promoting daylight access in winter and shade in summer.

Elevated external living areas should be designed to avoid facing the side boundaries, as this can easily lead to privacy problems with neighbouring properties.

The objectives of this Section of the DCP are:

- *To enhance the amenity of internal living spaces.*
- *To provide an external relaxation and recreation space.*

In order for the development to meet the above objectives, design controls are provided to guide the development. Design controls which relative to this Section of the DCP are:

- a. *External living areas are best located adjacent to the internal living (dining rooms, living room, or lounge room) areas so as to extend the overall living space.*
- b. *External living areas should be suitably screened to achieve visual privacy if located less than 4m from a side boundary.*
- c. *External living areas are to be no closer to the side boundaries than 900mm.*
- d. *External living areas are to be designed to ensure water does not enter the dwelling.*
- e. *External living areas should be oriented to north where possible.*

External living areas for three of the four dwellings are orientated in a south eastern direction with principal private open space area located at the southern boundary of the site. In addition, the north and southern aspect of the site comprises of built to boundary solid blank wall construction thus are not suitably separated from the side boundary to aid solar penetration. It is considered that a solid blank wall construction, whilst ameliorating visual privacy concerns, fails to provide an appropriate level of amenity to this space.

As such, based on the above design merits, the development fails to satisfy the objective of the DCP for external living areas.

Site Configuration – Topography, Cut and Fill

Tweed Shire has significant and varied topography both along the coastal edge and further inland. The topography gives places their character. It provides for a variety of views and vistas, both local and distant, from public and private domains but also makes developments more prominent, particularly when viewed from the low side.

The retention of the existing topography means that buildings in the streetscape retain a consistent relationship to the natural topography. This relationship provides an important visual link between buildings in a streetscape, as well as reducing the impacts of new development on neighbouring lots.

Deep excavations can substantially alter the pattern of subsoil water flow and soil stability which may adversely affect neighbouring properties and the natural environment.

Alternatives to slab on ground construction are to be encouraged where it is obvious that due to the gradient and characteristics of the site, major excavation or filling as a result of raft slab construction would be inappropriate.

The objectives of this Section of the DCP are:

- *To retain the existing landform.*
- *To limit the extent of excavation.*

- *To moderate the effects of building height and bulk on sloping land.*
- *To minimise the extent of earth works on residential land and earthworks associated with residential development.*
- *To ensure that the building design is appropriate for site topographical conditions.*

The subject site features a heavily sloped topography and features a 25% cross fall toward Marine Parade with a low point of RL4.96 at the Marine Parade frontage, and a high point of 15.80m at the Hungerford Lane frontage.

Whilst it is acknowledged that due to the sites topographical constraints, some cut would need to occur to facilitate the development, the provision of 7m of cut within the slope of the site aids at grade access for vehicles and thus compromises the overall height and function of the development. The proposed excavation creates a deep building footprint to maximise floor area associated with the residential component of the development however contrary to control (e) and (j) in the DCP, the excavation does not facilitate basement garages.

The development fails to respect the topography of the site and the appropriate scale of development which should occur at this location, having regard to the steep incline to Hungerford Lane; the proposed height of the development at Hungerford Lane will result in a loss in visual amenity to dwellings at the rear of the site and protrude existing roof planes on the eastern side of Hungerford Lane setting an undesired precedent for development within the high side of Hungerford Lane which is likely to be subject to further development in the future.

As such, the proposed development fails to satisfy the objectives of this section of the DCP.

Car parking and Access

As discussed previous in this report and further outlined in the Section A2 DCP assessment, the development fails to satisfy the controls and objectives of Section A2 of the Tweed DCP 2008.

In particular, relative to this section of the DCP, the following planning issues have been identified in regard to car parking and access for the development.

- The proposed car park entries are located from both street frontages (Marine Parade and Hungerford Lane) which is contrary to control (e) of the DCP which states that car park entries are to located off secondary streets and laneways where these occurs.
- Review of the access arrangements from Marine Parade indicate that the width and sightlines are unlikely to comply with AS2890 and therefore, to improve the situation, the provision of landscape hedging at the front of the site, adjacent to the driveway would need to be removed. That being the case, the overall width of the driveway will dominate the street frontage and result in further deviations from the controls contained in this Section of the DCP. In particular, controls which aim to reduce hard surfaces on the lot and increase the area available for landscaping.

- The DCP encourages that pedestrian access way be provided from the laneway. The proposed design provides no delineated pedestrian access point from the street which is the primary access to the building. In addition, the provision of pedestrian access from the laneway is not clearly identifiable and fails to meet the objective of this control.

Based on the above planning issues, Council cannot be satisfied the development meets the objectives of this section of the DCP. In particular the objective:

- *To minimise the physical and visual dominance of vehicles on sites.*
- *To minimise footpath and street reserve crossings. .*

Building Amenity – Sunlight Access

Building amenity is the way in which the building provides a high quality of life for residents. The key aspects of building amenity include; sunlight access, visual privacy, acoustic privacy, view sharing, and natural ventilation. The use of passive solar design in dwellings is encouraged. Tweed has a temperate sub-tropical climate and well-designed houses in Tweed should only require a limited amount of heating and cooling.

Living spaces are to be located predominantly to the north where possible (Control A) and dwellings on allotments which have a side boundary with a northerly aspect are to be designed to maximise sunlight access to internal living areas by increasing the setback of these areas to a minimum side setback of four metres (Control B).

In this case, three of the four dwellings are orientated in a south eastern direction with principal private open space area located at the southern boundary of the site. This raises concerns regarding solar penetration to the development given the northern aspect comprises of built to boundary solid blank wall construction.

Further, based on the shadow diagrams submitted, the overshadowing to the internal parts of the building (including private open space areas) from the building directly north and the subject building is likely to reduce sunlight access to the adjoining property (to the south) to less than the minimum 2 hours between 9am – 3pm.

Windows facing south of the site, to living areas, are likely to receive less than the required amount of sunlight. It is however noted, an accurate assessment of sunlight access could not be undertaken due to a lack of detail on the plans for interpretation of shadows and impacts.

When considering variations to this control, it is noted that the objective of the Sunlight Access controls are

- *To maximise sunlight and daylight access.*

- *To ensure that sunlight access of neighbouring dwellings and neighbouring private open space is minimised.*
- *To encourage the use of passive solar design.*

Overall the proposed development does not comply with the controls. Within the application, the proponent has stated compliance with all of the above making reference to the Architectural Plans which are inconsistent with the report statements. Therefore variations have not been formally sought and no justification provided with regard to the objectives of the control.

This lack of sunlight access is in addition to the variation in building height is considered to contribute additional variations with regard to the overshadowing neighbouring properties.

Building Amenity- View Sharing

View sharing is where new dwellings are designed so as to retain the private views enjoyed from existing dwellings on neighbouring sites.

The objective of this Section of the DCP is to ensure new dwellings endeavour to respect important views from living areas and rooms within existing dwellings.

The control mechanism to achieve the above objective is that building siting, as far as practical, is to be design to minimise the impact on view sharing between properties.

In considering view sharing impacts caused by the development of land, the NSW Land and Environment Court (LEC) in *Tenacity Consulting v Warringah (2004)* established guiding principles to determine whether view sharing is reasonable.

The application includes a vista analysis in plan format which provides a numerical assessment of the potential view sharing impacts from three (3) neighbouring properties. However, no discussion regarding the performance of the development having regard to view sharing principles established by the LEC has been provided.

Further information in regard to view sharing and whether the impact of the development on view sharing was reasonable was requested by Council on 13 October 2017. However, no response was provided.

Council officers have undertaken a preliminary analysis of the information submitted and existing views obtained from approximately 10 surrounding residences in both indoor and outdoor living areas.

The preliminary analysis revealed that the development is likely to have an impact on view sharing and at this stage, the impact is not considered reasonable. Specifically having regard to the overall building height, the topography of the land, the location of the site adjacent to low density residential zones, and the overall bulk and scale of the development. The most affected impacts are experienced on the existing residential dwellings located on the western side of Hungerford Lane (addressing Sutherland Street).

Based on the information provided and Councils planning officers assessment of existing vistas obtained from the dwellings (see figure xx below), Council cannot be satisfied that the objectives of this Section of the DCP can be met and therefore forms a reason for recommendation of refusal of the DA.

External Building elements – Elevations Visible from the Public Domain

The architectural quality of buildings frontages and partially the side elevations contribute to the character and design of the streetscape. High architectural quality requires the appropriate composition of building elements, textures, materials and colours and reflects the use and internal layout of buildings.

The composition and detailing of the building's elevations has an impact on its apparent scale as well as its appearance. The pattern or rhythm established by the proportions of the elevation, the modulation of the external walls, the design of elevation elements, their materials and their detailing are all important considerations.

The objective of this Section of the DCP are:

- *To define and enhance the public domain and street character.*
- *To ensure that ancillary building elements are integrated into the overall building form and elevation design.*

In order for the development to meet the above objectives, design controls are provided to guide the development. Design controls which relative to this Section of the DCP are:

- a. *Design important elements such as front doors and building entry areas to have prominence in the building elevation and to be clearly identifiable from the street.*
- b. *Use proportions, materials, windows and doors types that are residential in type and scale.*
- c. *Design elevations to reflect the orientation of the site using elements such as sun shading, light shelves and bay windows as environmental controls.*
- d. *Coordinate and integrate building services, such as drainage pipes, with overall elevation and balcony design.*
- e. *Coordinate grills/screens, ventilation louvres, carpark entry doors with the elevation.*
- f. *Integrate the design of garage entries with the building elevation design.*

The lack of articulation at the Marine Parade interface, particularly the four storey unarticulated northern elevation and the addition of the three storey component at the Hungerford Lane interface lack a sense of cohesion with surrounding built form and streetscape character. The development presents as a large rectilinear form to Marine Parade and fails to enhance the public domain and street character.

In addition, the development fails to provide highlight building entry and foyers at either street interface to define its presentation to the street and the vehicle entry points fail to integrate with the building elevation design or form.

As such, for the reasons above, the development fails to respond to the objectives of this Section of the DCP.

A2-Site Access and Parking Code

The proposed development provides at grade access and parking for a total of nine (9) off street car parking spaces with the following arrangements:

- Six (6) spaces are provided via the Marine Parade vehicular access point (2 per shop top housing unit);
- Two (2) vehicle parking spaces are provided for the serviced apartment via the Hungerford Lane access point (via a lock-up garage) and;
- One (1) visitor parking space is provided for the entire development, which is reasonable given the material outcome of the development will be four (4) residential units (no matter the split between shop top housing and serviced apartments).

The car parking rates in Section A2 (Site Access and Parking Code) of Tweed DCP 2008 are as follows:

- Restaurants or cafes – 1 staff at peak operating time + 3.5 spaces/100m² dining area;
- Shop Top Housing – 2 spaces per 3 bedroom unit + 1 visitor car parking spaces per four (4) units and;
- Serviced Apartments – 1 space per unit + 1 visitor car parking space per four (4) units

Based on the architectural plans, Council officers have assumed the following in regard to split in land uses:

- 39m² of ground floor retail (to be used as a restaurant or café) and associated outdoor dining area;
- 3 x three (3) bedroom shop top housing units and;
- 1 x three (3) bedroom serviced apartment.

Parking

Whilst the development caters for the residential component of the development, the provision of staff and customer parking for the restaurant is not catered for within the development.

The information submitted does not include internal floor plans for the proposed restaurant component and therefore dining areas are not included in the DA. The applicant has stated the proposed car parking complies with the DCP. However, a conservative calculation of (25m² (outdoor) and 23m² (indoor)) 48m² is the

approximate dining area available for the ground floor of the development. As such, a total of 1.68 spaces are required for customers and 1 space is required for staff (round up to 3 parking spaces).

Based on the above breakdown, the development fails to satisfy the parking requirements under Part A2 of Tweed DCP 2008 as the development lacks onsite parking for three (3) spaces associated with the ground floor restaurant.

It is further noted that the provision of visitor parking fails to provide equitable access to all residential components of the development. The location of visitor parking does fail to provide legible access to Units 1,2 and 3 within the shop top housing component and is not supported.

Access

In addition to the deficit in parking, concerns are raised over the location of the vehicle access from Marine Parade. The development provides at grade access adjacent to the proposed outdoor dining area on the proposed blister. The location of this access point fails to demonstrate compliant sightlines and turning movement associated with the outdoor dining structure and its proximity to the driveway. As proposed, the entry and exit points to the development from Marine Parade, fail to provide minimum sightline distances in accordance with AS2890.

Manoeuvrability

The development includes a proposed turntable arrangement in the Marine Parade car park which to enable vehicles to enter and leave the site in a forward direction. No information is provided in regard to specifications for ongoing maintenance of the device. The provision of vehicle turntables in order to achieve compliance with turn templates and vehicle manoeuvrability are considered on their merits and require an appropriate level of consideration as to the ongoing use of the turntable for the life of the development.

Section A9-Energy Smart Homes Policy

A BASIX certificate has been submitted and the proposal meets all relevant requirements. The proposal is considered satisfactory with regard to the requirements of Section A9.

A11-Public Notification of Development Proposals

The development application was notified for a period of 14 days from Wednesday 16 August 2017 to Wednesday 30 August 2017. During the notification period Council received eight (8) submissions plus an additional two (2) just after. Due to the close proximity of the two (2) late objectors properties' to the proposed development.

All 10 submissions have been considered and are addressed later within this report.

Section A13-Socio-Economic Impact Assessment

The purpose of this Section are to Ensure that Development Applications for certain developments that are likely to have a significant social and/or economic impact are properly considered. In accordance with clause A13.5.1, the application did not require a socio-economic impact statement.

A15-Waste Minimisation and Management

This Section of Tweed DCP 2008 aims to minimise the generation of construction/demolition waste and facilitate effective ongoing waste management practices consistent with the principles of Ecologically Sustainable Development (ESD).

A Waste Management Plan has been submitted with the application to address the appropriate management of demolition and construction waste. The provision of waste storage, sorting, recycling and reuse for construction/demolition waste is considered to be satisfactory.

However, the provision of Operational Waste Management has not been addressed in the application. The development fails to provide adequate and accessible bin storage. Insufficient detail as to the number and size of bin and their storage area is provided and concerns are raised over the movement of bins to the road side and/or collection of bins by Council given it is blocked by a visitor parking space.

This matter was raised with the applicant in a letter dated 13 October 2017. To date no response has been received and therefore Council cannot be satisfied the development meets the objectives of Section A15 of the Tweed DCP 2008.

B9-Tweed Coast Strategy

A purpose of this Section is set Council's policies for the management of the growth of the Kingscliff and District of the Tweed Coast. The subject site is within an existing residential area and the proposed development is not considered to be inconsistent with B9.

B25-Coastal Hazards

The subject site is mapped as being subject to coastal hazards and as such this Section applies to the development.

Based on Councils mapping system, it appears that approximately 25% of the site is located within the 2100 Hazard Line. However, no portion of the works or the site is beyond the 2050 Hazard Line.

The application includes a Coastal Risk Management Plan prepared by Zonens Regan Group Pty Ltd. The plan identifies the potential risk associated with the coastal hazard and appropriate building solutions to protect the building from areas which may be affected by potential erosion.

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

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

The subject site is located within an area covered by the Government Coastal Policy, and has been assessed with regard to the objectives of this policy. The Government Coastal Policy contains a strategic approach to help, amongst other goals, protect, rehabilitate and improve the natural environment covered by the Coastal Policy. It is considered that the proposed development is generally consistent with the objectives of the Government Coastal Policy.

Clause 92(1)(b) Applications for demolition

Council's Building Services Unit have reviewed the application and have no objections to the proposal particularly with regard to the demolition proposed subject to the application of conditions of consent requiring compliance with Australian Standard 2601.

Clause 93 Fire Safety Considerations

Council's Health and Building Surveyor has considered the proposal and provided comments that indicate the development, in its current form would not achieve compliance with the National Construction Code in relating to openings adjacent to property boundaries.

The key area of concern is the perforated brickwork to the outdoor living area of each unit and the stair lobby (see figure 14 below).

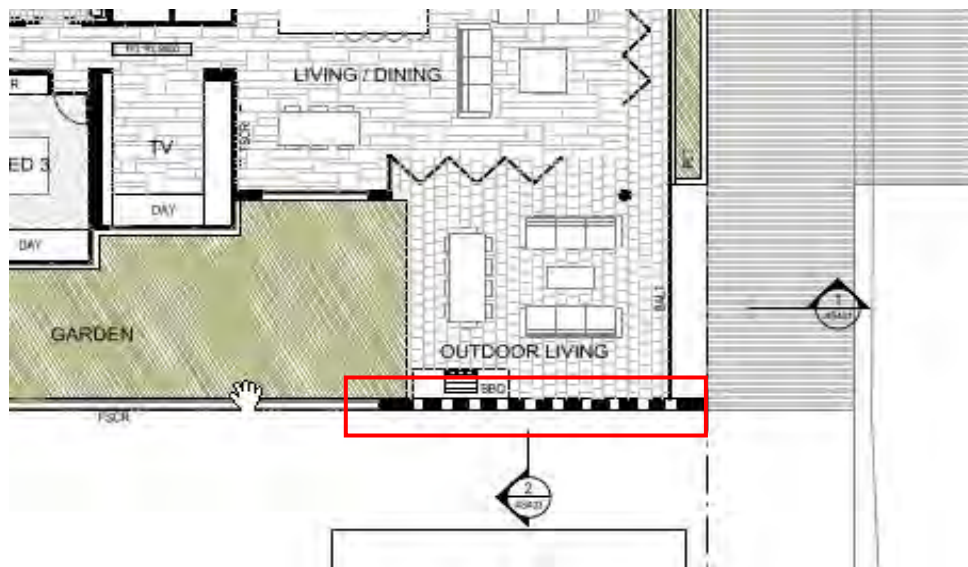


Figure 1: Extract of submitted plans (note: red box indicates location of imperforated brickwork at southern boundary)

Clause 94 Buildings to be upgraded

The proposed is for the construction of a new building and therefore this Clause does not apply to the development.

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

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The subject site is not located on the coastal foreshore however is affected by coastal hazards. Having regard to the previous discussion contained in this report in regard to the developments performance against Section B25 of Tweed DCP 2008, the proposed development is not considered to be inconsistent with this Plan and is an acceptable form of development in terms of construction material and location having regard to the matters for consideration under this plan.

Tweed Coast Estuaries Management Plan 2004

The proposed development is not within Cudgen, Cudgera or Mooball Creeks. This Plan is therefore not relevant to the application.

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

The subject site is not located within the Cobaki or Terranora Broadwater (within the Tweed Estuary), with this Plan therefore not relevant to the proposed development.

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

Context and Setting

The existing character of the surrounding area at the Marine Parade interface comprises of two to three storey building heights for mixed use and shop top housing development. Examples fourth storey components can be observed at the adjacent property formally known as 26 Marine Parade.

The existing streetscape character of Hungerford Lane comprises of outbuildings, vacant land, single and two storey dwellings and one (1) example of a three storey development. Further west of the site, development comprises of single and two storey residential dwellings within a low density residential zone.

The existing character is relatively consistent with the consistent with the desired neighbourhood character of this location, with the only transition toward a subtly higher density for older buildings within the streetscape of Marine Parade.

The proposed building height, bulk and scale comprises of a split level six storey development with an overall roof plane drastically higher than that which is established along Marine Parade and Hungerford Lane. The development

features zero setbacks along the entire height plane at the side and front boundary.

The top heavy built form poses detrimental impact on the existing amenity, and character of the area as well as the enjoyment of views to the coast from dwellings within the low density residential zone to the rear of the site. As such the development fails to respond to the coastal context of the site and its surrounds and impacts the landscape and function of the coastal village area.

Access, Transport and Traffic

Access

Councils Traffic Engineer has considered the proposed development and raised concerns regarding the relocation of the existing on road dining blister to facilitate the proposed use and access to the site from Marine Parade. Detail of sight distance and turning movements associated with the outdoor dining structure and its proximity to the driveway access has not been provided. Councils Development Engineer considers that the driveway does not conform to the minimum sight lines for pedestrian safety in accordance with AS2890.

In addition, the entry garden adjacent to the driveway would need to be removed to allow pedestrian access creating a further loss in landscape embellishment at the Marine Parade interface.

Parking

As previously mentioned in this report, the location of visitor car parking at the Hungerford Lane interface fails to provide a connection to the shop top housing component of the development for Unit 1,2 and 3 and therefore is not supported in this location.

Further information regarding specifications and ongoing maintenance of the proposed turntable arrangement in the carpark is required to ensure that vehicles are capable of entering and exiting the site in a forward direction.

The lack of parking for the retail component, likely to be used as restaurant/café is not supported.

Based on the lack of consideration in regard to parking location, vehicle access and manoeuvrability and number of spaces for parking, the development is likely to have adverse impact on vehicle access and manoeuvrability as well as carparking to the surrounding area.

Flora and Fauna

The site contains an existing shop top housing development with landscape vegetation to the rear of the site, at the Hungerford Lane interface. The development fails to nominate the location and species of vegetation on the site and whilst the development is unlikely to impact on significant vegetation, the lack

of information provided disables a proper assessment of any impacts resulting from vegetation removal.

Noise

Potential noise impacts may exist from the operation of swimming pool pumps and mechanical air ventilation systems. Potential impacts can be adequately controlled through the application of standard conditions.

Lighting

Outdoor and security lighting may impact on neighbouring residents. Potential impacts can be adequately controlled through the application of standard conditions.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The subject site is located adjacent to low density residential land use and therefore, the proposed height, bulk and scale is likely to have adverse impact to the amenity of the dwellings to the rear of the site

Flora and Fauna

The subject site is not mapped to be of high ecological value and does not form a visual connection to any existing flora and fauna corridors. As such, it is likely that the site is suitable for development. However, as previously mentioned, further detail is required in relation to the location and species of vegetation on the site.

Topography

The subject site features a heavily sloped topography and therefore is highly constrained in terms opportunity to maximise gross floor area for development. The site features a 25% cross fall toward Marine Parade with a low point of RL4.96 at the Marine Parade frontage, and a high point of 15.80m at the Hungerford Lane frontage.

Whilst it is acknowledged that due to the sites topographical constraints, some cut would need to occur to facilitate the development. However, the provision of 7m of cut within the slope of the site aids at grade access for vehicles and thus compromises the overall height and function of the development. The proposed excavation creates a deep building footprint to maximise floor area associated with the residential component of the development. The extent of excavation fails to maximise opportunity for retail floor area in accordance with Section A1 of the DCP for Shop Top Housing developments.

The development fails to respect the topography of the site and the appropriate scale of development which should occur at this location, having regard to the steep incline to Hungerford Lane; the proposed height of the development at Hungerford Lane will result in a loss in visual amenity to dwellings at the rear of

the site and protrude existing roof planes on the eastern side of Hungerford Lane setting an undesired precedent for development within the high side of Hungerford Lane which is likely to be subject to further development in the future.

As such, the proposed development fails to respond to the existing topography of the subject site.

Site Orientation

The subject site features a north eastern orientation toward the Kingscliff foreshore area. Whilst the building have been designed to maximise indoor and outdoor living space to benefit from foreshore views, the provision of south facing principal private space areas compromises opportunity for solar penetration. As such, given the lack of solar penetration and extent of overshadowing impacts to southern properties, it is considered the proposed development and building design fails to respond to the site orientation.

Acid Sulfate Soil

The proposed development includes excavation of land. The subject site is mapped as Class 5 Acid Sulfate Soils pursuant to Council mapping. The Geotechnical Investigation indicates that cut up to 7m may be required partially into the batter at the rear of the site.

Councils Environmental Health officers have reviewed the plans and determined that any cut will be above 5m AHD. The Geotech Report further indicates no groundwater was encountered but seepage was detected at borehole 3 at a depth of 3.7m. The report also indicates that '*Excavation of fill, surficial soils and low strength rock should be readily achieved in bulk excavation*'.

It was concluded that that potential Acid Sulfate Soil will be disturbed or the site actively dewatered despite the depths of excavation into the hill batter.

Notwithstanding, conditions of consent could be applied regarding water quality of any seepage waters prior to stormwater discharge, and restrictions over dewatering

Bushfire Hazard

The subject site is identified as bush fire prone. The application was forwarded to NSW Rural Fire Service for comment and recommended conditions of consent were provided.

Waste Management

A Demolition and construction Waste Management Plan was submitted as part of the application which addressed the appropriate management of demolition and construction waste.

The provision of operational waste was not addressed in the application however, the submitted plans indicate the proposed development is to be serviced via

individual bins within a designated bin storage area. Concerns have been raised over the location and size of the bin storage area and ease of access to the bin storage is questionable given it is obstructed by the visitor parking space.

This matter was raised with the applicant however no response provided. Therefore, a proper assessment of site suitability and operational waste management could not be fulfilled.

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

The development application was advertised for a period of 14 days effective from Wednesday 16 August to Wednesday 30 August 2017 and 10 submissions were received.

A summary of the issues raised in the submission and assessment comments are provided in the table below.

Objection Matter	Assessment Comment
<i>Three storey development at Hungerford Lane interface.</i>	<p>The Section 79C assessment of the development has identified the following key planning concerns:</p> <ul style="list-style-type: none">• The proposed development exceeds a two storey vertical height plane at the Hungerford Lane.• Having regard to the existing streetscape character at the Hungerford Lane interface, the proposed development is considered to be excessive in terms of height, bulk and scale.• The proposed building height at Hungerford Lane will protrude the existing roof height plane at this side of the street.

Based on the planning instruments and view sharing principles established by the NSW LEC, concerns regarding the height of the development at Hungerford Lane are validated by the assessment.

Loss of view from dwellings located on Sutherland Street.

A view sharing assessment has been undertaken by Council officers for several properties to the rear of the proposed development (addressing Sutherland Street and backing onto Hungerford Lane). The assessment revealed that the proposal is likely to have adverse impact on existing indoor and outdoor views obtained across the rear boundary, side boundary, siting and standing of water views and interface views between land and water.

Objection Matter

Assessment Comment

During the assessment process this issue was raised with the applicant and no response was received by Council. Therefore, the impacts to view sharing and loss of views resulting from the overall height, bulk and scale of the proposal forms a reason to recommend refusal of the development.

The development is inconsistent with the streetscape character at Hungerford Lane and Marine Parade.

As previously discussed in this report, the areas of non-compliance with statutory development standards and controls represent a drastic exceedance in height, bulk and scale which results in an urban form which is inconsistent with the existing and desired streetscape character of the area.

The building will protrude existing building rooflines in the area.

Current planning instruments which prescribe the appropriate height, bulk and scale of development for shop top housing developments remain unchanged and are secured by planning objectives and controls which prescribe appropriate building heights, separation and setbacks. This is further enforced with established development objectives to enforce scales of the development that are appropriate to the area. In this instance, Kingscliff is an area which is considered to be a coastal village environment and exceedances in bulk and scale deviate from this character.

The development sets an undesired precedent for the Kingscliff area.

Size, bulk and scale is inconsistent with other buildings in the locality and in the Kingscliff area. In particular, four storeys at Marine Parade combined with the three storey vertical height plane at Hungerford Lane presents as a six storey development and there is no precedent for this to occur in the area.

As part of the assessment of this application, Council officers have considered whether there is precedent based on existing buildings within the Hungerford Lane interface which comprise of three storey developments. This higher level of assessment demonstrates that based on the existing streetscape character of Hungerford Lane which comprises of outbuildings, vacant land, single and two storey dwellings and one (1) example of a three storey development, the proposed building height to the rear of the site is unworthy of support.

As mentioned above, there are examples of three storey development to the lower side of Hungerford Lane (specifically No. 52 Marine Parade which features a three storey interface at Hungerford Lane).

In the absence of an RL on the stamped approved plans associated with the approved development at 52 Marine Parade. Council officers have undertaken a desktop assessment of the maximum building height comprising of a three storey component to the rear of the site (at Hungerford Lane interface). Existing

Objection Matter

Assessment Comment

ground level RL's at the rear portion of the site are 5m AHD and the approved building height based on the stamped approved building plans associated with DA03/162 (3 storey mixed use development at 52 Marine Parade KINGSCLIFF) are maximum of 13m including basement car parking. Therefore, it can be assumed that the maximum RL of this building is approximately 18m AHD at Hungerford Lane.

Comparatively, the proposed development seeks approval for a maximum building height which reaches a maximum RL of 25.545m AHD. Therefore, representing a roof plane height which exceeds existing roof plane heights within both Marine Parade and Hungerford Lane by 7.55m. It is considered that the location of vehicle access and parking combined with the two storey flat building at the Hungerford Lane interface is inconsistent with the streetscape character and drastically exceeds existing rooflines.

The development exceeds the three storey character of the area and the maximum permitted building height under TLEP2014.

The existing character of the surrounding area comprises of three storey building heights for mixed use and shop top housing development. Examples fourth storey components can be observed at the adjacent property formally known as 26 Marine Parade. Review of the approved plans and assessment considerations for this development indicate that a merit assessment gave rise for Council to support a variation in maximum permitted building heights. Grounds for support were based on the provision of a staircase and rooftop terrace areas. Given the variation was sought on the central part of the building, the overall height of the development would remain predominately three storeys comprising of ground level retail space and two levels of residential development.

Preceding development standards and controls enforced a three storey height limit for shop top housing developments with a maximum permitted building height of 13m. Therefore development which has occurred under both preceding and current planning instruments has established the existing and desired character of the area.

The proposed development clearly exceeds the existing number of storeys beyond the established three storey character at Marine Parade. This combined with further exceedances in building height and established built form within the immediate

Objection Matter

Assessment Comment

vicinity of the site demonstrates an over development of the site.

The overall bulk, scale and size of the development does in fact diminish the character of the area and sets an undesired precedent for future development at the high side of Hungerford Lane as well as the interface of Marine Parade. As such, forms strong merit to recommend refusal of the development on these grounds.

The provision of retail space is unviable due to a lack of amenities and parking for retail tenant and customers.

As mentioned previously in this report, the development fails to meet the minimum car parking controls for retail areas contained in Section A2 of Tweed DCP 2008 with no provision of customer or staff parking for the retail component of the development.

The development fails to demonstrate the use and viability of the ground floor commercial component.

The development is contrary to National Construction standards due to a lack of toilet facilities to serve the retail area.

No detail of future use and functionality of the ground floor retail component is provided. The inclusion of outdoor dining areas indicate a restaurant or café use is likely to occur in this area however in the absence of kitchen fitout details, the development fails to demonstrate whether the use is in fact viable. Furthermore, concerns are raised over the location of ducting and ventilation associated with the food preparation and kitchen. It is considered that the ducting may compromise the amenity of the residential component of the development.

As such, the concerns raised by objectors in this regard are validated by the Section 79C assessment.

Compliance of use associated with Serviced Apartments due to such having a higher parking demand compared to residential units.

As mentioned previously in this report, the development failed to provide information regarding the proposed Serviced Apartments and their functionality. Based on the layout of the development, Council officers have assumed the proposed Service Apartment use given that despite requests being made the application, this was not clarified by the applicant.

No clarification of the proposed serviced apartments use is provided.

As such, in the absence of further information, compliance and enforcement of such use cannot be commented on as part of this assessment. However,

Objection Matter	Assessment Comment
<i>Traffic and safety impacts at Hungerford Lane resulting from construction and ongoing vehicle access to the development at the Hungerford Lane interface.</i>	despite this concern, the development appears to provide adequate parking for Serviced Apartment(s) in accordance with Section A2 of the DCP. The proposed access from Hungerford Lane is considered to be relative to existing residential development within the vicinity of the site. The provision of parking for a maximum of three vehicles is provided on site, and the location of the proposed car parking is setback 5m from the property boundary and 6m from Hungerford Lane. Therefore, providing enough circulation to allow vehicles to manoeuvre within the site and enter and exit safely.
<i>Construction Traffic Management at Marine Parade and Hungerford Lane.</i>	The provision of traffic management and potential road occupancy approvals are subject to a separate consideration and approval by Councils Development Engineers under a Section 138 Road Act approval. It is likely that as part of that approval, if development is likely to impact traffic and/or safety, a traffic management plan would be required to determine appropriate measures to mitigate such impacts.
<i>Overshadowing impacts to adjoining properties.</i>	The submitted shadow diagrams lack detail in regard to the extent of overshadowing. It appears there will be a significant impact to adjoining properties to the south of the site and also a lack of solar penetration to the principal private open space areas within the development. Council requested further information in regard to overshadowing however no such detail was made available. Therefore, as previously mentioned in this report, the development fails to demonstrate how overshadowing impacts are mitigated through the design features of the development.
<i>Proposed vehicle access will impact pedestrian safety.</i>	The Section 79C assessment (in particular Apartment Design Guideline assessment), failed to demonstrate compliance with design objectives in regard to pedestrian safety, vehicle movement and the protection of the public domain in regard to pedestrian movement. Therefore the concerns raised are validated by this assessment and form a reason for recommended refusal of the development.
<i>The provision of outdoor dining adjacent to the vehicle entry and exit point causes an obstruction to sight lines for vehicles travelling</i>	

Objection Matter
*along the Marine Parade
frontage of the site.*

Assessment Comment

The development fails to meet the objectives of the Section A1 Tweed DCP 2008 which states that the primary focus is a viable commercial component and residential uses are secondary.

An assessment of the proposal having regard to the objectives of the DCP has been undertaken. As discussed previously in this report, the development fails to meet the overarching objectives of the DCP in regard to demonstrating the suitability of the use as outlined in the development controls. In particular, based on the plans it could be assumed that the use would be a restaurant (give the outdoor dining blister), however the size of the area demonstrates that provision of toilet facilities, and a compliant kitchen fitout can be achieved within the retail component.

The amount of ground floor retail use which occupies the ground floor plan equates to 39m² which is 11% of the overall ground floorplate.

This equates to approximately 2.78% of the shop top housing component of the development forming ground floor commercial development, and an even smaller percentage when including the serviced apartment component of the development which interfaces with Hungerford Lane.

Section A1 of Tweed DCP 2008 states that circulation space used to access upper level dwellings may occupy up to 15% of the lot frontage.

An assessment of the proposal having regard to control (h) under Part C, Section A1 of the Tweed DCP 2008 revealed that the proposed access and vehicle circulation area for the development is provided via at grade vehicular access from Marine Parade. This access arrangement results in a 46% of the street frontage being occupied by hardstand area and a vehicle crossover which fails to enclose the site and enhance opportunity for active street frontages.

The proposed access from Marine Parade associated circulation and parking area drastically exceeds this control and is provided for more than 75% of the ground floor level of the development site.

Whilst the comments provided in this submission are accurate, the control which is referenced by the objector applies to the street frontage and therefore the above mentioned statement more accurately responds to this development control.

Notwithstanding, the development still fails to comply with this development control due to the driveway access occupying greater than 15% of the lot frontage.

Objection Matter	Assessment Comment
<i>The development is not consistent with the draft Kingscliff Locality Plan.</i>	Council has undertaken several community consultation in the preparation of a Draft Kingscliff Locality Plan. This plan remains in draft format and has not been adopted by Council and is still being modified based on strategic planning processes. It is acknowledged that the development is inconsistent with the draft Kingscliff Locality Plan on many occasions however, the plan has no statutory weight in the Section 79C assessment. Therefore, this alone would not form a reason for recommendation of refusal. Notwithstanding, planning issues mentioned in other part of this Section as well as the assessment report give merit for the development to be refused based on streetscape character, height, bulk, scale, amenity impacts and view loss. Further, the extent of concerns raised as part of the consultation process validate that the development is not in the public interest.
<i>The installation of a vehicle turntable will detract users from using the vehicle parking spaces in the development and impact on public parking.</i>	The proposed car parking and access arrangement in terms of circulation demonstrate compliance with minimum turn templates under AS2890.1. Therefore, the installation of a turn table to facilitate vehicle manoeuvrability in the site is an acceptable solution in this circumstance.

(e) Public interest

The issues raised as a result of this proposal are considered to be in conflict with the interest of general public. The development is inconsistent with several development standards and controls under the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development, Tweed Local Environmental Plan 2014 and Tweed Development Control Plan 2008. As such, the multiple variations this development proposes are considered to undermine the Plans themselves and should the application be supported, it is likely to set an undesired precedent for development within the B4 Mixed use zone along Marine Parade, which is not considered to be in the public interest.

OPTIONS:

Option 1

That Council:

1. Refuse the development application and;

2. Provide delegation under Section 377(1) of the Local Government Act 1993 to Council's General Manager to provide instruction to Councils solicitor in the LEC Class 1 appeal (including in any Section 34 conference);

Option 2

That Council:

1. Engages solicitors and relevant experts (if required) to attend any necessary section 34 conference, defend the appeal, negotiate consent orders (if applicable) and;
2. Provides delegation under Section 377(1) of the Local Government Act 1993 to Council's General Manager and the Mayor to undertake negotiations as necessary.

You are encouraged to refer to Attachment 3 of this report regarding the adoption of this option.

Option 3

Bring back a further report to Council containing conditions.

Having regard to the advice contained in Attachment 3 of this report, Option 1 is recommended.

CONCLUSION:

The subject application seeks consent for the demolition of existing structures and construction of a shop top housing development and serviced apartments including the use of rooftop terrace areas and a swimming pool for the serviced apartment.

The proposed building is a split six (6) storey development with four (4) storeys presenting to Marine Parade at the property boundary, and a further two (2) storeys visible from the Marine Parade interface which forms part of a three (3) storey vertical height plane at the Hungerford Lane interface. The development includes at grade parking from three shop top housing development at Marine Parade and at grade parking for the serviced apartment from the Hungerford Lane frontage. There is no provision for car parking associated with the ground floor retail component.

The proposed development does not meet various standards and controls that apply to the subject site under State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development, Tweed Local Environmental Plan 2014 (in particular, the permitted maximum building height) and Tweed Development Control Plan 2008.

These departures from the planning controls have a significant impact on the suitability of the development and on the amenity to both the public and proposed residents of the proposed development. Further, these non-compliances cumulatively result in the de-characterisation of the surrounding area, particularly in regard to the existing and desired streetscape character of the area and have not been satisfactorily justified by the applicant

The development is likely to have detrimental impact on existing views to the ocean and foreshore from both internal and external living areas of existing dwellings along Hungerford

Lane and Sutherland Road and is considered to be inappropriate in terms of height, bulk and scale.

In turn, as demonstrated in the submission summary and by the areas of non-compliances within the report, is not in the public interest.

Therefore, the proposed development is not considered to be worthy of support and recommended for refusal.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

An appeal under Class 1 of the Land and Environment Court has been lodged.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Request for Information letter dated 13 October 2017 (ECM 5055197)

Attachment 2. Apartment Design Guideline Part 2 Assessment Table (ECM 5055208)

(*Confidential*) Attachment 3. Legal Advice from Sparke Helmore Lawyers dated 5 February 2018 (ECM 5058976)

15 [PR-CM] Plan of Management - Lot 13 DP 1014470 - Casuarina Way, Casuarina

SUBMITTED BY: Development Assessment and Compliance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.2 Engagement
- 2.2.2 Communications - To inform, educate and engage the public about Council and community activities.

ROLE: **Leader**

SUMMARY OF REPORT:

At its meeting held on 21 September 2017, Council resolved to place a Plan of Management for Lot 13 DP 1014470 on public exhibition and to hold a public meeting during the submission period.

The Plan of Management was placed on public exhibition from 8 November 2017 to 6 December, 2017, with a concurrent submission period which ended on 21 December, 2017.

There were no objections received during the submission period, nor were there any attendees at the public meeting, it is recommended that Council adopt the Plan of Management.

RECOMMENDATION:

That pursuant to Section 40 of the Local Government Act 1993, Council adopts the Plan of Management for Lot 13 DP 1014470, located at Casuarina Way, Casuarina.

REPORT:

At its meeting held on 21 September 2017, Council resolved to place a Plan of Management for Lot 13 DP 1014470 on public exhibition and to hold a public meeting during the submission period.

The Plan of Management was placed on public exhibition from 8 November 2017 to 6 December, 2017, with a concurrent submission period which ended on 20 December 2017.

A notice relating to the public exhibition of the Plan of Management (the Plan) was published on 7 November 2017, the Plan was also uploaded to Council's website at its "What's on Exhibition" portal. Copies of the Plan were placed at Murwillumbah Civic Centre, Tweed Heads Civic Centre and Kingscliff Library.

A notice relating to the public meeting for the Plan was published in the Tweed Link on 12 December 2017, and the public meeting took place on 20 December 2017 at 'Osteria', Barclay Drive, Casuarina from 6.30pm.

The meeting was chaired by a planning consultant engaged for the purpose, it is reported that no members of the public attended the meeting. A report from the consultant is an attachment to this report.

There were no objections received during the submission period, nor at the public meeting, it is recommended that Council adopt the Plan of Management.

OPTIONS:

As there were no objections to the Plan of Management received during the public submission period or at the public meeting, it is recommended that Council consider:

1. To adopt the Plan of Management for Lot 13 DP 1014470; or
2. To not adopt the Plan of Management.

CONCLUSION:

It is recommended that Council adopts the Plan of Management in accordance with section 40 of the Local Government Act 1993.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

No financial implications arise from this report.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

The Plan of Management was publicly exhibited for a period of 28 days, with a public meeting held during that period, and a further 2 weeks following the meeting for submissions to be made. No submissions have been received throughout the consultation period.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Report from Planners North (ECM 5020179)

Attachment 2. Draft Plan of Management for Lot 13 DP 1014470 (ECM 5020180)

16 [PR-CM] Tweed Development Control Plan (DCP) Section A17 Business, Enterprise Corridor and Industrial Zones - Amendment Part 8.2 Border Park Site, Binya Avenue, Tweed Heads

SUBMITTED BY: Strategic Planning and Urban Design

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.4 Managing Community Growth
- 1.4.1 Strategic Land-Use Planning - To plan for sustainable development which balances economic environmental and social considerations. Promote good design in the built environment.

ROLE: Provider

SUMMARY OF REPORT:

This report provides a summary of the public exhibition of the draft *Tweed Development Control Plan 2008* ('the DCP'); s A17, Business, Enterprise Corridor and Industrial Zones, pt 8.2 - 'Border Park' and the public submissions received.

The DCP was prepared to meet the requirements of the *Tweed Local Environmental Plan 2014* cl 7.13, which is a precondition to a lawful determination of a development application on land to which the clause applies, and to enable Gold Coast Airport to seek approval for the demolition of existing unused and dilapidated buildings and the temporary use of the site as a park and ride facility in association with the Gold Coast Commonwealth Games 2018.

A key concern public concern for the proposal is the potential traffic and road safety impacts on the site's point of access via Binya Avenue and surrounding local street network, which is generally described as already being very busy, congested with residents' vehicles, and hazardous to pedestrians.

Following consideration of the public concerns arising in connection with the park and ride facility Gold Coast Airport, with the support of Council officers, requested that this aspect of proposal be removed so that the new DCP will enable only the determination of a development application for demolition.

This report recommends the endorsement of the amended draft *Tweed Development Control Plan 2008*; s A17, Business, Enterprise Corridor and Industrial Zones, pt 8.2 - 'Border Park', to enable the demolition only of the existing unused and dilapidated buildings.

The potential for an alternate site for a ride and park facility has not been raised with Council.

RECOMMENDATION:

That:

- 1. The draft *Tweed Development Control Plan 2008*, s A17, Business, Enterprise Corridor and Industrial Zones, Part 8.2 – ‘Border Park’, as amended, and provided as Attachment 2 to this report, enabling the determination of a development application for demolition only, is endorsed; and**
- 2. In accordance with the *Environmental Planning and Assessment Regulation 2000* (NSW) Clause 21(2) a notice be placed in a local newspaper advising of the reasons for the making of the development control plan and its date of commencement, within 28 days of Council’s decision; and**
- 3. In accordance with the *Environmental Planning and Assessment Regulation 2000* (NSW) Clause 25AB provide the Secretary of the Department of Planning and Environment with a copy within 28 days of the making of the development control plan; and**
- 4. Any and all steps required to repeal the development control plan be commenced once consent has been granted for demolition or where no development application has been received at the period ending 12 months from the date of commencement of the development control plan.**

REPORT:

Background

The land is the site of the former Border Park Raceway, whereupon a coursing club and greyhound dog racing track once existed and from where the sites colloquial name 'Border Park' arose.

Comprising of two lots, Lot 21 DP 518902 and Lot 664 DP 755740, it has a gross land area of about 11.3ha, having a frontage to the Gold Coast Highway on its western boundary and Binya Avenue on the northern boundary. The site is located on the New South Wales and Queensland border and with its only current form of access from Binya Avenue, Queensland, which is within the Gold Coast City Council local government area.

The site is located adjacent to a light industrial park serviced off Ourimbah Road and a multi-dwelling residential development serviced off Binya Avenue and is located within a kilometre of Gold Coast Airport.

The lands proximity to the Pacific Highway and the Gold Coast Airport present a high level strategic land-use advantage and as such Council endorsed the rezoning of the land primarily for business park purposes with a maximum building height of 40m AHD, which took effect in January 2016.

The rezoning of the land also comprised a private recreation zoning, in the absence of there being any current environmental zones within *Tweed Local Environmental Plan 2014* ('the LEP') to assist with the identification and management of the lands environmentally sensitive areas, which are principally located in the southwestern corner of the site, extending along the southern boundary and widening out at the eastern end of the site.

A key component of the rezoning process was the identification of the land on 'key sites map' under the LEP. In doing so, this triggers the requirement for a development control plan under cl 7.13. The objective of this clause is to ensure that development on certain land occurs in accordance with a site-specific development control plan; and development consent must not be granted unless the development control plan is made.

The Reason for the DCP

Gold Coast Airport as owner of the land is seeking the demolition and removal of existing buildings formerly used in association with past private recreational facilities. The buildings are in a rapid state of decline and attract vandalism; as such the DCP is necessary to overcome the LEP's cl 7.13 requirement for enabling Council's statutory power to grant consent for demolition, if appropriate.

In addition to the demolition, Destination North Coast NSW, through the land owner, is seeking temporary use of the land for a 'park and ride facility' in association with the upcoming Gold Coast Commonwealth Games 2018. This facility would enable the public to use a designated transportation network for shuttling visitors / spectators to the Games' venues, particularly those travelling or staying from within NSW.

The DCP the subject of this report and as publically exhibited is for an interim purpose and not to enable the broader development of the land. The LEP, cl 7.13, is quite specific about

the need to prepare a site specific development control plan that will operate as a master-plan for future development. The land owner is not seeking to undertake that body of works at this point in time as their own investigations surrounding the ultimate use of the land have not been completed.

To reinforce this point about the need for a detailed master planning approach through a site specific development control purpose it is proposed that the development control plan for demolition be repealed once consent has been granted or where no development application is received 12 months from the date of commencement of the development control plan.

Post public exhibition amendment

Following public exhibition of the draft development control plan Gold Coast Airport requested that the temporary use of the land for a park and ride facility be removed, owing to community concerns. This would result with an amended development control plan dealing only with demolitions works. This is further discussed below.

Public exhibition of the draft DCP

Council considered a report on the preparation of the draft *Tweed Development Control Plan 2008*, s A17; Business, Enterprise Corridor and Industrial Zones, pt 8.2 - 'Border Park' at the Planning Committee Meeting of 26 October 2017, and resolved:

1. *Council endorses the Draft Tweed DCP Section A17 - Business, Enterprise Corridor and Industrial Zones – Amendment Part 8.2 Border Park site, Ourimbah Avenue, Tweed Heads for public exhibition for the minimum statutory period of 28 Days; and*
2. *Following review of submissions received during public exhibition a further report be submitted for Council's consideration detailing the submissions and any proposed amendments.*

The draft DCP was subsequently exhibited from Tuesday 7 November to Wednesday 20 December, comprising of 32 business days.

The public exhibition material was made available on the Council's website and in hard copy at the Murwillumbah Civic and Cultural Centre and the Tweed Heads Civic Centre.

Notice of the public exhibition was placed in the Tweed Link of 7 November 2017.

In addition direct letter notification was sent to:

- 25 surrounding NSW properties;
- 33 surrounding QLD properties (based on a data base used during the planning proposal and including strata managers); and
- Gold Coast City Council.

Public submissions

In response 15 submissions were received, comprising 14 submissions from the general public and 1 submission from the Gold Coast City Council (GCCC). One of the general submissions included the attachment of a petition with 84 signatures.

A detailed summary of submissions is provided as a table to Attachment 1 of this report.

The key issues may be summarised as:

1. Traffic and access

A consistent concern raised in all submissions is the likely increase in traffic volumes and the potential impact on surrounding residents in Binya Avenue. The submissions make the following comments:

- Binya avenue is a narrow street which has on street parking, making it difficult for cars to pass;
- The roundabout at Binya Avenue and Appel Street is frequently impacted by queuing traffic and buses may not be able to negotiate the roundabout;
- Suggested alternative access from the Gold Coast Highway or Ourimbah Road, which would remove the impact on the residential nature of Binya Avenue.

2. Safety

Almost all submissions raised concerns for safety noting that access to Binya Avenue is through Appel Street and past the Coolangatta Public School, the sports and football oval and aged care housing. In addition the Kirra Shores and Ocean Breeze residential developments of some 450 dwellings are also accessed off Binya Avenue.

Submissions have raised concern with the potential impact on safety of users of the school, sporting oval, aged care and residents accessing their properties.

3. Period of use and application of the DCP

A number of submissions raised concerns about the DCP allowing the car parking and park and ride use to extend outside of the Commonwealth Games period and to justify ongoing parking access.

Recommendations

The table to Attachment 1 provides a 'planning comment' and recommendation for each issue raised. Having regard to the submissions and the request from Gold Coast Airport the development control plan as exhibited has been amended to remove the park and ride facility altogether.

The draft development control plan the subject of this report now addresses only the demolition works associated with the existing buildings and their removal.

OPTIONS:

1. Resolve to endorse the amended draft DCP, or
2. Defer consideration of the draft DCP and provide reasons for the landowner's and staff's benefit.

Council officers recommend Option 1 as this will enable the landowner to seek consent for the demolition and removal of existing dilapidated buildings and addresses the concerns raised by the local community surrounding the potential traffic impact associated with the then proposed ride and park facility.

CONCLUSION:

Having considered the matters addressed in this report it is concluded to be in the public interest to enable the making and determination of a development application for the removal of the existing building on site, which will have the collateral effect of removing a source of vandalism and place for anti-social behaviour.

Amending the draft development control plan, as exhibited, to remove the then proposed ride and park facility alleviates the communities concerns surrounding the potential traffic and safety issues associated with it.

The making and public exhibition of the draft development control plan and its subsequent amendment has been lawfully undertaken and the development control plan as revised may be lawfully made, without the need for further public exhibition.

It is recommended that the development control plan be endorsed in accordance with the recommendations of this report.

COUNCIL IMPLICATIONS:

a. Policy:

Not applicable

b. Budget/Long Term Financial Plan:

The public notification of the commencement of the *DCP Section A17 Part 8.2* will be covered by the current Strategic Planning and Urban Design advertising budget.

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. Submissions Summary (ECM 5044806)

Attachment 2. Amended (draft) Tweed Development Control Plan 2008 ('the DCP'); s A17, Business, Enterprise Corridor and Industrial Zones, pt 8.2 - 'Border Park' (ECM 5044785)

17 [PR-CM] 420-434 Terranora Road Terranora - Plan Made by the Department of Planning and Environment

SUBMITTED BY: Strategic Planning and Urban Design

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.4 Managing Community Growth
- 1.4.1 Strategic Land-Use Planning - To plan for sustainable development which balances economic environmental and social considerations. Promote good design in the built environment.

ROLE: Collaborator

SUMMARY OF REPORT:

This report provides an update and overview of the progress and process relating to a planning proposal for Lots 2-8 DP 28597, being 420-434 Terranora Road, Terranora, that was received by Council on 13 July 2012 and subsequently called-in by the Secretary of the Department of Planning and Environment (DPE) on 27 March 2016; the rezoning for which took effect on 22 December 2017.

The rezoning of the land from RU1 Primary Production to R2 Low Density Residential has resulted in the creation of 7 residential allotments, each of which will rely upon the integration of infrastructure across all allotments prior to any development occurring.

In recognition of the extent of constraints affecting the site, the DPE, who were also the Relevant Planning Authority (RPA) for this planning proposal, amended Tweed LEP 2014 by having the 7 allotments added to the Key Sites Map, the implication being that a site-specific Development Control Plan will now be required before any development application (DA) can be granted consent. This was contrary to what the Council officers had advised when making representation that a section 93F Planning Agreement presented a more certain planning solution for current and future landowners and which could operate in conjunction with a DA.

In this instance the Minister's delegate's insistence with appointing the DPE as the RPA over in place of Council, on the perception that Council was taking too long to finalise the planning proposal, and despite the DPE having the benefit of extensive work already undertaken by Council, the 5 year rezoning process has not resulted in the ability of the land to be developed or a development application to be granted consent without the further need for a development control plan first being prepared.

Deferring the ultimate resolution of the substantive infrastructure issues to Council and the landowners to address through a development control plan is not in the spirit of being a responsible Planning Authority and will cause unnecessary cost and delay for both the landowner and Council.

This report recommends that the General Manager writes to the Minister for Planning, the Hon. Anthony Roberts MP raising awareness of Council's concerns for this practice and requesting a monetary contribution to cover the landowner's costs for preparing the development control plan.

RECOMMENDATION:

That:

- 1. The content of the report in respect of the planning proposal for Lots 2-8 DP 28597, being 420-434 Terranora Road, Terranora is received and noted; and**
- 2. The General Manager writes to the Minister for Planning, the Hon. Anthony Roberts MP, raising awareness of Council's concerns surrounding the exercise of the Minister's call-in powers and the appointment of the Department of Planning and Environment as relevant planning authority in this instance and in like cases when it is clear that the expertise for determining highly complex development matters of local significance rests squarely with the local council, and to request a monetary contribution to cover the landowner's costs for preparing the development control plan.**

REPORT:

In correspondence dated 27 March 2016 Council received advice from the Secretary of the Department of Planning and Environment (DPE) that the delegate for the Minister for Planning had appointed the Secretary of the Department as the Relevant Planning Authority (RPA), thus removing Council, for the finalisation of Planning Proposal PP12/0001 420-434 Terranora Road, Terranora.

On 22 December 2017 the plan was published and the rezoning of the land took effect.

Background

On 13 July 2012 a request was received from Planit Consulting Pty Ltd to prepare a planning proposal to rezone Lots 2-8 DP 28597, being 420-434 Terranora Road, Terranora from RU1 Primary Production to R2 Low Density Residential under *Tweed Local Environmental Plan 2014* (LEP).

Because the original subdivision which created the seven residential-scale allotments was made outside of the normal procedures for rezonings and subdivision of land, a comprehensive assessment of the site was undertaken by Council officers to determine the ability of the site to be developed and overcome the significant physical, infrastructure, and planning constraints affecting the site.

Notwithstanding delays resulting from the quality and timeliness of documentation received supporting the request, a preliminary agreement had been reached with the proponent on the intent of a s 93F (voluntary) Planning Agreement (VPA) addressing how constraints affecting the site would be addressed and the development process commenced. At this point the proponent wrote to the Minister for Planning in a letter dated 17 November 2015 seeking to have the DPE appointed as the RPA.

Following this request, and prior to the appointment of the DPE as the RPA, a meeting with the then Executive Director, Regions was held and correspondence forwarded to the DPE supporting retention of the RPA role by Council. The Minister chose to support the proponent's request and appointed the DPE as the RPA on 27 March 2016.

With the publishing of the LEP amendment in the Government Gazette on 22 December 2017, the rezoning has been finalised and involvement of the DPE has concluded, leaving responsibility for any future development of the site, or further policy preparation, with Council.

The consequences

The consequences of making the plan are:

1. The zoning of the seven allotments has changed from RU1 Primary Production to R2 Low Density Residential under the LEP;
2. The site has been identified as a Key Site and included in the LEP;
3. A Development Control Plan (DCP) must be prepared for the land as specified in Clause 7.13 of the LEP prior to development consent being granted for any DA, and
4. The site is now excluded from the Housing Code (State Environmental Planning Policy (Exempt and Complying Development Codes) 2008).

Whilst the site is now zoned for low density residential development a DCP must be prepared which details the planning and development requirements, prior to consent being granted for any development of the site.

Should the landowner choose to proceed with development, the DCP will be prepared by Council, at the landowner's expense, and include provisions relevant to those matters previously identified by Council officers as significant in overcoming constraints affecting the site.

Exclusion of the site from the Housing Code will ensure that the quality of any housing constructed is of a standard which exceeds the minimum requirements of the Code and is therefore less likely to result in development which adversely impacts the visual amenity and character of the locality.

Notwithstanding progress made by Council officers in identifying constraints and their impact on development, and a tentative agreement on the intent of the VPA in 2015, the intervention of DPE as the RPA has resulted in nearly two years being added to the processing of the proposal, with Council and the landowner still to agree on matters relevant to development of the site. These are substantive matters concerning the extent and timing of both critical infrastructure and the reconstruction of a major large scale retaining wall between the rear boundary of the 7 lots and the Area E land to the west, requiring both acquisition of easements for services and sequencing of the physical works.

It is acknowledged that whilst the Department justified calling-in the determining role as RPA from Council based on perceived delays in the processing the proposal, the unfortunate consequence of doing so fundamentally left both the landowner and Council with the task of resolving through a weaker planning policy (DCP) the extent and timing of critical infrastructure and on the assumption that the sites are serviceable.

The rezoning of land without relative certainty as to its ability to be developed is poor planning practice.

OPTIONS:

1. Endorse the recommendations provided in this report, or
2. Receive and note this report only.

Option 1 is recommended.

CONCLUSION:

Rezoning of the land for residential purposes has occurred and there is a legal requirement for the preparation of a development control plan prior to a development application being consented to.

The planning practice adopted in this instance has led to unnecessary delay and costs for both the landowner and Council, with the critical issues remaining to be resolved through the DCP.

This will occur when the landowner makes a request of Council to prepare a DCP or, utilising other provisions of the planning legislation, seeks to gain approval for a DCP of its own making.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

All costs associated with preparation of a Development Control Plan for the site will be borne by the landowner/proponent.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

18 [PR-CM] Tweed Shire Council Submission to the Department of Planning & Environment on the proposed North Byron Parklands Cultural Events Site (State Significant Development - SSD 8169)

SUBMITTED BY: Development Assessment and Compliance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.1	Built Environment
2.1.2	Development Assessment - To assess development applications lodged with Council to achieve quality land use outcomes and to assist people to understand the development process.

ROLE: **Leader**

SUMMARY OF REPORT:

Following on from the five year trial period for the approved North Byron Parklands cultural event site at Yelgun, an application has been lodged with the Department of Planning & Environment (the Department) for the on-going use of the site for outdoor cultural events.

The proposal has been classified as State Significant Development (SSD), requiring the approval of the Minister of Planning. In addition, the proposal includes administrative modifications to the Concept Plan (Mod 5).

The proposed SSD involves outdoor events on the site for up to 20 event days per year, comprising:

- 2 large events per year (i.e. Splendour in the Grass and Falls Festival) over a maximum of 5 event days each, catering for up to 35,000 patrons per event day;
- 3 medium event days per year (for other music concerts or cultural events), catering for up to 25,000 patrons per event day;
- 5 small community event days, catering for up to 5,000 patrons per event day; and
- 2 minor community event days, catering for up to 1,500 patrons per event day.

Further, approval is sought for the progressive growth of one of the large events (i.e. Splendour in the Grass) to 42,500 patrons and then 50,000 patrons a day, subject to meeting traffic-related key performance indicators (KPIs).

The proposal also involves: temporary camping associated with outdoor events, with capacity for up to 30,000 campers a day (for certain events); a conference centre and associated accommodation with capacity for up to 180 attendees and accommodation for up to 120 guests a day; continued use of existing site infrastructure and facilities; and additional site infrastructure and facilities.

Tweed Shire Council has been invited to make a submission to the Department in relation to the proposed development. Given that the subject site is within Byron Shire (i.e. the northern boundary of the site is adjacent to the Tweed Shire / Byron boundary), the following report has largely focussed on the potential off-site impacts that may occur in Tweed Shire as a result of the proposal.

The report incorporates a brief assessment of the potential impacts such as: traffic; noise; flooding / stormwater; waste management; potable water supply; and wastewater treatment, and also includes a copy of the draft submission to the Department (as Attachment A).

It is recommended that Council endorse the attached submission on the proposed SSD and Concept Plan (Mod 5).

RECOMMENDATION:

That Council endorse that the attached submission to this report, which responds to the public exhibition of the State Significant Development Application and Modification 5 (Concept Plan) North Byron Parklands, be forwarded to the NSW Department of Planning and Environment.

REPORT:

Background

In July 2009 the North Byron Parklands (NBP) project was declared a major project to which Part 3A of the EP&A Act applied, under State Environmental Planning Policy (Major Development) 2005.

The proponent sought approval for a Concept Plan and Project Application (Stages 1 and 2 only) for a cultural events site at Yelgun in September 2010.

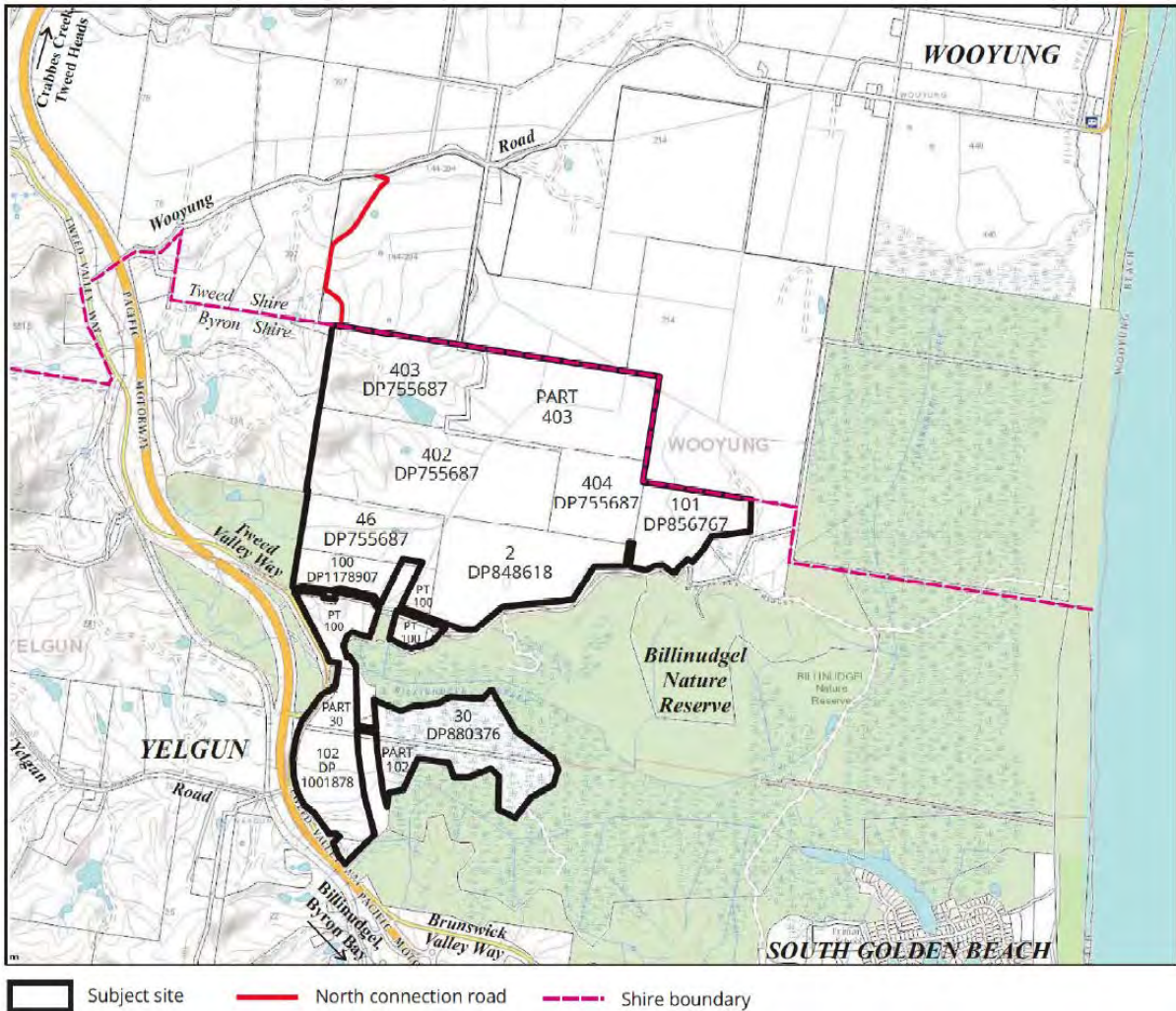


Figure 1 – Location Plan

The Concept Plan application included use of the site for cultural, educational and outdoor events with a maximum capacity of 50,000 patrons and associated camping; roads and parking; water and wastewater treatment infrastructure; cultural centre; conference centre with associated accommodation; and a comprehensive vegetation management plan.

The Project Application proposed two stages, with Stage 1 involving: event usage area of 97ha with associated camping and temporary structures; a 2.3km spine road; an administration and gatehouse building; and implementation of the Vegetation Management Plan. Stage 2 incorporated: on-site water harvesting, filtration and reticulation system; and an on-site wastewater treatment and management system.

A subsequent Stage 3 for the cultural centre and conference facility with associated accommodation was proposed to be the subject of a future development application.

Original Approval (PAC)

Under delegation of the Minister for Planning & Infrastructure, the Planning Assessment Commission (PAC) granted approval to the Concept Plan and the Project Approval in April 2012.

Taking a precautionary approach, the PAC granted approval to the Concept Plan, capping the maximum number of patrons at 35,000 per day, rather than 50,000.

The PAC granted approval to the Project Application, allowing the subject site to be used for cultural, educational and outdoor events with ancillary camping and car parking for three outdoor events per calendar year over a five year trial period concluding at the end of 2017. A total of 10 event days per calendar year were originally permitted, and could include a "large", "medium", and "small" trial outdoor event. The "large" outdoor event in the first year of operation could consist of a maximum of 25,000 patrons in the first year of operation, and this was to progressively increase up to a maximum of 35,000 patrons by the fifth year of operation, which was final year of the trial period.



Figure 2 – Approved Land Use Structure Plan

Mod 1 & Mod 2 (Project Application)

Mod 1 and 2 related to administrative amendments to correct anomalies / typographical errors. Tweed Shire Council was not involved in these assessments.

Mod 3 (Concept Plan & Project Approval)

Mod 3 primarily involved increases to the noise limits and the inclusion of a low frequency noise control, which would allow the Proponent to operate in accordance with a more suitable noise criteria compared to the original approval. The modification also proposed the ability for the Proponent to host minor community events (non-music events of up to 3,000 patrons) during the trial period.

Tweed Shire Council provided the Department of Planning & Environment (Department) with comments in relation to the proposed increase to noise limits, low frequency noise control and minor community events.

Following consultation with the Department, Byron Shire Council, Tweed Shire Council and a Public Meeting, the PAC approved Mod 3 in April 2016 to amend noise management measures and to allow small community events.

Mod 4 (Concept Plan & Project Approval)

To ensure the continuity of the *Splendour in the Grass* and *Falls Festival Byron* events in lieu of the assessment and determination of the SSD application (discussed below), NBP proposed to modify the existing Concept Plan and Project Approval, seeking to extend the trial period for outdoor events of up to 35,000 patrons by a further 20 months to 31 August 2019.

No other changes to either the Concept Plan or Project Approval were sought. Specifically, event days and patron numbers would remain the same, as well as all other existing consent conditions. The only change would be the trial period dates, to extend the trial period by an additional 20 months, which translates into 14 event days based on the current medium/large events.

Council staff undertook a brief assessment of the proposed modification, taking into consideration issues raised to date by Tweed Councillors. The issues included in Council's submission to the Department related to:

- Noise;
- Traffic;
- Flooding; and
- Ability of the PAC to approve the Mod.

Following consultation with the Department, Byron Shire Council, Tweed Shire Council and a Public Meeting, the PAC approved Mod 4 in September 2017 to extend the trial period for an additional 20 months (until August 2019).

State Significant Development Application for SEAR's

North Byron Parklands submitted a Preliminary Environmental Assessment to the Department, requesting Secretary's Environmental Assessment Requirements (SEAR's) for ongoing events after 2017 (including events with up to 50,000 patrons). The proposal was classified as State Significant Development (SSD), to be assessed under Part 4 of the Environmental Planning and Assessment Act 1979 (EP&A Act). Council provided SEAR's feedback to the Department in relation to: traffic; noise; and offsite impacts associated with the proposal. On 18 January 2017, the Department issued SEAR's for the SSD.

Proposal

On 15 December 2017, the Department placed the proposed State Significant Development (SSD 8169) and Concept Plan Mod 5 on public exhibition. Noting that many people would likely be on holidays during this time, the Department extended the exhibition period until 16 February 2018.

In summary, the proposal involves undertaking outdoor events on the site for up to 20 event days per year, comprising:

- 2 large events per year (i.e. Splendour in the Grass and Falls Festival) over a maximum of 5 event days each, catering for up to 35,000 patrons per event day;
- 3 medium event days per year (for other music concerts or cultural events), catering for up to 25,000 patrons per event day;
- 5 small community event days, catering for up to 5,000 patrons per event day; and
- 2 minor community event days, catering for up to 1,500 patrons per event day.

Further, approval is sought for the progressive growth of one of the large events (i.e. Splendour in the Grass) to 42,500 patrons and then 50,000 patrons a day, subject to meeting traffic-related key performance indicators (KPIs).

The proposal also involves:

- temporary camping associated with outdoor events, with capacity for up to 30,000 campers a day (for certain events);
- development of a conference centre and associated accommodation (as per the approved concept plan), with capacity for up to 180 attendees and accommodation for up to 120 guests a day;
- continued use of existing site infrastructure and facilities;
- development of additional site infrastructure and facilities, including:
 - an administration building and golden view bar;
 - event area facilities and works, including:
 - amphitheatre regrading works;
 - drainage improvements;
 - potable water infrastructure;
 - sewerage infrastructure and amenities;
 - electrical and telecommunications infrastructure;
 - security fencing;
 - on-site and off-site road and transport facilities and works; and
- continued habitat restoration and vegetation management works.



Figure 3 – Proposed SSD Masterplan

The SSD acknowledges a number of key environmental issues identified during the SEAR's process, as follows:

- noise;
- traffic and transport;
- hazards, including bushfire, flooding and incidents/emergencies;
- social and economics;
- biodiversity;
- soil and water;
- infrastructure and services; and
- strategic and statutory planning.

Whilst the SSD provides an overall assessment of the abovementioned issues, Tweed Shire Council officers have largely limited their assessment to potential offsite impacts, given that the event site is located outside of the Tweed Shire boundary.

Traffic

The traffic assessment report makes reference to the proposed changes to infrastructure to accommodate the increase to 50,000 patron events, including works beyond the subject site in Tweed Shire. These being: the construction of intersection works on Wooyung Road; and sealing of the northern access way to Wooyung Road.

The report also discusses the five access gates (entrances / exits) associated with the proposal, including:

*“Gate E. **Wooyung Road:** used by emergency vehicles and under direction of NSW Police to assist in getting vehicles off the site during camper bump-out. Proposed to become a camper and day patron entry and exit for parking only for vehicles arriving from the Tweed Coast Road”.*

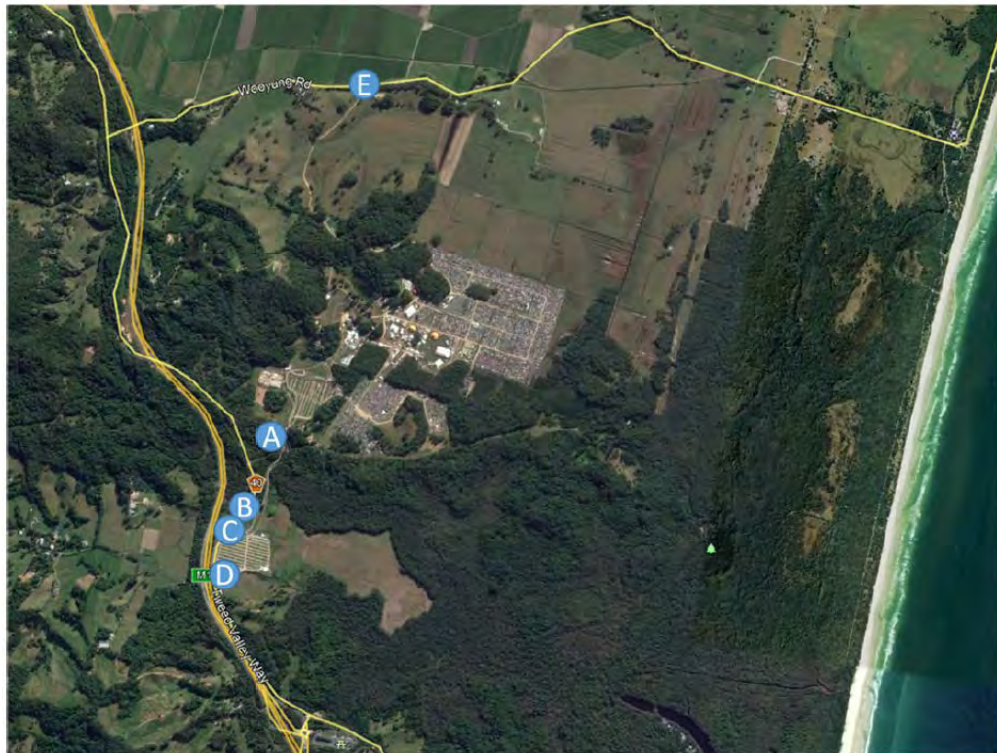


Figure 4 – Access Gate Locations

With regard to Gate E (Wooyung Road), the traffic assessment report states that *“... The available sight distance at the exit driveway location is considered to be adequate for vision towards the east. The sight distance to the west is limited to 130 m due to the road crest and curve. It is recommended that Wooyung Road be managed with a temporary special event speed limit and traffic controllers during events”.*

The traffic report also encourages an increased use of buses, to reduce the number of vehicles accessing the site. In this regard, the traffic assessment recommends “kiss and ride” options at convenient locations. Potential northern locations include *“... Pottsville South Bus Stop, space for drop-off on Philip Street near the intersection with Coronation Avenue – access to Pacific Motorway via Cudgera Creek Interchange”.*

Tweed Shire Council officers have reviewed the proposal with regard to potential traffic impacts to Tweed Shire, noting that the majority of roads affected by the Development are controlled by others, being located outside of the Tweed Local Government Area (LGA).

The key intersections are controlled by Byron Shire or Roads and Maritime Services (RMS), who have set the appropriate levels of operation. The traffic assessment indicates that the levels of operation will be achieved.

The SSD proposes a change of use to the Emergency Access Road (Gate E) to allow access for camper and day patron parking at the northern end of the site. This access connects directly to roads and private properties within the Tweed Shire. The traffic report states that “...*the anticipated number of vehicles using gate E is small in comparison to the other gates as it would only serve the Tweed Coast catchment*”.

The proposed use of Gate E was considered by the report to be less than when the access was used as an emergency access road for previous events under police direction. The methodology used to estimate traffic generation (by postcode) is not accepted as providing a realistic estimate of the potential traffic volume utilising Gate E for access / egress purposes. Event patrons from Brisbane could use the Gate should queue lengths at other gates become excessive and there is no guarantee that camping spaces will be allocated to Patrons from the Tweed Coast area.

The traffic report provides limited information on any road upgrades required to facilitate the proposed access / egress point at Gate E and the potential impact upon the Tweed Coast local road network.

Given that the proposed access road and Gate E roadworks are beyond the subject site and located within the Tweed Shire LGA, separate development consent is required from Tweed Shire Council for the proposed road within Lot 21 DP1169952 and any road works required for Gate E intersection with Wooyung Road will require S138 approval from Tweed Shire Council.

Noise

The SSD incorporates a detailed noise assessment, which has considered to potential impact to surrounding residences in relation to the additional main stage and increase in patron numbers for large events. The report concludes with a number of mitigation measures to manage potential noise impacts.

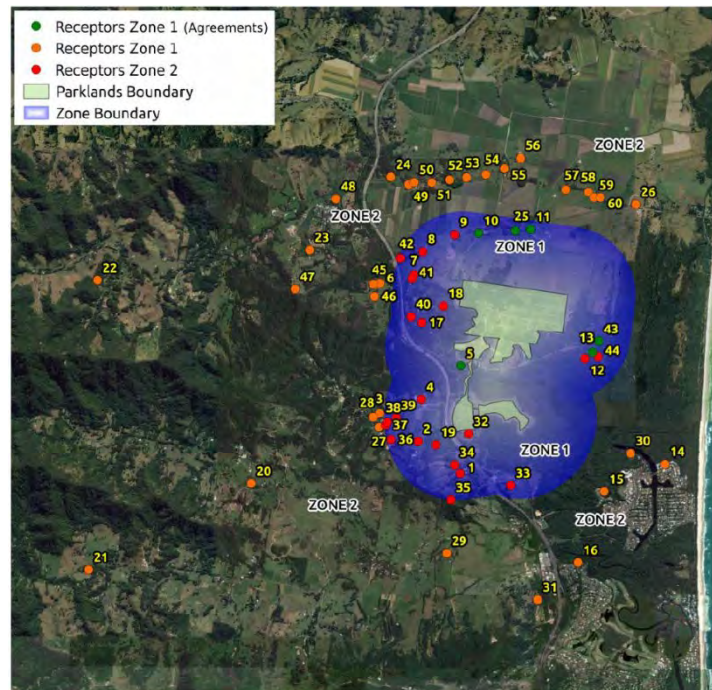


Figure 5 – Acoustic Modelling for Noise Sensitive Receptors

Tweed Shire Council officers have undertaken a review of the proposed SSD noting the following concerns:

- The use is a significant intensification when compared to the trial period.
- The trial period was complicated by non-compliances, community concerns and ongoing mitigation after monitoring events undertaken during the trial.
- Event noise monitoring was undertaken during the trial on only 3 events.
- Maximum patronage during the trial period was only 32,500. The proposed maximum patronage is 35,000 with future expansion to 42,500 and 50,000 subject to meeting KPIs. This represents a significant intensification.
- The noise modelling predicts exceedances at the two closest dwellings. Local agreements between the operators and the land owners may become an issue if ownership changes.
- Further mitigation measures have been proposed up and above what was required for the trial period.
- Approval of the facility will require strict conditioning to ensure the mitigation measures are implemented and ongoing operational monitoring to demonstrate that the proponent achieves the noise criteria. This will place a significant regulatory burden in the future as the event intensifies. This is demonstrated through the continual community attention the operation has been subject to during the trial period.
- Based on the level of community concern, noise levels predicted when compared to the adopted noise criteria it is recommended that the Department engage a suitably qualified and experienced acoustic consultant to undertake an independent peer review.

The proposed SSD is supported by a Flood Risk Management Plan and Flood Assessment.

Tweed Shire Council officers have reviewed the proposed SSD in terms of flooding and stormwater, noting the following:

Flooding

It should be noted that the two large events result in approximately 10 days per year (plus bump in/out periods) when the site is at the higher capacity. This results in a reduced overall flood risk, relative to permanent facilities, and the proposal should be viewed with this in mind.

The site is equipped with two main accesses to Tweed Valley Way and a single access to Wooyung Road. Therefore, evacuation of the site is possible given enough time/advanced warning.

The site incorporates large area of land above PMF. This area has access to an evacuation route above PMF (via Jones Rd). Therefore, should evacuation fail, there are opportunities to manage risk to life.

The applicant's assessment of the time required to evacuate the site relies upon a northbound route along Tweed Valley Way being open. Tweed Valley Way can be cut at Crabbes Creek. However, analysis of Council's models shows that (in PMF scenario) that the roads north are overtopped at a similar time to the site being inundated. Therefore, if executed as planned, evacuation should be completed prior to these roads being severed.

The applicant's assessment of the time required to evacuate the site also considers a route north via Tweed Coast Road, but does not rely upon this. Wooyung Road is cut in minor floods and cannot be relied upon as an evacuation route. The applicant acknowledges this by not including this route in their base scenario.

The applicants Flood Risk Management Plan is comprehensive. However, it should be noted that evacuation of the site is highly dependent on an early decision by management to provide adequate timeframe for the high number of patrons and staff to leave the site.

Stormwater

Any potential upstream changes to flood behaviour resulting from the raising of "Easy Street" can be adequately managed through the design of the road embankment and associated culverts. It is understood this will be the subject of a separate application, which will provide opportunity for assessment of these details.

Music festival campers are known to leave behind large quantities of rubbish. A storm or flood event during an event including camping presents a significant risk of gross pollutant (rubbish) discharge from the site. The Stormwater Management Plan (previous application) notes the installation of Gross Pollutant Traps to capture rubbish in small storm events. However, these are not capable of capturing gross pollutants in flood events where the entire site camping area is flooded. It is considered that the only practical management measure to mitigate this risk is the removal of patrons and their belongings from the flooded area and removal of rubbish from the low lying areas. Whilst rubbish removal is not specifically mentioned, removal of patrons and their vehicles is captured in the management actions of the Flood Risk Management Plan. Rubbish removal is considered a secondary priority in an evacuation scenario and would only be expected to be completed where time and access permits.

Conclusion

It is recommended that the Department's assessing officers consider the risk of minor flood or local storm events (overtopping drains) resulting in a high volume discharge of gross pollutants from the site during camping events.

This could be mitigated by management measures including actions within the Flood Risk Management Plan and / or general waste management.

Waste Management

The proposed SSD includes a Waste Management Assessment which notes the following:

"For the 2017 STIG, a total of 1267 bins of various sizes were placed in strategic locations around the site. More than half the bins provided were for recyclables and Food organics and garden organics (FOGO). The total volume of these bins amounted to 441 cubic metres. Emptying of bins across the site was continuous averaging twice daily. Waste storage and servicing arrangements will need to be adjusted commensurate with increased patron numbers of potentially up to 50,000. This adjustment would be easily accommodated on this large site".

The assessment also notes that the commencement of the NSW container deposit scheme will introduce monetary incentives to recover eligible beverage containers from the waste stream. This will open up opportunities for Parklands event operators to better encourage patrons to source separate and reduce litter.

No concerns with the proposal are raised in terms of waste management, subject to appropriate measures being in place to minimise any potential stormwater / waste management impacts during local storm events.

Potable Water Supply

The proposed development incorporates a Potable Water Supply Assessment. Having considered the proposed increase in demand for potable water in relation to the events and conference centre, as well as the limited ability to collect rainfall from roofs, the assessment provides several recommendations, including the construction of a 4.3ML reservoir, in the elevated north western portion of the site and an enhancement of the current quality assurance program due to the increase in patrons attending events and the consequence of an outbreak of gastro intestinal disease.

No concerns are raised with the proposed water supply system, noting that the requirements for safe potable water supply are regulated by NSW Health under the Public Health Act 2010. The Public Health Act 2010 and the Public Health Regulation 2012 require drinking water suppliers to develop and adhere to a 'quality assurance program' (or drinking water management system). This requirement would apply to the proposed development.

Wastewater Treatment

The Wastewater Assessment report provides a detailed analysis of the existing wastewater load at the subject site and the capacity of the site in terms of the estimated wastewater loads generated by the development. The report notes that the Site is generally suited to on-site wastewater management and has the capacity to manage the predicted loads from the proposed development.

The report incorporates a number of recommendations to be progressively implemented, noting that "...Further engineering design for sewer reticulation and treatment system is required as well as preparation of treatment system and irrigation area operation and maintenance plans".

No concerns are raised with the proposed waste water treatment, noting that the appropriate regulatory authority for the assessment of wastewater will be the Byron Shire Council and NSW Health. Tweed Shire Councils interest relates to ensuring waste water disposal does not result in offsite impacts to the land or adjacent water courses. With the appropriate assessment and approvals undertaken by both the Byron Shire Council and NSW Health against appropriate performance standards specified under the Local Government (General) Regulation 2005 and AS/NZS1547:2012 the potential for offsite impacts is considered minimal.

Medical / Police Services

The proposed SSD incorporates management strategies for all incidents and emergencies on site during events (including bushfire and flooding), all of which are coordinated through the Event Communication Centre (ECC).

The ECC operates 24 hours a day during all medium and large events and is managed by a variety of agencies (Police, RFS, Ambulance and medical personnel). Health services and facilities for medium and large events are privately engaged by the event organisers, providing a fully equipped and staffed medical centre. Additional NSW Ambulance crews are rostered on (at a cost of \$5000 per event) although they are not located at the event. With regard to NSW Police services, it is noted that a user pays system is utilised for each medium and large outdoor event. The report notes that police officers are drawn from all over the state, ensuring that local communities are not under resourced.

No concerns are raised with regard to medical / police services, noting that detailed comment in this regard would be provided by other agencies.

Patron Numbers

The total number of people attending the events is a concern in terms of overall management of the various events and considerations for emergency evacuation etc. The trial events were limited to 35,000 patrons per day for large events (with a **patron** meaning "...*anyone who holds a ticket to attend an outdoor event*").

It is noted that the SSD defines patrons as "...*a member of the general public who purchases a ticket to attend an outdoor event and attends the event on any given day*". As such patron numbers at proposed events will not include other people on site such as performers, volunteers and workers.

Although the SSD does acknowledge additional people for events (i.e. maximum 57,850 people on site for a 50,000 patron event), it is unclear as to whether the assessment and associated management plans / reports have taken into consideration that additional people will be on site and factored these increased figures into traffic assessments or flooding / evacuation planning. In addition, it is unclear as to whether free ticket holders have been included into any assessment, given they are technically not purchasing a ticket and therefore not considered as a "patron", nor are they identified in the SSD as potential "other people" on site for events.

Submission

Tweed Shire Council has received a submission from a Kingscliff Business Owner, which raises concerns about the impact on local parking provisions as a result of patrons attending the NBP events parking in the Kingscliff CBD and catching buses to the event. Although Council does not have any survey evidence to determine the level of impact (if any) as raised in the submission, it has been recommended that the Department give consideration

to the modification of the shuttle service route through Kingscliff area so that parked patron vehicles do not impact on public parking within the CBD area. For example, Kingscliff TAFE may be amenable to patrons parking in their car park.

OPTIONS:

That Council:

1. Endorse the attached draft submission; and
2. Endorse changes to the attached draft submission.

Option 1 is recommended.

CONCLUSION:

Council has previously raised concerns for the proposed intensification of use of the original concept plan and project application approval of the North Byron Parklands. It is considered appropriate to reiterate these concerns to the Department through a formal submission on the proposed SSD and Concept Plan Mod 5.

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:

Attachment 1.

Council's Draft Submission to the Department of Planning and Environment on the proposed development (ECM 5054011)

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

SUBMITTED BY: Director

mhm



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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.1 Built Environment
- 2.1.2 Development Assessment - To assess development applications lodged with Council to achieve quality land use outcomes and to assist people to understand the development process.

ROLE: **Provider**

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 November and December 2017 and January 2018 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, no Development Applications have been supported/refused where a variation in standards under SEPP1 has occurred.

DA No.	DA17/0567
Description of Development:	Boundary adjustment
Property Address:	Lot 1 DP 1208434 No. 540 Urliup Road, Urliup and Lot 64 DP 755685 No. 587 Urliup Road, Bilambil
Date Granted:	25/1/2018
Development Standard to be Varied:	Clause 20(2)(a) - Minimum lot size 40ha
Zoning:	7(l) Environmental Protection (Habitat)
Justification:	Boundary adjustment between two rural allotments which are both part zoned RU2 and 7(L). Variation to clause 20 of LEP 2000 relating the development standard requiring 40ha minimum to land zoned 7(l) (the existing total amount over the two lots is 23.5ha).
Extent:	The development standard is 40 ha with the area of 7(l) zoned land being 23.5ha - 42.25% variation.
Authority:	Director-General of the Department of Planning

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.

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

20 [CNR-CM] Art in the Park - The Sacred Littoral Art Project

SUBMITTED BY: Community and Cultural Services

mhm



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

3	People, places and moving around
3.1	People
3.1.2	Community and Cultural Development - To provide community and cultural development services to foster and improve social and cultural well-being.

ROLE: Collaborator

SUMMARY OF REPORT:

In November 2015 Council made a commitment to contribute \$10,000 to the Artful Christmas Tree project for 2016. The project was to build a sculpture in Budd Park in collaboration with the Murwillumbah District Business Chamber (MDBC), with the MDBC providing \$10,000 of matched funding or in kind contributions. The project had been on hold while the MDBC was in the process of confirming their funds and also because of the floods. No funds have been released to date. Recently, on 22 January 2018 the MDBC formally withdrew from the project citing an inability to provide project management. They do however remain supportive of the project. This report provides an update regarding the Sacred Littoral Art Project and provides a recommendation to proceed under a new arrangement with Creative Caldera.

RECOMMENDATION:

That Council

- 1. Acknowledges the withdrawal of Murwillumbah District Business Chamber from the Sacred Littoral Project.**
- 2. Endorses transferring the management of the Sacred Littoral Project from Murwillumbah District Business Chamber to Creative Caldera subject to formalised agreement with Creative Caldera, which will ensure probity, risk management and on appropriate approved project plan to be actioned under delegation by the General Manager.**

REPORT:

In November 2015 Council made a commitment to contribute \$10,000 to the Artful Christmas Tree project for 2016. The project was for an “artful Christmas tree” called the Sacred Littoral. This proposal was for the permanent installation of a tree inspired sculpture in Budd Park, Murwillumbah. Tweed Shire Council resolved to contribute \$10,000 to the project and Murwillumbah District Business Chamber (MDBC) were to provide matched funding of \$10,000 with the possibility that the contribution from MDBC would be in-kind. MDBC were to lead the project (engage the artist, source the materials, complete the installation, etc.). It was envisioned that during the weeks leading into Christmas the sculpture will be decorated as a public Christmas tree, and then function as a decorative sculpture for the remainder of the year. The sculpture design was approved by the Public Art Reference Group (PARG), and a report went to the Executive Leadership Team (ELT) in November 2016. A Councillor workshop was held in November 2017 to provide an update regarding the project.

The MDBC undertook a number of community consultation activities to garner support for the project. This included: with MDBC members in August 2016 to launch design options to place on community exhibition, members also cast their vote; the Tweed Valley Weekly ran a story on the proposed sculpture models and invited people to vote; MDBC newsletter, website and social media; ‘door knocking’ with the Prospero Street, South Murwillumbah, businesses and invitation to vote on the models; display of models at the Caldera Art Centre to enable the community to vote. The majority of responses received were supportive of the sculpture.

Recently, the MDBC formally withdrew from the project. While MDBC is supportive of the project, none of the individuals who originally proposed the project are still with the MDBC. Another community organisation, Creative Caldera, has offered to take up the role previously held by the MDBC. The MDBC have expressed their support for Creative Caldera to manage the project going forward. The two organisations had been working together to deliver the project.

No funds have been released to date.

Funds will not be released until the Project Team is able to provide:

- a fully costed budget for the project
- an engineer’s report
- evidence of adequate Public Liability Insurance (or other insurance as required)
- and evidence of project management capability.

OPTIONS:

1. That Council acknowledges the withdrawal of Murwillumbah District Business Chamber from the Sacred Littoral Project.
2. That Council recommends transferring the management of the Sacred Littoral Project from Murwillumbah District Business Chamber to Creative Caldera subject to Council’s agreement with Creative Caldera, ensuring that Council’s probity responsibilities are in place.

OR

That Council request additional information regarding the Sacred Littoral Art Project.

CONCLUSION:

This report provides an update regarding the Sacred Littoral Art Project. In April 2016 Council entered into an agreement with the Murwillumbah District Business Chamber (MDBC) to build a sculpture in Budd Park. Recently, the MDBC formally withdrew from the project. Creative Caldera, have offered to take up the role previously held by the MDBC. The MDBC have also expressed their support for Creative Caldera to manage the project going forward.

COUNCIL IMPLICATIONS:

a. Policy:

Placemaking and Public Art Policy v1.3

b. Budget/Long Term Financial Plan:

Council made a commitment of \$10,000 to the Sacred Littoral Project. Transferring the management of the Sacred Littoral Project from Murwillumbah District Business Chamber to Creative Caldera means Council remains committed to provide \$10,000 towards the project.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

The MDBC conducted community engagement activities to determine support for the project in August 2016.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

21 [CNR-CM] Park Naming - Kingscliff

SUBMITTED BY: Recreation Services

mhm



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.2 Places
- 3.2.7 Parks and Gardens - To provide and manage quality and accessible public parks and gardens for the enjoyment and wellbeing of the community and visitors to the Tweed.

ROLE: Provider

SUMMARY OF REPORT:

At its meeting held 26 October 2017 it was resolved that Council:

1. Reconsiders the naming of the Kingscliff Foreshore Park to an appropriate name which represents the character of the area.
2. Invites submissions from the Tweed Shire community and Aboriginal Advisory Committee on renaming the Foreshore Redevelopment Park in accordance with Council's Naming of Council Parks and Sportsfields Policy.

The submission period ended 5 December 2017 with 59 submissions received proposing 55 different names.

RECOMMENDATION:

That Council adopts a name for the new foreshore redevelopment park from the submissions received and amend the park name signage accordingly.

REPORT:

At its meeting held 26 October 2017 it was resolved that Council:

1. Reconsiders the naming of the Kingscliff Foreshore Park to an appropriate name which represents the character of the area.
2. Invites submissions from the Tweed Shire community and Aboriginal Advisory Committee on renaming the Foreshore Redevelopment Park in accordance with Council's Naming of Council Parks and Sportsfields Policy.

The submission period ended 5 December 2017 with 59 submissions received proposing 55 different names.

The following table summarises the submissions received.

Key: () = Assessment criteria in Naming of Council Public Parks and Sportsfields Policy for which the submission is non-compliant.

I = Insufficient information provided to determine compliance with policy

G = Generic or geographic references not including names of people, fauna, flora or Aboriginal origin.

Name	Additional information	Compliance with policy	No
Bonner Park	After Neville Bonner	No (c,e,f)	1
Bungee Park	Aboriginal word for "Mate"	No (g)	1
Turnbull Park	Andrew "Pakie" Turnbull	I	1
Rowan Robinson	Ex local Soldier	Yes	7
Bundjalung Park		No (g)	1
Pandanus Park or cove		Yes	4
Dreamtime		No (g)	9
Central Park	Current name	G	4
The Promenade		G	1
King Central Park		G	1
S. Gilmore Park	After Steph Gilmore - surfer	No (a,c,)	2
Boomerang		No (g)	1
Yabber	Aboriginal meaning "talk to"	No (g)	1
Curlew Foreshore Park or Cove		Yes	3
The Foreshore		G	2
Kingy Foreshore Park		G	1
Kingscliff Foreshore Park		G	2
The Wedge	Reference to surf spot in LA with similar rock formation	No	1
Bush Stone Cove		Yes	1
Goodjinburra Park	Local Aboriginal Clan		4
Bonser Park	In honour of Bonser family	I	1
Wandering Waves Park		G	1

Name	Additional information	Compliance with policy	No
Royal Gardens Reserve		No	1
Joe Peoples Park	Past President of RSL	Yes	1
Parky McPark Face		No	2
Goyung	Aboriginal for mullet fish	No (g)	1
Pingin	Aboriginal for turtle	No (g)	1
Biren	Aboriginal for saltwater	No (g)	1
Yugeree	Aboriginal for pippies	No (g)	1
Jumbumm	Aboriginal for black wallaby	No (g)	1
Nyunga	Aboriginal for sun	No (g)	1
Kangaroo King Park		I	1
Dolphin Paradise Park		No	1
Wommin Bay Park		G	2
Anzac Park		G	1
Long Beach Park	Believes Cudgen to Fingal once referred to as Long Beach	G	1
Morgan/Gilmore Park	Indigenous rugby league player Lionel Morgan and Steph Gilmore	No (a,c)	1
Slockee Togo Park	Two local families part of original South Pacific Island population in Tweed	I	1
Cudgen Headland Park		G	1
Aston Park	Memory of Peter Aston, abducted and buried at Kingscliff South	I	1
King Park	In honour of Stephanie King tragically killed with her two children at Tumbulgum in April 2017	I	1
Welcome Park		G	1
Osprey Park		Yes	1
Pelican Park		Yes	1
Sea Eagle Park		Yes	1
Sea-bird park		Yes	1
Oriole Park		Yes	1
Kingscliff Sunrise Park		G	1
Kingscliff Ocean Park		G	1
Kingscliff Beach Park		G	1
Salt Spray Park		G	1
Salt Wind Park		G	1
Ocean Breeze Park		G	1
Billi (Hilda) Turney Park	Named after long term resident of Kingscliff with significant community service achievements	Yes	1
Kings Landing		G	1
Sunny Boys Stage	Proposal to separately name the stage in the park	NA	1

Aboriginal Advisory Committee

In accordance with the resolution, the Aboriginal Advisory Committee (AAC) was invited to provide a submission. The draft minutes from the AAC meeting held 3 November 2017 are reproduced below.

"GB1. Kingscliff Foreshore Park - Naming

Cr Polglase has made a Notice of Motion regarding the naming of the Kingscliff Foreshore Park from Central Park to reflect the character of the area. The Council resolution at the Council meeting on 26 October 2017 was to invite the AAC to discuss whether a cultural name would be appropriate for the site and if the AAC would like to submit a name for the park.

Cr Byrnes advised that Cr Cooper had suggested the name of 'Dreamtime Park' however the AAC advised it is not a traditional name. Cr Byrnes advised he will pass this information back to Cr Cooper.

Jackie suggested that the park could be named 'Goodjinburra' Park as it references the local clan group and Cudgen Creek.

Moved: Jackie McDonald

Seconded: Marvette Logan

RECOMMENDATION that the Aboriginal Advisory Committee suggests that Kingscliff Foreshore Park currently known as Central Park be renamed 'Goodjinburra Park'."

Council's Naming of Public Parks and Sportsfields Policy states:

"Names of Aboriginal origin associated with a locality or associated with the historical background of the locality will be highly regarded, but must be accompanied by written approval of the name from the Local Aboriginal Land Council existing in the locality of the park to be named."

Representatives of the Tweed Byron Local Aboriginal Land Council are members of the Aboriginal Advisory Committee and accordingly it is considered that the intent of this section of the Policy has been fulfilled by the Aboriginal Advisory Committee resolution.

Returned and Services League -Kingscliff Sub Branch

Council also received an extensive submission from the Returned and Services League - Kingscliff Sub Branch as reproduced below:

"Dear Sir,

Preamble:

I have no doubt that Council is aware of local Kingscliff residents via social media, namely a Facebook Group called "Kingscliff Happenings" discussing the renaming of Central Park from approx. 6th September 2017 through to 18th September 2017. There were many suggestions put forward, including a suggestion from a current Councillor that perhaps the name "Central Park" on Marine Parade Kingscliff needed to be re-visited.

While those that responded (by liking/making comment/completing a survey put up by the site administrator) may not have been 'in the thousands' there was a common thread as to whom locals thought worthy of having the park named after them including the name Rowan Robinson. Rowan was KIA in Afghanistan 6 June 2011- in the service of our country.

I am writing to submit this application to be assessed on its own merits as follows:

"Rowan Robinson Memorial Park"

The link to the Virtual War Memorial site in South Australia that has a speech given by Mr Peter Robinson, Rowan's father, at the launch of the book "Those who Served" this link provides background information on Rowan and his service to our country can be found at rslvirtualwarememorial.org.au/explore/people/617161.

Rowan Robinson: History and family.

Rowan was a young local man who joined the Army, became a combat engineer and sadly was killed in Afghanistan on 6th June 2011 on his second tour of duty. Kingscliff RSL became very involved in the local service for Rowan as part of a specific request by Rowan that if anything happened to him, his ashes should be scattered 'out near the Bombies at Kingscliff where he loved to surf' – the Cudgen Headland Surf Life Saving Club, the Kingscliff RSL and the family combined to ensure this wish was fulfilled. It was for this reason that I proposed that Kingscliff RSL would support the renaming of Central Park to 'Rowan Robinson Memorial Park' and I have (since) received strong support for this proposal.

Rowan Jaie Robinson was born in Sydney (Wahroonga) on 3rd September 1987. The Robinson family moved to Duranbah 1987 and the children attended Cudgen Public School and Murwillumbah and Kingscliff High Schools. Rowan was a keen sportsman excelling in golf and rugby and joined the local Cudgen Headland Surf Life Saving Club as a youngster, along with his siblings. Rowan was a bronze medallion, patrolling member of the surf club when he joined the Army in 2006. Rowan became a combat engineer and did a tour of duty in Afghanistan in 2007. Rowan was posted to the Incident Response Regiment and returned to Afghanistan in 2010 for his second tour of duty. Rowan was killed by insurgents in the Helmand Province of Afghanistan on 6th June 2011.

It was said Rowan at his service "Rowan captured the spirit of being a lifesaver and a soldier" he showed the importance of being fit and active; he was carefree and courageous; he loved surfing as much as he loved golfing; he loved his family and friends as much as he loved his job – he saw it as being an honour to be a mate, he was a great young man who will always be missed.

It is because of Rowan's involvement in Surf Life Saving at Cudgen Headland SLSC that this proposal comes to you. Rowan loved being part of surf life-saving, especially the "boaties" side, and in honouring Rowan after his death; the CHSLSC placed a photo of Rowan on the Cudgen Headland Surf Life Saving Surf Boat.

While there is a mood for change of the park name; there cannot be a more fitting young person more worthy of having the new park named in his honour. The proposal is not about honouring war. It is about honouring the life of a young local lad who lost

his life serving our country, and his connection to Kingscliff. If this proposal is accepted and a report goes to the council for resolution it may well be possible that the park naming and unveiling could take place on ANZAC Day 2018 and the Kingscliff RSL would work with Tweed Shire Council, as would many other local residents to ensure this happens.

I believe there would need to be a confidential attachment to any report to council regarding this proposal, given the sensitivity of the proposal. However, I can say that out of respect for Rowan and his surviving family, I have had a meeting with his parents to ask their permission to put this proposal to Tweed Shire Council.

Mr. and Mrs. Robinson have agreed that I proceed with this application and have stated that they are prepared to pay for a plaque, see copy of letter as received 6/10/17 6.24 pm from Marie Robinson at page 8. Rowan's parents Peter and Marie still live locally along with Rowan's sister Rachael. Given Rowan's love of the beach and sea, his long volunteer involvement in surf lifesaving, the Revitalisation Project underway including a new park for all to enjoy and perhaps most importantly our Cenotaph – that sits in the new park as the centre piece, it is fitting (as we remember our fallen of the past) that we remember and honour this young man who lost his life in the service of his country in 2011.

Sapper Robinson was awarded the following Honours and Awards:

Australian Active Service Medal with clasp ICAT - Afghanistan Campaign Medal - Australian Defence Medal - NATO Medal Clasp ISAF - Return Active Service Badge - Australian Combat Badge

As taken from the RSL “VIRTUAL WAR MEMORIAL” site

Rowan's background and achievements:

School: Attended Cudgen Primary School Kindergarten to year 2

Mt St Patrick's Murwillumbah year 3 to year 10

Kingscliff High School year 11-12

School activities

- Band Lead Guitar and singer Mt St Pats.
- District/regional swimming, cross country, basketball and athletics representation and represented state rugby (represented Kingscliff high school in the NSW State schools rugby Knockout and scored 3 tries in the grand-final to win the competition).

Sporting involvement

- Surf Life Saving - Active Patrol Member of Cudgen Headland SLSC **1992-2011**
- Swim Club, Little Athletics, Soccer, Rugby league, Rugby Union, Cricket, Softball, Golf, Basketball, Hockey and a passionate surfer

Career:

Combat Engineer 3 CER 2006-2009 Townsville Deployed Afghanistan 2007 Reconstruction Task Force 3

Incident Response Regiment: 2009-2011 Special Operations Engineer Deployed Afghanistan Charlie Company 2 Commando KIA

Rowan was a talented self-taught musician, singer, song writer, guitar player

Signature Song: "Maybe you're the one who is going to save me" by Oasis

Always considered Kingscliff home and returned whenever on leave.

Brought home from Afghanistan by his brother Ben

Rowan left instructions in the event of his death that he wanted a full military funeral to be held at St Anthony's Kingscliff.

Rowan's funeral was attended by many from every walk of life, it stopped our town of Kingscliff such were the numbers in attendance.

The following poem appears next to Rowan's name on the Roll of Honour at the Australian War Memorial each Remembrance Day

"Though I walk in the shadow of the valley of death

I shall fear no evil

For I have cleared many valleys of death

And I have stared evil in the eye

I have seen good men die

And yes I fell that fateful day

It was a price that I was prepared to pay

Remember me and shed a tear

I was a Special Operations Engineer"

Vale Rowan Robinson."

Summary:

The most submissions (9) were received for *Dreamtime Park*. The Dreamtime reference may be considered an Aboriginal name for which Council's Naming of Council Parks and Sportsfields Policy (the policy) states:

Names of Aboriginal origin associated with the locality or associated with the historical background of the locality will be highly regarded, but must be accompanied by written approval of the name from the Local Aboriginal Land Council existing in the locality of public park to be named.

It is noted from the draft AAC minutes that the name Dreamtime was suggested to the committee but rejected as not being a traditional name.

Rowan Robinson received the second highest number of submissions (7) and *Goodjinburra Park* (4).

Pandanus Park received the most submissions for a name referencing flora or fauna (4), and Central Park received the most submissions for a generic name (4).

Process:

The approval process within the policy is:

1. If Council approves the application against the criteria listed above, then a report will be presented to Council for consideration of a resolution to advertise the name in the Tweed Link or any other local newspaper inviting submissions from the public for a twenty eight day submission period. Any submissions received will be considered in a further report to Council.
2. Proposal to be assessed against any submissions received and a recommendation for approval or otherwise to be made in report to Council.

The process within the policy is based on the more common circumstance where a single name is proposed and placed on exhibition for comment. The circumstance in this instance is different in that invitations to suggest a name were sought from the community. It is considered that the requirement for a 28 day submission period has been complied with and Council is now in a position to determine and adopt its preferred name.

OPTIONS:

1. That Council adopts a park name from the submissions received.
2. That Council determines another option.

CONCLUSION:

Numerous submissions have been received from which Council can formally resolve its preferred option and amend the park name signage accordingly.

COUNCIL IMPLICATIONS:

a. Policy:

Naming of Council Public Parks and Sportsfields v2.0.

b. Budget/Long Term Financial Plan:

The cost to amend the existing 'Central Park' sign will depend on the final redesign. Estimate approximately \$10,000. This cost can be covered in the project budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

22 [CNR-CM] Council Delegates Richmond Tweed Regional Library Committee

SUBMITTED BY: Community and Cultural Services

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.2 Places
- 3.2.5 Libraries - To provide accessible community spaces and access to books, learning resources and other information.

ROLE: **Provider**

SUMMARY OF REPORT:

Council resolved at the Council Meeting on 5 October 2017 to adopt the Deed of Agreement for the Richmond Tweed Regional Library (RTRL) and to nominate delegates as required in the Deed once notice of the formation of the RTRL Committee by Lismore City Council is received. The RTRL Deed of Agreement was signed by the member Councils of Ballina Shire, Byron Shire, Lismore City, and Tweed Shire Councils on 27 November 2017.

The Deed requires that Council appoint two RTRL Committee Members and one Alternate Committee Member.

Council is also required to nominate a Senior Officer as delegate to the Senior Leaders Group for the RTRL. The Manager Community and Cultural Services is the delegate nominated by the General Manager.

RECOMMENDATION:

That Council confirms:

1. **The current two delegates Cr K Milne and Cr R Byrnes and the Alternate delegate, Cr C Cherry, to the Richmond Tweed Regional Library Committee.**
2. **The Manager Community and Cultural Services as the Senior Staff member on the Richmond Tweed Regional Library Senior Leaders Group.**

REPORT:

Council resolved at the Council Meeting on 5 October 2017 to adopt the Deed of Agreement for the Richmond Tweed Regional Library (RTRL) and to nominate delegates as required in the Deed once notice of the formation of the RTRL Committee by Lismore City Council is received. The Richmond Tweed Regional Library Deed of Agreement was signed by the member Councils of Ballina Shire, Byron Shire, Lismore City, and Tweed Shire Councils on 27 November 2017. A copy of the signed Deed is an attachment to this report.

The Deed states in Clause 5.2 that:

"a Member Council, as soon as practicable after the establishment of the RTRL Committee by the Executive Council or after becoming a Member Council, is to appoint two RTRL Committee Members and one Alternate RTRL Committee Member."

Council formally nominated delegates to the RTRL Committee at the Council Meeting on 15 December 2016. The Delegates nominated were Cr K Milne, Cr R Byrnes and the Alternate is Cr C Cherry. The RTRL Committee is now to be established by the Executive Council, Lismore City Council as a committee of Council and therefore the previous committee has been dissolved. This report is to confirm delegations to the newly established RTRL Committee under the terms of the Deed of Agreement.

The Deed also states in Clause 9.2 that:

"each Member Council is to appoint the agreed number of members of their senior staff to be members of the Senior Leaders Group (SLG)."

The Manager Community and Cultural Services is the delegate nominated by the General Manager.

OPTIONS:

1. That the current two delegates Cr K Milne and Cr R Byrnes and the Alternate Cr C Cherry be confirmed as members of the RTRL Committee;

or

2. That Council renominate two delegates and an Alternate as members of the RTRL Committee.

And

3. That the Manager Community and Cultural Services be confirmed as the Senior Staff member on the RTRL Senior Leaders Group.

CONCLUSION:

The RTRL Deed of Agreement has now been formally executed and this requires the formal confirmation of delegates to the RTRL Committee and Senior Leaders Group.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not Applicable.

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.

Consultation and workshops were convened during 2016 and 2017 towards the establishment of a Deed of Agreement to ensure a sustainable model of governance for the RTRL.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Signed copy of Deed - Richmond-Tweed Regional Library
(ECM 5013483)

23 [CNR-CM] Developer Contributions and Developer Charges for Community Organisations

SUBMITTED BY: Community and Cultural Services

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.1 People
- 3.1.2 Community and Cultural Development - To provide community and cultural development services to foster and improve social and cultural well-being.

ROLE: Provider

SUMMARY OF REPORT:

At its meeting on 26 October 2017 it was resolved

"that Council places on public exhibition the draft Developer Contributions and Developer Charges for Community Organisations Policy v2.0 and advertises the draft policy for 28 days allowing 42 days for submissions."

The Policy was placed on exhibition. No public submissions were received.

RECOMMENDATION:

That Council adopts the Developer Contributions and Developer Charges for Community Organisations Policy Version 2.0.

REPORT:

At its meeting on 19 June 2014 Council resolved to adopt the Policy *Developer Charges for Community Organisations*.

This policy provided the option of allowing eligible organisations to enter into a long-term deferred payment plan with annual repayments. The Policy is designed to reduce the burden of up front capital costs related to Section 94 Developer Contributions and Section 64 Developer Charges for smaller community organisations located on Council controlled land. The Policy is applicable to all lands under the care control and management of Tweed Shire Council.

Subsequently to the Developer Charges for Community Organisations Policy being developed, Council introduced the High Consumption Charge for Water Supply and Sewerage Usage for Non Residential properties. In the revised Policy the deferred payment options remain the same and the High Consumption Charge for Water and Wastewater option is also provided to eligible community organisations as an alternative option to the upfront payment of Section 64 Developer Charges.

The name of the Policy has been modified to *Developer Contributions and Developer Charges for Community Organisations* to reflect the names of the charges.

A Draft Policy was prepared and exhibited in accordance with s160 of the Local Government Act 1993.

The Policy was placed on exhibition from 14 November 2017 to 11 January 2018. No public submissions were received.

OPTIONS:

1. That Council adopts the Developer Contributions and Developer Charges for Community Organisations Policy version 2.0.
2. That Council does not adopt the Developer Contributions and Developer Charges for Community Organisations Policy version 2.0.

CONCLUSION:

The Developer Contributions and Developer Charges for Community Organisations Policy allows Council to offer alternatives to upfront payment of Section 94 Contributions and Section 64 Developer Charges on Development Approvals granted to smaller community organisations located on Council controlled land.

The Policy is applicable to all lands under the care control and management of Tweed Shire Council.

COUNCIL IMPLICATIONS:

a. Policy:

Developer Contributions - Community Organisations v1.0

b. Budget/Long Term Financial Plan:

Not Applicable

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Draft Section 94 Developer Contributions and Section 64
Developer Charges - Community Organisations Policy -
Version 2.0 (ECM 4816635)

24 [CNR-CM] Signing of Museum Service Agreement 2018

SUBMITTED BY: Community and Cultural Services

nhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.2 Places
- 3.2.6 Museum - To preserve and share the history of the Tweed for the benefit and enjoyment of visitors and the community.

ROLE: Collaborator

SUMMARY OF REPORT:

A comprehensive review of the partnership between Council and the Historical Societies of Murwillumbah, Tweed Heads and Uki and South Arm in relation to development of the Tweed Regional Museum was completed in 2015. This process involved extensive consultation with the Museum Advisory Committee and Historical Society members.

An inaugural Museum Service Agreement (2016 - 2017) was subsequently implemented to guide cooperation between Council and the Societies in relation to the Tweed Regional Museum (TRM). This inaugural Agreement expired at the end of 2017.

In September 2017 a new draft Agreement for the twelve months January - December 2018 was provided to Historical Society Presidents for comment and discussion, and a final Agreement negotiated.

The Museum Service Agreement 2018 was formally signed by each of the Societies on 18 January 2018. The Agreement was subsequently acknowledged and endorsed by the Museum Advisory Committee via a Flying Minute, and signed by the General Manager on behalf of Council.

RECOMMENDATION:

That Council notes that the Museum Service Agreement 2018 between Council and the historical societies of Murwillumbah, Tweed Heads and Uki & South Arm has been signed by all parties.

REPORT:

Background

The inaugural Museum Service Agreement between Council and the Historical Societies of Tweed Heads, Murwillumbah and Uki & South Arm was executed in 2016 following an extensive process of review and consultation carried out in 2015.

The Agreement represented a significant stage in the development of Tweed Regional Museum following its establishment through a Memorandum of Understanding (MOU) between the parties in 2004.

Council has delivered significant outcomes anticipated in both the MOU and in the inaugural Museum Service Agreement. These outcomes include: construction of a dedicated Museum collection storage facility, a significantly expanded and refurbished Museum facility at Murwillumbah; construction of new research centre and office facilities at Tweed Heads, and refurbishment of the heritage Court House building at Tweed Heads, together with accommodation and ongoing operational support for each of the Historical Societies. Further redevelopment of the Tweed Regional Museum Tweed Heads site will be ongoing in 2018, with the support of grant funds received through the Department of Environment and Heritage, Heritage Activation program.

Professional Museum staff continue to provide the Tweed community with high level professional care of the Shire's collection, together with a dynamic range of Museum displays and public programs.

Current situation

The 2018 Museum Service Agreement has been developed in line with the Council's Delivery Plan, and as a follow-on document to the inaugural Museum Service Agreement. The Agreement provides guidance for the cooperation between Council and the Societies in relation to the Tweed Regional Museum. Specific areas of activity identified focus on research projects, collection development, and support for community-based historical research.

Representatives of the Murwillumbah, Tweed Heads, and Uki & South Arm Historical Societies formally signed the Agreement on 18 January 2018. The Agreement was subsequently endorsed by members of the Museum Advisory Committee and signed by the General Manager on behalf of Council.

OPTIONS:

Not applicable due to the terms of the agreement.

CONCLUSION:

Development of the inaugural Museum Service Agreement between Council and the Societies was implemented in 2016-2017 following an extensive process of review and negotiation during 2015. The Museum Service Agreement 2018 builds on the previous Agreement and sets out Council's commitment to partner Historical Societies, and the basis of the Societies' contribution to ongoing development of the Tweed Regional Museum.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

To be met from existing Tweed Regional Museum operational budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

Consultation with members of the Historical Societies has been undertaken to build on the inaugural 2016 - 2017 Agreement and develop the Museum Service Agreement 2018. The Museum Service Agreement ensures that Council's investment in Historical Societies through the Tweed Regional Museum supports a range of outcomes for the Tweed Shire, its residents and visitors.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM THE DIRECTOR ENGINEERING

25 [E-CM] Tweed Valley Rail Trail Grant Funding

SUBMITTED BY: Roads and Stormwater

mhm



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.3 Moving around
- 3.3.4 Roads, Traffic, Footpaths and Cycleways - To provide and maintain a network of roads and bridges, footpaths and cycleways that is safe, efficient and accessible.

ROLE: **Leader**

SUMMARY OF REPORT:

Council's application to the Federal Government's Regional Jobs and Investment Packages – North Coast (RJIP) grant program for the Tweed Valley Rail Trail (TVRT) has been successful. This is the culmination of a May 2013 resolution to *actively support and promote the establishment of a rail trail on the Casino to Murwillumbah rail corridor.*

RECOMMENDATION:

That Council:

1. **Accepts the offer of funding of \$6.518 million for the Tweed Valley Rail Trail under the Federal Government's Regional Jobs and Investment Packages – North Coast.**
2. **Executes all necessary documentation under the Common Seal of Council.**

REPORT:

Council's application to the Federal Government's Regional Jobs and Investment Packages - North Coast (RJIP) grant program for the Tweed Valley Rail Trail (TVRT) has been successful. The amount offered is \$6.518 million and represents half (50%) of the capital funding required to complete the Tweed Valley Rail Trail. The TVRT is intended to be stage 1 of the 132km Northern Rivers Rail Trail (NRRT) from Casino to Murwillumbah.

The TVRT will attract new visitors to the Tweed region, extend the stay of visitors already flocking to the region and provide a timely boost to the jobs market for residents. The project's business case predicts that, upon completion, the TVRT will attract more than 27,000 visitors per annum creating additional jobs in the tourism sector, provide health benefits for local residents that utilise the Trail and assist in revitalising the small communities along the route. The positive benefits of the rail trail will increase as future stages are extended towards Casino.

At its May 2013 meeting, Council resolved to *actively support and promote the establishment of a rail trail on the Casino to Murwillumbah rail corridor*. Since this resolution Council staff have completed various preliminary tasks, have been working with community groups and making grant applications to this effect. The subject grant funding offer is the culmination of this resolution.

The remaining capital funding required for the project is to come from the State Government. In July 2017 Council was advised that \$6.518 million was reserved from the NSW Regional Tourism Infrastructure Fund, pending confirmation of matching Federal Funding.

The Tumbarumba Rail Trail project is the first Rail Trail Pilot in NSW and provides a framework for the establishment of a rail trail in NSW. From this process it has become clear that Rail Trails in NSW require an Act of Parliament to close the line and have it dedicated under the Crown Lands legislation as a rail trail for recreational use. It should be noted that under this model the rail corridor remains in State Government control.

To accept the offer of funding, Council must enter into a grant agreement with the Department of Industry, Innovation and Science. Council has until 2 March 2018 to sign the grant agreement and accept the funding offered.

OPTIONS:

1. Accept the grant funding and sign the grant agreement by 2 March 2018.
2. Reject the grant funding.

CONCLUSION:

Council's application to the Federal Government's Regional Jobs and Investment Packages - North Coast (RJIP) grant program for the Tweed Valley Rail Trail (TVRT) has been successful. This is the culmination of May 2013 resolution to *actively support and promote the establishment of a rail trail on the Casino to Murwillumbah rail corridor*.

To realise the many benefits that a Rail Trail will bring to the Tweed and North Coast community, it is recommended Council accept this offer and commence work to establish a Rail Trail.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Establishment of the Tweed Valley Rail Trail is expected to cost \$13,036,000 and is fully funded from external sources (State and Federal Government grants).

The proposed governance model for the rail trail is a Trust under Crown Lands NSW. In this model Council is not the manager of the trail and is not responsible for funding maintenance.

Current estimates indicate a maintenance funding deficit of between \$250,000 and \$300,000. Discussions are in progress with the State Government regarding this funding deficit and opportunities to fund same.

c. Legal:

The Regional Jobs and Investment Packages grant agreement will require commencement of the project within 12 weeks of signing the agreement. This timeframe can only be achieved if the NSW Legislation is amended to allow removal of the train tracks. The agreement will also require completion of the project by mid 2020.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

26 [E-CM] Tweed Valley Rail Trail Community Consultation

SUBMITTED BY: Roads and Stormwater

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.3 Moving around
- 3.3.4 Roads, Traffic, Footpaths and Cycleways - To provide and maintain a network of roads and bridges, footpaths and cycleways that is safe, efficient and accessible.

ROLE: **Leader**

SUMMARY OF REPORT:

Council has resolved to bring back a report to determine an appropriate Shire wide consultation strategy regarding the community's preference for the future of the disused Casino to Murwillumbah rail corridor.

To conduct a survey that is representative of community sentiment would require a random sampling process. Any open survey would attract interest groups that would skew the results making the survey invalid.

Also, Tweed residents are unlikely to have reviewed the various detailed engineering studies investigating the respective merits, costs and benefits associated with returning trains and establishing a rail trail. To ensure a survey is populated with informed responses would require an investment in shire wide community education.

Conducting a survey which would return a truly representative sample of informed Tweed residents is a significant commitment in terms of time and finances which may delay the commencement of the Rail Trail project.

Clarity is also required regarding the specific questions Council wishes to ask in the survey as they imply a potential for the return of train services which is different to the determined position of the NSW Government and dual use of the corridor which will is not feasible in many sections of the track and will add significant cost to the overall project.

RECOMMENDATION:

That Council determines the preferred option in regard to further Council Community Consultation on the future use of the rail corridor.

REPORT:

Background

At the September 2017 meeting Council resolved that:

- "1. Notes the full length of the Tweed section of the Rail Trail of 24 km to Crabbes Creek has not benefitted from any specifically targeted Shirewide consultation and therefore cannot adequately demonstrate categorical community support as normally required for successful government grant funding.
2. Notes the potential impact for affected landholders with the public traversing of their land unrestrained without fencing.
3. Brings back a further report to determine an appropriate Shirewide consultation strategy including but not limited to a survey asking whether the community would prefer:
 - a To preserve the rail tracks
 - b To convert the track to a rail trail
 - c To have dual use of the rail corridor to preserve the rail tracks and provide for a rail trail."

This report outlines the challenges associated with this resolution and options in undertaking shire wide engagement.

Project Status

The Tweed Valley Rail Trail project, which covers a 24km route from Murwillumbah to Crabbes Creek, has recently received combined commitments in excess of \$13 million from the State and Federal Governments. Tweed Shire Council is to manage the establishment phase of the project.

Tweed Shire Council is a long term advocate for the Rail Trail, having resolved at its May 2013 meeting:

"to actively support and promote the establishment of a rail trail on the Casino to Murwillumbah rail corridor."

Towards this goal extensive work has been completed defining the economic, social and environmental benefits a Rail Trail would bring to the region.

The NSW State Government, which has committed \$6.518 million to the project, has commenced a community engagement process to inform a potential amendment to the Transport Administration Act that would enable the rail trail. The details of this consultation, including its form and any results so far, have not been shared with Council. It is unclear what information was shared with the Federal Government on this matter however the timing of their announcement, six months after the State's commitment, would infer some confidence in levels of community support.

Consultation Challenges

Determining an appropriate Shire wide consultation strategy for the Rail Trail is complicated by the perception in the wider community that train services might be restored along the

Casino to Murwillumbah rail line. Various studies over the past 15 years have investigated restoration of train services to the Casino to Murwillumbah line. None have successfully demonstrated the returning trains would be viable without enormous investment and subsidy by Government. The most recent study, the Casino to Murwillumbah Transport Study 2013, recommended that:

"rail services will do little to meet short term public transport needs of the region and, considering the costs of reinstatement (in excess of \$900 million), cannot be justified."

This has been the position of successive NSW State Governments since the trains ceased operation in 2004.

There is also a widespread perception that train services might be restored and connected to the South East Queensland rail network; however the lack of a dedicated rail corridor between Murwillumbah and the border means the financial cost of doing so would be prohibitively excessive. Also, the Casino to Murwillumbah Transport Study 2013 found that *"any future heavy rail connection to South East Queensland, should it be required after 2031, should extend south from Gold Coast Airport along the Tweed Coast rather than inland to connect to the existing rail line at Murwillumbah."*

The prevalence of these perceptions means using a simple open online survey to canvas community support for the Rail Trail is unlikely to result in a useful or accurate result. Asking people to complete a survey on a volunteer basis will also result in a non-representative sample of people who are passionate about the issue as those who do not see themselves as stakeholders will not participate.

While a volunteer survey through social media or a Council website can facilitate engagement and interaction in a number of valuable ways it is not an appropriate vehicle for determining the future of multi-million dollar infrastructure projects.

There is then a challenge in designing, conducting and analysing the results of a survey which ensures a true representation not just of what people want with regards to the rail corridor, but what people want in light of the facts under consideration. For example someone may be opposed to a Rail Trail as they want train services back and connected to Queensland, however once they are fully aware of the barriers to this happening they may see the Rail Trail as the best alternative.

Engagement Strategy

Option 1.

Should Council resolve to proceed with the shire wide engagement, it is recommended an external provider be engaged to complete a survey with a random sampling approach and an unbiased education element woven into the same.

This would involve cost in the range of \$20,000 to \$50,000.

Southern Cross University's School of Business and Tourism has provided advice that a random sample of at least 400 and ideally 1000 responses is required for an accurate assessment of a population the size of Tweed Shire. There are various ways a true random sample could be selected and the surveys could take place, all of which are well beyond the scope of Council's Communications Team to handle internally.

Option 2.

The other option which was envisaged when the Notice of Motion was prepared was for Council to undertake an open online survey (\$3,000 - \$5,000) which in itself could be undertaken at minimal cost however would require a substantial education program to ensure that respondents are fully informed. The estimate for undertaking this form of engagement and survey would be in the order of \$50,000 to \$100,000.

Intended Survey Questions

The first question asking if the community would prefer “*to preserve the railway tracks*” is conflicting as it takes no account for the condition of the tracks and the need for the removal of the tracks to construct a rail trail, to make the corridor safe, or if the existing tracks are suitable for the return of a train service.

The third question “*To have dual use of the rail corridor to preserve the rail tracks and provide for a rail trail*” is also conflicting as it implies that it is financially and physically feasible for the co-existence of a train and a rail trail along the entire rail corridor, or it implies that the rail trail can be constructed over the rail formation without the removal of the tracks and that the in-situ tracks can be reused if a train service was to be returned.

Perhaps more appropriate questions would be to ask the community if they would prefer:

1. To convert the rail corridor to a rail trail
2. To not undertake any activities on the rail corridor in the hope that the state government decides to return a public transport train service
3. To proceed with a rail trail on the provision that the corridor remains in public ownership to provide for the return of rail should that be feasible and a need at a future time and that where possible both technically and financially to retain the old rail tracks and construct the trail directly adjacent to those tracks.

Nonetheless the formulation of the education package and questions would be a task undertaken by an appropriate expert to ensure an informed and useful response is provided to the survey.

OPTIONS:

1. Council proceeds with shire wide engagement on the Rail Trail:
 - a. By contracting a research company to get a true representative sample of community preference for the rail corridor
 - b. By including an education element
 - c. With amended questions similar to that detailed in the report but with advice from a research specialist
 - d. At an estimated cost of \$50,000.
2. Council proceeds with a shire wide engagement on the Rail Trail:
 - a. By undertaking a comprehensive community education program
 - b. Conducting an online survey
 - c. With amended questions similar to that detailed in the report but with advice from a research specialist
 - d. At a cost of \$100,000.

3. That Council, given the commitment from the Federal and State Governments to fund the Rail Trail from Murwillumbah to Crabbes Creek, and the level of consultation undertaken to date, not proceed with any further shire wide community engagement or survey.

CONCLUSION:

Conducting a survey which would return a truly representative sample of informed Tweed residents is a significant commitment in terms of time and finances which may delay the commencement of the Rail Trail project.

Should Council proceed with the shire wide consultation an external research company could be contracted to provide this service. However, conducting a survey that is representative and populated with informed responses will be challenging.

Given the quantum and scale of previous engagements and that the state government and the federal government have now both committed collectively over \$13million to this project it is important that Council determine its preferred option so that if further Council consultation is still sought it can be done as soon as possible.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Initial advice suggests the cost of an external research companies services to complete a random sampling survey and education program would be in the range of \$20,000 to \$50,000. A shire wide survey and education program would cost in the order of \$50,000 to \$100,000.

The current Council Rail Trail budget (A5679) is fully allocated to various preliminaries preconstruction activities (i.e. survey, design).

An engagement and survey strategy such as proposed in this report would not be an eligible expenditure under the grant programs secured for the establishment of the Rail Trail.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

Community engagement for the rail trail has been ongoing since 2014.

It has been conducted in a number of stages, as the scope of the project has changed.

In 2014/15, it was conducted under two separate communications plans:

- Murwillumbah to Tweed Regional Art Gallery Rail Trail (pilot project)
- Murwillumbah to Casino (Northern Rivers Rail Trail)

When the Northern Rivers Rail Trail was unsuccessful in securing NSW Government funding in 2015, a new communications strategy was implemented for engagement on the creation of a rail trail from Murwillumbah to Crabbes Creek.

Each communications plan has identified the project as 'Locality Based', in accordance with guidelines in Council's Community Engagement Strategy.

The economic, social and health benefits of the rail trail could be felt by the whole Tweed Shire. However, the rail corridor itself – and therefore the direct impact of the project – is within a locality of Tweed Shire.

In line with this classification and because of the project's status as a major project, Council has taken steps to engage with residents and businesses in the locality, in addition to Shirewide communication about the projects.

In 2014, Council officers undertook a door knock of every household along the rail corridor from the Murwillumbah railway station to Tweed Regional Gallery. The officers spoke to a large majority of residents, and provided them with printed materials about the railway station to gallery pilot project and the Murwillumbah to Casino Northern Rivers Rail Trail. If residents were not at home, the printed materials were left at the household, inviting residents to contact Council to seek further information or to provide comment. Resident feedback was summarised in a report to Council.

That was followed by Council officer conducting a door knock of all businesses in South Murwillumbah, to provide information about the project and give an opportunity for questions and feedback.

Also in 2014, Council Officers attempted to make direct contact with all other residents along the corridor within Tweed Shire, as well as property owners living elsewhere. A majority of households were contacted by phone and their feedback was recorded. A number of households and property owners could not be contacted despite repeated attempts.

As a result of these contacts, a rail trail project officer from Council followed up with one-on-one meetings and site visits at a number of properties, to discuss particular concerns or issues for specific properties.

Council officers also attended a meeting with residents from three properties, to listen to their feedback and answer questions.

Following the change in project scope to a Murwillumbah to Crabbes Creek Rail Trail, officers repeated the process of phoning all residential properties along the corridor. Residents were given an update on the project's status and their feedback was recorded.

The following is a list of Shire wide engagements for the project:

The project is embedded in the Delivery Program and Operational Plan and was therefore exhibited as part of the Integrated Planning and Reporting process for 2017-21

Rail trail pages on Council website:

<http://www.tweed.nsw.gov.au/MurwillumbahRailTrail>

<http://www.tweed.nsw.gov.au/NorthernRiversRailTrail>

Media releases on rail trail project: (www.tweed.nsw.gov.au/Newsroom):

30 April 2013 titled "*Mayor backs rail trail*"

30 August 2013 titled "*On track to investigate feasibility of Murwillumbah to Casino rail trail*"

25 November 2013 titled "*National rail trail leader excited for local rail's potential*"

24 March 2014 titled "*Peak body launch boosts confidence for Northern Rivers Rail Trail*"

16 June 2014 titled "*Rail trail campaign boosted by viability study findings*"

6 August 2014 titled "*Significant donation for rail trail*"

2 December 2014 titled "*Last week for submissions on pilot rail trail*"

15 March 2016 titled "*Tweed trail delegation joins Sydney rail trail launch*"

10 August 2017 titled "*Rail Trail project turns to other funding options*"

Tweed Link articles: (www.tweed.nsw.gov.au/TweedLink):

Issue 824 - 27 August 2013 titled "*Rail trail feasibility study*"

Issue 851 - 25 March 2014 titled "*All aboard the Northern Rivers rail Trail*"

Issue 852 - 1 April 2014 titled "*Rail trail on track for NSW flagship pilot status*"

Issue 863 - 17 June 2014 titled "*Feasibility study shows rail trail is right on track*"

Issue 871 - 12 August 2014 titled "*Rail Trail steams ahead after significant donation*"

Issue 884 - 11 November 2014 titled "*Getting down to business for trail*"

Tweed Link 1019 [6pp] - 15 August 2017 titled "*Rail trail still on track*"

Tweed Link On Exhibition advertisement on 28 October 2014.

Concept plans for the Murwillumbah to Tweed Regional Gallery Pilot Rail Trail went on public exhibition in October to December 2014. 18 submissions were received.

While the plans on exhibition were for the pilot project, comments were generally about the overall rail trail proposal and not specifically the Pilot Project. Nine submissions were supportive of the rail trail, eight were opposed and one was impartial. Six of the submissions were not from people in Tweed Shire. The low number of submissions and the likelihood that a large proportion of the submissions were from special interest groups (pro-trains or pro-rail trail) meant it was questionable whether the feedback received was an accurate representation of public sentiment about the project.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

27 [E-CM] RFO2017187 Flood Repair Work Bundle 1 / Landslip Repairs by Soil Nails or Other

SUBMITTED BY: Infrastructure Delivery

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.3 Moving around
- 3.3.4 Roads, Traffic, Footpaths and Cycleways - To provide and maintain a network of roads and bridges, footpaths and cycleways that is safe, efficient and accessible.

ROLE: Provider

SUMMARY OF REPORT:

Request for Offer RFO2017187 Flood Repair Work Bundle 1 / Landslip Repairs by Soil Nails or Other was called from the market to source a suitably qualified contractor to design & construct slope stabilisation on six landslip sites within the Tweed Shire including the major land slip located on Clothiers Creek Road that occurred as a result of ex-Tropical Cyclone Debbie in March 2017.

At the time of closing six Offers were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. The recommendations are based on the evaluation.

RECOMMENDATION:

That in respect to Contract RFO2017187 Flood Repair Work Bundle 1 / Landslip Repairs by Soil Nails or Other:

1. Council awards the offer to Australian Marine and Civil Pty Ltd, ABN: 66 601 876 680 for the amount of \$606,136.36 (exclusive of GST).
2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at finalisation of the contract.

3. **ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
- (d) **commercial information of a confidential nature that would, if disclosed:**
 - (i) **prejudice the commercial position of the person who supplied it, or**
 - (ii) **confer a commercial advantage on a competitor of the council, or**
 - (iii) **reveal a trade secret.**

REPORT:

Offer Background

Request for Offer RFO2017187 for Major Flood Repair Work - Landslips by Soil Nails or Other was called using an open tendering procurement process to engage a suitably qualified and experienced contractor to design & construct slope stabilisation repairs on six (6) sites where landslips occurred as a result of ex-Tropical Cyclone Debbie in March 2017.

The sites are located at:

1. Clothiers Creek Road, Nunderi
2. Kyogle Road (2 sites), Kunghur
3. Urliup Road (2 sites), Urliup
4. Numinbah Road, Numinbah

The above sites have been bundled together based on recommendations from geotechnical assessments and for efficiency of packaging similar works together in order to obtain the most competitive Offer price from the market. The geotechnical reports indicated that the most economical repair option for the sites is by using Soil Nails/Anchors. Bidders had the opportunity to provide alternative methods of repair if they could be shown to be more economical.

Works under the Contract will include the completion of design for TSC review, approvals and construction of the works to repair each of the landslips. Works will also include repairs to items damaged at the same site such as guardrails, road surfaces and stormwater drainage. The contract also states that work at Clothiers Creek Rd, Nunderi is to be completed as a priority of the six sites.

Following award of the Contract, the contractor will confirm construction program and possible road closures and the community will be given early warning of the works and possible road closures. Works are expected to commence no earlier than mid to late April 2018 provided approvals to complete the works are granted in a reasonable time frame.

Request for Offer Advertising

The Offer was invited in accordance with the provisions of the Local Government Act 1993, the NSW Local Government (General) Regulation 2005 and the Tendering Guidelines for NSW Local Government. The Offer was officially advertised on Tuesday 12 December 2017 in The Sydney Morning Herald and Tweed Link also on 9 December 2017 in Brisbane Courier Mail, Gold Coast Bulletin and Northern Star.

Offer submissions closed at 4:00pm (local time) on 17 January 2018 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

Offer Addendums

There were 5 Notice to Bidders issued before close of Offer.

Addendum No. 1 was issued to advise Bidders that Section 6, Appendix 2 Geotechnical Consultant Reports, Part A and Part B had been attached.

Addendum No. 2 was issued to advise Bidders that the basic scope of site DK00279 was increased to include an additional slip. Site details and location were specified. The addenda also contained response times for queries over the Christmas break.

Addendum No. 3 was issued to advise Bidders that Council would require the review at the following stages for the design for each site:

- Concept design (50%)
- Preliminary design (80%)
- Detailed design (100% - prior to Issue for Construction)

The addenda also contained details of format and timing of drawings to be submitted.

Addendum No. 4 was issued to advise Bidders that rectification option 1 for site DK00279 would require a combination solution as described in the geotechnical report of:

- Self-drilled soil nails and shotcrete over the top 5m to 6m of the embankment;
- Post and panel wall with bored pier foundation over the 11 – 12m where the carriageway has been partially lost.

Addendum No. 5 was issued to advise Bidders that all quantities and measurements provided were indicative and need to be verified on site by the Bidders.

Offer Submissions

At the closing time for Offer Submissions, the Tender Box was opened and 6 Offers were recorded as below:

Bidder	ABN
Australian Marine and Civil Pty Ltd	66 601 876 680
GEO Stabilise Pty Ltd	47 166 054 842
Warner Company	59 084 076 853
Crosana Pty Ltd	45 943 696 462
Roman Contractors Pty Ltd	48 122 536 770
Geovert Ground Engineering Pty Ltd	77 169 113 526

Offer Evaluation

An Offer Evaluation Plan was developed based on the premise that competitive Offers were to be received and scored against specific evaluation criteria in order to select the best value Offer.

Council's Offer Evaluation Panel was made up as follows:

Position
Project Manager Flood (Contracts Consultant Public Works Advisory)
Coordinator - Flood Restoration
Project Engineer (Contracts Consultant Public Works Advisory)
Project Manager - Contracts

Offers were evaluated based on the criteria noted in the table below as detailed in the Offer Evaluation Plan:

Criterion	RFO Document Reference	Weighting (%)
Value for Money (Normalised Offer Price)	Schedule 2 & 3	60
Experience in Similar Works	Schedule 4	10
References	Schedule 4	10
Methodology	Schedule 6	10
Local Content (Development of Local Business/Industry) (Mandatory 10% assessment as per Policy)	Schedule 11	10
	Total	100

The details of the price and non-price evaluation are shown on the Offer Evaluation Report and Offer Evaluation Scoring Sheet. A copy of the Offer Evaluation Report and Offer Evaluation Scoring Sheet are included as ATTACHMENTS 1 and 2 which are CONFIDENTIAL in accordance with Section 10A(2):

- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

The information identifies the Bidder in relation to the Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of the Bidder in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Offer.

OPTIONS:

That Council:

1. Council awards the offer to Australian Marine and Civil Pty Ltd, ABN: 66 601 876 680) for the amount of \$606,136.36 (exclusive of GST).
2. Awards the Contract to a different Bidder, including reasons for this course of action.
3. Declines to accept any of the Offers, including reasons for this course of action.

CONCLUSION:

It is concluded, in regards to RFO2017187 Flood Repair Work Bundle 1 / Landslip Repairs by Soil Nails or Other, that the offer from Australian Marine and Civil Pty Ltd provides the best value in repairing the six landslip sites across the Tweed Shire including the landslip on Clothiers Creek Road.

COUNCIL IMPLICATIONS:

a. Policy:

The Offer invitation and evaluation have been conducted in accordance with the provisions of:

- The Local Government Act 1993 and the NSW Local Government (General) Regulation 2005.
- Council's Procurement Policy.

b. Budget/Long Term Financial Plan:

The majority of flood damage items designated in RFO2017187 Flood Repair Work Bundle 1 / Landslip Repairs by Soil Nails or Other are eligible for funding claims through NDRRA. The exact amount of NDRRA funding is unknown as it is subject to assessment by Roads and Maritime Services and Public Works Advisory. The continuation of flood restoration works is necessary and using contractors procured through this RFO process maximises the available NDRRA funding opportunity and minimises the impact on the financial position of Council. Any funding shortfall between the contract value and the available NDRRA funding will be met by the Infrastructure Asset Management Reserve or by delaying some items on the capital works program. One restoration site has been included in this bundle of works for efficiencies of scale and it is included in Council's current budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. RFO2017187 - Offer Evaluation Report (ECM 5045502).

(Confidential) Attachment 2. RFO2017187 - Offer Evaluation Scoring Sheet (ECM 5045544).

28 [E-CM] RFO2017179 Tweed Shire Council Road Pavement Stabilisation Program 2017/2018

SUBMITTED BY: Roads and Stormwater

Valid



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.3 Moving around
- 3.3.4 Roads, Traffic, Footpaths and Cycleways - To provide and maintain a network of roads and bridges, footpaths and cycleways that is safe, efficient and accessible.

ROLE: Provider

SUMMARY OF REPORT:

Request for Offer RFO2017179 Tweed Shire Council Road Pavement Stabilisation Program 2017/2018 was called to engage a suitably qualified and experienced organisation to provide pavement stabilisation services for the proposed works.

At the time of closing four (4) Offers were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. The recommendations are based on the evaluation.

RECOMMENDATION:

That in respect to Contract RFO2017179 Tweed Shire Council Road Pavement Stabilisation Program 2017/2018:

1. Council awards the offer to Stabilised Pavements of Australia Pty Ltd (ABN 90 002 900 736, ACN 002 900 736) for the amount of \$700,438.75 (exclusive of GST).
2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at finalisation of the contract.
3. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-

- (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret.**

REPORT:

Offer Background

Request for Offer RFO2017179 Tweed Shire Council Road Pavement Stabilisation Program 2017/2018 was called to engage a suitably qualified and experienced organisation to provide pavement stabilisation services for the proposed works.

Request for Offer Advertising

Offers were officially invited in accordance with the provisions of the Local Government Act 1993, the NSW Local Government (General) Regulation 2005 and the Tendering Guidelines for NSW Local Government. The Offer was officially advertised on Tuesday 2 January 2018 in The Sydney Morning Herald and also on 30 December 2017 in the Brisbane Courier Mail and on Council's website.

Offer submissions closed at 4.00pm (local time) on 24 January 2018 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

Offer Addendums

There were two (2) Notice to Bidders issued before close of Offer.

Addendum No. 1 was issued to advise Bidders that Schedule 7 of the Submission Schedules had been reissued in full as an attachment to Notice to Bidders No.1.

Addendum No. 2 was issued to advise Bidders that:

1. A Works Priority List has been nominated for the 8 roads and also the proposed timeline for milestones has been updated.
2. Section 6 Submission Schedules had been updated as an attachment to Notice to Bidders No.2.

Offer Submissions

Offer submissions closed at 4.00pm (local time) on 24 January 2018 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

At the closing time for Offer submissions, the Tender Box was opened and Four (4) Offers were recorded as below:

Bidder	ABN
Boral Asphalt*	46 009 671 809
Downer EDI Works Pty Ltd	66 008 709 608
Hiway Stabilizers Australia Pty Ltd	50 150 650 150
Stabilised Pavements of Australia Pty Ltd	90 002 900 736

*Non-conforming offer- Boral Asphalt submitted their offer for RFO2017199 into the RFO2017179 electronic Tender Box.

Offer Evaluation

An Offer Evaluation Plan was developed based on the premise that competitive Offers were to be received and scored against specific evaluation criteria in order to select the best value Offer.

Council's Offer Evaluation Panel was made up as follows:

Position
Engineer - Assets & Maintenance (Chairman)
Engineer - Graduate
Project Manager- Contracts

Offers were evaluated based on the criteria noted in the table below which were also broadly listed in the Conditions of Offering.

Evaluation Criteria	Document Reference	Weighting (%)
Assessed Offer Price (as adjusted)	Schedule 3	45
Relevant Experience and Capability	Schedule 5 & 6.	15
Methodology and Work Program (Time)	Schedule 7.	10
Management Systems (WH&S, Quality and Environmental)	Schedule 8.	10
Proposed Plant & Equipment	Schedule 10.	10
Local Content	Schedule 13	10
	Total	100

The details of the price and non-price evaluation are shown on the Offer Evaluation Report and Offer Evaluation Scoring Sheet. A copy of the Offer Evaluation Report and Offer Evaluation Scoring Sheet are included as ATTACHMENTS 1 and 2 which are CONFIDENTIAL in accordance with Section 10A(2):

- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

The information identifies the Bidder in relation to the Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of the Bidder in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Offer.

OPTIONS:

That Council:

1. Council awards the offer to Stabilised Pavements of Australia Pty Ltd (ABN 90 002 900 736, ACN 002 900 736) for the amount of \$700,438.75 (exclusive of GST).
2. Awards the Contract to a different Bidder, including reasons for this course of action.
3. Declines to accept any of the Offers, including reasons for this course of action.

CONCLUSION:

Council awards the Contract RFO2017179 to Stabilised Pavements of Australia Pty Ltd (ABN 90 002 900 736, ACN 002 900 736) for the amount of \$700,438.75 (exclusive of GST) as detailed in the offer evaluation report confidential Attachment 1 for the Tweed Shire Council Road Pavement Stabilisation Program 2017/2018.

COUNCIL IMPLICATIONS:

a. Policy:

The Offer invitation and evaluation have been conducted in accordance with the provisions of:

- The Local Government Act 1993 and the NSW Local Government (General) Regulation 2005
- Council's Procurement Policy v1.6
- In accordance with Local Government (General) Regulations 2005.

b. Budget/Long Term Financial Plan:

Provision for the RFO2017179 Tweed Shire Council Road Pavement Stabilisation Program 2017/2018 is included in the 2017/2018 Budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. RFO2017179 - Offer Evaluation Report (ECM 5052651).

(Confidential) Attachment 2. RFO2017179 - Offer Evaluation Score Sheet (ECM 5052690).

29 [E-CM] RFO2017199 Tweed Shire Council Road Rehabilitation Program 2017/2018 Asphalt Works

SUBMITTED BY: Roads and Stormwater

Valid



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.3 Moving around
- 3.3.4 Roads, Traffic, Footpaths and Cycleways - To provide and maintain a network of roads and bridges, footpaths and cycleways that is safe, efficient and accessible.

ROLE: Provider

SUMMARY OF REPORT:

Request for Offer RFO2017199 Tweed Shire Council Road Rehabilitation Program 2017/2018 Asphalt Works was called to engage a suitably qualified and experienced organisation to provide asphalt surfacing services for the proposed works.

At the time of closing four (4) Offers were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. The recommendations are based on the evaluation.

RECOMMENDATION:

That in respect to Contract RFO2017199 Tweed Shire Council Road Rehabilitation Program 2017/2018 Asphalt Works:

- 1. Council awards the offer to East Coast Asphalt and Concrete Edging Pty Ltd (ABN- 82 142 412 244 and ACN- 142 412 244) for the amount of \$722,530.45 (exclusive of GST).**
- 2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at finalisation of the contract.**

3. **ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
- (d) **commercial information of a confidential nature that would, if disclosed:**
 - (i) **prejudice the commercial position of the person who supplied it, or**
 - (ii) **confer a commercial advantage on a competitor of the council, or**
 - (iii) **reveal a trade secret.**

REPORT:**Offer Background**

Offer RFO2017199 Tweed Shire Council Road Rehabilitation Program 2017/2018 Asphalt Works was called to engage a suitably qualified and experienced organisation to provide asphalt surfacing services for the proposed works.

Request for Offer Advertising

Offers were officially invited in accordance with the provisions of the Local Government Act 1993, the NSW Local Government (General) Regulation 2005 and the Tendering Guidelines for NSW Local Government. The Offer was officially advertised on Tuesday 2 January 2018 in The Sydney Morning Herald and also on 30 December 2017 in the Brisbane Courier Mail and on Council's website.

Offer submissions closed at 4.00pm (local time) on 24 January 2018 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

Offer Addendums

NIL.

Offer Submissions

Offer submissions closed at 4.00pm (local time) on 24 January 2018 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

At the closing time for Offer submissions, the Tender Box was opened and five (5) Offers were recorded as below:

Bidder	ABN
Boral Asphalt	46 009 671 809
East Coast Asphalt and Concrete Edging Pty Ltd	82 142 412 244
Fulton Hogan Industries Pty Ltd	54 000 538 689
Downer EDI	66 008 709 608
Zafa Asphalt	64 006 117 545

Offer Evaluation

An Offer Evaluation Plan was developed based on the premise that competitive Offers were to be received and scored against specific evaluation criteria in order to select the best value Offer.

Council's Offer Evaluation Panel was made up as follows:

Position
Engineer - Assets & Maintenance (Chairman)
Engineer - Graduate
Project Manager- Contracts

Offers were evaluated based on the criteria noted in the table below which were also broadly listed in the Conditions of Offering.

Evaluation Criteria	Document Reference	Weighting (%)
Assessed Offer Price (as adjusted)	Schedule 3	60
Relevant Experience and Capability	Schedule 5 & 6.	10
Methodology and Work Program (Time)	Schedule 7.	10
Management Systems (WH&S, Quality and Environmental)	Schedule 8.	10
Local Content	Schedule 13	10
	Total	100

The details of the price and non-price evaluation are shown on the Offer Evaluation Report and Offer Evaluation Scoring Sheet. A copy of the Offer Evaluation Report and Offer Evaluation Scoring Sheet are included as ATTACHMENTS 1 and 2 which are CONFIDENTIAL in accordance with Section 10A(2):

- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

The information identifies the Bidder in relation to the Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of the Bidder in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Offer.

OPTIONS:

That Council:

1. Awards the offer to East Coast Asphalt and Concrete Edging Pty Ltd (ABN- 82 142 412 244 and ACN- 142 412 244) for the amount of \$722,530.45 (exclusive of GST).
2. Awards the Contract to a different Bidder, including reasons for this course of action.
3. Declines to accept any of the Offers, including reasons for this course of action.

CONCLUSION:

Council awards the Contract RFO2017199 to East Coast Asphalt and Concrete Edging Pty Ltd (ABN- 82 142 412 244 and ACN- 142 412 244) for \$722,530.45 (Exclusive of GST) as detailed in the offer evaluation report confidential Attachment 1 for the Tweed Shire Council Road Rehabilitation Program 2017/2018 Asphalt Works.

COUNCIL IMPLICATIONS:

- a. Policy:**

The Offer invitation and evaluation have been conducted in accordance with the provisions of:

- The Local Government Act 1993 and the NSW Local Government (General) Regulation 2005
- Council's Procurement Policy v1.6
- In accordance with Local Government (General) Regulations 2005.

b. Budget/Long Term Financial Plan:

Provision for the RFO2017199 Tweed Shire Council Road Rehabilitation Program 2017/2018 Asphalt Works is included in the 2017/2018 Budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. RFO2017199 - Offer Evaluation Report (ECM 5053130).

(Confidential) Attachment 2. RFO2017199 - Offer Evaluation Scoring Sheet (ECM 5053114).

30 [E-CM] RFO2017138 New Water Supply Reservoir - Chambers No. 2
Terranora Road, Terranora

SUBMITTED BY: Infrastructure Delivery

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.3 Utility Services
- 1.3.4 Water Supply -- To provide secure, high quality and reliable drinking water which meets health and environmental requirements.

ROLE: **Provider**

SUMMARY OF REPORT:

Request for Offer RFO2017138 New Water Supply Reservoir - Chambers No.2 Terranora Road, Terranora was called to engage a suitably qualified and experienced organisation to design and construct a new 3ML reservoir and associated infrastructure adjacent to the existing reservoir behind Chambers lookout, south of Terranora Road at the intersection with Fraser Drive, Terranora NSW.

At the time of closing six conforming offers were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. The recommendations are based on the evaluation.

RECOMMENDATION:

That, in respect to Contract RFO2017138 New Water Supply Reservoir - Chambers No.2 Terranora Road, Terranora :

1. **The Offer from Stirloch Constructions ABN 70 082 616 840 be accepted to the value of \$2,025,633.63 (exclusive of GST).**
2. **The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at mid contract and finalisation of the contract.**

3. **ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
- (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret.**

REPORT:

Offer Background

Request for Offer RFO2017138 New Water Supply Reservoir - Chambers No.2 Terranora Road, Terranora was called to engage a suitably qualified and experienced organisation(s) to design and construct a new 3ML reservoir and associated infrastructure adjacent the existing reservoir behind Chambers lookout, south of Terranora road at the intersection with Fraser Drive, Terranora NSW

The work to be performed under the subsequent Contract includes the provision of all labour, plant and materials and the performance of all operations of whatever kind necessary for the complete and proper design and construction of the new 3ML reservoir and associated infrastructure.

Offer Advertising/Distribution

The Offer was invited in accordance with the provisions of the Local Government Act 1993, the NSW Local Government (General) Regulation 2005 and the Tendering Guidelines for NSW Local Government. The Offer was officially advertised as per the below table of publications and dates.

Offer Submissions

Offer submissions closed at 4.00pm (local time) on Wednesday 20 December 2017 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

At the closing time for Offer submissions, the Tender Box was opened and six (6) Offers were recorded as below:

Bidder	ABN
Stirloch Constructions	70 082 616 840
Alder Constructions	14 456 100 925
Hornick Constructions	41 009 668 179
Precision Civil Infrastructure	16 097 107 956
Lucas Engineering	17 159 594 180
BMD	65 158 035 539

Council's Offer Evaluation Panel was made up as follows:

Position
Coordinator – Contracts.
Manager Water & Wastewater.
Engineer – Water & Wastewater Design.
Project Manager – Contracts.

A copy of the Offer Evaluation Report and Offer Evaluation Worksheet are included as ATTACHMENTS 1 and 2 respectively which are CONFIDENTIAL in accordance with Section 10A.

The information identifies the Bidder in relation to the Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of the Bidder in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Offer.

OPTIONS:

That Council:

1. Council awards the offer to Stirloch Constructions (ABN 70 082 616 840) for the amount of \$2,025,633.63 (exclusive of GST).
2. Awards the Contract to a different Bidder, including reasons for this course of action.
3. Declines to accept any of the Offers, including reasons for this course of action.

CONCLUSION:

Council awards the contract RFO2017138 in respect to Contract RFO2017138 New Water Supply Reservoir - Chambers No.2 Terranora Road, Terranora to Stirloch Constructions ABN 70 082 616 840 be accepted to the value of \$2,025,633.63 (exclusive of GST).

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.6 The Offer invitation and evaluation have been conducted in accordance with the provisions of:

- The Local Government Act 1993 and the NSW Local Government (General) Regulation 2005
- Council's Procurement Policy

In accordance with Local Government (General) Regulations 2005.

b. Budget/Long Term Financial Plan:

Provision for the new reservoir is included in the 2017 - 2018 Budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. RFO2017138 - Offer Evaluation Report (ECM 5041968).

(Confidential) Attachment 2. RFO2017138 - Offer Evaluation Scoring Sheet (ECM 5043165).

31 [E-CM] RFO2017082 Package 4- Road Flood Damage Restoration

SUBMITTED BY: Infrastructure Delivery

Valid



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

3	People, places and moving around
3.3	Moving around
3.3.4	Roads, Traffic, Footpaths and Cycleways - To provide and maintain a network of roads and bridges, footpaths and cycleways that is safe, efficient and accessible.

ROLE: **Provider**

SUMMARY OF REPORT:

At its meeting of 20 July 2017, Council resolved to accept under RFO2017082 a shortlist panel of suitably qualified providers to carry out flood restoration works.

The fourth package of works Request for Offer RFO2017082 Package 4 has now been called to engage a suitably qualified and experienced contractor from the previously established panel of providers for the restoration of selected flood damages to road, bridge and stormwater assets damaged during the March 2017 flood event.

Works include:

- Abutment damage of bridge including scoured rock armouring, loss of timber sheeting, scouring around piles
- Causeway buried under soil or debris
- Causeway support scoured or undermined
- Causeway surface damage including concrete surface cracked / broken sections
- Culvert blocked by silts, vegetation or other washed debris
- Culvert pipe or headwall damaged
- Culvert washout or displacement within road
- Debris washed against bridge in watercourse or on deck/barriers/kerbs
- Embankment or formation damage including bottom side slips
- Bridge embankment damage including scoured wingwall batters
- Traffic guardrail damaged requiring replacement or repairs
- Guide posts or delineator markers damaged or lost
- Kerb and gutter damaged including washed away, displaced, or broken

- Scour damage to infill area between K&G and road cutting or verge
- Land slip / rock fall in roadside corridor (but not onto road or drainage - refer Land Slip on Roadway for this)
- Land slip / rock fall onto road or in table drain area, including top side slips and fallen rocks
- Pavement failure of sealed road as a result of saturation by inundation
- Damage to formation and pavement of sealed road including scouring and washouts of sections (excludes slips or surface damages or pavement failures)
- Silt, shingle and other deposits on roadway (excludes top side slip removals)
- Damage to wearing surface seal including delaminations, cracking, erosion
- Shoulder failures including scouring, washouts, subsidence outside travel lanes
- Table drain scour or other damage requiring restoration
- Table drain silted up or blocked by debris
- Trees on roadway
- Damage to formation of unsealed road including washouts of sections (excludes slips or surface damages)

The offer was uploaded on Tweed Shire Council's Tender site to the selected Panel of Providers as per the requirements of the Local Government Regulation 2005 and was scheduled to close at 4:00pm NSW Local Time on 31 January 2018.

Once offers have been received on 31 January 2018, Council officers will undertake an assessment and provide an addendum report to Council to be included in the Agenda for the Council Meeting of 15 February 2018.

RECOMMENDATION:

That Council considers an addendum report for RFO2017082 Package 4 - Road Flood Damage Restoration.

REPORT:

As per summary.

OPTIONS:

Not applicable.

CONCLUSION:

Not applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.6.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

32 [E-CM] 2017/18 Floodplain Management Program Grant Offers

SUBMITTED BY: Roads and Stormwater

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.2 Asset Protection
- 1.2.1 Floodplain Management - To manage the risk of flooding and its impacts for property owners and the community.

ROLE: **Provider**

SUMMARY OF REPORT:

Through the New South Wales (NSW) Government's Floodplain Management Grants program Council has been offered funding for three Floodplain Risk Management Projects and received endorsement to progress to the next stage of four Voluntary House Purchase and Voluntary House Raising projects.

All of these projects are recommendations of Council's previously adopted Floodplain Risk Management Plans

To support the ongoing management of flood risk and its impacts for property owners and the community, it is recommended that Council accepts all funding offers and progresses all of the projects identified.

RECOMMENDATION:

That Council:

- 1. Endorses the General Manager's acceptance of grant funding offers under the New South Wales Government's Floodplain Management Grants program.**
- 2. Acknowledges the Minister of Environment granting access to the Voluntary House Purchase and Voluntary House Raising funding pool for the identified Voluntary House Purchase and Voluntary House Raising projects.**

- 3. Officers commence development of Voluntary House Purchase and Voluntary House Raising Schemes in consultation with New South Wales Office of Environment and Heritage (OEH) in order to enter into Funding Agreements with OEH.**

- 4. Recognises that Voluntary House Purchase and Voluntary House Raising are costly, long term projects subject to further applications and limited funding and that Council will not be in a position to implement any raising or purchases for some time.**

REPORT:

Introduction

Council has been offered funding for three Floodplain Risk Management Projects and received endorsement to progress to the next stage of two Voluntary House Purchase (VHP) projects and two Voluntary House Raising (VHR) projects under the NSW Government's Floodplain Management Grants Program.

The New South Wales (NSW) Government's Floodplain Management Grants support local government to manage flood risk. The program is administered by NSW Office of Environment & Heritage (OEH).

An adopted Floodplain Risk Management Plan is a prerequisite for access to Floodplain Management Grants. Council has invested heavily in advancing the Tweed's Floodplain Management process, through the Floodplain Management Committee, to its current, eligible position.

2017 Floodplain Management Grant Applications

In April 2017, in the aftermath of the March flood, Council applied for seven grants under the Floodplain Management Program.

1. Enhance Burringbar/Mooball/Crabbes Creek Gauge Network
2. Incorporate Tumbulgum Gauge into Flood Warning System
3. South Murwillumbah – Condong Flow Path/Levee Performance Study
4. Burringbar/Mooball Voluntary House Raising (VHR)
5. Burringbar/Mooball Voluntary House Purchase (VHP)
6. Murwillumbah Voluntary House Raising
7. Murwillumbah Voluntary House Purchase

Project Details

1. Enhance Burringbar/Mooball/Crabbes Creek Gauge Network

There is currently one rain gauge in Burringbar Village and one in Upper Crabbes Creek. This project will install two additional rain gauges upstream of Burringbar to improve flood warning in the area and also install a series of stream gauges to increase flood intelligence in the locality.

2. Incorporate Tumbulgum Gauge into Flood Warning System

Flood Warnings in the Tweed include gauge height predictions for only Murwillumbah and Barney's Point (Chinderah). This project will incorporate the existing gauge at Tumbulgum into the Bureau of Meteorology flood warning network. This will improve predictions of flood height in the mid catchment, by including influences from the tide and Rous River, and will improve flood warnings and real-time evacuation planning.

3. South Murwillumbah – Condong Flow Path/Levee Performance Study

This project will deliver a detailed flood study for the South Murwillumbah business district and residential area. The study will examine flooding and the hydraulic characteristics of South Murwillumbah - Condong floodway, including the effectiveness of the current levee system. The findings of the study will inform development controls in the region and provide a floodplain risk strategy, including potential property modification measures such as land acquisition and structural works to maintain or improve the efficiency of the floodway.

4. Burringbar/Mooball Voluntary House Raising

The Tweed Coastal Creeks Floodplain Risk Management Study assessed properties located in flood hazard areas in flood prone villages. A VHR scheme is recommended for 25 properties in Burringbar and Mooball. The need for such a scheme was confirmed when the Burringbar Creek catchment experienced a severe flood event in March 2017, where these residential areas sustained widespread damage.

Voluntary house raising is aimed at reducing the flood damage to houses by raising the habitable floor level of individual buildings, to reduce the economic and social burden of flooding by avoiding property damage. VHR is a suitable management measure for houses in lower hazard areas of the floodplain; those higher hazard properties have been identified for a separate Voluntary House Purchase Scheme.

5. Burringbar/Mooball Voluntary House Purchase

The Coastal Creeks Floodplain Risk Management Study assessed properties located in high hazard flood areas in flood prone villages. A Voluntary House Purchase (VHP) scheme is recommended for 22 properties in Burringbar, Mooball and Crabbes Creek. The need for such a scheme was confirmed when the Tweed catchment experienced a severe flood event in March 2017, where these residential areas sustained widespread damage and lives were put at risk.

The primary objective of voluntary house purchase (VHP) is to reduce risks to personal safety by purchasing houses located in areas subject to excessive hazard. Post-purchase, the property can be rezoned for flood compatible use, such as recreational park land.

6. Murwillumbah Voluntary House Raising

The Tweed Valley Floodplain Risk Management Study assessed properties located in flood hazard areas around Murwillumbah. A VHR scheme is recommended for 30 properties in South Murwillumbah and Bray Park. The need for such a scheme was confirmed when the Tweed catchment experienced a severe flood event in March 2017, where these residential areas sustained widespread damage.

7. Murwillumbah Voluntary House Purchase

The Tweed Valley Floodplain Risk Management Study assessed properties located in high hazard flood areas around Murwillumbah. A VHP scheme is recommended for 29 properties in South Murwillumbah and Bray Park. The need for such a scheme was confirmed when the Tweed catchment experienced a 1% AEP flood event in March 2017, where these residential areas sustained widespread damage and lives were put at risk.

Grant Offers

Council has been offered funding for projects 1, 2 and 3 and received endorsement to progress to the next stage of projects 4, 5, 6 and 7 (VHP/VHR projects).

Due to the deadline for acceptance of projects 1, 2 and 3 of 6 February 2018 the General Manager has already formally accepted these offers.

The deadline for acceptance of the VHR projects is 28 February. No deadline is set for the VHP projects as they require additional funding applications.

Funding

Floodplain Management Grants are provided on a 2:1 (State 2: Council 1) cost share basis. Therefore, Council must provide one-third of the funding required to complete these projects.

Projects 1, 2 and 3 are well defined and subject to funding limits, which are outlined below:

Project	Total Cost	State Contribution	Council Contribution
1) Enhance Burringbar/Mooball/Crabbes Creek Gauge Network	\$116,000	\$77,333	\$38,667
2) Incorporate Tumbulgum Gauge into Flood Warning System	\$69,000	\$46,000	\$23,000
3) South Murwillumbah – Condong Flow Path/Levee Performance Study	\$225,000	\$150,000	\$75,000
Total	\$410,000	\$273,333	\$136,667

The Long Term Financial Plan and draft 2018/19 Budget includes a Floodplain Management allocation of \$150,000, which will provide Council's share of the funding for these three projects.

Tweed's Floodplain Risk Management Plans estimated the VHP/VHR projects total costs to be:

4. Burringbar/Mooball Voluntary House Raising - \$2.7 million
5. Burringbar/Mooball Voluntary House Purchase - \$12.8 million
6. Murwillumbah Voluntary House Raising – Not Available
7. Murwillumbah Voluntary House Purchase – Not Available

The VHR and VHP project costs are not well defined at this time and subject to additional scoping and grant applications. Therefore, a more accurate estimate of the total cost of the projects cannot be provided at this stage.

Voluntary House Purchase Schemes

VHP schemes are costly, long-term projects. Council has an existing VHP scheme in River Street, South Murwillumbah that was established in the late 1980s. The scheme initially included 16 properties and now 4 remain. The scheme has taken approximately 30 years to acquire 12 properties.

Inclusion of a property in a Council's VHP scheme places no obligation on the owner to sell the property or on the Council or NSW Government to fund the purchase of the property. Owner participation in the scheme is voluntary and there are limitations on the availability of funding.

It is important to note that Council's VHP proposals have only received "access to the VHP funding pool", not approved funding. Effectively, this means that Council may progress to the next stage of the VHP scheme process. The following steps need to be completed before Council is in a position to acquire any properties:

1. Complete Scoping Study
2. Apply for and receive approval for a 3 year work plan and associated funding

3. Seek Expressions of Interest from identified properties
4. Complete valuation and negotiate with interested owners
5. Apply for and receive approval/funding for individual property purchase

The lengthy nature of this process means it is likely to be at least one or two years before Council is in a position to purchase any properties outside of the existing River Street scheme.

VHP schemes are also subject to the 2:1 funding ratio typical to Floodplain Management Grants. This applies to all stages of the VHP (scoping study, valuations, legal costs, purchase etc.). Currently, there is no budget allocation for the two VHP projects.

Council has received ten expressions of interest in VHP assistance from landowners since the March 2017 flood event. However, eligibility for the scheme is limited to those properties identified in the relevant Floodplain Risk Management Plan. Preliminary review suggests only three of the landowners who have expressed interest are identified in the current scheme.

Voluntary House Raising Schemes

VHR schemes can also take many years to implement. Council has previously completed a VHR scheme for residential properties upstream of Colin Street in South Murwillumbah and in Bray Park partially in compensation for the afflux caused by raising the CBD Levee in the 1990s.

Inclusion of a house in a VHR scheme as part of an FRMP adopted by the council places no obligation on the owner of the property to raise the house or on the council or NSW Government to fund the raising. Owner participation in the scheme is voluntary and there are limitations on the availability of funding.

It is important to note that Council's VHR proposals have only received "access to the VHR funding pool", not approved funding. Effectively, this means that Council may progress to the next stage of the VHR scheme process. The following steps need to be completed before Council is in a position to acquire any properties:

1. Complete Scoping Study
2. Apply for and receive approval for VHR 3 year work plan and associated funding
3. Seek Expressions of Interest from identified properties
4. Evaluate quotes for raising works
5. Apply for and receive approval/funding for individual house raising

The lengthy nature of this process means it is likely to be at least one or two years before Council is in a position to assist homeowners to raise any houses.

VHR schemes are also subject to the 2:1 funding ratio typical to Floodplain Management Grants. This applies to all stages of the VHR (scoping study, raising works etc.) Currently, there is no budget allocation for the two VHR projects. However, an option exists to require a contribution by the house owner which could minimise or eliminate the one-third capital funding requirement on Council.

Council has received 25 expressions of interest in VHR from landowners since the March 2017 flood event. However, eligibility for the scheme is limited to the properties identified in

the relevant Floodplain Risk Management Plan. Preliminary review suggests only two of the landowners who have expressed interest are identified in the current scheme.

Summary

Council has been offered funding for three Floodplain Risk Management Projects and received endorsement to progress to the next stage of four Voluntary House Purchase / Voluntary House Raising projects.

Floodplain Management Grants are provided on a 2:1 (State 2: Council 1) cost share basis.

The three projects that have been offered funding have matching Council budget allocations and therefore can progress to delivery phase.

The VHP/VHR projects have not been offered funding but have been endorsed to progress to the next stage. Further scoping and funding applications are required before any house raising or purchases can be implemented.

OPTIONS:

- 1) Council accepts all Floodplain Management Grants funding offers and progresses all projects.
- 2) Council accepts selected Floodplain Management Grants funding offers and rejects others.
- 3) Council rejects all Floodplain Management Grants funding offers and discontinues all projects.

CONCLUSION:

Council has been offered funding for three Floodplain Risk Management Projects and received endorsement to progress to the next stage of four Voluntary House Purchase and Voluntary House Raising projects.

All of these projects are recommendations of Council's previously adopted Floodplain Risk Management Plans.

To support the ongoing management of flood risk and its impacts for property owners and the community, it is recommended that Council accepts all funding offers and progresses all of the projects identified.

COUNCIL IMPLICATIONS:

a. Policy:

Flood Risk Management v1.0.

b. Budget/Long Term Financial Plan:

- 1) The draft 2018/19 Floodplain Management budget allocation of \$150,000 (A5790) can be utilised to meet Council's one-third funding component of projects 1, 2 and 3 above.

- 2) Projects 4, 5, 6 and 7 are unfunded at this time. To progress these projects funding for Council's one-third component of a scoping study for projects 4 and 5 may be required. (Note: A Scoping Study for projects 6 and 7 will be incorporated into project 3).

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

All of these projects were identified in Council's adopted Floodplain Risk Management Studies and Plans, which included significant community consultation.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. NSW Office of Environment & Heritage Floodplain Management Program - Guidelines for Voluntary Purchase Schemes (ECM 5045136).

Attachment 2. NSW Office of Environment & Heritage Floodplain Management Program - Guidelines for Voluntary House Raising Schemes (ECM 5045137).

33 [E-CM] Provision of Wholesale Water Supply and Wastewater Services

SUBMITTED BY: Water and Wastewater

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.3 Utility Services
- 1.3.2 Sewerage Services - To provide high quality and reliable sewage collection and treatment services that meet health and environmental requirements.
- 1.3.4 Water Supply -- To provide secure, high quality and reliable drinking water which meets health and environmental requirements.

ROLE: Provider

SUMMARY OF REPORT:

At its meeting on Thursday 26 October 2017, Council resolved:

"that the Draft Policy - Provision of Wholesale Water Supply and Wastewater Services be placed on public exhibition for a period of 28 days and invites submissions for a period of 42 days."

The draft Provision of Wholesale Water Supply and Wastewater Services Policy was placed on exhibition. At the time of the close of the exhibition period there were no public submissions were received.

RECOMMENDATION:

That Council adopts the Provision of Wholesale Water Supply and Wastewater Services Policy version 1.0.

REPORT:

To enable the provision of wholesale water supply and wastewater services for the Cobaki Development to Northern Water Solutions (NWS) and other like proposals, it has been recommended by legal counsel that Council prepare and adopt a policy for the provision of wholesale water supply and wastewater services.

The Policy explains the criteria and provisions under which Council may provide Wholesale Water Supply and Wastewater Services to water supply and wastewater schemes licensed by IPART under the Water Industry Competition Act 2006.

A Draft Policy was prepared and exhibited in accordance with s160 of the Local Government Act 1993.

The Policy was placed on exhibition from 31 October 2017 to 15 December 2017 and no public submissions were received.

OPTIONS:

1. That Council adopts the Provision of Wholesale Water Supply and Wastewater Services Policy version 1.0.
2. That Council does not adopt Provision of Wholesale Water Supply and Wastewater Services Policy version 1.0.

CONCLUSION:

The "Provision of Wholesale Water Supply and Wastewater Services" Policy has been developed for the community to outline Council's Policy on the provision of Wholesale Water Supply and Wastewater Services to water supply and wastewater schemes licensed by IPART.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

This Policy provides the framework for the provision of Water Supply and Wastewater Services to third parties and therefore the basis for raising the relevant charges.

c. Legal:

Legal advice has been received in respect to the mechanism by which fees can be charged for the wholesale supply of water supply and wastewater services to Northern Water Solutions. The Provision of Wholesale Water Supply and Wastewater Services Policy has been prepared to reflect this advice.

d. Communication/Engagement:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM THE CORPORATE SERVICES

34 [CS-CM] Code of Conduct Complaints - 1 September 2016 to 31 August 2017

SUBMITTED BY: Corporate Governance

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Behind the scenes
- 4.1 Assurance
- 4.1.1 Governance - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: Collaborator Leader

SUMMARY OF REPORT:

The Office of Local Government and the Administration of the Model Code of Conduct Procedure requires annual reporting of Code of Conduct Complaints made about the councillors and general manager. The report is for the period 1 September 2016 to 31 August 2017 and the data return associated with this reporting has been forwarded to the Office of Local Government.

RECOMMENDATION:

That Council receives and notes the Code of Conduct Complaints for the period 1 September 2016 to 31 August 2017.

REPORT:

The Office of Local Government and the Administration of the Model Code of Conduct Procedure requires annual reporting of Code of Conduct Complaints made about the councillors and general manager. The report is for the period 1 September 2016 to 31 August 2017 and the data return associated with this reporting has been forwarded to the Office of Local Government.

The following information has been provided to the Office of local Government and it is worth noting that during this reporting period no Code of Conduct Complaints were referred to a Conduct Reviewer for investigation.

Model Code of Conduct Complaints Statistics Tweed Shire Council		
Number of Complaints		
1	a The total number of complaints received in the period about councillors and the General Manager (GM) under the code of conduct	7
	b The total number of complaints finalised in the period about councillors and the GM under the code of conduct	7
Overview of Complaints and Cost		
2	a The number of complaints finalised at the outset by alternative means by the GM or Mayor	3
	b The number of complaints referred to the Office of Local Government under a special complaints management arrangement	0
	c The number of code of conduct complaints referred to a conduct reviewer	0
	d The number of code of conduct complaints finalised at preliminary assessment by conduct reviewer	0
	e The number of code of conduct complaints referred back to GM or Mayor for resolution after preliminary assessment by conduct reviewer	0
	f The number of finalised code of conduct complaints investigated by a conduct reviewer	0
	g The number of finalised code of conduct complaints investigated by a conduct review committee	0
	h The number of finalised complaints investigated where there was found to be no breach	0
	i The number of finalised complaints investigated where there was found to be a breach	0
	j The number of complaints referred by the GM or Mayor to another agency or body such as the ICAC, the NSW Ombudsman, the Office or the Police	4

k	The number of complaints being investigated that are not yet finalised	0
l	The total cost of dealing with code of conduct complaints within the period made about councillors and the GM including staff costs	15,000

Preliminary Assessment Statistics

3	The number of complaints determined by the conduct reviewer at the preliminary assessment stage by each of the following actions:	
a	To take no action	0
b	To resolve the complaint by alternative and appropriate strategies	0
c	To refer the matter back to the GM or the Mayor, for resolution by alternative and appropriate strategies	0
d	To refer the matter to another agency or body such as the ICAC, the NSW Ombudsman, the Office or the Police	0
e	To investigate the matter	0
f	To recommend that the complaints coordinator convene a conduct review committee to investigate the matter	0

Investigation Statistics

4	The number of investigated complaints resulting in a determination that there was no breach , in which the following recommendations were made:	
a	That the council revise its policies or procedures	0
b	That a person or persons undertake training or other education	0
5	The number of investigated complaints resulting in a determination that there was a breach in which the following recommendations were made:	
a	That the council revise any of its policies or procedures	0
b	That the subject person undertake any training or other education relevant to the conduct giving rise to the breach	0
c	That the subject person be counselled for their conduct	0
d	That the subject person apologise to any person or organisation affected by the breach	0
e	That findings of inappropriate conduct be made public	0

f	In the case of a breach by the GM, that action be taken under the GM's contract for the breach	0
g	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993	0
h	In the case of a breach by a councillor, that the matter be referred to the Office for further action	0
6	Matter referred or resolved after commencement of an investigation under clause 8.20 of the Procedures	0
Categories of misconduct		
7	The number of investigated complaints resulting in a determination that there was a breach with respect to each of the following categories of conduct:	
a	General conduct (Part 3)	0
b	Conflict of interest (Part 4)	0
c	Personal benefit (Part 5)	0
d	Relationship between council officials (Part 6)	0
e	Access to information and resources (Part 7)	0
Outcome of determinations		
8	The number of investigated complaints resulting in a determination that there was a breach in which the council failed to adopt the conduct reviewers recommendation	0
9	The number of investigated complaints resulting in a determination that there was a breach in which the council's decision was overturned following a review by the Office	0

For the previous reporting period of 1 September 2015 to 31 August 2016 there were also 7 Code of Conduct Complaints received.

OPTIONS:

This report is a mandatory requirement and there are no other options available.

CONCLUSION:

That the Code of Conduct Complaints for the period 1 September 2016 to 31 August 2017 be received and noted.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Conduct Administration (Procedure) v1.0
Code of Conduct (Model) Version 2.0

b. Budget/Long Term Financial Plan:

Allowance is made within the budget for expenditure incurred on Code of Conduct Complaint investigations.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

35 [CS-CM] Legal Services Register Report for the period 1 October to 31 December 2017

SUBMITTED BY: Corporate Governance

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:

The Legal Services Register Report 1 October to 31 December 2017 provides the status of legal instructions for the current or recently completed matters which have been issued to legal panel providers. This Report includes payments to various legal providers, as well as payments for barristers and consultants where applicable.

The amount paid for legal services for the period 1 October to 31 December 2017 is \$609,658, with the total amount paid for the period 1 July to 31 December 2017 \$778,630.

The principal legal instructions that relate to this quarter include:

Legal Matter	Amount
• 2794 – DA15/0201 – 40 Creek Street – 17 Lot Subdivision	\$5,315
• 2795 – Soorley Street – Unauthorised Works	\$280,444
• 2801 – Tanglewood Estate Sewerage Treatment Plant	\$4,536
• 2802 – 3222 Kyogle Road – Unauthorised Activities	\$549
• 2815 – DA15/1064 – 1-3 Tweed Coast Road – Waterslide	\$19,711
• 2816 – DA15/0641 – 768 Casuarina Way -Two Lot Subdivision	\$768
• 2817 – DA16/0527 – 204 Marine Parade – Residential flat building	\$6,224
• 2821 – DA16/0059 – Tweed Valley Way Service Station	\$1,359
• 2822 – DA16/0355 – 26 Tringa Street – 60 Lot Subdivision	\$231,213
• 2824 – Zara Road – Unauthorised Works	\$24,660
• 2825 – 1110 Urliup Road- Unauthorised Works	\$6,478
• 2826 - DA16/0742 – 2 Cambridge Court- 2 Lot Subdivision	\$107
• 2833 – DA14/0814 – 900 Clothiers Creek Road	\$1,475
• 2834 – Illegal Camping – Provide advice including signage	\$1,970

Legal Matter	Amount
• 2835 – DA03/0445 – 447 Urliup Road – Notice to Produce	\$5,209
• 2836 – Respond to a letter from Woolf & Associates	\$1,575
• 2839 – 337 Round Mountain Road – Legal advice	\$8,296
• 2841 – Provide advice on Clause 7.15 of the TLEP 2014	\$1,800
• Provide advice on the enforcement of Pottsville VPA	\$3,489
• Landfill Management Contract – Legal advice	\$4,480

RECOMMENDATION:

That the report on the Legal Services Register Report for the period 1 October to 31 December 2017 be received and noted.

REPORT:

Expenditure incurred on legal instructions for the period 1 October to 31 December 2017 follows:

Category 1 Planning and Environmental Law	Category 2 Local Government Law	Category 3 Commercial/Property Law	Category 4 District/Local Court
\$605,178	\$4,480	\$0	\$0

A summary of payments to each of the Legal Service Providers including barristers and consultants where applicable, for current or recently completed matters is as follows:

Category 1 Planning and Environmental Law	Year to Date	Current Period 1 October to 31 December 2017
DLA Piper Australia	\$35,471	\$19,711
HWL Ebsworth Lawyers	\$62,220	\$2,934
Lindsay Taylor Lawyers	\$71,861	\$48,334
Maddocks Lawyers	\$616,996	\$511,657
Marsdens Law Group	(\$38,888)	\$15,769
Sparke Helmore Lawyers	\$6,362	\$549
Wilshire Webb Staunton Beattie Lawyers	\$6,224	\$6,224
Sub Total	\$760,246	\$605,178

Category 2 Local Government Law (litigation and advice)	Year to Date	Current Period 1 October to 31 December 2017
DLA Piper Australia	\$0	\$0
Lindsay Taylor Lawyers	\$18,384	\$4,480
Local Government Legal	\$0	\$0
Maddocks Lawyers	\$0	\$0
Marsdens Law Group	\$0	\$0
Prevention Partners NSW	\$0	\$0
Sub Total	\$18,384	\$4,480

Category 3 Commercial/Property Law	Year to Date	Current Period 1 October to 31 December 2017
HWL Ebsworth Lawyers	\$0	\$0
Local Government Legal	\$0	\$0
Maddocks Lawyers	\$0	\$0
Marsdens Law Group	\$0	\$0
Sparke Helmore Lawyers	\$0	\$0
Stacks /The Law Firm	\$0	\$0
Wilshire Webb Staunton Beattie Lawyers	\$0	\$0
Sub Total	\$0	\$0

Category 4 District/Local Court	Year to Date	Current Period 1 October to 31 December 2017
Attwood Marshall Lawyers	\$0	\$ 0
Minter Ellison – Gold Coast	\$0	\$ 0
Peter O'Donnell	\$0	\$ 0
Sub Total	\$0	\$ 0
Total	\$778,630	\$609,658

LEGAL SERVICES MATTERS INITIATED PRIOR TO 1 NOVEMBER 2016

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 10 January 2018
Marsdens Law Group 2794(1)	DA15/0201 40 Creek Street, Hastings Point – 17 Lot Subdivision.	6 August 2015 Report recommended negotiation. Council resolved to defend the deemed refusal Class 1 Appeal in the Land & Environment Court.	<i>Prev. Years</i> \$203,459 17/18 (\$63,373) Total \$140,086	Proceedings were listed for a directions hearing on 10 September and 21 December 2015, where applicant was requested to provide further information.	Completed. Court at a directions hearing on 24 May 2016, listed the appeal for a hearing on 17, 18, 21, 22, 23 November 2016. Notice of Discontinuance was filed in the Land and Environment Court on 22 November 2016. Applicant advised that it is prepared to enter into negotiations in relation to payment of Council's costs in the proceedings. Applicant has paid the settlement offer of \$70,000, recommended by Council Solicitors.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 10 January 2018
Maddocks Lawyers (2795)	Unauthorised works - Existing use rights - Soorley Street, Tweed Heads South.	Provide legal opinion on existing use rights.	<i>Prev. Years</i> \$156,725 17/18 \$321,573 Total \$478,298	Letter was sent to solicitors for property owner seeking an answer to existing use rights questions. - No answer was received. Council at its meeting held on 7 April 2016 resolved to commence legal proceedings to stop unauthorised activities and seek any punitive measures.	In Progress. Class 4 proceedings in the Land and Environment have commenced to remedy and restrain further unauthorised works. Documentation has been produced; matter partly heard on 6-8 November 2017, adjourned to 25 June - 5 July 2018. Further documentation required to be produced.
Lindsay Taylor Lawyers (2801)	Tanglewood Estate Sewerage Treatment Plant (2801)	Provide advice in respect to the potential resolution of the issues concerned with the Sewerage Treatment Plant.	<i>Prev. Years</i> \$6,781 17/18 \$7,026 Total \$13,807	Solicitor drafted settlement proposal, which was sent to property owner's Solicitor. Ongoing discussions and negotiations in progress between all parties.	In Progress Further negotiation advices prepared resulting in a Memorandum of Understanding document being received for review by Council on 4 January 2018.
Sparke Helmore Lawyers (2802)	3222 Kyogle Road Mt Burrell – Unauthorised activities.	Council at its Meeting held on 7 April 2016 resolved to engage solicitors to commence proceedings pertaining to unauthorised activities and seek legal advice regarding options for punitive action.	<i>Prev. Years</i> \$115,691 17/18 \$6,362 Total \$122,053	Significant correspondence has occurred. Council has now commenced legal proceedings, through issuing a summons in the Land and Environment Court against the property owner for breaches of the Environment and Assessment Act 1979.	In Progress A number of directions hearings have been conducted during the months of October, November and on 9 December 2016. The Registrar of the Land and Environment Court on 7 April 2017, made "consent orders" to resolve the unlawful occupation of the property- now completed. Council awarded costs of \$101,257, have not been paid, property owner has now been placed into Administration.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 10 January 2018
Lindsay Taylor Lawyers (2813)	Environmental damage & unauthorised works and vegetation clearing – Lot 12 Fraser Drive Tweed Heads South.	Council at its Meeting held on 6 October 2016 resolved that it engages solicitors to seek advice on options for action in respect of alleged unauthorised removal of vegetation.	<i>Prev. Years</i> \$13,221	Solicitors engaged, detailed advice was provided, Council unable to take enforcement action, implemented by Department of Planning and Environment.	<i>In Progress</i> Council at its Meeting held on 2 February 2017 resolved that it endorses its solicitors to write to the proponent seeking removal of the unauthorised structure within 14 days, or otherwise Council will commence Class 4 civil proceedings in the NSW Land and Environment Court. Council Officers having discussions with proponent regarding compliance with Council resolution without requirement for court action.
Lindsay Taylor Lawyers (2813)	Environmental damage & unauthorised works and vegetation clearing – Lot 469 Henry Lawson Drive.	Council at its Meeting held on 6 October 2016 resolved that it engages solicitors to seek advice on options for action in respect of alleged unauthorised earthworks and stockpiles.	<i>Prev. Years</i> Included in above amount.	Solicitors engaged, detailed advice was provided. Recommended Council not pursue further action regarding acid sulphate soil matter.	<i>In Progress</i> Council at its Planning Committee Meeting held on 2 March 2017, resolved that it seek further advice from council's solicitors in terms of enforcement options and commence enforcement proceedings based on the advice. Council Officers having discussions with proponent regarding compliance with Council resolution without requirement for court action.
TOTAL 2017/2018			\$271,588		

COUNCIL INITIATED LEGAL SERVICES AFTER 1 NOVEMBER 2016

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 24 January 2018
DLA Piper Lawyers (2815)	DA15/1064 1-3 Tweed Coast Road Hastings Point - Redevelopment of Waterslide Playground.	7 July 2016 Council report recommended approval. Council resolved to refuse the application. 15 December 2016 Council resolved to refuse the Review of Determination and advised the applicant in writing of its determination and to defend any appeal lodged by the applicant in the Land and Environment Court.	<i>Prev. Years</i> \$120,190 17/18 \$35,471 Total \$155,661	Class 1 Appeal lodged by the applicant in the Land and Environment Court – Solicitors engaged to defend the appeal.	In Progress Directions hearing held on 10 February 2017. Case was heard on 10 & 11 May 2017, commencing with an onsite inspection. Closing addresses were conducted on 8 June 2017. On 23 January 2018 the Court directed to finalise matter and now required to provide agreed conditions of consent and file same with the Court no later than 28 February 2018.
Lindsay Taylor Lawyers (2816)	DA15/0641 Two Lot subdivision at 768- 770 Casuarina Way Casuarina.	Council at its meeting held on 7 July 2016 resolved to refuse the development application.	<i>Prev. Years</i> \$24,914 17/18 \$1,798 Total \$26,712	Council at its meeting held on 2 February 2017, resolved that it engages solicitors and consultant experts (if required) to defend the Class 1 Appeal. Solicitors engaged to defend the appeal.	Completed Directions hearing conducted on 21 February 2017, draft consent conditions prepared and filed with the Land and Environment Court. Appeal heard on 12 May. On 31 August 2017 appeal was upheld, with development application being approved, with conditions of consent.
Wilshire Webb Lawyers (2817)	DA16/0527 204 Marine Parade Kingscliff - Erection of a residential flat building (7 units).	Council at its meeting held on 1 December 2016, resolved to refuse the development application.	<i>Prev. Years</i> \$16,607 17/18 \$6,224 Total \$22,831	Solicitors engaged to defend the appeal. Directions hearing held on 13 February 2017, S34 conciliation conference on site conducted on 30 May 2017, with a further directions hearing conducted on 5 June 2017.	Completed Amended plans filed with the Land and Environment Court on 14 July 2017. Appeal heard on 25 and 26 September 2017, which commenced with an onsite inspection. 16 October 2017, Court upheld the appeal, with amended DA16/0527 being

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 24 January 2018
					approved. Council costs of \$5,000 "thrown away" as a result of amended plans to be paid by applicant.
HWL Ebsworth Lawyers (2821)	DA16/0059 Erection of Service Station in Tweed Valley Way and Roadworks in Alma Street, Hayes Lane and Tweed Valley Way, South Murwillumbah.	17 November 2016 Report recommended approval. Council refused. 16 March 2017 Council resolved that solicitors be instructed and consultants engaged to defend the Class 1 Appeal against Council's refusal of DA16/0059. (External consultants will be required to defend the appeal as the officers recommended approval of the application.)	<i>Prev. Years</i> \$20,704 17/18 \$60,645 Total \$81,349	Solicitors engaged to defend the Appeal, now commenced in the Land and Environment Court, documentation produced.	Completed Directions hearing held 4 May 2017. Appeal heard on 1 and 2 August 2017, which commenced with an onsite inspection. 12 December 2017, appeal was upheld, with DA16/0059 being approved subject to conditions of consent.
Maddocks Lawyers (2822)	DA16/0355 26 Tringa Street Tweed Heads West - 60 Lot subdivision	Development Application lodged on 28 April 2016, refused by Council at its meeting held on 15 December 2016, appeal filed in Land and Environment Court on 8 March 2017 against Council's refusal of the development application. Council at its Meeting held on 16 March 2017 resolved that it instructs solicitors to defend the Class 1 Appeal in the Land and Environment Court.	<i>Prev. Years</i> \$49,392 17/18 \$295,423 Total \$344,815	Solicitors engaged to defend the appeal. Appeal commenced, documentation filed with the Court.	In Progress Amended plans and reports served on Council on 12 July 2017, S34 conciliation conference was conducted on 19 July 2017, and matter was heard on 12 to 15 December 2017. Judgment reserved.
Lindsay Taylor Lawyers (2824)	Unauthorised Works at the Crown Road off Zara Road Limpinwood.	Council at its Planning Committee Meeting held on 6 April 2017, resolved that it engages solicitors to provide advice regarding the	<i>Prev. Years</i> \$14,889 17/18 \$27,929 Total	Solicitors engaged and have provided appropriate advice.	In Progress Advice being reviewed by Council Officers. Matter under investigation.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 24 January 2018
		continuing investigation of the unauthorised works.	\$42,818		
Lindsay Taylor Lawyers (2825)	Unauthorised Works at 1110 Urliup Road Urliup.	Council at its Planning Committee Meeting held on 6 April 2017, resolved that it engages solicitors to provide advice regarding the continuing investigation of the unauthorised works.	Prev. Years \$8,008 17/18 \$8,905 Total \$16,913	Solicitors engaged and have provided appropriate advice.	In Progress Council has requested Solicitor for property owner to respond to a S119J Notice under the EP & A Act 1979.
Lindsay Taylor Lawyers (2826)	DA16/0742 2 Cambridge Court Kingscliff 2 Lot Subdivision.	Council at its Meeting held on 18 May 2017, refused the DA 16/0742. Council also resolved to engage legal representation in relation to the Land and Environment Court appeal proceedings.	Prev. Years \$4,949 17/18 \$9,919 Total \$14,868	Solicitors engaged, documentation lodged with the Land and Environment Court, s34 joint planning conference was held on 28 June 2017.	Completed Matter heard on 23 August 2017, appeal was upheld. Development application was approved, with conditions of consent.
Marsdens Law Group (2827)	DA10/0737 Alterations to Existing Highway Service Centre Chinderah.	Council at its Meeting held on 20 April 2017 resolved that it engages legal representation to the Land and Environment Court Class 1 Appeal.	Prev. Years \$5,625 17/18 \$14,031 Total \$19,656	Solicitors engaged in relation to the appeal, which commenced in the Land and Environment Court. At first directions hearing on 10 May 2017, Court directed that it would be appropriate for the matter to proceed to a s34 conciliation conference.	Completed S34 conciliation conference held on 14 August, which started with an onsite inspection. 18 August parties reached an agreement as to the terms of a decision. Formal orders were issued on 24 August by the Court, appeal upheld, development application was approved, with conditions of consent.
Lindsay Taylor Lawyers (2839)	337 Round Mountain Road Mountain.	Council at its meeting held on 2 November 2017 resolved that legal advice be sought regarding options for enforcement and possible legal action.	17/18 \$8,296	Solicitors engaged to provide appropriate advice.	In Progress Advice received from solicitors outlining options for enforceable action, which is currently being reviewed by Council Officers.
TOTAL 2017/2018			\$468,641		

**Category 1 - Planning and Environmental Law
LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016**

Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 10 January 2018
Lindsay Taylor Lawyers (2830)	DA17/0358 Integrated Development Manufactured Home Estate 136-150 Dry Dock Road Tweed Heads South.	Provide preliminary advice to determine permissibility of the proposal.	17/18 \$4,499	Detailed advice received, with development application to be reported to Council.	Completed.
Marsdens Law Group (2833)	DA14/0814 900 Clothiers Creek Road	Provide a response to a letter from the Environmental Defenders Officer.	17/18 \$1,475	Detailed response provided to EDO on 27 November 2017.	Completed.
Marsdens Law Group (2834)	Enforcement of Illegal Camping	Provide detail advice on enforcing illegal camping including appropriate signage.	17/18 \$1,970	Detailed advice provided to Council on 25 August 2017.	Completed.
Marsdens Law Group (2835)	DA03/0445 447 Uriup Road Uriup.	Assist with completion of Notice to Produce of documents to Land and Environment Court.	17/18 \$5,209	Documents produced to the Court on 27 October 2017 by Solicitor.	Completed.
HWL Ebsworth (2836)	Gales Holdings Pty Ltd.	Prepare a response to a letter from Woolf & Associates on behalf of Gales Holdings Pty Ltd.	17/18 \$1,575	Solicitor engaged to prepare response, which was sent to Woolf & Associates on 17 November 2017.	Completed.
Marsdens Law Group (2841)	DA16/0936 350 Rowlands Creek Road Rowlands Creek.	Provide advice on Clause 7.15 of the TLEP 2014, specifically relating to the preparation of a hydrogeological analysis for water extraction.	17/18 \$1,800	Solicitor engaged to prepare advice, which was provided on 13 November 2017.	Completed.
Lindsay Taylor Lawyers	Pottsville Employment Land VPA.	Provide advice on the enforcement of the VPA.	17/18 \$3,489	Solicitor engaged, advice was provided on 22 November 2017.	Completed.
TOTAL 2017/2018			\$14,808		

**Category 2 - Local Government Law
LEGAL SERVICES PROTOCOL INITIATED PRIOR TO 1 NOVEMBER 2016**

Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 10 January 2018
Marsdens Law Group	7 Year Special Rate Variation.	Class 4 Appeal Land and Environment Court.	<i>Prev. Years</i> \$493,120	Appeal dismissed by Land and Environment Court 30/12/08. Court of Appeal dismissed 5/2/10 part costs awarded. Application to High Court for special leave dismissed with costs, not assessed.	In Progress. Recovery of assessed costs of \$134,058 being pursued.
TOTAL 2017/2018			\$0		

**Category 2 - Local Government Law
LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016**

Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 10 January 2018
Lindsay Taylor Lawyers	Cobaki Development.	Provide advice on the provision of Water & Sewerage Services to a Private Sector Provider.	<i>Prev. Years</i> \$3,009 17/18 \$13,904 Total \$16,913	Detailed letters of advice provided to Council.	Completed.
Lindsay Taylor Lawyers	Landfill Management Contract.	Provide advice on the Landfill Management Contract.	17/18 \$4,480	Solicitor engaged to provide advice, which was received on 18 October 2017.	Completed.
TOTAL 2017/2018			\$18,384		

**Category 3 - Commercial/Property Law
LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016**

Provider (Reference)	Description of Matter	General Instructions	Costs to Date	Comments	Current Status as at 10 January 2018
TOTAL 2017/2018			\$0		

**Category 4 – District/Local Court
LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016**

Provider (Reference)	Description of Matter	General Instructions	Costs to Date	Comments	Current Status as at 10 January 2018
TOTAL 2017/2018			\$0		

OPTIONS:

Reporting as per Legal Services Procedure requirements.

CONCLUSION:

Legal expenses for the quarter relating primarily to actions instigated in previous periods.

COUNCIL IMPLICATIONS:

a. Policy:

Legal Services Procedure.

b. Budget/Long Term Financial Plan:

Total legal services budget - \$430,414.

Total legal expenditure 1 October 2017 to 31 December 2017 - \$609,658

	Total Cost 2017/2018
Matters Initiated prior to 1 November 2016	
Category 1 -Planning and Environmental Law	\$271,588
<hr/>	
Council Initiated Legal Services after 1 November 2016	
Category 1 - Planning and Environmental Law	\$473,850
<hr/>	
Legal Services Protocol Initiated after 1 November 2016	
Category 1 - Planning and Environmental Law	\$14,808
Category 2 - Local Government Law	\$18,384
Category 3 - Commercial/Property Law	\$0
Category 4 - District/Local Court	\$0
<hr/>	
TOTAL	<u>\$778,630</u>

The budget allocation for Development Assessment legal expenses is \$280,695, with expenditure to date being \$739,464, it is estimated that increased budget allocation of \$550,000 will be required to fund the current shortfall, committed and future legal matters. This increased expenditure has been submitted to the December 2017 Budget review with funding from increased pensioner rebates, rate revenue and workers' compensation savings.

c. Legal:

Solicitors engaged from the appointed Legal Services Panel, or engaged for a specific legal matter.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

36 [CS-CM] Council Policies Review

SUBMITTED BY: Corporate Governance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.2	Engagement
2.2.4	Councillor and Civic Business - To make informed decisions in the best interest of the community.

ROLE: **Leader**

SUMMARY OF REPORT:

As an outcome of the overall review of Council policies a number of policies were placed on public exhibition inviting submissions, over the period 28 November 2017 to 12 January 2018, with no submissions being received and this report seeks the adoption of those policies.

RECOMMENDATION:

That Council adopts the following policies:

Cemeteries and Private Burials – Version 2.0
Council Utilities – Work in Proximity – Version 1.3
Driveway Access to Property – Design Specification – Version 1.5
Financial Assistance to the Proponents of Recycled Water Scheme – Version 1.1
Flood Risk Management – Version 1.1
Naming of Streets and Roads – Version 1.2
Rainwater Tanks in Areas with Reticulated Water – Version 3.1
Riverbanks – Version 1.3

REPORT:

As an outcome of the overall review of council policies a number of policies were placed on public exhibition inviting submissions, over the period 28 November 2017 to 12 January 2018, with no submissions being received and this report seeks the adoption of those policies.

The policies that are subject to this report are:

Cemeteries and Private Burials – Version 2.0
Council Utilities – Work in Proximity – Version 1.3
Driveway Access to Property – Design Specification – Version 1.5
Financial Assistance to the Proponents of Recycled Water Scheme – Version 1.1
Flood Risk Management – Version 1.1
Naming of Streets and Roads – Version 1.2
Rainwater Tanks in Areas with Reticulated Water – Version 3.1
Riverbanks – Version 1.3

Following the adoption of these policies they will be uploaded to the council internet page replacing the previous versions.

OPTIONS:

The adoptions of the advertised policies as there were no submissions received.

CONCLUSION:

That Council adopts the following policies:

Cemeteries and Private Burials – Version 2.0
Council Utilities – Work in Proximity – Version 1.3
Driveway Access to Property – Design Specification – Version 1.5
Financial Assistance to the Proponents of Recycled Water Scheme – Version 1.1
Flood Risk Management – Version 1.1
Naming of Streets and Roads – Version 1.2
Rainwater Tanks in Areas with Reticulated Water – Version 3.1
Riverbanks – Version 1.3

COUNCIL IMPLICATIONS:

a. Policy:

Various Council Policies

b. Budget/Long Term Financial Plan:

There are no budget implications from the adoption of these policies.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

These policies were advertised in the Tweed Link over the period 28 November 2017 to 12 January 2018.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil. (Copies of the policies are available on request)

37 [CS-CM] Communications Policy Version 1.0

SUBMITTED BY: Communication and Customer Services

mhm



Making decisions with you
We're in this together

LINKAGE INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.2 Engagement
- 2.2.2 Communications - To inform, educate and engage the public about Council and community activities.

ROLE: Collaborator

SUMMARY OF REPORT:

At the November Council meeting Council resolved to publicly exhibit the DRAFT Communications Policy for a period of 28 days, accepting written submissions for 42. The Draft Communications Policy was On Exhibition from 14 December 2017 to 2 February 2018.

During this period there were no formal submissions received, however some small improvements and inclusions have been made to clarify some information in the Policy. These are outlined in the body of the report.

RECOMMENDATION:

That Council adopts the Communication Policy Version 1.0 and deletes the existing policies of:

**Media Version 1.2;
Online and Social Media Version 1.0; and
Tweed Link Version 1.0.**

REPORT:

At the November Council meeting Council resolved to publicly exhibit the DRAFT Communications Policy for a period of 28 days, accepting written submissions for 42. The Draft Communications Policy was On Exhibition from 14 December 2017 to 2 February 2018.

Summary of changes to final document

During this period there were no formal submissions received, however some small improvements and inclusions have been made to clarify some information in the Policy.

These include:

- **Policy Objective:** Included the paragraph “Council operational protocols should be referred to for direction on communications during critical incident and business continuity purposes and for employee personal use of social media.”
- **Website:** Added detail about ‘how’ the notification for website outages will occur. “Council will aim to notify the community of any planned outages or maintenance a week in advance via a notice on the website.”
- **Tweed Link Advertising:** Clarified the reference to fees and charges and included road closures for festivals and events. “On occasion external organisations including utility companies; proponents of a Development Application; Council’s tourism provider; government agencies and authorities; and road closures for some external festivals and events may need to advertise in the Tweed Link for community related projects and business. Advertising of this nature is at the discretion of the Communications team and is charged at the rate specified in Council’s Fees and Charges for Tweed Link advertising. Enquiries should be made to tweedlink@tweed.nsw.gov.au”
- **Branding and Logos:** Inclusion of “Tweed Shire Council is also owner of and partner with Council’s tourism provider for tourism and destination brands related to the Tweed.”

OPTIONS:

Option 1: Adopt the Communications Policy Version 1.0,

Option 2: Does not adopt the Communications Policy Version 1.0 and requests further amendments be made.

CONCLUSION:

It is recommended to adopt the Communication Policy Version 1.0 and removes the existing policies of Media Version 1.2; Online and Social Media Version 1.0; and Tweed Link Version 1.0.

COUNCIL IMPLICATIONS:

a. Policy:

Once adopted, the Communication Policy V1.0 will replace Media Version 1.2; Online and Social Media Version 1.0; and Tweed Link Version 1.0.

Keywords to be added to the Policy list for easy customer reference include: Media, Social Media, Websites, Tweed Link, Brandings, Logos.

This Policy is supported by an operational Protocol - Employee Use of Social Media.

b. Budget/Long Term Financial Plan:

Nil.

c. Legal:

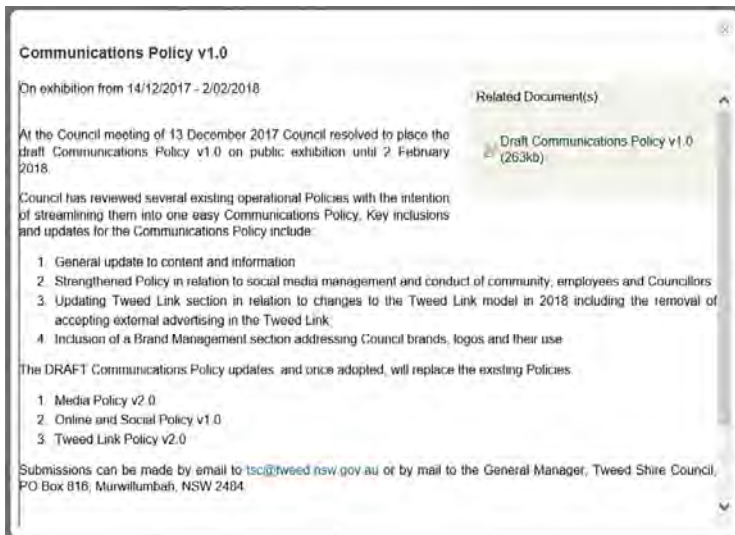
Nil.

d. Communication/Engagement:

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

The following engagement occurred with this operational policy:

1. On Exhibition Formal Notification - 14 December 2017 to 2 February 2018



2. On Exhibition Notifications - Advertising in Tweed Daily News and Tweed Link

On Exhibition

COMMUNICATIONS POLICY V1.0

At the Council meeting of 13 December 2017 Council resolved to place the draft *Communications Policy V1.0* on public exhibition until 2 February 2018. Council has reviewed several existing operational Policies with the intention of streamlining them into one easy Communications Policy. The draft Communications Policy updates, and once adopted, will replace the existing Policies:

1. Media Policy V2.0
2. Online and Social Policy V1.0
3. Tweed Link Policy V2.0

To view the Policy, visit www.tweed.nsw.gov.au/onexhibition. Submissions can be made by email to tsc@tweed.nsw.gov.au or by mail to the General Manager, Tweed Shire Council, PO Box 816, Murwillumbah, NSW 2484.

**Tweed Valley Weekly News
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On exhibition – have your say

Exhibition of Draft Community Engagement Strategy 2018–2022

At the Council meeting of 16 November 2017 Council resolved to place the draft Community Engagement Strategy 2018–2022 on public exhibition, inviting public submissions, from Monday 4 December 2017 until Friday 2 February 2018.

For more information contact Council’s Unit Coordinator – Communication and Customer Service, Tiffany Stodart, on (02) 6670 2737 or email at tsc@tweed.nsw.gov.au

Submissions close on Friday 2 February 2018.

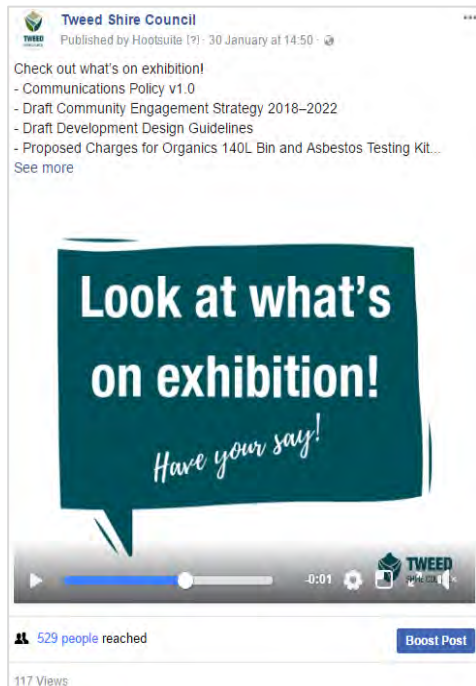
Communications Policy V1.0

At the Council meeting of 13 December 2017 Council resolved to place the draft Communications Policy V1.0 on public exhibition until 2 February 2018. Council has reviewed several existing operational Policies with the intention of streamlining them into one easy Communications Policy.

Submissions close on Friday 2 February 2018.

Tweed Link – 16/01/18

- 3 Letter to all Tweed Link external Advertisers from the past 12 months sent in December 2017. Letter advised of the Policy and changes and invited them to have their say.
- 4 Your Say Tweed – E-newsletter – 1920 recipients (December 2017 edition) included article about Communications Policy.
- 5 Various social media posts and notifications. No relevant comments were made on these posts.





UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Draft Communications Policy Version 1.0 (ECM 5053081).

38 [CS-CM] Lease to Surf Life Saving Far North Coast - Ed Parker Rotary Park, Kingscliff

SUBMITTED BY: Design

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.1 People
- 3.1.8 Lifeguard Services - To reduce the human risk to beach users on the Tweed Coast through surf lifeguard services and education.

ROLE: Provider

SUMMARY OF REPORT:

At its meeting held on 17 September 2015 Council considered a report relating to the use of the Kingscliff Training and Boat Storage facilities at Ed Parker Rotary Park at Sutherland Street, Kingscliff. It was resolved at that meeting to invite expressions of interest for lease arrangements for the facility.

At a subsequent meeting held on 10 December 2015, it was resolved to negotiate lease terms with Surf Life Saving Far North Coast Branch, the purpose of this report is to advise that terms have been agreed and to resolve to give public notice of its intention to enter into a lease with the rescue agency.

RECOMMENDATION:

That Council approves giving public notice of its intention to enter into a lease with Surf Life Saving Far North Coast Branch for the training and boat storage facilities at Ed Parker Rotary Park, Sutherland Street, Kingscliff.

REPORT:

Background

1. Council report dated 17 September 2015

At its meeting held on 17 September 2015 Council considered a report relating to the use of the Kingscliff Training and Boat Storage facilities at Ed Parker Rotary Park at Sutherland Street, Kingscliff. It was resolved at that meeting to invite expressions of interest for lease arrangements for the facility.

At a subsequent meeting held on 10 December 2015, a report to discuss the outcome of the expressions of interest process was considered.

Prior to these reports, during July/August 2015 a community consultation process was undertaken at the time to gauge community expectations for the site. The consultation comprised of three components:

1. Your Say Tweed
2. Kingscliff markets, and
3. Community consultation meeting

The outcome of this consultation was reported to Council as an attachment to 17 September 2015 report, and is also an attachment to this report, for ease of reference. In summary, the community expressed an expectation to maintain a connection with the provision of marine safety services and to ensure the facility is used to the fullest extent.

The September 2015 report also discussed feedback from identified interest groups which comprised of emergency services, community/commercial and boating groups. This feedback was Attachment 2 of the report, and also attached to this report.

It was resolved that Council invite expressions of interest for lease arrangements of the facility from groups that were supportive of delivering local community emergency services.

2. Council report dated 10 December 2015

This report discussed the outcome of the expressions of interest, this report is attachment 4 to this report.

Four submissions had been received, in response to an advertisement placed in the Tweed Link. The evaluation of the submissions is attachment 5 to this report.

A submission from Surf Life Saving Far North Coast Branch was considered to be the 'best fit' submission which met community expectations, as the group is an accredited rescue agency in the area. As a result, the report recommended that Council enter into negotiations with Surf Life Saving Far North Coast branch

It was resolved to negotiate lease terms with Surf Life Saving Far North Coast branch and negotiations have been ongoing and now lease terms have been agreed and it is necessary to resolve to advertise Council's intentions to enter into a lease with them, as a total term of 20 years has been agreed, comprised of four 5 year terms.

This obligation to give public notice arises from Section 47 of the *Local Government Act 1993*, which requires Council to advertise its intention to lease Council owned land that is classified as community land.

The notice will be advertised for a period of 28 days, with a concurrent submission period, and a further report to Council will follow.

It is recommended that Council resolves to approve to give public notice of its intention to lease the training rooms in the Ed Parker Rotary Park at Sutherland Street, Kingscliff.

OPTIONS:

1. To approve Council giving public notice of its intention to lease the training and storage rooms located in the Ed Parker Rotary Park at Sutherland Street, Kingscliff; or
2. To not approve Council giving public notice of its intention to lease the training and storage rooms.

CONCLUSION:

As Surf Life Saving Far North Coast Branch will meet a community need it is recommended that Council approves the giving of public notice of Council's intention to lease the training and boat storage facilities at Ed Parker Rotary Park, Sutherland Street, Kingscliff.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Nominal rental will be obtained as the tenant shall be maintaining the building.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

Public notice of Council's intention to lease Council owned community land will be given to meet the requirements of Section 47 of the *Local Government Act, 1993*.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- | | |
|---------------|---|
| Attachment 1. | Council report dated 17 September 2015 (ECM 3802693). |
| Attachment 2. | Attachment 1 to Council report dated 17 September 2015 (ECM 3781894). |
| Attachment 3. | Attachment 2 to Council report dated 17 September 2015 (ECM 3781898). |

Attachment 4. Council report dated 10 December 2015 (ECM 3901940).

Attachment 5. Attachment to Council report dated 10 December 2015 (ECM 3875315).

39 [CS-CM] Compliments and Complaints Analysis Report for the period 1 July to 30 September 2017

SUBMITTED BY: Corporate Governance

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

4	Behind the scenes
4.1	Assurance
4.1.1	Governance - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: **Leader**

SUMMARY OF REPORT:

The Compliments and Complaints Handling Policy contains a quarterly reporting requirement. The Policy is designed to:

- Ensure compliments and complaints received are appropriately recorded;
- Recognise and acknowledge compliments Council receives;
- Deal with complaints in a fair and equitable manner; and
- Increase the level of customer satisfaction with the way feedback is handled, and in the delivery of services and systems.

The Compliments and Complaints Analysis Report for the period 1 July to 30 September 2017 identifies compliments and complaints and is provided for the information of Council.

RECOMMENDATION:

That Council receives and notes the Compliments and Complaints Analysis Report for the period 1 July to 30 September 2017.

REPORT:

The Compliments and Complaints Handling Policy contains a quarterly reporting requirement. The Policy is designed to:

- Ensure compliments and complaints received are appropriately recorded;
- Recognise and acknowledge compliments Council receives;
- Deal with complaints in a fair and equitable manner; and
- Increase the level of customer satisfaction with the way feedback is handled, and in the delivery of services and systems.

There are many instances where Council is complimented on the broad range of services it provides to the community, often in the form of a follow up phone call, written thank you or certificate of appreciation. These occasions highlight when Council has met or exceeded citizen expectations. Information about compliments Council receives often goes unrecognised because, unlike complaints, they require little action. However Council values its staff and compliments are an important feedback mechanism to organisational performance as well as a good sign of an engaged and active community.

A complaint is an expression of dissatisfaction, made in:

- a) respect to a Council Officers role in the provision of service delivery or lack of service delivery that has allegedly affected an individual, group or body of stakeholders whether justified or not; or
- b) the quality of service provided by council; or
- c) failing to act upon a request from the public and policies adopted by council.

A complaint can progress from Council's lack of action following the lodgement of a customer request for service or a request for information.

It is not a request for service (customer request management), or information, or an explanation of a policy or procedure, or objections to a development application before Council determination.

A complaint analysis report is presented to Council, detailed by type and outcomes/actions on a quarterly basis, without personal identifying particulars of complainants or associated persons or properties.

Complaints principally refer to the:

- Failure of Council Officers to comply with Council's Customer Service Charter in not responding to items within 14 days in accordance with the Correspondence - Response to Policy.
- Respondents being dissatisfied with the actions of Council Officers in handling their original request for service.
- Complainants being dissatisfied by decisions made by Council.

The complaint type has been categorised in accordance with the Council's organisational structure. This methodology assists in monitoring the effectiveness of Council's handling of complaints and improving service delivery.

Council received 73 Compliments for the period 1 July to 30 September 2017, as follows:

Compliment Type	Ref	Details of Compliment	Comments
Office of General Manager	1.1	<i>General Manager</i> 1 Compliment Thank you for your participation at a recent meeting.	Noted by General Manager.
	1.2	<i>Local Government Week</i> 2 Compliments Thank you for provision of week's activities – Raising Clarrie Hall Dam and Pottsville Environmental Park.	Noted and referred to the nominated Council Officers.
	1.3	<i>Kingscliff</i> 3 Compliments Thanking Council for repair of lights in Lions Park, Pearl Street line marking and attendance of Director of Planning and Regulation at a meeting to discuss the Draft Kingscliff Locality Plan and Development Control Plan.	Noted by General Manager and Divisional Directors.
Corporate Services	2.1	<i>Divisional Customer Service Units</i> 19 Compliments Appreciation to nominated Council Officers for excellent Customer Service and shopfront staff at Tweed Heads.	Referred to the nominated Council Officers.
	2.2	<i>Regional Flood Recovery Committee</i> 1 Compliment Thanking a Council Officer for providing secretarial and administrative support to the Committee.	Referred to the nominated Council Officer.
	2.3	<i>"Day in our Shoes"</i> 2 Compliments Thanking council for organising the day and staff for their assistance.	Noted and referred to the nominated Council Officers.
Planning and Regulation	3.1	<i>Development Assessment and Compliance Unit -Customer Service</i> 9 Compliments Thank you to Council Officer's for assistance with three Development Applications and Six Regulatory Services matters.	Noted by Division Director and Unit Manager and referred to nominated Council Officers.
Engineering	4.1	<i>Roads and Stormwater Unit</i> 8 Compliments Appreciation for recent maintenance to roads, a footpath and a Condong pontoon.	Noted by Unit Manager and referred to appropriate Council Officers.
	4.2	<i>Roads and Stormwater Unit</i> 1 Compliment Appreciation for the collection of a large deposit of rubbish in Murwillumbah.	Noted by Unit Manager.
	4.3	<i>Roads and Stormwater Unit</i> 3 Compliments Appreciation for prompt attention to customer requests.	Noted by Unit Manager and referred to appropriate Council Officers.

Compliment Type	Ref	Details of Compliment	Comments
	4.4	<i>Water and Wastewater Unit</i> 3 Compliments Appreciation for quick and efficient service and helpful customer service.	Referred to various Unit Staff.
Community and Natural Resources	5.1	<i>Signwriting Team</i> 4 Compliments Thank you for the fabulous work done by the team and impressed with service.	Referred to the nominated Signwriting Team Staff.
	5.2	<i>Tweed Regional Art Gallery</i> 1 Compliment Compliment for the organisation of a function held at the Gallery.	Noted by Art Gallery Coordinator.
	5.3	<i>Waste Management</i> 1 Compliment Appreciation for the introduction of the new three bin system.	Noted by Unit Coordinator.
	5.4	<i>Cemeteries</i> 5 Compliments Thank you for excellent customer service and support of memorial services.	Referred to the appropriate Cemetery Staff.
	5.5	<i>Tweed Regional Art Gallery</i> 1 Compliment Appreciation for the provision of a special facility.	Noted by Art Gallery Coordinator.
	5.6	<i>Kingscliff Foreshore Redevelopment</i> 1 Compliment Appreciation of amazing work the Council Officer is doing with the project.	Referred to the nominated Council Officer.
	5.7	<i>Parks Maintenance Team</i> 1 Compliment Appreciation for the outstanding care given to parks and sporting fields in Murwillumbah.	Referred to relevant Parks Maintenance Staff.
	5.8	<i>Waste Management Unit</i> 1 Compliment Appreciation for the quick response for the removal of illegally dumped rubbish.	Noted by Unit Coordinator.
	5.9	<i>Parks Asset Team</i> 3 Compliments Thank you for maintenance at the Murwillumbah Pool, Navigators Way park and assistance with Pottsville Beach Tennis Club.	Referred to Parks Assets Team Staff.
	5.10	<i>Parks Tree Team.</i> 2 Compliments Thank for speedy response to a customer request.	Referred to appropriate Council Tree Team staff.
	5.11	<i>Living for the Future Expo</i> 1 Compliment Compliments to the organisers of the expo.	Referred to appropriate event organisers.

During this quarter 20 subject complaints have been recorded as follows:

Complaint Type	Ref	Details of Complaint	Comments
Office of General Manager	1.1	<i>Tweed Regional Aquatic Centre Murwillumbah</i> 20 Complaints from the same individual. Emails received from the same complainant, requesting Council to turn off the offensive hammering noise, currently seeking legal advice on the unsatisfactory service in regard to the ongoing noise problem.	Council has been receiving complaints since 2014 regarding the aquatic centre. Activities have been refined and complainant has been provided with a copy of a noise assessment. On 27 June 2017 Council enacted its Dealing with Difficult People Policy.
	1.2	900 Clothiers Creek Road Clothiers Creek DA14/0814 and DWY14/0372 Complaint received regarding Council's handling of the two applications.	On 16 August an onsite meeting was scheduled with the General Manager, Director Engineering and Cr Allsop attending. Participants attended, no discussion was conducted due to presentation of a legal letter.
Corporate Services	2.0	Nil	
Planning and Regulation	3.1	<i>Oceanview Crescent Kingscliff</i> Complainant concerned with the processing of a development application, requesting an on-site meeting.	On site meeting held, issues explained, complainant appreciative for the discussion.
	3.2	<i>6-8 Palm Avenue Cabarita Beach</i> No response to the lodgment of a customer request concerning the property.	Email response sent providing a response to the complainant's concerns.
	3.3	<i>Cobaki Broadwater Village Tweed Heads West</i> Complainant provided a list of compliance issues which have not been investigated.	Complainant contacted advising that the listed non - compliance issues are to be investigated.
	3.4	<i>Fraser Cove Subdivision Banora Point</i> Have called numerous times requesting to speak to an Officer regarding the delay in releasing subdivision information.	Complainant contacted advising that there is a delay in releasing subdivision documentation due to outstanding approval conditions with the subdivision. Linen Plan for stages 1-4 now released.
	3.5	<i>Reef Water Crescent Bogangar</i> Concerned by the lack of Council's response to the lodgment of customer requests, concerning dust from adjacent development earthworks.	Email sent advising that the site was inspected during the construction phase of the development. Contractor was observed implementing processes to mitigate the dust problem.
	3.6	<i>Upper Duroby Creek Road Duroby Creek</i> Lodging a formal complaint regarding Council's lack of action with sorting out a barking dog complaint.	Complaint investigated, discussions have been held with complainant, problem has ceased at the moment, response being prepared.
	3.7	<i>Myrtle Street Murwillumbah</i> Concerned with the level of customer service response provided regarding a noise complaint.	Further discussions have been held with complainant providing information regarding the complaint.

Complaint Type	Ref	Details of Complaint	Comments
	3.8	<i>Development Application Consent</i> Complainant has two issues regarding conditions of consent and the need to submit a modification of consent.	Matter investigated, complainant contacted.
Engineering	4.1	<i>Casuarina Way Casuarina</i> Complaint concerning an issue with cobblestones on roadway, previously reported to Council.	Email sent advising that the removal of cobblestones in Casuarina Way between Dianella Drive to Riberry Drive is planned for inclusion in the 2018/19 Roadworks Plan.
	4.2	<i>Tamarind Avenue Bogangar</i> Complaint that Council Officer had entered property without signing in.	Complainant advised of the correct entry procedure that will be followed in the future.
	4.3	<i>Crams Farm</i> Complaint concerning the unhygienic state of the dairy kitchen area, booked area for a function.	Complaint investigated, response provided to complainant outlining cleaning procedures.
	4.4	<i>Elizabeth Street Fingal Head</i> Complaint that a customer request has not been actioned by Council to clean up its land on the corner with Bambery Street and also advising of another maintenance concern.	Acknowledgement email sent, land has been cleaned up, maintenance concern to be investigated.
Community and Natural Resources	5.1	<i>Three Bin Waste System</i> 5 Complaints Larger families being penalised financially, required to have an extra red bin. Soiled waste sitting in bins unacceptable especially during summer months. Overflowing red and yellow bins almost empty green bin. Waste sitting in green bin unacceptable, Council should come up with a healthier solution	3 Complainants advised of the approach taken by Council to introduce system, together with website information how to manage waste. 2 Complaints noted, no response was required to be given, information is included on website how to manage waste.
	5.2	<i>Three Bin Waste System</i> Due to size of property, green bin is no value not requested and not wanted.	Complaint investigated, green bin service cancelled.
	5.3	<i>Waste Collection Charges</i> Advising that due to the fruitless attempts to resolve concerns, complaint has been escalated to the NSW Ombudsman.	Detailed response prepared and sent to the complainant outlining actions taken to date.
	5.4	<i>Norries Headland Cabarita Beach</i> Complaining that the headland has been neglected, no grass only dirt, due to overuse of site.	Email sent, with a response being given to each of the concerns raised, principally that due to the extra dry spell, has had a significant impact on grass coverage.
	5.5	<i>Tweed Regional Aquatic Centre</i> Customer service from a pool attendant was unacceptable.	Complainant contacted apologising for the service and matter has been raised with the pool attendant.

Complaint Type	Ref	Details of Complaint	Comments
Council		<p><i>Marriage Equality Vote</i> 3 Complaints Regarding Council's decision for Vote Yes campaign, including erection of a banner or flag</p> <p>1 Complaint Concerning Council decision to erect a banner</p>	<p>Email responses sent providing information on Council Meeting decisions relating to the complaint.</p> <p>Mayoral office responded.</p>

OPTIONS:

Mandatory Report in accordance with Council's Compliments and Complaints Handling Policy V 1.4.

CONCLUSION:

The Compliments and Complaints Analysis Report for the period 1 July to 30 September 2017 be received and noted.

COUNCIL IMPLICATIONS:

a. Policy:

Compliments and Complaints Handling v1.4
Correspondence, Response to v1.5

b. Budget/Long Term Financial Plan:

Nil

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

40 [CS-CM] Compliments and Complaints Analysis Report for the period 1 October to 31 December 2017

SUBMITTED BY: Corporate Governance

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

4	Behind the scenes
4.1	Assurance
4.1.1	Governance - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: **Leader**

SUMMARY OF REPORT:

The Compliments and Complaints Handling Policy contains a quarterly reporting requirement. The Policy is designed to:

- Ensure compliments and complaints received are appropriately recorded;
- Recognise and acknowledge compliments Council receives;
- Deal with complaints in a fair and equitable manner; and
- Increase the level of customer satisfaction with the way feedback is handled, and in the delivery of services and systems.

The Compliments and Complaints Analysis Report for the period 1 October to 31 December 2017 identifies compliments and complaints and is provided for the information of Council.

RECOMMENDATION:

That the Executive Leadership Team receives and notes the Compliments and Complaints Analysis Report for the period 1 October to 31 December 2017.

REPORT:

The Compliments and Complaints Handling Policy contains a quarterly reporting requirement. The Policy is designed to:

- Ensure compliments and complaints received are appropriately recorded;
- Recognise and acknowledge compliments Council receives;
- Deal with complaints in a fair and equitable manner; and
- Increase the level of customer satisfaction with the way feedback is handled, and in the delivery of services and systems.

There are many instances where Council is complimented on the broad range of services it provides to the community, often in the form of a follow up phone call, written thank you or certificate of appreciation. These occasions highlight when Council has met or exceeded citizen expectations. Information about compliments Council receives often goes unrecognised because, unlike complaints, they require little action. However Council values its staff and compliments are an important feedback mechanism to organisational performance as well as a good sign of an engaged and active community.

A complaint is an expression of dissatisfaction, made in:

- a) respect to a Council Officers role in the provision of service delivery or lack of service delivery that has allegedly affected an individual, group or body of stakeholders whether justified or not; or
- b) the quality of service provided by council; or
- c) failing to act upon a request from the public and policies adopted by council.

A complaint can progress from Council's lack of action following the lodgement of a customer request for service or a request for information.

It is not a request for service (customer request management), or information, or an explanation of a policy or procedure, or objections to a development application before Council determination.

A complaint analysis report is presented to Council, detailed by type and outcomes/actions on a quarterly basis, without personal identifying particulars of complainants or associated persons or properties.

Complaints principally refer to the:

- Failure of Council Officers to comply with Council's Customer Service Charter in not responding to items within 14 days in accordance with the Correspondence - Response to Policy.
- Respondents being dissatisfied with the actions of Council Officers in handling their original request for service.
- Complainants being dissatisfied by decisions made by Council.

The complaint type has been categorised in accordance with the Council's organisational structure. This methodology assists in monitoring the effectiveness of Council's handling of complaints and improving service delivery.

Council received 51 Compliments for the period 1 October to 31 December 2017, as follows:

Compliment Type	Ref	Details of Compliment	Comments
Office of General Manager	1.1	<i>General Manager</i> 2 Compliments Appreciation for the excellent cooperation and work within the Tyalgum community, staff assisting with organising a hand rail to be installed at Little Bar.	Noted by General Manager.
Corporate Services	2.1	<i>Events</i> 2 Compliments Thank you to nominated Staff for their support with Kingscliff Triathlon and Cycle Queensland events in the Shire.	Referred to nominated Staff.
	2.2	<i>Divisional Customer Service Units</i> 4 Compliments Thank you for reducing water rates due to an undetectable water leak, customer service staff for fielding calls regarding filming of "Aquaman" 2017, general customer service	Referred to appropriate Staff.
Planning and Regulation	3.1	<i>Building and Environment Health Unit</i> 3 Compliments Appreciation for professionalism and assistance with a matter, swimming pool inspections and great customer service.	Noted by Unit Manager and referred to nominated Staff.
	3.2	<i>Compliance Team</i> 3 Compliments Thank you to staff for support with managing a complaint, dealing with illegal campers and removing abandoned trailer.	Noted by Division Director and referred to nominated Staff.
	3.3	<i>Development Assessment Team</i> Complimenting very efficient and helpful staff.	Noted by Division Director.
Engineering	4.1	<i>Roads and Stormwater Unit</i> 6 Compliments Thank you for quick customer service, repairing Back Creek Road, removal of weeds from Riverlands Place pathways, maintenance of Brinsmead Road, removal of waterway weed and provision of information on the March flooding in Sand/Ozone Streets.	Noted by Unit Manager and referred to relevant Staff.
	4.2	<i>Infrastructure Delivery Unit</i> Appreciate improvement to the old road from showground to Kynnumboon Bridge.	Noted by Unit Manager
	4.3	<i>Water and Wastewater Unit</i> Thank you to plumbing staff involved with a recent water leak and water meter replacement.	Noted by Division Director and referred to relevant Staff.
Community and Natural Resources	5.1	<i>Recreation Services Unit</i> 10 Compliments Excellent customer service, maintenance of parks, flood repairs at Uki Sports Club,	Noted by Unit Manager and referred to relevant Staff.

Compliment Type	Ref	Details of Compliment	Comments
		dealing with Tweed Heads West dirt bike rider problem, illegal tree pruning, provision of new gym equipment at John Follent Park, Remembrance Day 2017 and assisting a person who had a fall.	
	5.2	<i>Parks Tree Team</i> 3 Compliments Thank you for efficient tree pruning and quick customer service.	Noted by Unit Manager and referred to relevant Staff.
	5.3	<i>Waste Management Unit</i> Thank you to a Staff member at the Waste Depot for providing assistance to an injured customer.	Noted by Division Director and referred to Unit Coordinator for investigation.
	5.4	<i>Tweed Regional Gallery</i> 5 Compliments Thank you for assistance with exhibitions, customer service, helpful volunteers, HSC study day.	Noted by nominated Staff.
	5.5	<i>Cemetery Team</i> Thank you to staff for excellent customer service.	Noted by Division Director and referred to appropriate Staff.
	5.6	<i>Parks Assets Team</i> Thank you support in assisting a fellow employee.	Noted by Unit Manager.
	5.7	<i>Signwriting Team</i> 2 Compliments Impressed with the signage works for the upgraded Tweed Library, congratulations for the job at Ambrose Brown Park.	Noted by Unit Manager and referred to relevant Staff.
	5.8	<i>Natural Resources Unit</i> Thank you to staff for addressing issue about public vehicles accessing fire/access road.	Noted by Unit Manager and referred to nominated Staff.
	5.9	<i>Tweed Heads Civic Centre</i> Compliment to Manager for exceptional service at the recent Orchid Show and Fair.	Noted by Unit Coordinator.
	5.10	<i>Tweed Regional Aquatic Centre</i> Appreciate staff assistance in discussing information pertaining to Dick Stevens Memorial Shield.	Noted by Division Director and referred to relevant Staff.
Council	6.1	Thank you for the "Priscilla " film event.	Referred to the Mayor.
	6.2	Congratulations to the Mayor and supportive Councillors on the <i>Stop Adani</i> " motions.	Referred to the Mayor.
	6.3	<i>Marriage Equality Debate</i> 1 Compliment Regarding Council's decision for Vote Yes campaign, including erection of a banner or flag.	Acknowledgement forwarded.

During this quarter 6 subject complaints have been recorded as follows:

Complaint Type	Ref	Details of Complaint	Comments
Office of General Manager	1	900 Clothiers Creek Road Enquiry re driveway construction.	Response forwarded by Council's solicitor 27 November 2017.
Corporate Services	2	Nil.	
Planning and Regulation	3.1	<i>Illegal Activities with Dogs at Pottsville.</i> Submitting information on illegal dog activities at Pottsville and that Council has not been surveilling the Pottsville area, including after hours. Concerned that Council has regulations without enforcing them.	Detailed letter sent, responding to issues raised including new Guidelines for Dog Off Leash Areas and Prohibited Areas.
Engineering	4.1	<i>Kirkwood Road Tweed Heads South</i> No response to previous emails asking Council to put a shield at the back of the light on an adjacent pole.	Email sent apologising for not responding to previous emails, requesting that the Officer be contacted to discuss the issue.
	4.2	<i>Murwillumbah Maintenance Issues</i> Submitting information on roads broken up, potholes, rubbish in streets, closing of Council nursery.	Complaint information being investigated.
Community and Natural Resources	5.1	<i>Contaminated Green Organics Bin</i> Concerned to have received the letter, complainant has complied with waste requirements, contacted Council, no response to telephone call.	Complainant contacted and followed up with an email, apologising for the letter which was sent in error, information supplied by Contractor incorrect.
	5.2	<i>Bulk Waste Collection Service</i> Contacted Council for a bulk waste collection before end of year - informed that the waste could only be picked up in the New Year.	Email sent advising of the bulk waste collection service procedures.
Council	6.1	<i>Marriage Equality Vote</i> 20 Complaints Regarding Council's decision for Vote Yes campaign, including erection of a banner or flag.	Email responses sent providing information on Council Meeting decisions relating to the complaint.

OPTIONS:

Reporting as per Compliments and Complaints Handling Policy.

CONCLUSION:

Compliments and Complaints received during the period 1 October to 31 December 2017.

COUNCIL IMPLICATIONS:

a. Policy:

Compliments and Complaints Handling v1.4
Correspondence - Response to v1.5

b. Links to Existing Strategic Plans:

Community Strategic Plan

c. Budget/Long Term Financial Plan:

Not Applicable

d. Legal:

Not Applicable.

e. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

41 [CS-CM] Quarterly Budget Review - December 2017

SUBMITTED BY: Financial Services

Validms



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.3 Financial requirements and the community's capacity to pay will be taken into account when meeting the community's desired levels of service

SUMMARY OF REPORT:

This is the second quarter statutory budget review for this financial year and summarises the estimated expenditure and income changes to the 2017/2018 Budget.

This statutory report is prepared in accordance with the Local Government (General) Regulations 2005, Sections 202 and 203. Council will have a balanced budget as at 30 June 2018 in all Funds.

RECOMMENDATION:

That the:

1. Quarterly Budget Review Statement as at 31 December 2017 be adopted.
2. Expenditure and income, as summarised below and detailed within the report be voted and adjusted in accordance with the revised total expenditure and income for the year ending 30 June 2018.

Description	Change to Vote	
	Deficit	Surplus
General Fund		
<u>Expenses</u>		
Employee costs	0	147,592
Materials & Contracts	227,797	0
Interest	0	0
Other Operating costs	988,550	0
Capital	0	271,347
Loan Repayments	0	0
Transfers to Reserves	878,681	0
	2,095,028	418,939

Description	Change to Vote	
	Deficit	Surplus
<u>Income</u>		
Rates and Annual Charges	0	200,000
Interest revenue	20,000	0
Operating Grants & Conts	0	318,581
Capital Grants & Conts	2,325,000	0
User Charges & Fees	0	60,000
Other Operating Revenue	0	2,533,296
Loan Funds	0	20,000
Recoupments	0	0
Transfers from Reserves	0	1,063,812
Asset Sales	174,600	0
	<u>2,519,600</u>	<u>4,195,689</u>
Net Surplus/(Deficit)		<u>0</u>
Sewer Fund		
<u>Expenses</u>		
Employee costs	0	0
Materials & Contracts	228,051	0
Interest	0	0
Other Operating costs	0	0
Capital	396,048	0
Loan Repayments	0	0
Transfers to Reserves	0	345,257
	<u>624,099</u>	<u>345,257</u>
<u>Income</u>		
Rates and Annual Charges	0	0
Interest revenue	0	0
Operating Grants & Conts	0	0
Capital Grants & Conts	0	0
User Charges & Fees	0	0
Other Operating Revenue	0	0
Loan Funds	0	0
Recoupments	0	119,421
Transfers from Reserves	0	159,421
Asset Sales	0	0
	<u>0</u>	<u>278,842</u>
Net Surplus/(Deficit)		<u>0</u>
Water Fund		
<u>Expenses</u>		
Employee costs	0	0
Materials & Contracts	0	828,022
Interest	0	0
Other Operating costs	0	0
Capital	0	214,000
Loan Repayments	0	0
Transfers to Reserves	1,322,022	0
	<u>1,322,022</u>	<u>1,042,022</u>

Description	Change to Vote	
	Deficit	Surplus
<u>Income</u>		
Rates and Annual Charges	0	0
Interest revenue	0	0
Operating Grants & Conts	0	0
Capital Grants & Conts	0	0
User Charges & Fees	0	0
Other Operating Revenue	0	0
Loan Funds	0	0
Recoupments	0	0
Transfers from Reserves	0	280,000
Asset Sales	0	0
	<hr/>	<hr/>
	0	280,000
Net Surplus/(Deficit)	<hr/>	<hr/>
		0

REPORT:

Budget Review 31 December 2017 (Quarterly Budget Review)

In accordance with section 203(1) of the Local Government (General) Regulation 2005, a Budget Review Statement and revision of the estimates of income and expenditure must be submitted to council within two months of the close of each quarter.

The Regulation requires that the quarterly financial review must include the following:

- A revised estimate for income and expenditure for the year.
- A report as to whether or not such statements indicate that the financial position of the Council is satisfactory and if the position is unsatisfactory, make recommendations for remedial action.

Report by Responsible Accounting Officer – Quarterly Budget Review Statements

The Quarterly Budget Review Reports are prepared to provide Council and the community with information in relation to Council's financial performance and proposed amendments to its budget and forward estimates. The reports are prepared under accrual accounting principles in accordance with the requirements of the Local Government Act 1993.

New South Wales councils are required to prepare a Quarterly Budget Review Statement, which includes the following information:

- The original budget
- Approved changes to the original budget
- Recommendations by Council officers regarding changes to the revised budget
- A projected year end result
- Actual year to date figures
- Key Performance Indicators
- New contracts entered into during the quarter
- Consultancy and legal expenses

This information is presented in the following reports:

- List of changes which will impact on revenue, i.e. will affect the Operational Plan (budget) or Long Term Financial Plan
- Detailed list of recommended changes, including those recommended by officers and those adopted by Council
- Income and Expenses Statement, consolidated and by fund
- Funding Statement, consolidated and by fund, which gives the total budget result
- Capital Budget Review Statement
- Cash & Investments Budget Review Statement
- Budget Review Key Performance Indicators Statement
- Budget Review Contracts (part A) and Other Expenses (part B)

Impacts on the Operational Plan and/or Long Term Financial Plan

Some recommended changes will have no net effect on the Operational Plan (1 year budget). Others will have long term effects and will need to be reflected in the next revision of the Long Term Financial Plan. The changes which will have such an effect are listed below:

Description	\$	\$
	Net Effect on 2017/2018 Budget	
General Fund		Net Effect on LTFP
Street lighting		483,550
Overdue rates expenses		-290,000
Legal fees recovery		290,000
Interest on overdue charges	20,000	20,000
Pensioner rebate subsidy	-92,000	-92,000
Brett St Commercial Space	15,000	15,000
Planning Legal expenses	550,000	
Conveyancing Drainage Diagrams	-30,000	
Essential Fire Services	-10,000	
Sewer Plans	-20,000	
Rates and Charges	-200,000	
Workers compensation	-233,000	
	0	426,550

Detailed list of changes

In/Ex	Item	Category	Description	Current Vote	Change to Vote	Details / Comments
1. Proposed Variations						
General Fund						
Ex	1	Ex-Op	Cultural Development Fund	85,369	10,000	Art in the Park, Sacred Littoral
Ex	1	Ex-Op	Economic Development - Internal	1,420,642	-10,000	Funding for above
Ex	2	Ex-Op	Waterways Asset Management	37,625	-37,000	Restructure waterways budget
Ex	2	Ex-Op	Waterways Asset Replacement	0	37,000	Foysters Jetty
Ex	2	Ex-Op	Catchment Water Quality	183,564	-36,186	Restructure waterways budget
Ex	2	Ex-Op	Waterways Asset Replacement	0	36,186	Crystal Waters Drive
Ex	2	Ex-Op	Lower Tweed Management Plan	672,620	-2,279	Restructure waterways budget
Ex	2	Ex-Op	Bioengineered bank stabilisation	10,000	2,279	Restructure waterways budget
Ex	2	Ex-Op	Acid Sulfate Soils ID/Remediation	52,361	-46,661	Restructure waterways budget
Ex	2	Ex-Op	Tweed Coast Estuary Management	0	16,161	Mooball Creek log wall
Ex	2	Ex-Op	Waterways Asset Replacement	0	5,500	Keith Curran jetty abutment
Ex	2	Ex-Op	Waterways Asset Replacement	0	12,500	Hospital revetment repair
Ex	2	Ex-Op	Waterways Asset Replacement	0	12,500	Sunset seawall repair
Ex	2	Ex-Op	Uki Riparian Parks	0	24,035	Restructure waterways budget
In	2	In-OG&C	Office of Environment & Heritage	0	-24,035	Funding for above
Ex	2	Ex-Op	Oxley River Bank Stabilisation project	176,762	204,106	Revised projections
Ex	2	Ex-Op	Catchment Water Quality	147,378	107,018	Revised projections

In/E x	Item	Category	Description	Current Vote	Change to Vote	Details / Comments
In	2	In-TFR	Catchment Water Quality reserve	-265,099	-311,124	Funding for above
Ex	3	Ex-OpOther	Careflight	25,419	2,000	Additional contribution
Ex	3	Ex-OpOther	Donations policy	59,290	361	Funding for above
Ex	3	Ex-OpOther	Miscellaneous donations	4,361	-2,361	Funding for above
Ex	4	Ex-OpEmp	Human Resources Salaries		20,000	Funding of staff costs to HRP Project
In	4	In-TFR	Software & Equipment reserve		-20,000	Funding for above
Ex	5	Ex-Capital	Korns Bridge Commonwealth Timber Bridges program	2,601,862	-2,601,862	RMS project deferred indefinitely
In	5	In-CG&C	Unexpended grant	-2,500,000	2,500,000	Reversal of funding for above
In	5	In-TFR	Unexpended grant	-101,862	101,862	Reversal of funding for above
Ex	6	Ex-Capital	Tweed River bridge Byrill Creek		250,000	Investigation & design work
In	6	In-CG&C	Grant funding		-125,000	Funding for above
In	6	In-TFR	Asset management reserve - infrastructure		-125,000	Funding for above
Ex	7	Ex-Op	Industry Central flood resilience subdivision		80,000	Business case and flood study
In	7	In-OG&C	State government grant		-80,000	Funding for above
Ex	8	Ex-OpOther	Street lighting	869,374	438,550	Revised projections
Ex	8	Ex-Op	Queensland border monument	90,000	-90,000	Funding for above - not required
Ex	8	Ex-Op	Stormwater drainage rehabilitation	724,252	-100,000	Funding for above
In	8	In-TFR	Asset management reserve - infrastructure		-248,550	Funding for above
Ex	9	Ex-Op	Flood mitigation works - land acquisition	90,467	20,000	Outstanding rates
In	9	In-Loan	Unexpended loans	-90,467	-20,000	Funding for above
Ex	10	Ex-Capital	Cudgen foreshore park & play space		73,500	Improvement project
In	10	In-CG&C	Family & Community Services grant		-50,000	Funding for above
Ex	10	Ex-Op	Passive recreation asset maintenance	456,429	-23,500	Funding for above
Ex	11	Ex-Op	Overdue rates expenses	490,000	-290,000	Revised projections
In	11	In-OpOther	Legal fees recovery	-490,000	290,000	Revised projections
In	12	In-Interest	Interest on overdue charges	-40,000	20,000	Revised projections
In	13	In-OG&C	Pensioner rebate subsidy	-836,000	-92,000	Former Federal subsidy currently being paid by State Resourcing new HR/Payroll software
Ex	14	Ex-OpEmp	Humans Resources Salaries	810,783	133,408	
Ex	14	Ex-Op	Humans Resources project fund	14,351	-14,531	Funding for above
Ex	14	Ex-OpEmp	Workers comp wages	87,483	-50,000	Funding for above
Ex	14	Ex-Op	IT Resourcing strategy	1,001,576	-68,877	Funding for above
In	15	In-OpOther	Brett St Commercial Space	-179,639	15,000	New leases
Ex	16	Ex-Capital	Plant purchases	7,537,427	1,777,015	Revised projections
In	16	In-Sales	Plant sales	-2,173,654	174,600	Revised projections
In	16	In-OpOther	Insurance proceeds		-2,830,296	Flood loss claims Transferring net income to reserve
Ex	16	Ex-TTR	Plant replacement reserve		878,681	
Ex	17	Ex-Op	Nullum House		40,000	Post-flood redesign
In	17	In-TFR	Community Facilities reserve		-40,000	Funding for above
Ex	18	Ex-Op	Age-friendly Plan		-2,760	Budget restructure
Ex	18	Ex-Op	Project Support - Community Services		2,760	Budget restructure
Ex	19	Ex-OpOther	Planning Legal expenses	280,695	550,000	Court action Data Centre Hardware Refresh project
Ex	20	Ex-Op	IT Resourcing Strategy	1,001,576	31,000	
In	20	In-TFR	Software & Equipment reserve		-31,000	Funding for above
Ex	21	Ex-Op	Hardware Maintenance	33,127	40,000	Additional year maintenance for Server Hardware - life extended
Ex	21	Ex-Op	Core Business Systems	251,512	-40,000	Funding for above

In/E x	Item	Category	Description	Current Vote	Change to Vote	Details / Comments
Ex	22	Ex-Op	Software subscriptions	0	80,915	Cloud subscriptions moved from Software Maintenance
Ex	22	Ex-Op	Software Maintenance	28,912	-80,915	Funding for above
In	23	In-Fees	Conveyancing Drainage Diagrams	-154,350	-30,000	Revised projections
In	24	In-Fees	Essential Fire Services	-47,463	-10,000	Revised projections
In	25	In-Fees	Sewer Plans	-130,095	-20,000	Revised projections
Ex	26	Ex-Capital	Tweed Heads Library Expansion/Re-fit	1,473,040	50,000	Auditorium component of works within library expansion
Ex	26	Ex-Op	Civic Centre: Tweed Heads Northern Rivers Community Recovery Fund	74,328	-50,000	Funding for above
Ex	27	Ex-Op		0	122,546	Grant funded project
In	27	In-OG&C	NSW Department of Justice	0	-122,546	Funding for above
Ex	28	Ex-Op	10 Buchanan St House: Old Caretakers Property	10,813	33,500	Repairs and maintenance
Ex	29	Ex-Op	Workshop Mechanics Administration		-5,000	Revised projections
Ex	29	Ex-Op	Workshop Metal Fabrication Administration		5,000	Revised projections
Ex	30	Ex-Op	Non-Inventory Store Issued Items	26,093	-10,000	One-off budget reduction
Ex	31	In-OpOther	Scrap Metal Sales	0	-8,000	Revised projections
Ex	32	Ex-Op	Depot Murwillumbah	598,059	62,000	Revised projections
Ex	33	Ex-Op	Depot Tweed Heads	283,848	-53,000	One-off budget reduction
Ex	34	Ex-Op	Depot Improvements Murwillumbah	316,059	-57,671	One-off budget reduction
Ex	35	Ex-Op	Depot Improvements Tweed Heads	46,667	-31,500	One-off budget reduction
Ex	36	Ex-Op	Infrastructure Delivery Other Costs	109,212	18,000	Revised projections
Ex	37	Ex-Op	Storekeeping	386,901	38,671	Revised projections
Ex	38	Ex-Op	Indirect Expenditure	0	23,000	Electrical equipment testing
Ex	39	Ex-Op	Safety Equipment	15,000	3,000	Chain and fire testing
Ex	40	Ex-OpEmp	Contracts Section	658,286	-18,000	One-off budget reduction
In	41	In-Rates	Rates and Charges	-57,761,527	-200,000	Revised projections
Ex	42	Ex-OpEmp	Workers compensation	1,011,418	-233,000	Revised projections
					0	
			Sewer Fund			
Ex	43	Ex-Op	Operations		228,051	Revisions
Ex	43	Ex-Capital	Capital works		396,048	Revisions
In	43	In-TFR	Transfers from reserves		-159,421	Funding adjustments
In	43	In-Recoup	Recoupment from s64		-119,421	Funding adjustments
Ex	43	Ex-TTR	Transfers to reserves		-345,257	Funding adjustments
					0	
			Water Fund			
Ex	44	Ex-Op	Operations		-828,022	Revisions and deferrals
Ex	44	Ex-Capital	Capital works		-214,000	Revisions and deferrals
In	44	In-TFR	Transfers from reserves		-280,000	Funding adjustments
Ex	44	Ex-TTR	Transfers to reserves		1,322,022	Funding adjustments
					0	
			2. Variations Arising from Council Resolutions			
Ex	45	Ex-Op	Festivals & Events	429,708	7,500	Resolution 18 May Item 17
Ex	45	Ex-Op	Community Sponsorship	59,290	-7,500	Resolution 18 May Item 17
Ex	46	Ex-Op	Western Drainage sediment removal		150,000	Resolution 26 October 2017 Item 38.6
In	46	In-TFR	Asset management reserve - infrastructure		-150,000	Funding for above
Ex	47	Ex-Op	NSW Local Government Property Professionals Conference		60,000	Resolution 13 December 2017 Item C108
In	47	In-TFR	Land Development Reserve		-60,000	Funding for above
Ex	48	Ex-Capital	TRAG climate control system	211,308	180,000	Resolution 20 July 2017 Item C3

In/E x	Item	Category	Description	Current Vote	Change to Vote	Details / Comments
In	48	In-TFR	Community Facilities Reserve		-180,000	Funding for above
					0	
			Summary of Votes by Type			
			2017/18 Variations		0	
			Council Resolutions		0	
					0	
			Key to Category codes			
		Ex-OpEmp	Employee costs			
		Ex-Op	Materials & contracts			
		Ex-Interest	Interest on loans			
		Ex-OpOther	Other operating expenses			
		Ex-Capital	Capital works			
		Ex-Loan				
		Reps	Repayment on principal on loans			
		Ex-TTR	Transfers to reserves			
		Ex-Dep	Depreciation			
		Ex-Deprev	Depreciation reversal			
		In-Rates	Rates & annual charges			
		In-Interest	Interest income			
		In-OG&C	Operating grants & contributions			
		In-CG&C	Capital grants & contributions			
		In-Fees	User charges & fees			
		In-OpOther	Other operating income			
		In-Loan	Loan funds			
		In-Recoup	Recoupment from s64 & s94 funds			
		In-TFR	Transfers from reserves			
		In-Sales	Proceeds from sale of assets			
			<u>Expenses</u>			
			Employee costs		-147,592	
			Materials & Contracts		-372,174	
			Interest		0	
			Other Operating costs		988,550	
			Capital		-89,299	
			Loan Repayments		0	
			Transfers to Reserves		1,855,446	
					2,234,931	
			<u>Income</u>			
			Rates and Annual Charges		-200,000	
			Interest revenue		20,000	
			Operating Grants & Conts		-318,581	
			Capital Grants & Conts		2,325,000	
			User Charges & Fees		-60,000	
			Other Operating Revenue		-2,533,296	
			Loan Funds		-20,000	
			Recoupments		-119,421	
			Transfers from Reserves		-1,503,233	
			Asset Sales		174,600	
					-2,234,931	
			Net		0	

In/E x	Item	Category	Description	Current Vote	Change to Vote	Details / Comments
Summary of Votes - by Division						
			Corporate Services		-497,500	
			Planning & Regulation		490,000	
			Community & Natural Resources		17,500	
			Engineering		0	
			General Manager		-10,000	
					0	

Results by fund:

General Fund

The General Fund is expected to remain as a “balanced budget”.

Water Fund

The Water Fund is expected to remain as a “balanced budget”.

Sewer Fund

The Sewer Fund is expected to remain as a “balanced budget”.

Quarterly Budget Review Statements

Income and Expense - Consolidated Budget Review Statement for the quarter ended 31 December 2017

Original Budget (000's)	Previously approved			Recommended changes for Council Resolution (000's)	Projected year end result (000's)	Actual YTD (000's)
	Sep Review (000's) *	Dec Review (000's)	Revised Budget (000's)			
Income						
Rates and Annual Charges	106,898	68	-	106,966	200	53,851
User Charges and Fees	42,491	2,232	-	44,723	60	23,249
Interest and Investment Revenue	9,084	2,788	-	11,872	(20)	4,947
Other Revenues	2,651	13	-	2,664	2,533	3,164
Grants & Contributions - Operating	17,583	209	-	17,792	319	8,440
Grants and Contributions - Capital	3,070	3,505	-	6,575	(2,325)	6,077
- Contributions (S94)	14,079	-	-	14,079	-	6,812
Net gain from the disposal of assets	-	-	-	-	-	-
Total Income	195,856	8,815	-	204,671	767	106,540
Expense						
Employee costs	54,269	202	-	54,471	(148)	27,085
Borrowing Costs	12,153	186	-	12,339	-	6,125
Materials & Contracts	47,069	22,823	-	69,892	(374)	23,073
Depreciation	41,503	-	-	41,503	-	18,915
Legal Costs	463	-	-	463	-	673
Consultants	436	-	-	436	-	179
Other Expenses	16,093	(32)	-	16,061	989	8,022
Net Loss from Disposal of Assets	-	-	-	-	-	246
Total Expenses	171,986	23,179	-	195,165	467	84,318
Net Operating Result	23,870	(14,364)	-	9,506	300	22,222
Net Operating Result before capital items	6,721	(17,869)	-	(11,148)	2,625	9,333

Original Budget (000's)	Previously approved			Recommended changes for Council Resolution (000's)	Projected year end result (000's)	Actual YTD (000's)
	Sep Review (000's) *	Dec Review (000's)	Revised Budget (000's)			

Funding Statement - Consolidated - Source & Application of Funds

Operating Result (Income Statement)	23,870	(14,364)	-	9,506	300	9,806
Add Back non-funded items:						
Depreciation	41,503	-	-	41,503	-	41,503
Add non-operating funding sources						
Transfers from Externally Restricted Cash	33,346	4,233	-	37,579	119	37,698
Transfers from Internally Restricted Cash	9,074	41,860	-	50,934	1,503	52,437
Proceeds from sale of assets	2,174	-	-	2,174	(175)	1,999
Loan Funds Utilised	1,976	2,710	-	4,686	20	4,706
Repayments from Deferred Debtors	-	-	-	-	-	-
Funds Available	111,943	34,439	-	146,382	1,767	148,149
Funds were applied to:						
Purchase and construction of assets	57,110	30,609	-	87,719	(89)	87,630
Repayment of principal on loans	8,453	-	-	8,453	-	8,453
Transfers to Externally Restricted Cash	42,243	-	-	42,243	-	42,243
Transfers to Internally Restricted Cash	4,137	3,830	-	7,967	1,856	9,823
Funds Used	111,943	34,439	-	146,382	1,767	148,149
Increase/(Decrease) in Available Working Capital	-	-	-	-	-	-

* Includes Carried Forward Works revotes

Income and Expense- General Fund Budget Review Statement for the quarter ended 31 December 2017

Original Budget (000's)	Previously approved			Recommended changes for Council Resolution (000's)	Projected year end result (000's)
	Sep Review (000's) *	Dec Review (000's)	Revised Budget (000's)		

Income

Rates and Annual Charges	71,968	68		72,036	200	72,236
User Charges and Fees	17,556	100		17,656	60	17,716
Interest and Investment Revenue	5,145	-		5,145	(20)	5,125
Other Revenues	2,335	13		2,348	2,533	4,881
Grants & Contributions - Operating	16,693	209		16,902	319	17,221
Grants and Contributions - Capital	3,070	3,505		6,575	(2,325)	4,250
- Contributions (S64/S94)	1,824			1,824		1,824
Net gain from the disposal of assets				-		-
Total Income	118,591	3,895	-	122,486	767	123,253

Expense

Employee costs	42,233	202		42,435	(148)	42,287
Borrowing Costs	5,682	-		5,682	-	5,682
Materials & Contracts	25,773	21,853		47,626	227	47,853
Depreciation	24,043			24,043		24,043
Legal Costs	463			463		463
Consultants	128			128		128
Other Expenses	12,012	(32)		11,980	989	12,969
Net Loss from Disposal of Assets				-		-
Total Expenses	110,334	22,023	-	132,357	1,068	133,425

Net Operating Result

8,257	(18,128)	-	(9,871)	(301)	(10,172)
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Net Operating Result before capital items

3,363	(21,633)	-	(18,270)	2,024	(16,246)
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Funding Statement - General Fund - Source & Application of Funds

Operating Result (Income Statement)	8,257	(18,128)	-	(9,871)	(301)	(10,172)
Add Back non-funded items:						
Depreciation	24,043			24,043	-	24,043

	Original Budget (000's)	Previously approved		Recommended changes for Council Resolution (000's)	Projected year end result (000's)
		Sep Review (000's) *	Dec Review (000's)		
Add non-operating funding sources					
Transfers from Externally Restricted Cash	10,842	3,257		-	14,099
Transfers from Internally Restricted Cash	9,074	41,558		1,064	51,696
Proceeds from sale of assets	2,174	-		(175)	1,999
Loan Funds Utilised	1,976	2,710		20	4,706
Internal charges				-	-
Repayments from Deferred Debtors				-	-
Funds Available	56,366	29,397	-	608	86,371
Funds were applied to:					
Purchase and construction of assets	42,145	29,397		(271)	71,271
Repayment of principal on loans	4,234			-	4,234
Transfers to Externally Restricted Cash	5,850				5,850
Transfers to Internally Restricted Cash	4,137			879	5,016
Funds Used	56,366	29,397	-	608	86,371
Increase/(Decrease) in Available Working Capital	-	-	-	-	-

* Includes Carried Forward Works revotes

Income and Expense- Sewer Fund Budget Review Statement for the quarter ended 31 December 2017

Original Budget (000's)	Previously approved			Recommended changes for Council Resolution (000's)	Projected year end result (000's)	Actual YTD (000's)
	Sep Review (000's)	Dec Review (000's)	Revised Budget (000's)			

Income

Rates and Annual Charges	29,433			29,433	-	29,433	14,296
User Charges and Fees	1,437	2,132		3,569	-	3,569	1,698
Interest and Investment Revenue	2,296	1,713		4,009	-	4,009	1,121
Other Revenues	16			16	-	16	37
Grants & Contributions - Operating	491			491	-	491	449
Grants and Contributions - Capital				-		-	
- Contributions (S64/S94)	4,021			4,021	-	4,021	1,296
Net gain from the disposal of assets				-		-	
Total Income	37,694	3,845	-	41,539	-	41,539	18,897

Expense

Employee costs	6,908			6,908	-	6,908	3,620
Borrowing Costs	2,124	186		2,310	-	2,310	1,073
Materials & Contracts	9,666			9,666	227	9,893	1,874
Depreciation	10,112			10,112	-	10,112	5,056
Legal Costs				-	-	-	
Consultants	154			154	-	154	6
Other Expenses	2,673			2,673	-	2,673	936
Net Loss from Disposal of Assets				-		-	
Total Expenses	31,637	186	-	31,823	227	32,050	12,565

Net Operating Result

6,057	3,659	-	9,716	(227)	9,489	6,332
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Net Operating Result before capital items

2,036	3,659	-	5,695	(227)	5,468	5,036
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Funding Statement - Sewer Fund - Source & Application of Funds

Operating Result (Income Statement)	6,057	3,659	-	9,716	(227)	9,489
Add Back non-funded items:						
Depreciation	10,112	-	-	10,112	-	10,112

	Original Budget (000's)	Previously approved			Recommended changes for Council Resolution (000's)	Projected year end result (000's)	Actual YTD (000's)
		Sep Review (000's)	Dec Review (000's)	Revised Budget (000's)			
Add non-operating funding sources							
Transfers from Externally Restricted Cash	9,799	406		10,205	119	10,324	
Transfers from Internally Restricted Cash		385		385	159	544	
Proceeds from sale of assets				-	-	-	
Loan Funds Utilised				-	-	-	
Repayments from Deferred Debtors				-	-	-	
Funds Available	25,968	4,450	-	30,418	51	30,469	
Funds were applied to:							
Purchase and construction of assets	7,278	922		8,200	396	8,596	
Repayment of principal on loans	2,772	-		2,772	-	2,772	
Transfers to Externally Restricted Cash	15,918	-		15,918	-	15,918	
Transfers to Internally Restricted Cash		3,528		3,528	(345)	3,183	
Internal charges				-		-	
Funds Used	25,968	4,450	-	30,418	51	30,469	
Increase/(Decrease) in Available Working Capital	-	-	-	-	-	-	

Income and Expense- Water Fund Budget Review Statement for the quarter ended 31 December 2017

Original Budget (000's)	Previously approved			Recommended changes for Council Resolution (000's)	Projected year end result (000's)	Actual YTD (000's)
	Sep Review (000's)	Dec Review (000's)	Revised Budget (000's)			

Income

Rates and Annual Charges	5,497		5,497	-	5,497	2,859
User Charges and Fees	23,498		23,498	-	23,498	11,518
Interest and Investment Revenue	1,643	1,075	2,718	-	2,718	1,188
Other Revenues	300		300	-	300	180
Grants & Contributions - Operating	399		399	-	399	217
Grants and Contributions - Capital			-		-	
- Contributions (S64/S94)	8,234		8,234	-	8,234	2,450
Net gain from the disposal of assets			-		-	
Total Income	39,571	1,075	40,646	-	40,646	18,412

Expense

Employee costs	5,128		5,128	-	5,128	2,446
Borrowing Costs	4,347		4,347	-	4,347	2,192
Materials & Contracts	11,630	970	12,600	(828)	11,772	2,872
Depreciation	7,348		7,348	-	7,348	1,837
Legal Costs			-	-	-	23
Consultants	154		154	-	154	53
Other Expenses	1,408		1,408	-	1,408	598
Net Loss from Disposal of Assets			-		-	
Total Expenses	30,015	970	30,985	(828)	30,157	10,021

Net Operating Result

9,556	105	-	9,661	828	10,489	8,391
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Net Operating Result before capital items

1,322	105	-	1,427	828	2,255	5,941
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Funding Statement - Water Fund - Source & Application of Funds

Operating Result (Income Statement)	9,556	105	-	9,661	828	10,489
Add Back non-funded items:						
Depreciation	7,348	-	-	7,348	-	7,348

	Original Budget (000's)	Previously approved			Recommended changes for Council Resolution (000's)	Projected year end result (000's)	Actual YTD (000's)
		Sep Review (000's)	Dec Review (000's)	Revised Budget (000's)			
Add non-operating funding sources							
Transfers from Externally Restricted Cash	12,705	570		13,275	-	13,275	
Transfers from Internally Restricted Cash		(83)		(83)	280	197	
Proceeds from sale of assets				-		-	
Loan Funds Utilised				-	-	-	
Repayments from Deferred Debtors				-		-	
Funds Available	29,609	592	-	30,201	1,108	31,309	
Funds were applied to:							
Purchase and construction of assets	7,687	290		7,977	(214)	7,763	
Repayment of principal on loans	1,447	-		1,447	-	1,447	
Transfers to Externally Restricted Cash	20,475	-		20,475	-	20,475	
Transfers to Internally Restricted Cash		302		302	1,322	1,624	
Internal charges				-		-	
Funds Used	29,609	592	-	30,201	1,108	31,309	
Increase/(Decrease) in Available Working Capital	-	-	-	-	-	-	

This document forms part of Tweed Shire Council's Quarterly Budget Review Statement for the quarter ended 31 December 2017 and should be read in conjunction with other documents in the QBRs.

Capital Budget Review Statement - Consolidated - for the quarter ended 31 December 2017

Original Budget (000's)	Previously approved			Recommended changes for Council Resolution (000's)	Projected year end result (000's)	Actual YTD (000's)
	Sep Review (000's) *	Dec Review (000's)	Revised Budget (000's)			

Capital Funding **

Rates and other untied funding	30,207			30,207	2,089	32,296	10,222
Capital Grants & Contributions	4,226	3,505		7,731	(2,325)	5,406	1,711
Internal Restrictions (Reserves)	21,178	22,148		43,326	305	43,631	13,810
External Restrictions		237		237	(102)	135	43
- s64 & s94 funds	5,801	2,682		8,483	119	8,602	2,723
Other Capital Funding Sources							
- loans	1,976	2,037		4,013		4,013	1,270
Income from sale of assets							
- plant and equipment	2,174			2,174	(175)	1,999	633
- Land, Buildings, Furniture, Fittings							
Total Capital Funding	65,562	30,609		96,171	(89)	96,082	30,412

Capital Expenditure

New Assets

- Plant and Equipment	78	93		171		171	311
- Land, Buildings, Furniture, Fittings	9,854	2,731		12,585		12,585	1,312
- Roads, Bridges, Footpaths	2,500	1,969		4,469	(2,602)	1,867	330
- Drainage							
- Water & Sewer Infrastructure	6,663	74		6,737	217	6,954	2,316
- Other	9,860	737		10,597		10,597	111
<u>Renewals (Replacement)</u>							
- Plant and Equipment	7,537			7,537	1,777	9,314	5,512
- Land, Buildings, Furniture, Fittings	100	1,779		1,879		1,879	1,792
- Roads, Bridges, Footpaths	10,982	9,377		20,359	250	20,609	7,137
- Drainage	436			436		436	24
- Water & Sewer Infrastructure	3,085	1,080		4,165	(318)	3,847	1,094
- Other		7,634		7,634		7,634	5,547
<u>Upgrades</u>							
- Plant and Equipment							
- Land, Buildings, Furniture, Fittings		154		154	230	384	15
- Roads, Bridges, Footpaths	2,064	4,194		6,258		6,258	2,222
- Drainage	950	426		1,376		1,376	997
- Water & Sewer Infrastructure	3,000	59		3,059	283	3,342	497
- Other		302		302	74	376	258
Loan Repayments (principal)	8,453			8,453		8,453	937
Total Capital Expenditure	65,562	30,609		96,171	(89)	96,082	30,412

This document forms part of Tweed Shire Council's Quarterly Budget Review Statement for the quarter ended 31 December 2017 and should be read in conjunction with other documents in the QBRs.

* Note: Includes Carry over works

* *Note: figures in the Actual YTD column of capital funding are estimates only. Detailed calculations of funding results are performed annually.

Cash and Investments Budget Review Statement for the quarter ended 31 December 2017

Original Budget (000's)	Previously approved			Recommended changes for Council Resolution (000's)	Projected year end result (000's)	Actual * YTD (000's)
	Sep Review (000's)	Dec Review (000's)	Revised Budget (000's)			
Unrestricted	10,240		10,240		10,240	9,238
Externally restricted						
RTA Contributions			0		0	
Developer contributions	39,608	(3,257)	36,351		36,351	39,014
Domestic waste management	7,662		7,662		7,662	8,000
Special Rates	240		240		240	275
Unexpended grants & contributions	5,626	(5,626)	0		0	5,000
Water Supplies	64,900	(185)	64,715		64,715	53,000
Sewerage Services	91,069	2,738	93,807		93,807	83,000
Other	23,301		23,301		23,301	20,000
Total Externally restricted	232,406	(6,330)	226,076	0	226,076	208,289
Internally restricted						
Employee Leave entitlements	8,274		8,274		8,274	8,274
Unexpended untied grants	3,779	(3,779)	0		0	3,000
Unexpended loans	3,760	(2,710)	1,050		1,050	3,000
7 Year Plan	2,528	(2,392)	136		136	2,500
Works Carried Forward	8,274	(6,464)	1,810		1,810	8,000
Replacement of Plant and Vehicles	2,723		2,723		2,723	2,500
Tip improvements	5,857		5,857		5,857	6,000
Asset renewals	31,038	(10,983)	20,055	(744)	19,311	31,000
Other	13,533	(12,312)	1,221	(111)	1,110	13,000
Total Internally restricted	79,766	(38,640)	41,126	(855)	40,271	77,274
Total Restricted	312,172	(44,970)	267,202	(855)	266,347	285,563
Total cash and investments	322,412	(44,970)	277,442	(855)	276,587	294,801
Available cash	10,240	0	10,240	0	10,240	9,238

* Note: Figures in the Actual YTD are estimates only. Detailed calculations of funding results and cash restrictions are performed annually.

The available cash position excludes restricted funds. External restrictions are funds that must be spent for a specific purpose and cannot be used by council for general operations. Internal restrictions are funds that council has determined will be used for a specific purpose.

Statement of compliance with investment policy:

Council's investments have been made in accordance with Council's investment policies.

Reconciliation of restricted funds with current investment report:

	(000's)
Total restricted funds	285,563
Total invested funds as per December Investment Report	292,651
Note, some restricted funds are held as cash as they will be utilised in the current period.	

Statement of bank reconciliation:

Cash has been reconciled with the bank statement. Bank reconciliations are up to date.

Reconciliation of cash and investments:

	(000's)
Cash and investments as per above	294,801
Cash on hand and at bank	2,150
Investments	<u>292,651</u>
	294,801

This document forms part of Tweed Shire Council's Quarterly Budget Review Statement for the quarter ended 31 December 2017 and should be read in conjunction with other documents in the QBRS.

Key Performance Indicators Budget Review Statement for the quarter ended 31 December 2017

Note that KPIs may be distorted by the fact that detailed calculations are only prepared on an annual basis.

These ratios should therefore be viewed with caution.

	Amounts	Indicator
1. Unrestricted Current Ratio		
	(000's)	
<u>Current assets less all external restrictions</u>	<u>77,644</u>	2.9:1
Current liabilities	26,464	
Target:		2:1

Purpose:

To assess the adequacy of working capital and its ability to satisfy obligations in the short term for the unrestricted activities of Council.

	Amounts	Indicator
2. Debt Service Ratio		
	(000's)	
Debt Service Cost	7,062	7.96%
Selected operating income	88,769	
Target:		15%

Purpose:

To assess the impact of loan principal and interest repayments on the discretionary revenue of Council.

This document forms part of Tweed Shire Council's Quarterly Budget Review Statement for the quarter ended 31 December 2017 and should be read in conjunction with other documents in the QBRS.

Budget Review Contracts and Other Expenses for the quarter ended 31 December 2017

PART A-Contracts Listing

Contractor	Contract Title	Contract Value \$	Award Date	Duration of Contract	Budgeted (Y/N)
G & R Brown & Sons Pty Ltd (ABN 33 154 911 609)	RFO2017082 Package 1 - Road Flood Damage Restoration	\$1,380,320.70	05-Oct-17	24 Weeks	Y
SEE Civil Pty Ltd (ABN 88 115 963 427)	RFO2016114 - Kingscliff Foreshore Revitalisation Construction Works - Variations Report Update	\$292,259.45	05-Oct-17	-	Y
Carseldine Air Conditioning Pty Ltd (ABN- 26 082 563 193)	RFO2017125 - Detailed Design, Construction, Installation and Commissioning of a Chiller and Associated Equipment for the Tweed Regional Gallery	\$283,306.36	26-Oct-17	18 Weeks	Y
Tox Free Solutions Pty Ltd (ABN 31 127 853 561)	RFO2017104 - Supply of Fixed Term Full Time Hire of Vacuum Excavation Combination Truck	\$422,547.84	26-Oct-17	104 Weeks	Y
Skeen Constructions Pty Ltd (ABN 42 122 970 978)	RFO2017082 Special Project A - Road Flood Damage Restoration	\$457,479.83	16-Nov-17	14 Weeks	Y
Hazell Bros Group Pty Ltd (ABN 46 145 228 986)	RFO2017082 Package 3 - Road Flood Damage	\$1,225,000.00	13-Dec-17	19 Weeks	Y

PART B - Consultancy and Legal expenses

Expense	Expenditure YTD \$	Budgeted (Y/N)
Consultancies	29,626	Y
Legal expenses	171,480	Y

This document forms part of Tweed Shire Council's Quarterly Budget Review Statement for the quarter ended 31 December 2017 and should be read in conjunction with other documents in the QBRs.

**Statutory Statement – Local Government (General) Regulations 2005
(Sections 202 & 203) by “Responsible Accounting Officer”**

202 Responsible accounting officer to maintain system for budgetary control

The responsible accounting officer of a council must:

- (a) establish and maintain a system of budgetary control that will enable the council's actual income and expenditure to be monitored each month and to be compared with the estimate of the council's income and expenditure, and*
- (b) if any instance arises where the actual income or expenditure of the council is materially different from its estimated income or expenditure, report the instance to the next meeting of the council.*

203 Budget review statements and revision of estimates

- (1) Not later than 2 months after the end of each quarter (except the June quarter), the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the Statement of the council's revenue policy included in the operational plan for the relevant year, a revised estimate of the income and expenditure for that year.*
- (2) A budget review statement must include or be accompanied by:
 - (a) a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and*
 - (b) if that position is unsatisfactory, recommendations for remedial action.**
- (3) A budget review statement must also include any information required by the Code to be included in such a statement.*

Statutory Statement

It is my opinion that the Quarterly Budget Review Statement for Tweed Shire Council for the quarter ended 31 December 2017 indicates that Council's projected financial position at 30 June 2018 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.



M A Chorlton 5 February 2018
“Responsible Accounting Officer”
Manager Financial Services
Tweed Shire Council

OPTIONS:

Not Applicable

CONCLUSION:

Refer to Statutory Statement above

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

As detailed within the report.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

42 [CS-CM] Tweed Heads Administration Office - Brett Street, Tweed Heads

SUBMITTED BY: Financial Services

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: Provider

SUMMARY OF REPORT:

The Tweed Heads Administration Building at Brett Street, Tweed Heads has been refurbished for Council administration purposes with the top floor being occupied, under licence, by two external bodies since late 2017.

One of the licensees, Health Infrastructure, a division of Health Administration Corporation, is now seeking to secure longer term tenure at the premises as their licence is due to expire on 28 February 2018. Their current use as office accommodation has not generated any issues or conflict with Council's use of the building.

It is recommended that Council approve the granting of leases to Health Infrastructure, on the terms described in the body of the report.

RECOMMENDATION:

That Council:

- 1. Approves the granting of a lease for office space in the Tweed Heads Administration Building located at Lot 2 in DP 1019160, for a term of two years commencing on 1 March 2018, with two options of one year each to Health Infrastructure for a commencing annual rental as set out in the body of the report with annual CPI increases; and**
- 2. Executes all documentation under the Common Seal of Council.**

REPORT:

The Tweed Heads Administration Building at Brett Street, Tweed Heads has been refurbished for Council administration purposes with the top floor being occupied, under licence, by two external bodies since late 2017.

One of the licensees, Health Infrastructure, a division of Health Administration Corporation, occupies an area of 400 m², and is now seeking to secure a longer tenure at the premises as their licence is due to expire on 28 February 2018. Their current use as office accommodation has not generated any issues or conflict with Council's use of the building.

Prior to the issuing of the licence, Council and Health Infrastructure engaged an independent Valuer and property consultant to undertake a market rental assessment of the subject lettable area. The current licence fee and the proposed lease fee are based on that assessment which includes annual indexation of CPI.

The top floor of the Tweed Heads Administration Centre is not required for Council operations in the immediate term.

It is recommended that Council approve the granting of a lease to Health Infrastructure, on the following terms:

Commencing rental:	\$120,000 per annum excluding GST
Term:	Two years with two one year options (effective from 1 March 2018)
Outgoings:	To be included in the rental paid

OPTIONS:

1. To approve the granting of a lease to Health Infrastructure; or
2. To not approve the granting of a lease to Health Infrastructure.

CONCLUSION:

The leasing of the office space in the top floor of the Tweed Heads Administration Building will generate income whilst not being immediately needed for Council operations and will have the broader benefit of contributing to the activation of the precinct.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

The leasing of part of the building will generate an income to offset costs for the maintenance and repair of the building.

c. Legal:

The proposed lease is for an area of office space in the Tweed Heads Administration Office, located on Lot 2 DP 1019196, which is classified as operational land, so there are no statutory constraints relating to dealing with the land or building.

d. Communication/Engagement:

Inform - We will keep you informed.

There are no requirements for community engagement as this is a commercial arrangement with an external party.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

43 [CS-CM] Six Monthly Progress Report as at 31 December 2017

SUBMITTED BY: Financial Services

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Behind the scenes
- 4.1 Assurance
- 4.1.1 Governance - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: Collaborator Provider Advocate Leader

SUMMARY OF REPORT:

As a requirement of section 404(5) of the *Local Government Act 1993* (NSW) and the Integrated Planning and Reporting Framework, the General Manager must ensure that regular progress reports are provided to the council reporting as to its progress with respect to the principal activities detailed in its delivery program. Progress reports must be provided at least every 6 months.

The attached report details the Council's progress as at 31 December 2017 in carrying out/completing activities identified in the Operational Plan 2017/2018 adopted by Council at its meeting on 15 June 2017 as well as highlighting areas where progress is behind schedule and/or more action is required.

RECOMMENDATION:

That Council receives and notes the Six Monthly Progress Report as at 31 December 2017.

REPORT:

At the Council meeting held 6 April 2017, Council adopted the Community Strategic Plan 2017/2027 “Living and Loving the Tweed”. At the Council meeting held 15 June 2017, the Delivery Program 2017-2021/Operational Plan 2017-2018 was adopted by Council. Both of these documents contained a revised reporting structure which is based upon the following four principal streams:



Leaving a legacy: *Looking out for future generations*

The Tweed features an environment of world-significant biodiversity and natural beauty, and distinct cultural and built heritage – Council and the community values its protection.

The Tweed community respects and actively participates in the sustainable management of the natural and built environment so we can not only thrive and enjoy it today, but we look after this place we are proud to call home, so future generations can live and love it as well.

Council’s role is to work with the community and others to plan strategically for sustainable growth and change, and to support initiatives that help the Tweed retain and enhance its diverse natural and built environments, and to deliver sustainable essential services such as water, sewer and sanitation to meet community needs now and into the future.



Making decisions with you: *We’re in this together*

Council and the community working together will shape a better Tweed for the future.

The Tweed is a very proud and diverse community, and understands the importance of open information to enable community participation in steering the direction, decision-making and long-term goals of the Shire.

Council values these conversations that help to deliver sustainable development outcomes, balancing future population and economic growth with the protection and enhancement of natural, cultural and built environments.



People, places and moving around: *Who we are and how we live*

Some residents were lucky to be born in the Tweed, others have made the fortunate choice to make this region their home – all of us have a role to play in shaping a safe, liveable community and to respect and value the unique characteristics that make the Tweed so special.

Together we can work to create a Tweed where people are welcomed, healthy and connected, with opportunities to prosper in their individual pursuits.

Council’s role is to work to meet the present and future infrastructure demands of the Tweed whilst providing community and cultural services and employment opportunities to retain and improve the quality of community life.



Behind the scenes: *Providing support to make it happen*

To look after the Tweed, now and into the future, a great deal of work happens behind the scenes to ensure there are planned, resourced, efficient and transparent systems in place to enable our community to function and prosper.

The community expects responsible and transparent decision making with a focus on public conversations and ownership.

Council's role as visionary regional leader, service provider, partner and promoter draws together the skills and resources of other government agencies, businesses and community organisations to contribute to making the Tweed of tomorrow even better than it is today.

Section 404(5) of the Local Government Act 1993 provides that:

"The general manager must ensure that regular progress reports are provided to the council reporting as to its progress with respect to the principal activities detailed in its delivery program. Progress reports must be provided at least every 6 months."

Consistent with previous practice, the General Manager has elected to report more frequently (on a quarterly basis) to Council on its progress in meeting activities and targets of the Operational Plan.

This is the second quarterly report and the first six monthly report on the progress of the 2017/2018 plan and following adoption by Council will be made available via the Integrated Planning and Reporting Framework page on Council's website.

OPTIONS:

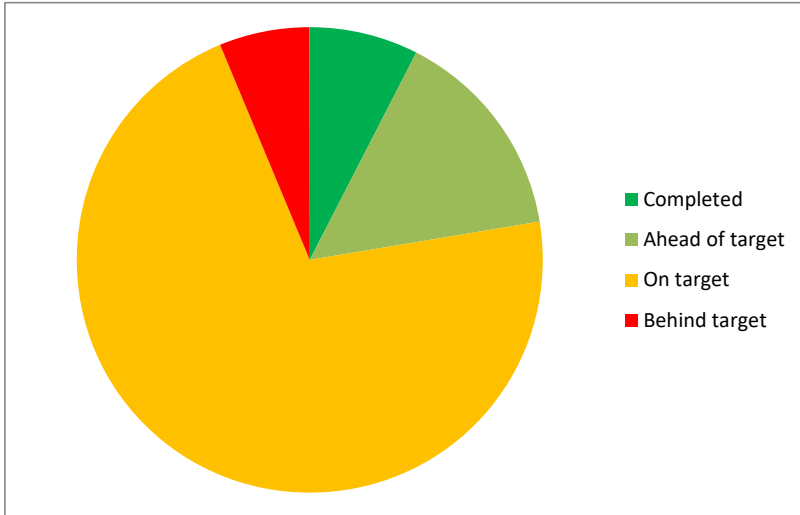
Not Applicable.

CONCLUSION:

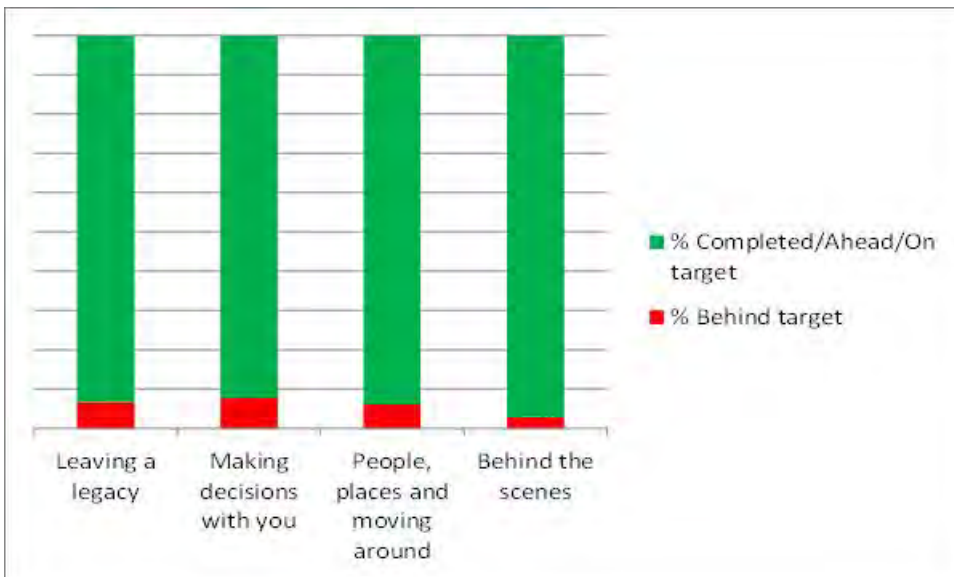
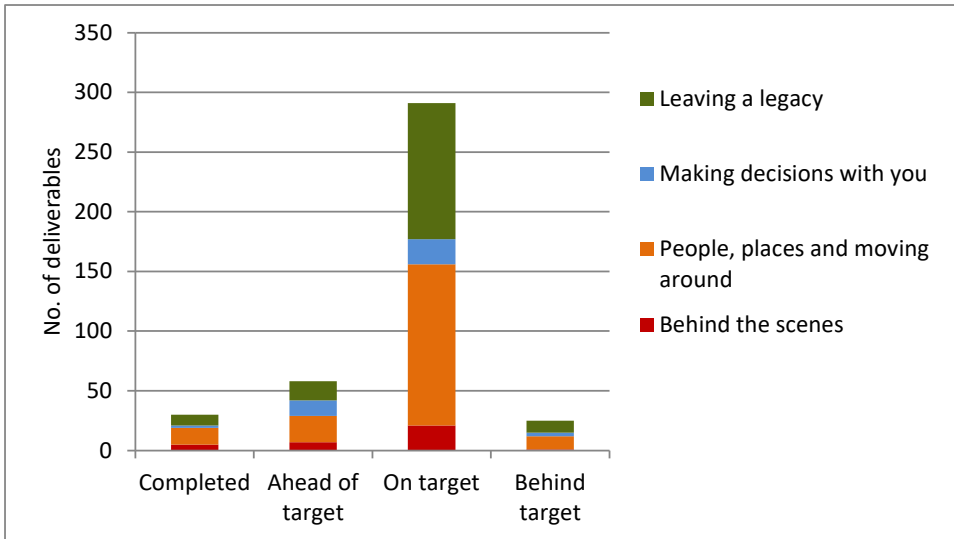
Overall Progress

Overall, 94% of the deliverables in the Operational Plan are completed, or on track to meet or exceed the target result.

More detail on these items is contained within the attachment to this report.



The charts below shows that Council has tracked well in the achievement of its targets in each of the principal streams.



COUNCIL IMPLICATIONS:

a. Policy:

Being reported in accordance with requirements associated with Integrated Planning and Reporting Framework.

b. Budget/Long Term Financial Plan:

Not Applicable

c. Legal:

In line with the impacts of the adopted Operational Plan.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Six Monthly Progress Report as at 31 December 2017
(ECM 5051655).

44 [CS-CM] Monthly Investment and Section 94 Development Contribution Report for Period ending 31 December 2017

SUBMITTED BY: Financial Services

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.2 Engagement
- 2.2.5 Financial Services - To collect and manage Council funds and provide information and advice to support sound financial decision-making.

ROLE: **Leader**

SUMMARY OF REPORT:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested. The Manager Financial Services, being the Responsible Accounting Officer, certifies that investments have been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies. Council had **\$292,650,855** invested as at **31 December 2017** and the accrued net return on these funds was **\$694,557** or **2.85%** annualised for the month.

RECOMMENDATION:

That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at period ending 31 December 2017 totalling \$292,650,855 be received and noted.

REPORT:

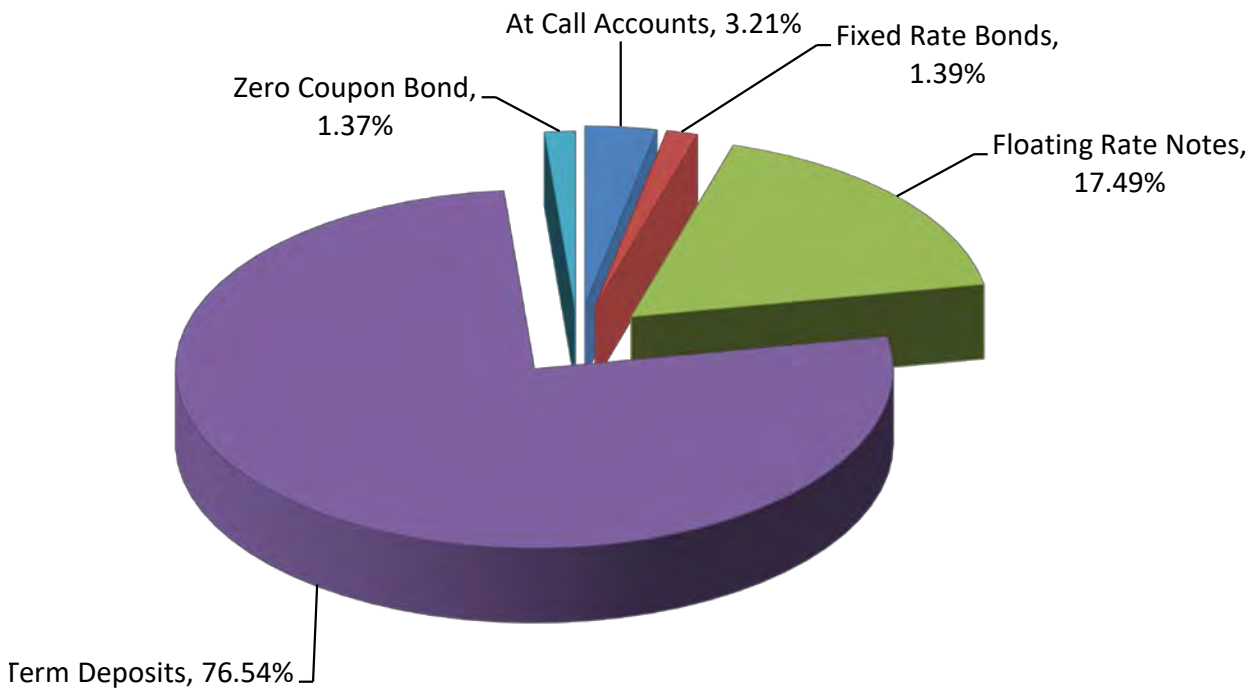
1. Restricted Funds as at 1 September 2017

Description	(\$'000)			
	General Fund	Water Fund	Sewer Fund	Total
Externally Restricted (Other)	4,871	52,870	80,785	138,526
Crown Caravan Parks	17,330			17,330
Developer Contributions	36,111			36,111
Domestic Waste Management	15,354			15,354
Grants	3,255			3,255
Internally Restricted (Other)	64,574			64,574
Employee Leave Entitlements	12,903			12,903
Grants	3,760			3,760
Unexpended Loans	3,779			3,779
Total	161,937	52,870	80,785	295,592

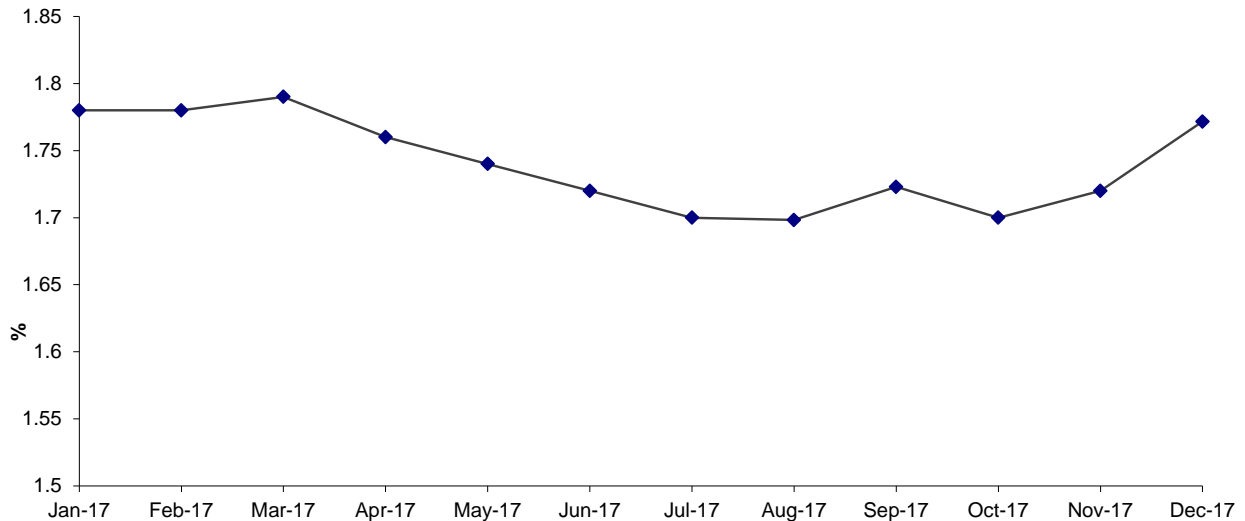
Note: Restricted Funds Summary updated September 2017, corresponding with the Annual Financial Statements as at 30 June 2017

Note: Detailed information regarding all Tweed Shire Council investments is contained in the attachment to this report.

2. Investment Portfolio by Category



3. Investment Rates - 90 Day Bank Bill Rate



4.

Bond and Floating Rate Note Securities

	Counterparty	Face Value	Market Value	% Return on Face Value	Investment Type	Maturity Date
*	CUA (04/19)	1,900,000.00	1,979,620.50	3.31	FRN	01-Apr-19
*	CUA (04/19)	2,000,000.00	1,979,620.50	3.31	FRN	01-Apr-19
*	NPBS (Westpac) (04/20)	2,000,000.00	2,021,280.00	3.05	FRN	07-Apr-20
*	Suncorp (04/21)	2,000,000.00	2,054,080.00	3.09	FRN	12-Apr-21
*	ME Bank (04/18)	1,000,000.00	1,007,490.00	3.00	FRN	17-Apr-18
	ANZ (04/20)	1,600,000.00	1,620,400.00	2.52	FRN	17-Apr-20
	CBA (10/19)	2,000,000.00	2,025,460.00	2.55	FRN	18-Oct-19
	CBA (01/21)	1,000,000.00	1,021,230.00	2.85	FRN	18-Jan-21
*	ME Bank (ANZ) (07/19)	1,000,000.00	1,012,730.00	3.15	FRN	18-Jul-19
*	Suncorp (NAB) (10/20)	3,000,000.00	3,064,320.00	2.95	FRN	20-Oct-20
*	Bendigo Bank (04/21)	3,000,000.00	3,070,380.00	3.16	FRN	20-Apr-21
	CBA/Merrill Lynch Zero Coupon Bond (01/18)	4,000,000.00	4,000,000.00	7.17	Fixed Rate Bond	22-Jan-18
	CBA (04/19)	1,000,000.00	1,011,790.00	2.58	FRN	24-Apr-19
*	NPBS (WBC) (01/22)	2,000,000.00	2,028,200.00	3.35	FRN	24-Jan-22
*	Westpac (WBC) (10/20)	1,000,000.00	1,018,800.00	2.77	FRN	28-Oct-20

	Counterparty	Face Value	Market Value	% Return on Face Value	Investment Type	Maturity Date
	Macquarie (ANZ) (10/18)	1,000,000.00	1,010,580.00	2.74	FRN	26-Oct-18
*	BOQ (10/20)	2,500,000.00	2,531,775.00	2.86	FRN	20-Oct-20
*	TMB (NAB) (10/19)	1,250,000.00	1,258,737.50	3.09	FRN	28-Oct-19
*	Heritage (Morgans) (05/18)	3,000,000.00	3,017,550.00	2.85	FRN	07-May-18
*	ME Bank	2,000,000.00	2,009,960.00	2.96	FRN	09-Nov-20
	Rabo (Morgans) (02/20)	2,000,000.00	2,029,780.00	2.76	FRN	11-Feb-20
*	Bendigo (RBS) (11/18)	1,000,000.00	1,010,680.00	2.98	FRN	14-Nov-18
*	BOQ (11/21)	1,250,000.00	1,255,062.50	2.74	FRN	16-Nov-21
*	Bendigo (Westpac) (08/20)	1,000,000.00	1,009,930.00	2.82	FRN	18-Aug-20
*	Suncorp (CBA) (08/19)	1,000,000.00	1,009,010.00	2.66	FRN	20-Aug-19
*	Bendigo Bank FRN (CBA) (02/20)	1,000,000.00	1,009,240.00	2.82	FRN	21-Feb-20
*	NPBS (Morgans) (02/18)	1,000,000.00	1,003,200.00	2.83	FRN	27-Feb-18
*	ME Bank	2,000,000.00	2,009,960.00	2.96	FRN	09-Nov-20
	Macquarie (RIMSEC) (03/20)	2,000,000.00	2,025,160.00	2.85	FRN	03-Mar-20
	Rabo (ANZ) (03/21)	2,000,000.00	2,056,140.00	3.25	FRN	04-Mar-21
	AMP (Morgans) (6/18)	1,000,000.00	1,003,860.00	2.63	FRN	06-Jun-18
*	BOQ (06/18)	1,000,000.00	1,003,980.00	2.76	FRN	12-Jun-18
	CBA Bond (04/19)	1,000,000.00	1,033,800.00	4.25	Fixed Rate Bond	24-Apr-19
*	ANZ Green Bond (06/20)	2,000,000.00	2,037,200.00	3.25	Fixed Rate Bond	03-Jun-20
*	BOQ (06/18)	1,000,000.00	1,009,850.00	4.00	Fixed Rate Bond	12-Jun-18
		58,500,000.00	59,250,856.00	3.11		
LEGEND						
Investment Type			ABS = Asset Backed Security			
			Bond = Fixed Rate Bond			
			FRN = Floating Rate Note			
Counterparty			Bendigo = Bendigo & Adelaide Bank		NPBS - Newcastle Permanent Building Society	
AMP = AMP Bank			Heritage = Heritage Bank		ME = Members Equity Bank	
ANZ = ANZ Bank			ING = ING Bank		RaboDirect = Rabo Bank	
BOQ = Bank of Queensland			Investec = Investec Bank		Rural = Rural Bank (previously Elders Bank)	
CBA = Commonwealth Bank			Macquarie = Macquarie Bank		Suncorp = Suncorp Metway Bank	
CUA = Credit Union Australia			NAB = National Australia Bank		WBC = WBC Banking Corporation	

5. Term Deposits

	Counterparty	Lodged or Rolled	Interest Due	Maturity Date	Principal	% Yield
*	Suncorp (Jan 2018)	14-Nov-17	09-Jan-18	09-Jan-18	2,000,000.00	2.37
*	Westpac (Jan 2021)	11-Oct-17	11-Jan-18	12-Jan-21	6,000,000.00	2.81
*	BOQ (Jan 2019)	17-Jan-17	15-Jan-18	15-Jan-19	2,000,000.00	3.05
	RaboDirect (Curve) (Jan 2019)	15-Jan-17	15-Jan-18	15-Jan-19	1,000,000.00	4.00
*	CUA (Curve) (Feb 2017)	14-Feb-17	16-Jan-18	16-Jan-18	2,000,000.00	2.80
*	MyState (Curve) (July 2017)	04-Jul-17	16-Jan-18	16-Jan-18	2,000,000.00	2.70
	NAB (Jan 2020)	16-Oct-17	16-Jan-18	21-Jan-20	2,000,000.00	2.83
*	Suncorp Bank (Jan 2018)	01-Aug-17	16-Jan-18	16-Jan-18	2,000,000.00	2.40
*	Westpac (Oct 2022)	18-Oct-17	18-Jan-18	18-Oct-22	2,000,000.00	2.98
	Rural (Curve)	28-Mar-17	23-Jan-18	23-Jan-18	1,000,000.00	2.70
*	ME Bank (Curve) (Jan 2020)	24-Jan-17	24-Jan-18	28-Jan-20	2,000,000.00	3.26
*	ING (RIMSEC) (Jan 2019)	30-Oct-17	29-Jan-18	29-Jan-19	2,000,000.00	2.54
	Bankwest (Jan 2017)	29-Aug-17	30-Jan-18	30-Jan-18	4,000,000.00	2.45
*	Westpac (July 2018)	31-Oct-17	31-Jan-18	31-Jul-18	4,000,000.00	2.57
	NAB (Feb 2020)	03-Nov-17	05-Feb-18	03-Feb-20	1,000,000.00	2.72
*	IMB (May 2021)	06-Nov-17	06-Feb-18	06-May-21	1,000,000.00	2.55
	ING (RIMSEC) (Feb 2020)	13-Nov-17	12-Feb-18	11-Feb-20	1,000,000.00	2.66
	NAB (Feb 2020) annual interest	13-Nov-17	12-Feb-18	12-Feb-20	2,000,000.00	2.86
	AMP (RIMSEC) (May 2017)	09-May-17	13-Feb-18	13-Feb-18	3,000,000.00	2.70
*	Auswide Bank (Curve) (Feb 2017)	07-Feb-17	13-Feb-18	13-Feb-18	1,000,000.00	2.80
*	Bendigo (Curve) (Feb 2017)	14-Feb-17	13-Feb-18	13-Feb-18	2,000,000.00	2.70
*	Bendigo Bank (Feb 2018)	16-Feb-17	13-Feb-18	13-Feb-18	3,000,000.00	3.10

	Counterparty	Lodged or Rolled	Interest Due	Maturity Date	Principal	% Yield
	CBA (Feb 2020)	13-Nov-17	13-Feb-18	13-Feb-20	1,000,000.00	2.61
*	Suncorp Bank (Feb 2018)	13-Jun-17	13-Feb-18	13-Feb-18	5,000,000.00	2.60
*	Westpac (Feb 2022)	15-Nov-17	15-Feb-18	15-Feb-22	3,000,000.00	3.00
*	Westpac (Curve) (Feb 2021)	17-Nov-17	17-Feb-18	17-Nov-21	1,000,000.00	2.90
*	Westpac (Feb 2021)	17-Nov-17	17-Feb-18	17-Nov-21	1,000,000.00	3.00
	CBA (May 2020)	20-Nov-17	19-Feb-18	19-May-20	1,000,000.00	2.44
	CBA (May 2020)	19-Nov-17	19-Feb-18	19-May-20	2,000,000.00	2.59
*	Westpac (Feb 2021)	20-Nov-17	19-Feb-18	18-Feb-21	2,000,000.00	2.95
	Rabo (RIMSEC) (Feb 2018)	21-Nov-17	20-Feb-18	20-Feb-18	3,000,000.00	3.00
	NAB (May 2018)	22-Nov-17	22-Feb-18	22-May-18	2,000,000.00	2.69
*	Westpac Bank (May 2021)	24-Nov-17	24-Feb-18	24-May-21	3,000,000.00	2.75
*	Westpac (Aug 2020)	27-Nov-17	26-Feb-18	25-Aug-20	2,000,000.00	2.44
*	BOQ (Feb 2018)	28-Feb-17	27-Feb-18	27-Feb-18	2,000,000.00	2.70
	CBA (Aug 2021)	30-Nov-17	28-Feb-18	31-Aug-21	6,000,000.00	2.79
	Defence Bank (Curve) (Mar 2019)	28-Feb-17	28-Feb-18	05-Mar-19	1,000,000.00	3.00
*	Bendigo Bank (Curve) (Mar 2018)	31-Aug-17	06-Mar-18	06-Mar-18	2,000,000.00	2.70
	CBA (Mar 2018)	07-Mar-17	06-Mar-18	06-Mar-18	4,000,000.00	2.71
*	MEB (Curve) (Mar 2018)	01-Mar-17	06-Mar-18	06-Mar-18	2,000,000.00	3.13
	Rural Bank (Curve) (Mar 2018)	28-Feb-17	06-Mar-18	06-Mar-18	4,000,000.00	2.70
	BCU (Curve) (Mar 2018)	07-Mar-17	07-Mar-18	13-Mar-18	1,000,000.00	2.85
	RaboBank (RIMSEC)	07-Mar-17	07-Mar-18	10-Mar-20	2,000,000.00	3.00
	Rural Bank (Curve) (Dec 2018)	07-Mar-17	07-Mar-18	13-Mar-18	1,000,000.00	2.70
*	IMB (Mar 2020)	18-Dec-17	19-Mar-18	17-Mar-20	2,000,000.00	2.83
	NAB (Dec 2019)	19-Dec-17	19-Mar-18	17-Dec-19	2,000,000.00	2.84

	Counterparty	Lodged or Rolled	Interest Due	Maturity Date	Principal	% Yield
*	BOQ (Mar 2017) quarterly interest	28-Mar-17	20-Mar-18	20-Mar-18	2,000,000.00	2.65
*	Westpac (Curve) (Mar 2018)	14-Mar-17	20-Mar-18	20-Mar-18	4,000,000.00	2.65
*	BOQ (Mar 2018)	22-Aug-17	27-Mar-18	27-Mar-18	4,000,000.00	2.60
*	IMB (Jan 2020)	08-Jan-18	06-Apr-18	06-Jan-20	1,000,000.00	2.81
*	Westpac (Apr 2021) quarterly interest	08-Jan-18	09-Apr-18	07-Apr-21	1,000,000.00	3.11
*	Suncorp (Apr2017)	19-Sep-17	17-Apr-18	17-Apr-18	4,000,000.00	2.52
	AMP (Curve) (Aug 2017)	09-Aug-17	08-May-18	08-May-18	2,000,000.00	2.60
	Rabo Bank (Curve) (May 2020)	20-May-16	19-May-18	19-May-20	2,000,000.00	3.20
*	Bendigo Bank (Curve) (May 2018)	22-May-17	22-May-18	22-May-18	2,000,000.00	3.05
	QLD PCU (Curve) May 2018)	17-May-17	22-May-18	22-May-18	2,000,000.00	3.15
	Defence Bank (Curve) (June 2019)	23-May-17	23-May-18	04-Jun-19	2,000,000.00	3.00
	Police SA (Curve) (May 2019)	23-May-17	23-May-18	28-May-19	2,000,000.00	3.00
	Defence Bank (Curve) (May 2018)	28-May-17	28-May-18	28-May-18	1,000,000.00	3.05
	Rabobank (Curve) (June 2021)	30-May-17	30-May-18	01-Jun-21	3,000,000.00	3.10
*	Bendigo Bank (Curve) (June 2019)	01-Jun-17	01-Jun-18	04-Jun-19	2,000,000.00	3.15
	Defence Bank (Curve) (June 2018)	01-Jun-17	05-Jun-18	05-Jun-18	1,000,000.00	3.05
	Australian Military Bank (Curve) (July 2017)	11-Jul-17	10-Jul-18	10-Jul-18	1,000,000.00	2.70
	RaboDirect (Curve) (Jul 2021)	27-Jul-17	27-Jul-18	27-Jul-21	1,000,000.00	3.30
*	BOQ (Aug 2018)	08-Aug-17	07-Aug-18	07-Aug-18	1,000,000.00	2.65

	Counterparty	Lodged or Rolled	Interest Due	Maturity Date	Principal	% Yield
*	BOQ (Aug 2018)	08-Aug-17	07-Aug-18	07-Aug-18	5,000,000.00	2.65
	RaboDirect (Curve) (Aug 2019)	07-Aug-17	07-Aug-18	13-Aug-19	2,000,000.00	4.30
*	BOQ (Aug 2020)	11-Aug-17	13-Aug-18	11-Aug-20	5,000,000.00	3.20
*	BOQ (Aug 2018)	16-Aug-17	14-Aug-18	14-Aug-18	5,000,000.00	2.65
	MMBS (Curve) (Aug 2018)	16-Aug-17	16-Aug-18	21-Aug-18	2,000,000.00	3.00
	Rabo Bank (Curve) (Aug 2018)	21-Aug-17	21-Aug-18	21-Aug-18	2,000,000.00	4.10
*	Bendigo Bank (Aug 2019)	23-Aug-17	23-Aug-18	27-Aug-19	5,000,000.00	2.90
	CBA (Oct 2019)	23-Aug-17	23-Aug-18	23-Oct-19	1,999,999.00	3.20
*	Westpac (Aug 2022)	24-Aug-17	24-Aug-18	23-Aug-22	5,000,000.00	3.00
	CBA (Aug 2019)	23-Aug-17	27-Aug-18	27-Aug-19	3,000,000.00	2.73
	Rabo (Curve) (Aug 2018)	26-Aug-17	28-Aug-18	28-Aug-18	3,000,000.00	3.10
	Rabo Bank (Curve) (Sept 2019)	01-Sep-17	01-Sep-18	03-Sep-19	1,000,000.00	4.05
*	Bendigo Bank (Sept 2019)	03-Sep-17	03-Sep-18	03-Sep-19	1,000,000.00	4.15
	QLD PCU (RIMSEC) (Sept 2018)	00-Jan-00	04-Sep-18	04-Sep-18	1,000,000.00	3.05
	ING (Curve) (Sept 2019)	12-Sep-17	12-Sep-18	17-Sep-19	4,000,000.00	2.75
	NAB (Sept 2019)	12-Sep-17	12-Sep-18	10-Sep-19	3,000,000.00	2.73
*	Mystate (Curve) (Sept 2018)	12-Sep-17	25-Sep-18	25-Sep-18	3,000,000.00	2.67
	Rabobank (Curve) (Sept 2022)	26-Sep-17	26-Sep-18	20-Sep-22	3,000,000.00	2.70
	NAB (Oct 2017)	17-Oct-17	17-Oct-18	16-Oct-20	4,000,000.00	3.05
	Defence Bank (Curve) (Oct 2018)	24-Oct-17	30-Oct-18	24-Oct-18	1,000,000.00	2.70
	Rabo (Curve) (Jul 2018)	26-Nov-17	26-Nov-18	03-Jul-18	3,000,000.00	3.10
	Defence Bank (Curve) (Nov 2018)	23-Nov-17	27-Nov-18	27-Nov-18	2,000,000.00	3.00
	Bankwest (Dec 2018)	05-Dec-17	04-Dec-18	04-Dec-18	2,000,000.00	2.55

Counterparty	Lodged or Rolled	Interest Due	Maturity Date	Principal	% Yield
ING (RIMSEC) (Dec 2018)	05-Dec-17	05-Dec-18	05-Dec-18	3,000,000.00	2.65
ING Bank (Curve) (Sept 2017)	26-Sep-17	18-Dec-18	18-Dec-18	1,000,000.00	2.70
ING (Curve) (Aug 2017)	29-Aug-17	03-Sep-19	03-Sep-19	4,000,000.00	2.75
ING (Curve) (Dec 2019)	05-Dec-17	10-Dec-19	10-Dec-19	1,000,000.00	2.87
ING (Curve) (Jan 2020)	22-Dec-17	14-Jan-20	14-Jan-20	2,000,000.00	2.90
* Bendigo (Oct 2017)	17-Oct-17	20-Oct-20	20-Oct-20	4,000,000.00	3.15
* Westpac (Dec 2022)	05-Dec-17	06-Dec-22	06-Dec-22	1,000,000.00	2.86
Total				223,999,999.00	2.89
LEGEND					
Counterparties					
AMP = AMP Bank		Macquarie = Macquarie Bank		WBC = Westpac Bank	
ANZ = ANZ Bank		NAB = National Australia Bank			
Auswide = Auswide Bank		ME = Members Equity Bank			
BOQ = Bank of Queensland		NPBS = Newcastle Permanent Building Society			
CBA = Commonwealth Bank		P&N = P&N Bank			
Heritage = Heritage Bank		RaboDirect = Rabo Bank			
ING = ING Bank		Rural = Rural Bank			
Investec = Investec Bank		Suncorp = Suncorp Metway Bank			

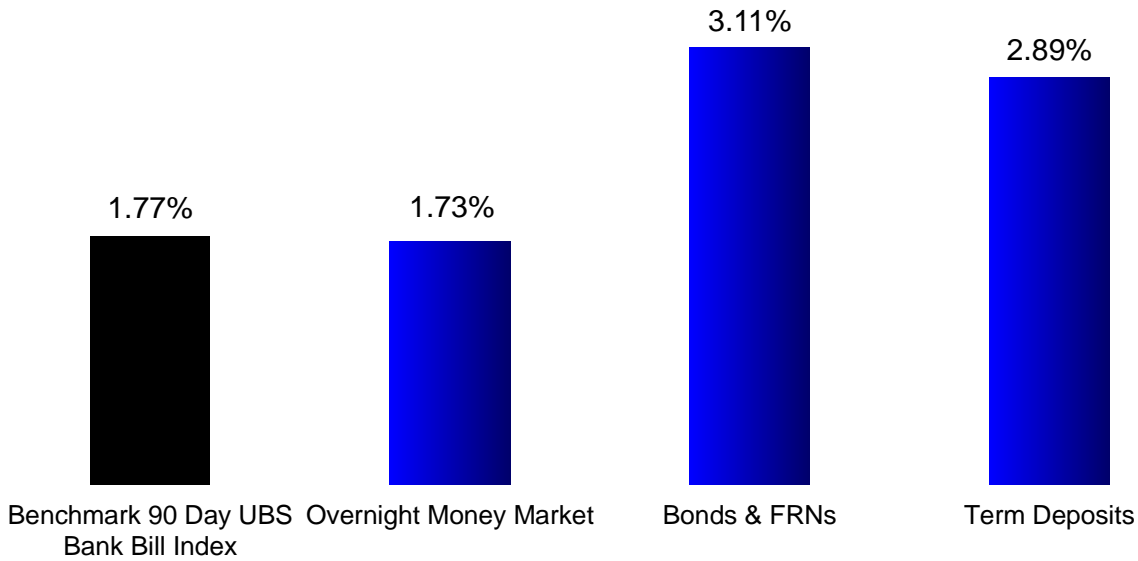
6. Ethical Investments

- * Ethical Financial Institutions highlighted
\$155,272,463 which represents **53.06%** of the total portfolio
Source: Australian Ethical

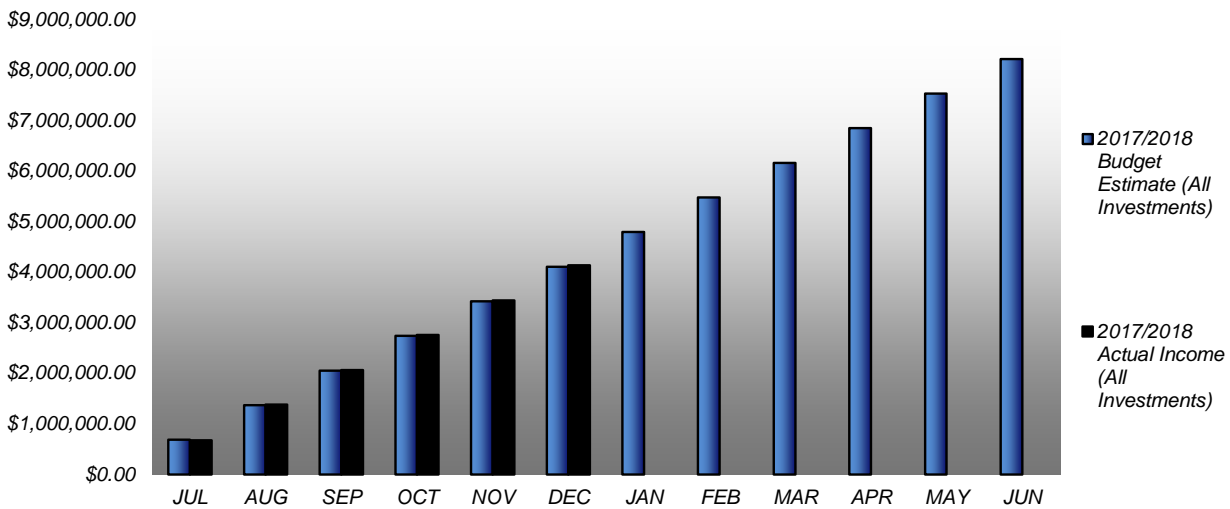
7. Performance by Category

Category	Face Value	Market Value	Weighted Average Return by Investment Category	Above or (Below) 90 day BBSW Benchmark
Benchmark 90 Day UBS Bank Bill Index			1.77%	
Overnight Money Market	9,400,000.00	9,400,000.00	1.73%	-0.04%
Bonds & FRNs	58,500,000.00	59,250,856.00	3.11%	1.34%
Term Deposits	223,999,999.00	223,999,999.00	2.89%	1.12%
			Weighted Average Total Portfolio	
	291,899,999.00	292,650,855.00	2.90%	1.13%

Performance by Category Compared with Benchmark



8. Total Portfolio Income v Budget



9. Investment Policy Diversification and Credit Risk

Total Portfolio Credit Limits Compared to Policy Limits					
Long-Term Credit Ratings	Investment Policy Limit	Actual Portfolio	Short-Term Credit Ratings	Investment Policy Limit	Actual Portfolio
AAA Category	100%	0.00%	A-1+	100%	23.03%
AA Category	100%	9.49%	A-1	100%	19.82%
A Category	60%	9.53%	A-2	60%	26.65%
BBB Category	20%	7.72%	A-3	20%	1.03%
Unrated	10%	0.00%	Unrated	10%	2.73%

Market Value by Security Rating Group (Long Term)



Market Value by Security Rating Group (Short Term)



10. Term to Maturity

Maturity Profile	Actual % Portfolio	Policy Limits
Less than 365 days	45.26%	Minimum 40%
More than 365 days and less than 3 years	37.49%	Maximum 60%
3 years and less than 5 years	17.25%	Maximum 35%
Total	100.00%	

Market Value by Term Remaining

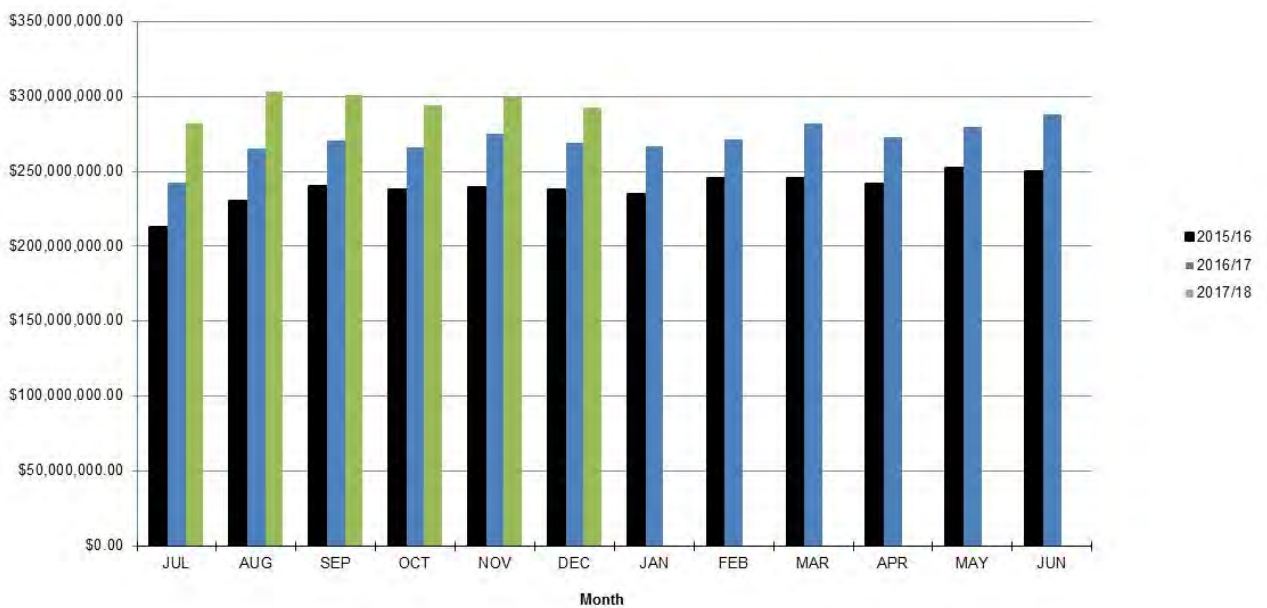


11. Investment Alternatives Explained

Investment Product	Maturity Range	Usual term to maturity	Major Benefits	Major risks
At Call Cash	At Call	Immediate to a few months	Highly liquid - same day access to funds with no impact on capital	Not a capital growth asset
			Highly secure as a bank deposit	Underperforms other asset classes in the long term
Bank Bill	1 - 180 days	Less than 1 year	Medium liquidity - generally some notice to access funds, usually with no or minimal impact on capital	Not a growth asset
			Highly secure (bank risk)	Underperforms other asset classes in the long term
				May incur a small loss for early redemption
Term Deposit	Up to 5 years	Less than 2 years	Not liquid - generally 31 days to access to funds	Will incur a significant capital loss for early termination
			Highly secure as a bank deposit	Underperforms growth assets in the longer term

Investment Product	Maturity Range	Usual term to maturity	Major Benefits	Major risks
Floating Rate Note Bond	1 - 5 years	Greater than 2 years	Increased yield over bank bills	Not a growth asset
			Can accrue capital gain if sold ahead of maturity and market interest rates have fallen	Can incur capital losses if sold ahead of maturity and market interest rates have risen
			Coupon interest rate resets quarterly based on 90 day bank bill swap rate	Credit exposure to company issuing the paper
			Relatively liquid	May not be bank guaranteed
			Less administration than bank bills	Underperforms other asset classes in the long term
Fixed Rate/Bond	1 - 5 years	Greater than 3 years	Can accrue capital gain if sold before maturity and market interest rates have fallen	Can incur capital losses if sold before maturity and market interest rates have risen
			Fixed return - semi-annual coupons	Credit exposure to company issuing paper
			Generally liquid	
			Can be government or corporate issuer	

12. Monthly Comparison of Total Funds Invested



13. Section 94 Developer Contributions - Monthly Balances & Receipts

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
1	DCP3 Open Space	4,846,872	
2	Western Drainage	652,913	
3	DCP3 Community Facilities	1,767	
4	TRCP Road Contributions	17,223,594	3,692
5	Open Space	586,287	
6	Street Trees	233,795	
7	West Kingscliff	922,123	
10	Cobaki Lakes	-1,462	
11	Libraries	1,367,522	
12	Bus Shelters	139,070	
13	Cemeteries	155,384	
14	Mebbin Springs	97,723	
15	Community Facilities	1,874,299	
16	Surf Lifesaving	112,994	
18	Council Administration/Technical Support	1,730,091	462
19	Kings Beach	938,124	
20	Seabreeze Estate	815	
21	Terranora Village	36,472	
22	Cycleways Shirewide	322,842	
23	Carparking Shirewide	1,708,556	
25	SALT	1,154,565	
26	Open Space Shirewide	3,089,695	
27	Tweed Heads Masterplan	365,703	
28	Seaside City	781,704	
91	DCP14	116,949	
92	Public Reserve Contributions	146,498	
95	Bilambil Heights	571,888	
	Total	39,176,785	4,154

14. Economic Commentary and Cash Rate

The Reserve Bank of Australia (RBA) does not meet in January so the cash rate unchanged at 1.50 per cent.

Conditions in the global economy have improved over 2017. Labour markets have tightened and further above-trend growth is expected in a number of advanced economies, although uncertainties remain. Growth in the Chinese economy continues to be supported by increased spending on infrastructure and property construction, although financial conditions have tightened somewhat as the authorities address the medium-term risks from high debt levels. Australia's terms of trade are expected to decline in the period ahead but remain at relatively high levels.

Wage growth remains low in most countries, as does core inflation. In a number of economies there has been some withdrawal of monetary stimulus, although financial conditions remain quite expansionary. Equity markets have been strong, credit spreads have narrowed over the course of the year and volatility in financial markets is low. Long-term bond yields remain low, notwithstanding the improvement in the global economy.

Recent data suggest that the Australian economy grew at around its trend rate over the year to the September quarter. The central forecast is for GDP growth to average around 3 per cent over the next few years. Business conditions are positive and capacity utilisation has increased. The outlook for non-mining business investment has improved further, with the forward-looking indicators being more positive than they have been for some time. Increased public infrastructure investment is also supporting the economy. One continuing source of uncertainty is the outlook for household consumption. Household incomes are growing slowly and debt levels are high.

Employment growth has been strong over 2017 and the unemployment rate has declined. Employment has been rising in all states and has been accompanied by a rise in labour force participation. The various forward-looking indicators continue to point to solid growth in employment over the period ahead. There are reports that some employers are finding it more difficult to hire workers with the necessary skills. However, wage growth remains low. This is likely to continue for a while yet, although the stronger conditions in the labour market should see some lift in wage growth over time.

Inflation remains low, with both CPI and underlying inflation running a little below 2 per cent. The Bank's central forecast remains for inflation to pick up gradually as the economy strengthens.

The Australian dollar remains within the range that it has been in over the past two years. An appreciating exchange rate would be expected to result in a slower pick-up in economic activity and inflation than currently forecast.

Growth in housing debt has been outpacing the slow growth in household income for some time. To address the medium-term risks associated with high and rising household indebtedness, APRA has introduced a number of supervisory measures. Credit standards have been tightened in a way that has reduced the risk profile of borrowers. Nationwide measures of housing prices are little changed over the past six months, with conditions having eased in Sydney. In the eastern capital cities, a considerable additional supply of

apartments is scheduled to come on stream over the next couple of years. Rent increases remain low in most cities.

The low level of interest rates is continuing to support the Australian economy. Taking account of the available information, the Board judged that holding the stance of monetary policy unchanged at this meeting would be consistent with sustainable growth in the economy and achieving the inflation target over time.

Council's Investment Portfolio

Council's investment portfolio is conservatively structured in accordance with NSW Office of Local Government guidelines with approximately 80.23% of the portfolio held in cash and term deposits. Term deposits and bonds are paying average margins over the 90 day bank bill rate.

Bank demand for term deposit funds continue to wane as investors seek alternatives with higher returns due to an uncertain interest rate outlook. The imposition of mortgage lending restrictions is also crimping bank demand for depositor's funds. Banks are also using debt issuance (bonds) as a less expensive source of funds than term deposits.

Conversely, new Australian Prudential Regulation Authority regulations increasing the amount of capital required to be held by banks is marginally increasing bank demand for depositor's funds.

Many "cash at call" rates remain at levels below the RBA cash rate. The historic low cash rate is still translating to lower total investment yields. This continues to present difficulties obtaining reasonable investment income without risking capital.

All investment categories except Cash at Call out-performed the UBS 90 day bank bill benchmark this month. The investment portfolio again benefited this month from some longer-dated, higher yielding bonds and term deposits purchased before interest rate margins began contracting, however these securities are maturing. As these longer-dated bonds and term deposits mature and are replaced with lower yielding investments the total portfolio return will decrease. Overall, the investment portfolio has returned a weighted average 1.13% pa above the 90 day UBS bank bill index for the last month.

Source: RBA Monetary Policy Decision

15. Investment Summary

GENERAL FUND

CORPORATE FIXED RATE BONDS	8,080,850.00	
FLOATING RATE NOTES	51,170,006.00	
ASSET BACKED SECURITIES	0.00	
FUND MANAGERS	0.00	
TERM DEPOSITS	87,999,999.00	
CALL ACCOUNT	9,400,000.00	156,650,855.00

WATER FUND

TERM DEPOSITS	53,000,000.00	
FUND MANAGERS	0.00	53,000,000.00

SEWERAGE FUND

TERM DEPOSITS	83,000,000.00	
FUND MANAGERS	0.00	83,000,000.00

TOTAL INVESTMENTS		292,650,855.00
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It should be noted that the General Fund investments of **\$156 million** are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and Council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

All Water and Sewerage Fund investments can only be expended in accordance with Government regulation and Council resolution.

Statutory Statement - Local Government (General) Regulation 2005 Clause 212

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Local Government (General) Regulations and Council's investment policies.



Responsible Accounting Officer
Manager Financial Services
Tweed Shire Council

OPTIONS:

Not Applicable.

CONCLUSION:

Not Applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Local Government (General) Regulations 2005 - Section 212 - Reports on council investments

"(1) The responsible accounting officer of a council:

(a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:

(i) if only one ordinary meeting of the council is held in a month, at that meeting, or

- (ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and*
 - (b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.*
- (2) The report must be made up to the last day of the month immediately preceding the meeting."*

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

45 [CS-CM] Monthly Investment and Section 94 Development Contribution Report for Period Ending 31 January 2018

SUBMITTED BY: Financial Services

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.2 Engagement
- 2.2.5 Financial Services - To collect and manage Council funds and provide information and advice to support sound financial decision-making.

ROLE: **Leader**

SUMMARY OF REPORT:

This report is provided to Council to advise details of monies Council has invested in accordance with Section 625 of the Local Government Act 1993.

There is a requirement by Council's investment consultant to allow at least five working days following the end of the month to provide the statistics for this report. Due to this time constraint and the Council requirement to receive reports 10 days prior to the Council meeting, there will be an addendum report provided to Council for consideration at its meeting on 15 February 2018.

RECOMMENDATION:

Refer to addendum report.

REPORT:

As per summary.

OPTIONS:

Not Applicable.

CONCLUSION:

Not Applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Local Government (General) Regulations 2005 - Section 212 - Reports on council investments

"(1) The responsible accounting officer of a council:

(a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:

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(ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and

(b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.

(2) The report must be made up to the last day of the month immediately preceding the meeting."

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

46 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 3 November 2017

SUBMITTED BY: Community and Cultural Services

mhm



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

3	People, places and moving around
3.1	People
3.1.2	Community and Cultural Development - To provide community and cultural development services to foster and improve social and cultural well-being.

ROLE: **Leader**

SUMMARY OF REPORT:

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 3 November 2017 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the Aboriginal Advisory Committee Meeting held Friday 3 November 2017 be received and noted; and
2. The Executive Leadership Team's recommendations be adopted as follows:

Business Arising from meeting held on 13 October 2017

BA1. Illegal Clearing - Lot 136 Boormans Road, Tyalgum

That the Aboriginal Advisory Committee:

1. ***Supports Council's resolution for revoking the private native forestry licence on privately owned land at Lot 136 Boormans Road, Tyalgum.***
2. ***Supports Council's motion for a moratorium on future private native forestry licences on privately owned land in the Tweed Shire.***

- 3. Requests that Council seeks information regarding Aboriginal Cultural Heritage and environmental concerns from the State Government about other private native forestry licences on privately owned land in the Tweed Shire.**
- 4. Requests that Council seeks detailed information including location and expiry dates of other private native forestry licences on privately owned land in the Tweed Shire.**
- 5. Notes that the works took place without recognition of the Aboriginal community and potential impacts to Aboriginal cultural heritage.**

Business Arising from meeting held on 4 August and 1 September 2017

BA2. Complying Development Issue

That the Aboriginal Advisory Committee requests that Council investigates the provision for 'no parking' gold bitumen marking to prevent parking along the side of the road of the midden at Tweed Coast Road, Hastings Point.

Business Arising from meeting held on 1 September 2017

BA3. Midden in Tweed Coast Road, Hastings Point

That the Aboriginal Advisory Committee requests that Council investigates the provision for 'no parking' gold bitumen marking to prevent parking along the side of the road of the midden at Tweed Coast Road, Hastings Point.

(c) Pottsville Wetlands - Renaming

That the Aboriginal Advisory Committee endorses the renaming of the Pottsville Wetlands to 'Boorum Wetlands' (Tea Tree/Paperbark) together with interpretative signage reflecting the cultural meaning.

General Business:

GB1. Kingscliff Foreshore Park - Naming

That the Aboriginal Advisory Committee suggests that Kingscliff Foreshore Park currently known as Central Park be renamed 'Goodjinburra Park'.

REPORT:

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 3 November 2017 are reproduced as follows for the information of Councillors.

Venue:

Minjungbal Aboriginal Museum & Cultural Centre

Time:

9.35am

Present:

Des Williams (Tweed Byron Local Aboriginal Land Council representative); Leweena Williams (Tweed Aboriginal Corporation for Sport representative); Jackie McDonald (Tweed Wollumbin Aboriginal Education Consultative Group representative); Victor Slockee (Canowindra representative); Desrae Rotumah (Tweed Aboriginal Co-operative Society representative); Marvette Logan (Australian Unity Home Care Services-North Coast Aboriginal Branch representative); Cr Reece Byrnes (Tweed Shire Council).

Ex-officio:

Robyn Grigg, Chantelle Howse, Robert Appo (Tweed Shire Council), Gabby Arthur (Tweed Shire Council) (Minutes).

Guests (in order of arrival):

Tracy Mackenzie (ACLO Department of Education)

Apologies:

Mayor Katie Milne, Cr Cherry, Tracey Stinson, (Tweed Shire Council)

Chair: Victor Slockee

Moved: Desrae Rotumah

Seconded: Jackie McDonald

RESOLVED that the Chair was declared vacant and nominations were called. Victor Slockee was nominated and was unanimously elected to Chair the meeting.

Victor Slockee opened the meeting with a welcome to all present and paid respect to Elders past and present.

Minutes of Previous Meeting:

Moved: Des Williams

Seconded: Marvette Logan

RESOLVED that the Minutes of the Aboriginal Advisory Committee meeting held Friday 1 September 2017 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Business Arising from meeting held on 13 October 2017

BA1. Illegal Clearing - Lot 136 Boormans Road, Tyalgum

Following the meeting on 13 October 2017, the Mayor provided the Report and Resolution of Council of 21 September 2017. Copies of these documents were provided to the AAC.

At the AAC meeting on 13 October 2017 a recommendation was discussed but due to not having a quorum for the meeting, the recommendation was not able to be made. Mayor Milne had requested that the AAC's recommendation be included in her Notice of Motion however this could not occur as the recommendation had not been resolved.

Tracy Mackenzie arrived at 10.00am

Des requested that the recommendation notes that the works took place without recognition of the Aboriginal community and potential impacts to Aboriginal cultural heritage.

Cr Byrnes advised that there will be an in person meeting and written communication with the State Government Minister. Des requested that a member of the Aboriginal community be invited to attend the meeting with State Government. The AAC would like the State Government to be aware of the Tweed Shire Aboriginal Cultural Heritage Mapping as a resource to be a critical reference when investigating and considering approval for private native forest licences.

Action: *CDO-Aboriginal to liaise with Mayor Milne to confirm date of meeting with State Government Minister and to liaise with AAC regard representation at that meeting.*

Moved: Des Williams

Seconded: Leweena Williams

RECOMMENDATION that the Aboriginal Advisory Committee:

1. supports Council's resolution for revoking the private native forestry licence on privately owned land at Lot 136 Boormans Road, Tyalgum.
2. supports Council's motion for a moratorium on future private native forestry licences on privately owned land in the Tweed Shire.
3. requests that Council seeks information regarding Aboriginal Cultural Heritage and environmental concerns from the State Government about other private native forestry licences on privately owned land in the Tweed Shire.
4. requests that Council seeks detailed information including location and expiry dates of other private native forestry licences on privately owned land in the Tweed Shire.
5. notes that the works took place without recognition of the Aboriginal community and potential impacts to Aboriginal cultural heritage.

Business Arising from meeting held on 4 August 2017 and 1 September 2017

BA2. Complying Development Issue

Rob reminded the AAC that this matter arose at the meeting on 4 August 2017 with Denise Galle re Section 88B Complying Applications for demolition which do not take into account the impediments of the 88B instrument requirements for Due Diligence Reports etc. Rob

advised that he will work with Denise Galle to draft a letter and will bring it along to the next meeting for consideration of the AAC.

Action: *CDO-Aboriginal to liaise with Council's Team Leader - Development Assessment (Denise Galle) to draft a letter to the SEPP Team and to bring it to the next meeting for the AAC's consideration.*

Des provided the background of a house at Nambucca that was built 100 years ago on stumps over the top of a midden. The house has now been demolished and a drain put through the midden with large amounts of midden material and the skeletal remains of an Aboriginal woman. There is potential for the same thing to happen in the Tweed. Des requested that this information to be included in the letter to the SEPP Team.

Business Arising from meeting held on 1 September 2017

BA3. Midden in Tweed Coast Road, Hastings Point

Moved: Jackie McDonald

Seconded: Marvette Logan

RECOMMENDATION that the Aboriginal Advisory Committee requests that Council investigates the provision for 'no parking' gold bitumen marking to prevent parking along the side of the road of the midden at Tweed Coast Road, Hastings Point.

Agenda Items:

A1. Robert Appo

(a) Terms of Reference

Rob advised that he was unable to attend the last Bugalwena Advisory Committee meeting however there will be another meeting before the end of the year. Rob advised he will speak to the Committee to ascertain if Bugalwena would like to remain a member of the AAC. It was acknowledged that having the staff as the members puts too much pressure on them as employees of the Department of Health and that it would be better for the Advisory Committee members to be approached.

Action: *CDO-Aboriginal to send letter to Dale Williams, Chairperson of Bugalwena Advisory Committee requesting to be included on the Agenda for the next Bugalwena Advisory Committee meeting.*

(b) Jack Julius Park - Caveat

Robert advised that there has been no response from the Caveator and on 26 October 2017, Council resolved:

- '1. Approves the lodgement of an Application for the Preparation of a Lapsing Caveat over Lot 66 DP 858468, known as Jack Julius Park at Kingscliff; and
2. Executes all documentation under the Common Seal of Council.'

Council will now make application to Land and Property Information. If an application has not been made by the Caveator, the Caveat will lapse.

(c) Pottsville Wetlands - Renaming

Moved: Leweena Williams

Seconded: Marvette Logan

RECOMMENDATION:

That the Aboriginal Advisory Committee endorses the renaming of the Pottsville Wetlands to 'Boorum Wetlands' (Tea Tree/Paperbark) together with interpretative signage reflecting the cultural meaning.

(d) Draft Aboriginal Statement of Commitment Policy

Council is in the process of reviewing its policies including the Aboriginal Statement Policy which was adopted in 2007. The Aboriginal acknowledgement will remain in the policy however it will also reflect the relationship and linkages to other plans and policies including the Reconciliation Action Plan (RAP) and Aboriginal Cultural Heritage Mapping Project (ACHMP). The commitments originally set out in the Memorandum of Understanding (MOU) have been embedded in the policy which strengthens it.

Rob worked through the draft policy with the AAC and advised that it is also proposed to change the name from 'Aboriginal Statement Policy' to 'Aboriginal Statement of Commitment Policy'. Rob confirmed that the policy has been prepared in conjunction with the Local Government NSW guiding document for developing a better relationship with Aboriginal communities. The draft policy will be circulated to the AAC in the near future.

The AAC acknowledged the work carried out by Rob in preparation of the policy.

The AAC discussed Council's strong internal links for content and knowledge but that it must also be mindful of the structures and strengths outside of Council.

(e) 20 Year Commemoration of AAC

Rob requested suggestions from the AAC for the 20 year commemorative celebrations. The AAC agreed they would like community involvement in the celebrations and suggestions included:

- A community event at Minjungbal with formalities acknowledging the achievements of the AAC including entertainment such as dancers.
- Judy Kean of Tweed Regional Museum has suggested oral history interviews including the AAC, the Tweed area etc. The AAC was very positive about the interviews which could be shown at the main event.
- Recognition of the AAC at a Council meeting.
- Formal dinner at the Caldera Restaurant.
- Commissioning of an art piece.
- Display with significant timelines such as the raising of the Aboriginal flag.
- The celebrations could coincide with Reconciliation Week.

A report to Council will be prepared to ensure there is a public record of the key milestones, recognition and significance of the AAC.

A Working Group to be established for the event with the following members: Robert, Leweena, Marvette, Jackie, Chantelle, Gabby. The first meeting to be held in late November 2017.

Action: *CDO-Aboriginal to arrange a Working Group meeting in late November 2017.*

(f) NSW Local Government Aboriginal Network (LGAN) Conference - Overview

Robert and Victor provided an overview of the NSW Local Government Aboriginal Network (LGAN) conference. The conference included a visit and walk along a cultural walking track between the river and wetlands. The Aboriginal community was engaged in the design and construction of the walking track and the participants received Certificate IV qualifications at the end of the project. The track includes a sculpture trail which also engaged the local Aboriginal community.

The content of the conference was good with similar subjects to the LGAN conference in Tweed in 2016. Council staff received two awards - Cliff Chadburn: Outdoor Worker of the Year and Laurece Logan: Young Achiever of the Year. The AAC suggested that a Tweed Link article be done celebrating the achievements of Aboriginal staff.

Action: *CDO-Aboriginal to work with Communications Unit to prepare an article in the Tweed Link regarding awards won by Cliff Chadburn and Laurece Logan at the 2017 LGAN conference.*

Robert advised he will remain on the LGAN Executive for one more year. The LGAN Executive has requested a position on the recruitment panel for the LG NSW position.

The 2018 LGAN conference will be held in Narrabri.

(g) Reconciliation Action Plan (RAP) - Launch

The launch of the Reconciliation Action Plan (RAP) was scheduled for this week. The RAP has been held over to enable further internal consultation regarding the actions in the plan. A workshop has been scheduled with Councillors on 30 November 2017. The AAC will be advised of the new date for the RAP launch.

Council's Corporate Management Team and key staff attended a Cultural Intelligence Workshop on 1 November with Banaam. The staff feedback to the General Manager following the workshop was very positive.

(h) Unauthorised Forestry and Roadworks - Lot 135 DP 755724 Boormans Road, Tyalgum

Discussed above in Business Arising (BA1).

(i) Upgrade of road at Elizabeth Street, Pottsville - Aboriginal Cultural Heritage Assessment (ACHA) by Remnant Archaeology

Rob advised that Council is upgrading the road alignment including new kerb and guttering in Elizabeth Street, Pottsville. Council engaged Remnant Archaeology to prepare an Aboriginal Cultural Heritage Assessment (ACHA) as the site is confirmed as having Aboriginal significance. TBLALC, Jackie McDonald's family and AAC are registered as stakeholders. Council has applied for an AHIP. There is evidence of shell material on the surface as it is an old sand dune and there is a midden near the shops. Monitors will be onsite from TBLALC and Jackie's family to monitor the construction works.

Action: *CDO-Aboriginal to provide a hard copy of Remnant Archaeology's Aboriginal Cultural Heritage Assessment for Elizabeth Street, Pottsville to Jackie McDonald and Desrae Rotumah.*

Inwards Correspondence:

IC1. Letter from Arts Northern Rivers dated 4 October 2017

In August 2017, Council sent a letter on behalf of the AAC to Arts Northern Rivers regarding the required formal consultation process to be undertaken with the AAC regarding Aboriginal arts projects. A reply has been received from Arts Northern Rivers dated 4 October 2017. Rob read the letter to the AAC.

General Business:

GB1.Kingscliff Foreshore Park - Naming

Cr Polglase has made a Notice of Motion regarding the naming of the Kingscliff Foreshore Park from Central Park to reflect the character of the area. The Council resolution at the Council meeting on 26 October 2017 was to invite the AAC to discuss whether a cultural name would be appropriate for the site and if the AAC would like to submit a name for the park.

Cr Byrnes advised that Cr Cooper had suggested the name of 'Dreamtime Park' however the AAC advised it is not a traditional name. Cr Byrnes advised he will pass this information back to Cr Cooper.

Jackie suggested that the park could be named 'Goodjinburra' Park as it references the local clan group and Cudgen Creek.

Moved: Jackie McDonald

Seconded: Marvette Logan

RECOMMENDATION that the Aboriginal Advisory Committee suggests that Kingscliff Foreshore Park currently known as Central Park be renamed 'Goodjinburra Park'.

GB2.Next AAC Meeting (1 December 2017)

The AAC agreed that the next AAC meeting on 1 December 2017 be held at Crams Farm. Rob advised that he will arrange a bus to transport the AAC members from Minjungbal Museum. Members requested to meet at Minjungbal Aboriginal Museum and Cultural Centre at 9am.

Action: *CDO-Aboriginal to arrange a bus to transport members to the AAC meeting at Crams Farm on 1 December 2017 and to book Doon Doon Hall.*

Next Meeting:

The next meeting of the Aboriginal Advisory Committee will be held on Friday 1 December 2017.

The meeting closed at 12.15pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

Business Arising from meeting held on 13 October 2017

BA1. Illegal Clearing - Lot 136 Boormans Road, Tyalgum

Nil.

Business Arising from meeting held on 4 August and 1 September 2017

BA2. Complying Development Issue

Business Arising from meeting held on 1 September 2017

Nil.

BA3. Midden in Tweed Coast Road, Hastings Point

Nil.

(c) Pottsville Wetlands - Renaming

Nil.

General Business:

GB1. Kingscliff Foreshore Park - Naming

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

Business Arising from meeting held on 13 October 2017

BA1. Illegal Clearing - Lot 136 Boormans Road, Tyalgum

That the Aboriginal Advisory Committee:

- 1. Supports Council's resolution for revoking the private native forestry licence on privately owned land at Lot 136 Boormans Road, Tyalgum.***
- 2. Supports Council's motion for a moratorium on future private native forestry licences on privately owned land in the Tweed Shire.***
- 3. Requests that Council seeks information regarding Aboriginal Cultural Heritage and environmental concerns from the State Government about other private native forestry licences on privately owned land in the Tweed Shire.***
- 4. Requests that Council seeks detailed information including location and expiry dates of other private native forestry licences on privately owned land in the Tweed Shire.***
- 5. Notes that the works took place without recognition of the Aboriginal community and potential impacts to Aboriginal cultural heritage.***

Business Arising from meeting held on 4 August and 1 September 2017

BA2. Complying Development Issue

That the Aboriginal Advisory Committee requests that Council investigates the provision for 'no parking' gold bitumen marking to prevent parking along the side of the road of the midden at Tweed Coast Road, Hastings Point.

Business Arising from meeting held on 1 September 2017

BA3. Midden in Tweed Coast Road, Hastings Point

That the Aboriginal Advisory Committee requests that Council investigates the provision for 'no parking' gold bitumen marking to prevent parking along the side of the road of the midden at Tweed Coast Road, Hastings Point.

(c) Pottsville Wetlands - Renaming

That the Aboriginal Advisory Committee endorses the renaming of the Pottsville Wetlands to 'Boorum Wetlands' (Tea Tree/Paperbark) together with interpretative signage reflecting the cultural meaning.

General Business:

GB1. Kingscliff Foreshore Park - Naming

That the Aboriginal Advisory Committee suggests that Kingscliff Foreshore Park currently known as Central Park be renamed 'Goodjinburra Park'.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Aboriginal Advisory Committee adopted 19 September 2013 (ECM 3146605).

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

47 [SUB-TRMAC] Minutes of the Tweed Regional Museum Advisory Committee Meeting held Wednesday 8 November 2017

SUBMITTED BY: Community and Cultural Services

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.2 Places
- 3.2.6 Museum - To preserve and share the history of the Tweed for the benefit and enjoyment of visitors and the community.

ROLE: **Leader**

SUMMARY OF REPORT:

The Minutes of the Tweed Regional Museum Advisory Committee Meeting held Wednesday 8 November 2017 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Tweed Regional Museum Advisory Committee Meeting held Wednesday 8 November 2017 be received and noted.

REPORT:

The Minutes of the Tweed Regional Museum Advisory Committee Meeting held Wednesday 8 November 2017 are reproduced as follows for the information of Councillors.

Venue:

Tweed Regional Museum Tweed Heads

Time:

4:00pm

Present:

Cr Warren Polglase; Robyn Grigg (Manager Community & Cultural Services); Judy Kean (Museum Director); Gary Fidler (Community); Sandra Flannery (Community); Christian Ellis (Community); Marion Mewett (Community); Chris Core (Community); Daphne Mellor (Tweed Heads Historical Society); Max Boyd (Murwillumbah Historical Society); David Taylor (Murwillumbah Historical Society); Helena Duckworth (Uki & South Arm Historical Society); Jayne Parrott (Uki & South Arm Historical Society)

Apologies:

Tracey Stinson (Director Community & Natural Resources); Ian Fox (Community); Ceanne Cain (Tweed Heads Historical Society)

Minutes of Previous Meeting:

Moved: Marion Mewett

Seconded: David Taylor

RESOLVED that the Minutes of the Tweed Regional Museum Advisory Committee meeting held Wednesday 6 September 2017 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Item from Meeting held 6 September 2017, Agenda Item 1, Museum Director's Report: Gary Fidler advised that he will provide the Committee with information on grants available through the Heritage Council.

At this meeting:

Gary Fidler briefed the meeting on grants available through the Heritage Council.

Judy Kean advised the Committee that the Museum had been successful in being awarded 'Heritage Near Me' grant funding for further interpretation of the Museum buildings and Tweed Heads heritage in the form of a mobile app.

Judy Kean and Robyn Grigg outlined Council's current grant applications that include Museum projects: the Stronger Country Communities grant includes solar panels for TRM Murwillumbah, the Regional Growth Environment and Tourism fund that includes the natural history wall at TRM Murwillumbah and an arts and heritage app for Murwillumbah CBD and some villages.

Agenda Items:

1. Museum Director's Report

Report distributed prior to meeting.

Judy Kean explained the quarterly Key Performance Indicator (KPI) figures in detail.

This led to discussion on making the Museum more accessible to people with disabilities and elderly people. Judy Kean advised that the Museum is a very attractive space for these groups and they appear to be visiting more often. She advised that Museums are ideally placed to participate in a number of programs with a health or aging focus, however the Museum currently does not have the resources to take part.

Robyn Grigg outlined how Council is involved in the National Disability Insurance Scheme (NDIS), and how the Museum might link in with this.

Judy Kean advised that the front entrance of TRM Tweed Heads will be adapted to be fully accessible, and that Karen Collins, Council's Community Development Officer - Aged and Disability, has indicated that she is also interested in working towards making the jetty outside TRM Tweed Heads fully accessible.

Judy Kean advised that discussions were ongoing between Council and the Historical Societies regarding the updated Service Agreement. Ms Kean advised that once the Agreement had been signed by the Societies, it would come to the Museum Advisory Committee for endorsement and forwarding to Council - this may require an additional meeting of the Committee prior to the next scheduled meeting in February 2018.

Marion Mewett inquired whether the KPI figures in the Museum Director's Reports would be cumulative.

Judy Kean advised that they would be, to remain in line with Council's KPI reporting, but that additional explanatory notes would be provided with reports to the Committee in order to better understand the data.

Robyn Grigg advised the meeting that Council is undertaking a survey of all 485 volunteers in the Community & Cultural Services unit in order to report back to Council on the importance of Volunteers, and to improve Council's volunteering program. Ms Grigg advised that results would be provided to all volunteers.

Moved: Judy Kean

Seconded: Sandra Flannery

RESOLVED that the Museum Director's Report be accepted by the Committee.

2. Proposed Acquisitions

Report distributed prior to meeting.

Questions from the Committee were invited.

Gary Fidler inquired how a number of purchases included in the proposed list were found.

Judy Kean explained that items with Tweed provenance occasionally appeared on EBay. Where these carried intrinsic provenance - in the case of photographs or souvenirs for example, and represented gaps in the collection, they were purchased.

Max Boyd asked for more detail on the jars of floodwater.

Judy Kean advised that flood objects were hard to come by as most were discarded or too damaged to care for. Ms Kean explained that these jars of flood water had good provenance and were part of the story of one community member's flood experience, and would form part of a collection being built around the 2017 flood.

Moved: Max Boyd

Seconded: Helena Duckworth

RESOLVED that the proposed acquisitions be endorsed by the Committee.

3. Meeting Schedule for 2018

The proposed schedule distributed prior to the meeting will be amended, due to meeting dates clashing with the Art Gallery Advisory Committee meeting dates.

A revised schedule will be circulated to Committee members.

General Business:

4. Use of Museum building to generate income

Cr Polglase enquired whether any progress had been made on investigating the use of Museum facilities for private functions.

Judy Kean advised that it had not advanced since being discussed at the last meeting.

Cr Polglase suggested that Council could assist the Museum Director to investigate this as the Museum may not have the time or the expertise.

Judy Kean advised that she was happy for assistance from Council's Economic Development Unit.

Moved: Sandra Flannery

Seconded: Marion Mewett

RESOLVED that Council's Economic Development Unit investigate the options for utilising Museum facilities for private functions as an income generating and profile raising opportunity, with any income raised to be allocated to Tweed Regional Museum.

5. Cross promotion

Gary Fidler advised the Committee that he had visited the Tweed Regional Gallery and did not see a single word promoting the Museum.

Mr Fidler queried why this would occur, as they are both Council facilities and should have permanent promotion in place.

Marion Mewett suggested having promotional material visible as people left the Gallery, and advised that the Art Gallery brochures were prominently displayed at the Museum.

Gary Fidler recommended something more permanent for promotion as both facilities were created to enhance the cultural life of the community and cross promotion should be front and centre.

Max Boyd enquired of Cr Polglase whether the Art Gallery Foundation could help with this.

Cr Polglase advised that the Foundation had a planning session shortly and he would put it on the Agenda, and also ask that the Art Gallery Advisory Committee consider it.

Judy Kean advised that attracting Gallery visitors to the Museum was a challenge, but represented a significant opportunity to grow Museum visitors and audiences and perhaps warranted a strategic marketing approach from Council. The Committee discussed other issues related to promotion of the Museum including hosting events. Judy Kean advised that currently external groups could not have functions at the Museum branches unless they partnered with the Museum and events fell within program or audience development related activity. Currently Museum buildings were not included in Council's Fees and Charges.

The Committee discussed a range of issues related to use of Museum venues by external organisations, including provision of catering and the role of Historical Societies and Friends in offering events at the Museum.

Chris Core suggested working in partnership with the Mt St Patrick College hospitality students, as they have a commercial kitchen and could provide food and wait staff.

The Committee agreed this opportunity could be mutually beneficial and Judy Kean undertook to investigate further via Chris.

Next Meeting:

The next meeting of the Tweed Regional Museum Advisory Committee will be held Wednesday 28 February 2018.

The meeting closed at 5:25pm.

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Reviewed 21 August 2012 (ECM3283132).

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:
Not Applicable.

d. Communication/Engagement:
Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

48 [SUB-CHAC] Minutes of the Community Halls Advisory Committee (CHAC) Meeting held Wednesday 8 November 2017

SUBMITTED BY: Community and Cultural Services

mhm



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.1 People
- 3.1.4 Cultural and Community Development - To provide community and cultural development services to foster and improve the social and cultural wellbeing of the community and to plan for the needs of current and future populations by understanding needs and identifying gaps in service delivery.

ROLE: **Leader**

SUMMARY OF REPORT:

The Minutes of the Community Halls Advisory Committee Meeting held Wednesday 8 November 2017 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Community Halls Advisory Committee Meeting held Wednesday 8 November 2017 be received and noted.

REPORT:

The Minutes of the Community Halls Advisory Committee (CHAC) Meeting Held Wednesday 8 November 2017 are reproduced as follows for the information of Councillors.

Venue:

Canvas and Kettle Meeting Room, Murwillumbah Civic Centre, Tumbulgum Road, Murwillumbah

Time:

11:00am

Present:

Reg Robinson (Crabbes Creek Hall), Maree Edwards (Chillingham Hall), Steve Sweetnam (Doon Doon Hall), Helen Manning (Fernvale Hall), Janet Tkachenko (Pottsville Beach Hall), Jenny Kidd (Tumbulgum Hall), Cr Warren Polglase (Tweed Shire Council), Lisa Bailey (Tweed Shire Council) (Minutes)

Apologies:

Desiree Saunders (Doon Doon Hall), Donna Martin (Tumbulgum Hall), Liz Mioni (Piggabeen Hall), Peter Wise and Claire Masters (Limpinwood Hall), Tracey Stinson and Robyn Grigg (Tweed Shire Council)

Not in Attendance:

Crystal Creek Hall Representative

Ex-officio:

Chantelle Howse (Tweed Shire Council), Shannon Rees (Tweed Shire Council)

Guests:

Kim Wilson (Tweed Shire Council)

Minutes of Previous Meetings:

Moved: Helen Manning

Seconded: Maree Edwards

RESOLVED that the Minutes of the Community Halls Advisory Committee (CHAC) meeting held Wednesday 2 August 2017 be accepted as a true and accurate record of the proceedings of the meeting.

OUTSTANDING MATTERS REPORT:

OM1 Review of Draft Templates

The fee schedule is to be sent out to each Hall to confirm accuracy. This item is ongoing.

OM2 Terms of Reference

Refer notes of Agenda Item 3.

OM3 Volunteer Support

Addressed in Agenda Item 4. Chantelle Howse to gather information from Committee members on current practice with each committee as this will inform the nature of Council support for volunteers in future.

Receipt of Outstanding Matters Report

Moved: Jenny Kidd

Seconded: Janet Tkachenko

AGENDA ITEMS:

AI1. Kim Wilson - Update on Community Infrastructure Framework (CIF)

Kim Wilson, Community Development Officer Social Planning, attended the meeting and provided an update on the CIF project and discussed the next stages of the project.

AI2. Review of Draft Templates

This item held over until the next meeting.

AI3. Review of Terms of Reference

In relation to Clause 1.2 - Objectives it was suggested there should be some wording included regarding misconduct. This will be reviewed against the current Code of Conduct.

Action: *Shannon to review Code of Conduct to determine if any wording regarding misconduct should be included in the Terms of Reference.*

At the last meeting a motion was moved to alter the wording of the Terms of Reference to include a clause regarding non-attendance by Committee members at these meetings. This wording is now included in the Terms of Reference with endorsement to be requested by Council at its next meeting.

RECOMMENDATION:

That Council endorse the amendment to the Terms of Reference, as outlined below:

Clause 2.1 'appointed by Council' to be removed. *Each hall committee will nominate up to a maximum of two alternate delegates.*

Clause 3.1 *Should voting representatives of a participating Community Hall Committee be absent from three consecutive meetings without a reason or apologies, that Community Hall Committee will be removed from membership of the Community Halls Advisory Committee. Members will be required to attend a minimum of 50 per cent of ordinary meetings during each calendar year.*

Clause 5.3 *A quorum at any meeting of the Committee shall comprise half of the committee members plus one (1). Discussions are to continue when a quorum is not achieved and 'Notes of Meeting' are to be presented for consideration, discussion and endorsement at the next available meeting.*

[A report has been prepared for the amendments to the Terms of Reference to be considered by Council on 13 December 2017.]

AI4. Volunteering Snapshot Workshop

Chantelle Howse conducted a number of exercises with the Committee which will inform the content of the workshop. This is to be further discussed at the next meeting.

Action: *Chantelle to circulate questions to all committee members to gain further feedback.*

AI5. Upcoming Events

Pottsville Beach Hall - Fashion Parade 2 December 2017 at 2pm. \$10 entry.

Fernvale Hall - Murwillumbah Potters Christmas Sale.

Tumbulgum Hall - BBQ to open the Jetty replaced following flood damage. Will be launching the Community Calendar at this event also. Carols will be held 10 December with details to be listed on Council's 'What's On' page. Australia Day events to be held 26 January 2018 with awards and a cricket challenge.

Chillingham Hall – Reviewing and displaying historical photos, with a particular focus on 'Bush Week' events held in the past and is considering holding a similar event in the New Year.

Crabbes Creek Hall - Recently ran a 9 hole golf tournament at different homes throughout the area (each home prepared one hole). This event was very successful within the community and the committee will look at holding further events in the New Year. Games may include a local cricket match, camp oven cook off, bocce day etc. The hall is also preparing for annual New Year's Eve celebrations.

Inwards Correspondence:

Nil.

Outgoing Correspondence:

Nil.

General Business:

Nil.

6. Scheduling Next Meeting, including venue

The next meeting will be held 11:00am Wednesday 7 February 2018 at the Canvas and Kettle Meeting Room, Murwillumbah Civic Centre (venue to be confirmed).

The meeting closed at 1:05pm.

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - adopted 16 April 2015 (ECM 3635284).

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

49 [SUB-TRAG] Minutes of the Tweed Regional Gallery Advisory Committee meeting held Wednesday 15 November 2017

SUBMITTED BY: Community and Cultural Services

mhm



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.2 Places
- 3.2.2 Art Gallery - To promote awareness, enjoyment and understanding of the visual arts through collections, exhibitions, education and community programs.

ROLE: **Leader**

SUMMARY OF REPORT:

The Minutes of the Tweed Regional Gallery Advisory Committee meeting held Wednesday 15 November 2017 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Tweed Regional Gallery Advisory Committee meeting held Wednesday 15 November 2017 be received and noted.

REPORT:

The Minutes of the Tweed Regional Gallery Advisory Committee meeting held Wednesday 15 November 2017 are reproduced as follows for the information of Councillors.

Venue:

Tweed Regional Gallery

Time:

5.00pm

Present:

Cr Warren Polglase (Chair), Alan Hann (President, Friends of Tweed Regional Gallery & Margaret Olley Art Centre Inc.), Martin Sullivan, Louise Devine, Michael Rayner (Tweed Regional Gallery Foundation Ltd.), Jennifer Unwin, Robyn Grigg (Tweed Shire Council), Susi Muddiman OAM (Tweed Shire Council), Kree Harrison (Tweed Shire Council - Minutes)

Apologies:

Cr Reece Byrnes, Tracey Stinson (Tweed Shire Council) Mark Cora, Arabella Douglas Harris, Shirley Kennedy, Hobie Porter.

Minutes of Previous Meeting:

Moved: Martin Sullivan

Seconded: Louise Devine

RESOLVED that the Minutes of the Tweed Regional Gallery Advisory Committee meeting held on Wednesday, 9th August 2017 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Nil

Agenda Items:

Gallery Director's report

Susi Muddiman discussed the Director's report with the Committee:

28,500 visitors attended the Gallery during the preceding 3 month period.

Words & Pictures: David Hockney exhibition: Blue Mountains Cultural Centre attendance numbers currently lower than Tweed Regional Gallery results.

5 enthusiastic high school groups came to view *Words & Pictures: David Hockney*. It was noted that ticketing was a barrier to further school group bookings.

Louise Devine asked how it was decided which artworks were to be included in the paid exhibition. Susi Muddiman responded that artworks from John Hockney's collection were exhibited in the corridor as a 'taster' offering all visitors the opportunity to view some of the artist's work.

Louise Devine asked whether the Gallery would host an international exhibition during 2019. Susi Muddiman informed the Committee that an international exhibition was being sourced for presentation in 2019.

Susi Muddiman reported further on the Public Programs complementing the exhibition, including a ticketed, illustrated talk by the artist's brother John Hockney, which was booked out.

Visitor satisfaction: Comments collated from the visitor survey formulated for *Words & Pictures: David Hockney* showed overwhelmingly positive feedback and interest in more international exhibitions from visitors.

Education activities: Susi Muddiman reported that the Gallery's Education & Audience Development Officer, Jodi Ferrari, presents a full program of events, adding that the trained Volunteer Gallery Guides provide an excellent service to the Gallery's visitors.

Upcoming Michael Zavros book launch scheduled for Thursday 23 November at 6.00pm. This event is the Gallery's first event to utilise on-line booking facility.

A Christmas Party Morning Tea will be held for Gallery volunteers on Tuesday 28 November.

The Artist in Residence Studio is booked out during 2018.

The Gallery's Forward Plan 2018 was submitted to Create NSW in line with the funding obligations.

The Friends and Foundation held their respective Annual General Meetings during September and October 2017.

The new exhibition program brochure covering the period January - June 2018 will be issued next week.

Exhibitions to be hosted by the Gallery in 2018 were discussed with the Committee.

Curator Margaret Olley Art Centre & Collection Manager, Ingrid Hedgcock, is working on touring show for MOAC featuring artworks from the Collection.

Artist Fiona Lowry, who was evacuated during the April flood event is returning this week to complete her residency in the AIR Studio. Her outcome exhibition will be held in March 2018.

The Gallery is hoping to offer on-line entries for the *2018 Border Art Prize*.

The Gallery shop now on-line and attracting sales.

An exhibition highlighting the Gallery's 30 Year anniversary will be staged in 2018 featuring a number of acquisitions to the collection.

Louise Devine offered her congratulations to Susi Muddiman and the Gallery staff on presenting an excellent year of programs to visitors.

General Business:

Susi Muddiman spoke to the Committee's Terms of Reference in terms of supporting the Gallery's aims and objectives in relation to current plans and policies. Speaking to the Gallery's De-Accession Protocol, she spoke of the need to develop a time-tabled de-accession plan. She advised the Committee that a Valuer has been contracted to identify potential works for de-accession. Michael Rayner enquired as to whether information relating to the provenance of early acquisitions to the collection was available. Susi added that information on acquisitions from the first ten years may be difficult to source, in some cases.

Louise Devine commented that low hanging branches in the lower carpark made exiting the car park safely difficult on occasion. Susi Muddiman to action this item. Susi added that the motor to the lower car park automatic gate had been stolen during the last few days and a police report lodged.

Next Meeting:

The next meeting of the Tweed Regional Gallery Advisory Committee will be held on Wednesday 14 February 2018 at 5.00pm.

The meeting closed at 5.45pm

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Reviewed 21 August 2012.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

50 [SUB-EAC] Minutes of the Equal Access Advisory Committee Meeting held Wednesday 6 December 2017

SUBMITTED BY: Community and Cultural Services

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.1 People
- 3.1.2 Community and Cultural Development - To provide community and cultural development services to foster and improve social and cultural well-being.

ROLE: Advocate

SUMMARY OF REPORT:

The Minutes of the Equal Access Advisory Committee Meeting held Wednesday 6 December 2017 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Equal Access Advisory Committee Meeting held Wednesday 6 December 2017 be received and noted.

REPORT:

The Minutes of the Equal Access Advisory Committee Meeting held Wednesday 6 December 2017 are reproduced as follows for the information of Councillors.

Venue:

Banora Point Community Centre

Time:

10am

Present:

Prospero Aplet (Chair), Una Cowdroy, Nathan Quinell, Beverley Kelso, Milena Morrow, Suzanne Hudson (Community Representatives); Karen Collins, Chantelle Howse, Robert Noakes, Alana Brookes, Gabby Arthur (Tweed Shire Council) (Minutes)

Apologies:

Wendy Gilbert, Chris Vannucci (Alzheimer's NSW) (Community Representatives);
Cr Warren Polglase (Tweed Shire Council)

Minutes of Previous Meeting:

Moved: Beverley Kelso

Seconded: Karen Collins

RESOLVED that the Minutes of the Equal Access Advisory Committee meeting held Wednesday 18 October 2017 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Outstanding Matters Report

OM1. Future Recruitment Strategy for EAAC Members

EAAC group photograph for Council's website will be taken at the February 2018 meeting.

OM2. Addressing Attacks on Guide Dogs by Other Dogs

Karen provided an update and advised that an article and photo of Nate and his assistance dog will be printed in the Tweed Link next year. Karen will be working with Council's Communications Unit to prepare a Communications Plan.

Karen advised that Scott Green will be leaving Council on 15 December 2017. The EAAC asked that Scott be acknowledged in the Minutes for his valuable input to the Committee.

OM3. Accessible parking bay Berkleys Lane, Pottsville

Alana advised that the site audit of possible additional accessible parking in Pottsville has not yet been carried out. An update will be provided at the next meeting.

Following a request from Service NSW regarding establishing an accessible parking bay in Prospero Street, Murwillumbah South, Alana and Karen have undertaken a site inspection. The accessible parking bay may need to be in Tweed Valley Way rather than Prospero Street and may affect two of the businesses in the vicinity.

OM4. Accessible change rooms at Murwillumbah Aquatic Centre
Karen advised that she has been liaising with the Murwillumbah Aquatic Centre regarding the air conditioning issues in the accessible change rooms. The EAAC requested that a solution be discussed with the new Operations Coordinator (Joanna Hogg).

OM5. Designated Accessible Parking Bays in Murwillumbah
Alana advised that the designated accessible parking bays in the car park adjacent to the Murwillumbah Aquatic Centre have been relocated to the opposite side of the car park to improve accessibility and wayfinding.

Alana advised that the drop off zone in front of the Murwillumbah Aquatic Centre is being monitored and will be maintained.

Agenda items:

A1. NDIS roll out
Coordinator Community Services to be invited to attend the February 2018 meeting. Karen advised that Community Services are hosting monthly morning teas to inform the community of their services. Community Services have developed an Easy English language brochure and are seeking feedback from their clients.

Action: *Invitation to be sent to Coordinator Community Services (Joanne Watters) to attend February 2018 EAAC meeting.* Responsible Officer: Karen Collins.

A2. Access and Inclusion Planning (Disability Inclusion Action Plan)
Karen provided an update and advised that following her presentation to the Executive Leadership Team, a Cross-Divisional Working Group is being set up at Council which will be championed by Tracey Stinson, Director Community and Natural Resources. The working group will meet monthly until May 2018 and once the draft Plan goes on exhibition, the regularity of the meetings will be reduced. Karen provided details of the working group's representation.

A draft Community Engagement Policy is about to go on public exhibition. The community engagement plan for the next Access and Inclusion Plan will be guided by this Policy once it is adopted.

A3. Tweed Link – Access All Areas
Karen advised that over the past couple of months, there have been Tweed Link articles regarding the Festival of Belonging and Access and Inclusion Awards rather than Access All Areas themes.

A4. Access and inclusion Awards and the Festival of Belonging

Access and Inclusion Awards

EAAC members provided positive feedback on the Access and Inclusion Awards including the speakers Trevor Crosby and Dennis Smith. Milena suggested that the working group could explore opportunities to target and branch out in the future following the observation made at the Access and Inclusion Awards that 'everyone is one diagnosis away from having a disability'. Karen noted that approximately one third of nominations were repeat nominations, which is an indication that it may be time to look at other strategies for raising awareness in the broader community about the importance of inclusion. Suzi suggested

that the Business Chambers be lobbied to have a guest speaker from the disability sector at their meetings. The Planning Committee will be having its official debrief next week.

EAAC provided positive recognition regarding the film made by Tim Morrissey and Tim St Leon. The film will be used as an educational resource and is available through Council's You Tube site.

Action: *Link to film prepared by Tim Morrissey and Tim St Leon to be emailed to the EAAC members.* Responsible Officer: Karen Collins.

In February/March 2018, an evaluation of the Access and Inclusion Awards will be carried out by survey of all people involved in the Awards over the past five years. This survey was created as part of the report prepared by Southern Cross University student, Joel Jeffery.

Action: *A copy of the draft Tweed Shire Access and Inclusion Survey to be emailed to the EAAC, and to be discussed at the February 2018 EAAC meeting.* Responsible Officer: Karen Collins.

Festival of Belonging

Karen advised that the Festival of Belonging was quite successful but noted that the majority of participants were people connected to disability services and their friends. The EAAC agreed it would be good to go out to the general public and schools to attract more diversity. The Filipino dancers were very good and brought along about 20 people from their community.

Karen advised that the Planning Committee will provide a report to the February EAAC meeting.

Nate had the opportunity at both events to announce being awarded a \$13,000 grant from the AMP Tomorrow Fund to produce a cookbook and audio CD. This achievement was acknowledged by members as he was one of 45 recipients out of a pool of over 1800 applicants. Details regarding the other successful applicants and their projects are available on the 'AMP Tomorrow Makers' website.

A5. Access Funds

Karen provided an update on the Access Funds and advised that there is a rollover of approximately \$100,000. There is also funding for implementation of the plan of approximately \$47,000, together with some residual funds.

General Business:

GB1. Southern Cross University forum

Karen advised that the Southern Cross University forum was successful and the presentation was well received and raised issues that hadn't previously been considered. Karen will be following up with the Commonwealth Games to request accurate information regarding changes and disruptions to bus and pedestrian routes in the Tweed Heads area.

Alana advised that two representatives from the Commonwealth Games will be attending the next Active and Public Transport Working Group which will provide a good opportunity to raise further issues.

Chantelle also advised that she will be attending a forum with Commonwealth Games representatives.

GB2. Social Futures, Wharf Street, Tweed Heads

Karen has received an email in relation to accessible parking bays in Wharf Street, Tweed Heads adjacent to the Social Futures building that houses their Local Area Coordinators and Ability Linkers supporting the roll out of the NDIS. EAAC discussed the location and accessibility difficulties being experienced by clients to the Social Futures building.

Action: *Follow up regarding accessible parking bays adjacent to Social Futures in Wharf Street, Tweed Heads.* Responsible Officer: Alana Brookes.

Action: *Follow up with Social Futures regarding their location and accessibility issues being experienced by their clients.* Responsible Officer: Karen Collins.

GB3. Tweed Heads Library

The Tweed Heads Library is due to be reopened to the public. The Interim Occupation Certificate will be issued with some matters still to be completed including signage, accessible parking, connection between northern car park and Tweed Heads Bowls Club, low lighting outside of the building. The wayfinding has been completed inside the library.

GB4. Presentation

Karen presented her PowerPoint regarding Access and Inclusion Planning (Disability Inclusion Action Plan) which she has presented to Council staff on the new working group. Karen tabled a copy of the *Access Adelaide Guide*.

GB5. Thank You

Karen thanked the EAAC for their input and achievements throughout 2018. The EAAC also thanked Karen for her ongoing advocacy and successes.

Next Meeting:

The next meeting of the Equal Access Advisory Committee will be held 21 February 2018.

The meeting closed at 12.00pm

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Equal Access Advisory Committee adopted 12 December 2013 (ECM2847116)

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

51 [SUB-SAC] Minutes of the Sports Advisory Committee Meeting held Monday 11 December 2017

SUBMITTED BY: Recreation Services

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.2 Places
- 3.2.9 Sporting Fields - To provide a range of accessible sports facilities and major event venues to promote an active and healthy lifestyle.

ROLE: **Leader**

SUMMARY OF REPORT:

The Minutes of the Sports Advisory Committee Meeting held Monday 11 December 2017 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Sports Advisory Committee Meeting held Monday 11 December 2017 be received and noted.

REPORT:

The Minutes of the Sports Advisory Committee Meeting held Monday 11 December 2017 are reproduced as follows for the information of Councillors.

Venue:

Banora Point Community Hall

Time:

5.30pm

Present:

Cr Pryce Allsop, Matt McCann, Merve Edwards, Helen Rigney, Linton Alford, Bruce Campbell, Dion Andrews

Apologies:

Rob Nienhuis, Gillian Austin, Cr Warren Polglase

Minutes of Previous Meeting:

Moved: Dion Andrews

Seconded: Helen Rigney

RESOLVED that the Minutes of the Sports Advisory Committee meeting held Monday 9 October 2017 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Assets Reserves Trust Fund

Murwillumbah Cricket Club

An application has been received from Murwillumbah Cricket Club for a project to replace four existing dilapidated practice wicket facility at an estimated cost of \$35,975. The club has sourced \$8,000 from Cricket NSW, \$10,000 from NSW Sport & Recreation and the club is contributing \$2,975 and are seeking a further \$10,000 contribution from Councils Sports Asset Reserves Trust Fund to undertake the project.

Tweed United Football Club

Still awaiting requested information for development plan.

The committee is still waiting on more detailed information from the club relating to their request for \$3000 from the Assets Reserves Trust Fund to undertake a Strategic Plan.

Action: *Matt McCann to contact the club early in 2018 to follow up on the information requested.*

Agenda Items:

1. Terranora Tennis Club displays resilience after fire destroys clubhouse (Dion Andrews)

Dion Andrews advised the committee that the Police investigation established that the fire was a result of theft and arson. Understandably, club members were extremely

disappointed about the situation but have pulled together to reinstate the building. The club is working with their insurer who is still evaluating the full extent of the damage ie. condition of the infrastructure under the slab. The club is organising upcoming fundraising events including a river cruise, golf day and a gala night which will be open to the general community to support the club re-establish itself after the fire.

2. Seagulls Rugby League Club CEO - Scott Clark announces his resignation

The committee acknowledged Scott Clark's resignation and are hoping that the incoming CEO adopts the same strategic direction and community spirit that Scott displayed during his tenure with the club.

3. Seagulls Rugby League Club Strategic Plan completed

A copy of the strategic plan has been supplied to the committee from Seagulls Rugby League Football Club as a condition of their receiving funds from the Asset Reserves Trust Fund and in addition they will provide an operational plan which has been established to guide the club into the future. Committee members recognise the copy of the plan is not for public display.

4. Black Rocks Sports Field Fun Day - April 2018

A sub-committee has been formed to organise the Black Rocks Sports Field Fun Day which was endorsed by the Sports Advisory Committee (SAC) at the meeting held on Monday 9 October 2017. The sub-committee is made up of three representatives, Dion Andrews from Councils Sports Advisory Committee, Penny Hocking – President of Pottsville Community Association and Anne Maree a Pottsville Community Association member.

Regrettably this was not in the 9 October 2017 SAC meeting minutes, therefore, is being raised and minuted here. Please refer to the minutes attached from the first Black Rocks Sports Field Sub-committee meeting conducted on 5 December 2017.

5. Government Grants and TSC Projects ie. Barry Shephard Field Lights

The committee discussed and welcomed the \$100,000 contribution from State Member Geoff Provest and NSW Government's Infrastructure Grants program towards sports field lighting at Barry Shephard Field. The committee was extremely grateful for the funding and believe this will ignite usage of this facility for both senior and junior AFL in the Tweed.

The Kingscliff Sports Field Masterplan was also discussed at the meeting. Matt McCann will coordinate a meeting in the New Year with all clubs/stakeholders to provide a project progression report.

6. Sports field provision Tweed Shire Northern Region

The Sports Field Strategy commissioned by Ross Planning dated 2014 identified the north coast precinct with its current large population and expected population growth as having existing shortfall of sports fields. Council will explore opportunities in identifying potential properties that are suitable which could be considered for future purpose to meet the shortfall.

7. Assets Reserves Trust Fund - Murwillumbah Cricket Club

An application was received from Murwillumbah Cricket Club for a project to replace an existing four dilapidated practice wicket facility at an estimated cost of \$35,975. The club has sourced \$8,000 from Cricket NSW, \$10,000 from NSW Sport & Recreation and the club is contributing \$2,975 and are seeking a further \$10,000 contribution from Council's Sports Asset Reserves Trust Fund to undertake the project.

This facility is within walking distance from Murwillumbah CBD and a number of Public, Catholic and Private Primary and Secondary Schools. The club was hoping an upgrade to this facility would help assist in increasing participation numbers. The practice nets have been used by Tweed District and Northern Rivers Cricket Associations for training and development programs for junior and senior players over the past 15 years.

The committee would like to see a breakdown of the scope of works including quotations from recognised industry providers and how many registered members the club has for 2017/18 season. Matt McCann will email the club requesting these details. Consideration will be given towards the support of this project at the next committee meeting in 2018.

8. Kingscliff Triathlon Petition

A survey from the local Kingscliff businesses (DWS4959234 dated 11 December 2017) was received by Council raising concerns over the recent Kingscliff Triathlon event held 3 December 2017 was presented to the committee for comment. The concerns raised were the interruption to business and income. The committee noted the comments and were informed that Council's Event Coordinator Kerry McConnell will be meeting with Michael Crawley from NXports Community Foundation Limited to review this year's event. The concerns raised by businesses will be discussed.

9. Happy and Safe Christmas/New Year period to Tweed sporting community

The committee and their respective sporting organisations were wished a Merry Christmas and safe New Year.

General Business:

Nil

Next Meeting:

The next meeting of the Sports Advisory Committee will be held Monday 12 February 2018.

The meeting closed at 7.05pm.

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

Nil.

Attachment 1 - Sub Committee Meeting Minutes

**Black Rocks Sports Field Sports Fun Day
Sub Committee Meeting 05th December 2017**

- Saturday 3rd March 2018, 10am-3pm;
- Date is to reflect the desire to hold the event as close to change over between summer/winter sports. Original desire was to have it prior to the changeover but time doesn't permit this. Date reflects the early changeover and is prior to sports commencing training sessions. Pottsville markets are held 1st and 3rd Sunday of the month and we don't want to coincide with those dates;
- Food and drinks to be coordinated by PCA in collaboration with the Men's Shed and Lions Club – if they're interested; at their own cost to raise funds for their respective groups
- Sporting clubs are to be invited and to bring their own marquee, tables and we will be asking each club to organise interactive activities/games for their relevant sport to encourage an atmosphere of activity and promote the sports;
- A local sporting personality/ies will be invited to attend to help promote the day (Matt Abood, Gold Coast Sun team member or the like);
- A number of local sporting people have been spoken to about the idea and are all supportive of the concept and the proposed date;
- Both local schools will be invited to participate – Pottsville Beach Public and St Ambrose;
- Promotion will be via the letterbox drop flyer, posters for local businesses, on social media and with all participating sports through their channels, and Tweed Shire Council media and online presence if possible;
- Penny will draft a communication timeline and letter of invitation to sporting organisations;
- Dion to investigate if Council has a list of sporting organisations within the Tweed LGA
- Anne-Marie and Penny to investigate transport shuttle options with local clubs;
- PLI Insurance for the day, and the required paperwork, is to be confirmed with Matt McCann (Dion);
- Parking will be on the eastern side of the Field, with Northern end of Field to be avoided due to Koala presence; volunteers will be sourced to man and direct parking
- Dion to obtain approval regarding a band/music
- Penny and Anne-Marie to identify contacts for sporting organisations in lieu of TSC not having

Tennis	Soccer	AFL	ARU
NRL	Swimming	Hockey	Netball
Basketball	Golf	Baseball	Softball
Surfing	Yoga	Pilates	Martial Arts
Tai Chi	Skating	Bowls	Croquet
Little Athletics	Touch	Nippers	Walking Groups
Running Groups	Fishing	Strength & Conditioning	

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - adopted 21 August 2012 (ECM2846627).

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:
Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

52 [SUB-TCKMC] Minutes of the Tweed Coast Koala Management Committee Meeting held Tuesday 12 December 2017

SUBMITTED BY: Natural Resource Management

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.1 Natural Resource Management
- 1.1.1 Biodiversity Management - To protect and manage the environment and natural beauty of the Tweed for current and future generations.

ROLE: **Leader**

SUMMARY OF REPORT:

The Minutes of the Tweed Coast Koala Management Committee Meeting held Tuesday 12 December 2017 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Tweed Coast Koala Management Committee Meeting held Tuesday 12 December 2017 be received and noted.

REPORT:

The Minutes of the Tweed Coast Koala Management Committee Meeting held Tuesday 12 December 2017 are reproduced as follows for the information of Councillors.

Venue:

Canvas and Kettle Meeting Room, Murwillumbah Civic and Cultural Centre

Time:

2:00 pm

Present:

Cr Katie Milne, Lorraine Vass, Jenny Hayes, Rhonda James, David Norris, Bill Hoskins, Marama Hopkins, Scott Hetherington, Tanya Fountain, Mark Kingston, Tracey Stinson (part)

Apologies: Clive McAlpine

Minutes of Previous Meeting:

Moved: Lorraine Vass

Seconded: Jenny Hayes

RESOLVED that the Minutes of the Tweed Coast Koala Management Committee meeting held Tuesday 5 September 2017 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Items from 26 July 2017

A6. Pacific Motorway Pottsville fauna overpass

Prepare RMS letter regarding Pacific Highway koala protection measures. Resolution of Council (21 September 2017) subsequent to July Koala Management Committee (KMC) meeting. Letter has been prepared and sent. No response received as yet.

General Business

Distribute UAV final report. Complete - attached to draft agenda 2 November 2017.

Item from 5 September 2017

1. Kings Forest – EPBC approval (Mark)

Write to Minister Upton regarding Tweed Coast koala recovery including significance of Kings Forest. Resolution of Council (26 October 2017) subsequent to September KMC meeting. Letter has been prepared and sent. No response as yet.

3. Tweed Brunswick endangered population and recovery planning (Scott)

Tweed Brunswick endangered population recovery planning – seek to have KPOM approved under Part 4 of the Biodiversity Conservation Act 2016 as a Biodiversity Conservation Program. Resolution of Council (26 October 2017) subsequent to September KMC meeting. In progress – see agenda item 1.

Agenda Items:

1. Update on strategic planning and policy issues (Mark)
 - *West Kingscliff* - Mark provided a summary of the recent Council report (7 December 2017) regarding E zones and strategic planning for West Kingscliff. Council unanimously resolved to consider the subject of the report as an important matter of public interest that requires a strategic resolution. A collaborative approach to further discussions including with regard to the proposed development footprint, any resulting offset package and the retention of existing environmental protection zones was also adopted by Council.
 - *Kings Forest* – Council submission made in July 2017 on draft koala plan of management. The proponent's response to submissions is available on NSW Planning & Environment Major Projects website. The documents appear to have responded to many of the issues raised, but are yet to be reviewed in detail.

Action: *Scott to distribute link to NSW Planning & Environment webpage where the response to submission is published.*

 - *Draft DCP A19 Biodiversity and Habitat Management* - public exhibition of the draft plan has recently finished. Initial consideration of submissions indicates general community support, with some issues of concern identified in two submissions. The submissions analysis, further consideration of the new biodiversity and land management legislation and any required changes will be completed to enable the plan to be presented to Council for adoption in February 2018.
 - *Biodiversity Conservation Act* - Mark has requested advice from NSW OEH regarding the potential to list the Tweed Coast koala population as a serious and irreversible impact (SAIL) entity. The principles for determining SAIL are in accordance with the endangered population criteria and the Tweed Coast KPOM could be applied to define impact thresholds. A response from OEH has not yet been received and careful consideration will need to be given to potential perverse outcomes associated with the offsets scheme.
 - *SEPP (Vegetation in Non-Rural Areas)* - potentially allows vegetation removal not associated with development in non-rural areas. The Native Vegetation Panel is the consent authority if thresholds are triggered, however, may delegate the role to Council. Consideration is being given to recommending that Council request delegation under the SEPP. Existing DCP A16 requires revision to ensure consistency with the new SEPP and biodiversity and land management legislation.
1. *KPOM implementation actions – review summary table and discuss issues by exception or as requested.*
 - Tanya provided an update on restoration actions, including habitat restoration mapping, and the current working habitat restoration program. The Environmental Trust grant for Pottsville Wetland is ongoing, including tree planting and habitat restoration works. Additional funding received through the federal government *Improving Your Local Parks and Environment* program is now actively underway. Current actions include completing site selection (6000 of 8000 trees allocated),

drafting site action plans and contractor engagement for implementation. NSW OEH has also provided further funding through the *Saving our Species* program for planting of additional koala habitat.

- Tanya noted that engaging landholders east of the highway is a task that requires considerable investment of time and the ongoing consideration of new approaches. Jenny Hayes noted that the recent articles in the Tweed Link highlighting landholder participation were received well and generated interest.
- Wildlife Protection Area policy was adopted at the November 2017 Council meeting. The proposed next stage is to declare a number of Wildlife Protection Areas, starting with bushland reserves where dogs are already prohibited.
- Vertebrate pest management is ongoing on council bushland reserves and in collaboration with some private landholders. Includes ongoing remote camera monitoring that has reported limited wild dog activity over the recent twelve months. Baiting and targeted trapping is currently focusing on fox control.
- Scott provided an overview of the fieldwork and public survey which are underway through the Australian Research Council Linkage grant project. Field work is to commence shortly throughout Tweed Shire. The survey is now live on www.northcoastkoala.net and being promoted throughout the partner councils (Tweed, Byron, Ballina and Lismore) and Friends of the Koala.

2. Koala sightings portal/database demonstration

- Marama provided a demonstration of how to add, view and analyse data for the koala sightings database which is now functional. More than 80 sightings have been added since June, including records received via Friends of the Koala for this period. The database is most easily accessed via www.tweed.nsw.gov.au/koalas.

3. Black Rocks sports day

- Tweed Shire Council's Sports Advisory Committee (SAC) have proposed a sports fun day at the Black Rocks sports field to promote the availability of the site for sport and the significant natural values of the surrounding bushland reserve.
- Planning to date for the event has involved presentation of the concept to the Pottsville Community Association, the establishment of a sub-committee and a proposal to hold the event in March or April to coincide with the changeover from summer to winter sports.
- Discussion of the proposal involved consideration of issues including timing, target audience, consultation, location, education/engagement opportunities and the approval process as per the operational plan for the Black Rocks Precinct.

ACTION: *Scott to request to meet with the proposed event planning sub-committee and establish a collaborative approach to the event planning, including to ensure consistency with the operational plan.*

2. *Dunloe Park master plan*

- Bill requested an update on Dunloe Park planning process.
- Scott responded that there is no further update available at this time. The next expected step will be public exhibition of a concept master plan by the development proponents. The KMC will have the opportunity to comment on the concept master plan at this stage and also during the subsequent public exhibition of any future planning proposal to rezone the site. It was also noted that due to the significance of this location with regard to koala conservation and recovery, that opportunities for the KMC to consult directly with the development proponent/s would be beneficial.

Next Meeting:

ACTION: Scott to circulate a proposed schedule of meetings for 2018 and seek any feedback from the committee.

The meeting closed at 5:05pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference – adopted 17 November 2017 (ECM4316512)

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Empower-We will give the community greater opportunity to participate in a transparent flow of information and feedback to Councillors who have been empowered as the Community representatives to make decisions in accordance with the Local Government Act 1993.

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.

Inform - We will keep you informed.

The function of the Tweed Coast Koala Management Committee is to ensure broad community representation and inter-agency involvement in the processes of implementation of the KPOM.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

53 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 14 December 2017

SUBMITTED BY: Roads and Stormwater

mhm



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.3 Moving around
- 3.3.4 Roads, Traffic, Footpaths and Cycleways - To provide and maintain a network of roads and bridges, footpaths and cycleways that is safe, efficient and accessible.

ROLE: Advocate

SUMMARY OF REPORT:

The Minutes of the Local Traffic Committee Meeting held 14 December 2017 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the Local Traffic Committee Meeting held 14 December 2017 be received and noted; and
2. The Executive Leadership Team's recommendations be adopted as follows:

SECTION A - FORMAL ITEMS SECTION - DELEGATIONS FOR REGULATORY DEVICES FOR ENDORSEMENT BY COUNCIL:

A1 [LTC] Tweed Valley Banana Festival 24 and 25 August 2018

That the temporary road closures on 24 and 25 August 2018 associated with the Tweed Valley Banana Festival be supported subject to standard conditions.

That the proposed Tweed Valley Banana Festival on 24 and 25 August 2018 be supported subject to standard conditions of approval, NSW Police approval being obtained, community and business consultation and advertising in the Tweed Link.

1. ***NSW Police approval being obtained.***
2. ***Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.***
3. ***Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.***
4. ***The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.***
5. ***Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.***
6. ***Adequate public liability insurance being held by the event organiser.***
7. ***All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.***
8. ***Consultation with emergency services and any identified issues addressed.***
9. ***Arrangements made for private property access and egress affected by the event.***
10. ***That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.***
11. ***The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.***
12. ***The event be conducted and signposted (in accordance with RMS Guide to Traffic Control at Worksites) and a copy of this plan be submitted to Council at least 2 weeks prior to the event.***
13. ***A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.***

A2 [LTC] Murwillumbah Cycle Club Events - 2018

That the proposed Murwillumbah Cycle Club Events - 2018 be supported, subject to:

1. ***NSW Police approval being obtained.***
2. ***Endorsement of the events by Cycling Queensland.***
3. ***Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.***
4. ***Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents for the Tyalgum Cup and Lundberg Drive races.***
5. ***The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the commencement of the season and one week before the Tyalgum Cup and Lundberg Drive races. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route***

- arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.*
6. *Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.*
 7. *Adequate public liability insurance being held by the event organiser.*
 8. *All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.*
 9. *Consultation with emergency services and any identified issues addressed.*
 10. *Arrangements made for private property access and egress affected by the events.*
 11. *That the applicant organise for the events to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the events' details.*
 12. *The submission and approval of a Community Event application/Major Event application for the Tyalgum Cup races and Lundberg Drive races and compliance with any conditions imposed therein.*
 13. *The event be conducted and signposted (where applicable this supersedes signposting in accordance with RMS Guide to Traffic Control at Worksites) in accordance with the current RMS Guidelines for Bicycle Road Races to ensure consistency across the network.*
 14. *A report be provided to Council, by the event organiser, within 2 weeks of conduct of the Tyalgum Cup races and Lundberg Drive races, showing compliance with the above conditions.*

A3 [LTC] Stuart Street, Tweed Heads

That yellow No Stopping lines be installed on Stuart Street within 10 m of Navigation Lane and continue into Navigation Lane on both sides to the entrance of the Ultima car park.

A4 [LTC] Tweed Coast Holiday Parks Kingscliff Triathlon 18 March 2018

That the conduct of the Tweed Coast Holiday Parks Kingscliff Triathlon Sunday 18 March 2018 be supported subject to Standard Conditions.

1. *NSW Police approval being obtained.*
2. *Endorsement of the event by Triathlon NSW.*
3. *Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.*
4. *Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.*
5. *The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.*

6. ***Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.***
7. ***Adequate public liability insurance being held by the event organiser.***
8. ***All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.***
9. ***Consultation with emergency services and any identified issues addressed.***
10. ***Arrangements made for private property access and egress affected by the event.***
11. ***That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.***
12. ***The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.***
13. ***The event be conducted and signposted (where applicable this supersedes signposting in accordance with RMS Guide to Traffic Control at Worksites) in accordance with the current RMS Guidelines for Bicycle Road Races to ensure consistency across the network.***
14. ***A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.***
15. ***A review is conducted of the triathlon course, by the event organiser in consultation with Police and Council officers, to reduce the impact on the Kingscliff business community.***

A5 [LTC] Wharf Street, Tweed Heads

That the existing "No Parking, Taxi Limousine Excepted" signs adjacent to Twin Towns Services Club on Wharf Street be replaced with "No Parking" and an additional supplementary sign be installed "Drop Off / Pick Up Only".

REPORT:

The Minutes of the Local Traffic Committee Meeting held 14 December 2017 are reproduced as follows for the information of Councillors.

VENUE:

Mt Warning Meeting Room

TIME:

Commencing at 9.30am

PRESENT:

Committee Members: Mr Alan Eichmann, Roads and Maritime Services of NSW, Snr Constable David Brigg, NSW Police, Mr Col Brooks on behalf of Mr Thomas George MP, Member for Lismore, Jennifer Brinsmead on behalf of Mr Geoff Provest MP, Member for Tweed.

Informal: Mr Ray Clark (Chairman), Ms Alana Brooks, Ms Judith Finch (Minutes).

APOLOGIES:

Cr James Owen, Cr Pryce Allsop (alternate member), Mr Thomas George MP, Member for Lismore, Mr Nick Tzannes, Mr Geoff Provest MP, Member for Tweed, Mr Rod Bates.

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

MIN1 [LTC] Confirmation of Previous Minutes Meeting held 28 November 2017

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 28 November 2017 be adopted as a true and accurate record of proceedings of that meeting.

SCHEDULE OF OUTSTANDING RESOLUTIONS

SCH1 [LTC-SOR] Schedule of Outstanding Resolutions 14 December 2017

From Meeting held 28 November 2017

[LTC] Boyd Street, Tweed Heads (Item A6)

ORIGIN:

Roads & Stormwater

FILE NO: ECM 4406755; Traffic - Committee; Pedestrian Safety; Local Area Traffic Management; Boyd Street, Tweed Heads

SUMMARY OF REPORT:

At the Local Traffic Committee Meeting on 8 September 2016 the Committee supported upgrading the existing kerb extensions on Boyd Street to a refuge, to allow pedestrians to cross in two stages. This proposed upgrade would create a slow point in the traffic to assist

pedestrians but will reduce on street parking. Approximately six spaces would need to be removed to allow sufficient sight distance at the crossing point.

RECOMMENDATION TO COUNCIL:

That the installation of a refuge and slow point on Boyd Street, near the Tweed Day Surgery be deferred subject to community consultation with adjacent residents and business operators.

RMS Comments - Meeting held 17 August 2017:

Consideration to be given to allow cyclists safe passage in travel lanes with the proposed refuge. Has cyclists been given thought? Width?

That this item be removed from Outstanding Resolutions as the Committee considered installing a refuge in this area would result in an unacceptable loss of parking.

The Chairperson requested that this item be removed from Schedule of Outstanding Resolutions.

Current Status: *That Item A6 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 28 November 2017 be removed from the list of Outstanding Resolutions.*

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 16 February 2017 (Item A6).

From Meeting held 28 November 2017

[LTC] Berkleys Lane, Pottsville

ORIGIN:

Roads & Stormwater

FILE NO: ECM 4616799; Traffic - Committee; Traffic - Parking Zones; Disability/Accessibility Issues; Berkleys Lane

SUMMARY OF REPORT:

Request received for a designated disabled car parking space outside the ATM on Berkleys Lane, Pottsville.

Currently an accessible parking space is provided in the car park close to Coronation Avenue and this request is to remove that space and install it adjacent to the newsagency.

RECOMMENDATION TO COUNCIL:

That:

1. The installation of an accessible car space in the Berkleys Lane carpark, adjacent to the newsagency is supported, subject to funding and support of the adjacent businesses.

2. The existing accessible car space in the Berkleys Lane carpark adjacent to Coronation Avenue be removed, subject to Item 1 above.

At the Council meeting held 17 August 2017 an amendment was made and carried to Item 2 of the Recommendation which became:

2. Consultation be held with Council's Access and Inclusion Committee and Pottsville Community Association to seek their concurrence for the removal of the existing accessible car space in the Berkleys Lane carpark adjacent to Coronation Avenue.

Since then a further email (dated 7 September 2017) has been received from the Pottsville Community Association advising that:

"I am to understand Council has approved the addition of a parking spot on the shop side of Berkley's lane. Previously we had identified out the front of the newsagency as a suitable location, however at our August meeting the membership clarified it would be better suited for ease of access and less congestion to be at the parking bay area closest to Coronation Avenue, on the Berkley's Lane shop side.

Unfortunately it appears our previous committee incorrectly advised this additional disabled parking space was to replace the current parking space on the Ambrose Brown Oval side of Berkley's Lane. The membership discussed this error in our August meeting and agreed the Association write to you to clarify that our intention was to maintain the Ambrose Brown Oval side disabled parking bay AND request an additional disabled parking space as per details above. So in effect there would be two disabled parking bay spaces in Berkley Lane due to the need, and lack of suitable spaces nearby.

I apologise for this miscommunication and await your advice on the basis of this email."

From meeting held 19 October 2017:

The Road Safety Officer advised that this item and the similar request to reallocate the accessible parking bay in Murwillumbah Street was discussed at the Equal Access Advisory Committee meeting held on 18 October 2017. The members advised that a review of all CBD accessible parking should be carried out and that individual spaces should remain in place until the review has been completed.

Current Status: *That Item A4 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 28 November 2017 remain on the list of Outstanding Resolutions.*

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 21 September 2017 (Item A4).

BUSINESS ARISING

Nil.

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES - MURWILLUMBAH

A1 [LTC] Tweed Valley Banana Festival 24 and 25 August 2018

ORIGIN:

Roads & Stormwater

FILE NO: ECM 4942994; Traffic - Committee; Festivals/Events - Tweed Valley Banana Festival; Knox Park; Car Parks - Murwillumbah; Nullum Street; Wollumbin Street; Commercial Road; Murwillumbah Street; Queensland Road; Queen Street; Brisbane Street

SUMMARY OF REPORT:

Request received for:

1. Temporary road closure of Murwillumbah Street from Brisbane Street to Wharf Street at the clock on the corner of Queen Street on Friday 24 August from 17:30 to 21:30 for the 'Friday Night down the Street' event including food trucks, music entertainment on stage, food vendors/markets/school stalls, seated areas for eating and possible small amusement rides.

All parking will utilise the existing public parking spaces, including the multi-level car park and Knox Park.

2. Temporary road closure of Knox Park, including the car park for the Tweed Valley Banana Festival Crowning Event, market, food and school stalls, live entertainment, small amusement rides, displays from vintage car clubs and motorcycle groups. Closure time is on Saturday 25 August 2018 from 06:00 to 18:00. Barricading of required car parking spaces is requested from 06:00 to 18:00.

The Street Parade is scheduled to take place on the following roads:

Nullum Street
Wollumbin Street
Commercial Road
Murwillumbah Street
Queensland Road

RECOMMENDATION TO COUNCIL:

That the temporary road closures on 24 and 25 August 2018 associated with the Tweed Valley Banana Festival be supported subject to standard conditions.

That the proposed Tweed Valley Banana Festival on 24 and 25 August 2018 be supported subject to standard conditions of approval, NSW Police approval being obtained, community and business consultation and advertising in the Tweed Link.

1. NSW Police approval being obtained.
2. Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.
3. Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.
4. The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.
5. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.
6. Adequate public liability insurance being held by the event organiser.
7. All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.
8. Consultation with emergency services and any identified issues addressed.
9. Arrangements made for private property access and egress affected by the event.
10. That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.
11. The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.
12. The event be conducted and signposted (in accordance with RMS Guide to Traffic Control at Worksites) and a copy of this plan be submitted to Council at least 2 weeks prior to the event.
13. A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.

FOR VOTE - Mr Alan Eichmann, RMS, Mr Col Brooks on behalf of Mr Thomas George, MP Member for Lismore, Mr Ray Clark, TSC, Snr Constable David Brigg.

A2 [LTC] Murwillumbah Cycle Club Events - 2018

ORIGIN:
Roads & Stormwater

FILE NO: ECM 4925540; Traffic - Committee; Festivals / Events - Other; Bicycle Matters - General; Parks - Pat Smith Park; Community Events on Council Administered Land

SUMMARY OF REPORT:

The Murwillumbah Cycle Club has advised that it is applying for permission to use Council roads for the upcoming 2018 season extending from 17 February to 29 September 2018.

The events are scheduled as follows:

- Murwillumbah Cycle Club Weekly Program of road racing events between February and September 2018. The majority of events are conducted from Pat Smith Park on Dulguigan Road, with two events being conducted from Tyalgum (The Tyalgum Cup) on 9 June and a club level event on 2 June.
- CC Racing Lundberg Drive - weekly from 17 February to 29 September 2018.
- CC Racing from Tweed Valley Way, Mooball - weekly from 17 February to 29 September 2018.
- CC Racing from Pat Smith Park - weekly from 17 February to 29 September 2018.

RECOMMENDATION TO COUNCIL:

That the proposed Murwillumbah Cycle Club Events - 2018 be supported, subject to:

1. NSW Police approval being obtained.
2. Endorsement of the events by Cycling Queensland.
3. Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.
4. Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents for the Tyalgum Cup and Lundberg Drive races.
5. The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the commencement of the season and one week before the Tyalgum Cup and Lundberg Drive races. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.
6. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.
7. Adequate public liability insurance being held by the event organiser.
8. All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.
9. Consultation with emergency services and any identified issues addressed.
10. Arrangements made for private property access and egress affected by the events.
11. That the applicant organise for the events to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the events' details.
12. The submission and approval of a Community Event application/Major Event application for the Tyalgum Cup races and Lundberg Drive races and compliance with any conditions imposed therein.
13. The event be conducted and signposted (where applicable this supersedes signposting in accordance with RMS Guide to Traffic Control at Worksites) in accordance with the current RMS Guidelines for Bicycle Road Races to ensure consistency across the network.
14. A report be provided to Council, by the event organiser, within 2 weeks of conduct of the Tyalgum Cup races and Lundberg Drive races, showing compliance with the above conditions.

FOR VOTE - Mr Alan Eichmann, RMS, Mr Col Brooks on behalf of Mr Thomas George, MP Member for Lismore, Snr Constable David Brigg, NSW Police, Mr Ray Clark, TSC, Jennifer Brinsmead on behalf of Mr Geoff Provest, MP Member for Tweed.

DELEGATIONS FOR REGULATORY DEVICES - TWEED HEADS

A3 [LTC] Stuart Street, Tweed Heads

Mr Ray Clark, Traffic Engineer, declared a Non-Significant, Non-Pecuniary Interest in this Item A3. The nature of the interest is that Mr Clark has a relative who own a business at that locality. Mr Ray Clark, will manage the Interest by remaining in the Mt Warning Room for the discussion and voting on the merits of the matter.

ORIGIN:

Roads & Stormwater

FILE NO: ECM 4924040; Traffic - Committee; Linemarking; Safety; Stuart Street

SUMMARY OF REPORT:

Request for line marking on both sides of laneway to 20 Stuart Street, Tweed Heads and that a "no parking" sign be installed.

Observations are that during school pick up times motorists are parking on Navigation Lane within 10m of Stuart Street which also obstructs the pedestrian footpath. Whilst this parking problem is contrary to the NSW Road Rules it is considered that reinforcing the parking prohibition by installing yellow No Stopping lines within 10m of the intersection would reinforce this to motorists.

RECOMMENDATION TO COUNCIL:

That yellow No Stopping lines be installed on Stuart Street within 10 m of Navigation Lane and continue into Navigation Lane on both sides to the entrance of the Ultima car park.

FOR VOTE - Mr Alan Eichmann, RMS, Snr Constable David Brigg, NSW Police, Jennifer Brinsmead on behalf of Mr Geoff Provest MP, Member for Tweed, Mr Ray Clark, TSC

A4 [LTC] Tweed Coast Holiday Parks Kingscliff Triathlon 18 March 2018

ORIGIN:

Roads & Stormwater

FILE NO: ECM 4938825; Traffic - Committee; Festivals/Events; Parks - Faulks; Jack Julius; Rotary Lions; Jack Bayliss; Ed Parker; Sutherland Point; Marine Parade, Wommin Bay Road; Chinderah Road; Chinderah Bay Drive; Moss Street; Sutherland Street; Casuarina Way; Point Break Circuit

SUMMARY OF REPORT:

Request received for temporary road closures and major community event for the Tweed Coast Holiday Parks Kingscliff Triathlon Sunday 18 March 2018.

Hours of operation will be:

- Friday 16 March 10.00am to 5.00pm - Deliveries of resources
- Saturday 17 March 7.00am to 5.00pm (set up and registration 7.00am to 5.00pm)
- Sunday 18 March 4.00am to 3.00pm (set up and triathlon from 4.00am to 3.00pm and commentator use of PA from 6.15am to 1.30pm)

This event would be the 17th event. The most recent occurred on 3 December 2017.

The respective start and finish locations will utilise banners and corflute signage to instruct participants. Signage will be installed normally on the Saturday and removed by Sunday. The Road Closed notification banner will be installed approximately 7 days prior to the event.

Affected roads are Marine Parade, Wommin Bay Road, Chinderah Road, Chinderah Bay Drive from Jenner's corner to the southern dead end, Moss Street, Sutherland Street from Moss Street to Casuarina Way to roundabout on Point Break Circuit.

Major parking bases are located north of the Bowls Club (reserve), St Anthony's School, in creek reserves at Jack Julius Park, Ed Parker Rotary Park, on the foreshore. A car parking captain will be appointed by NXsports and he/she will manage car parking and be supported by volunteers from the local community.

Electronic community notification will be:

- Promoted in the media
- Electronic direct mail 6 months prior to event to course community
- Regular news releases to local papers starting 3 months out
- Special Event Notices go into the Tweed Link 2 weeks prior to event
- Promotional letterbox drop to all local residents and businesses affected in order to engage the community and gain their support - mid February
- Letterbox drop to residents and businesses affected 2 weeks prior to event
- Resident will have access to the motorbike escort service for urgent entry/exit on routes

All complaints will be centrally compiled and co-ordinated through the Race Director or the Event Manager and tasked to Police, Volunteers, etc.

The applicant has advised that a report on the December 2017 triathlon will be supplied for the review of the Committee.

The Chairperson advised that a petition has been received by Council to consider moving the event to lessen the impact on businesses.

RECOMMENDATION TO COUNCIL:

That the conduct of the Tweed Coast Holiday Parks Kingscliff Triathlon Sunday 18 March 2018 be supported subject to Standard Conditions.

1. NSW Police approval being obtained.

2. Endorsement of the event by Triathlon NSW.
3. Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.
4. Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.
5. The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.
6. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.
7. Adequate public liability insurance being held by the event organiser.
8. All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.
9. Consultation with emergency services and any identified issues addressed.
10. Arrangements made for private property access and egress affected by the event.
11. That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.
12. The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.
13. The event be conducted and signposted (where applicable this supersedes signposting in accordance with RMS Guide to Traffic Control at Worksites) in accordance with the current RMS Guidelines for Bicycle Road Races to ensure consistency across the network.
14. A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.
15. A review is conducted of the triathlon course, by the event organiser in consultation with Police and Council officers, to reduce the impact on the Kingscliff business community.

FOR VOTE - Mr Alan Eichmann, RMS, Snr Constable David Brigg, NSW Police, Jennifer Brinsmead on behalf of Mr Geoff Provest MP, Member for Tweed, Mr Ray Clark, TSC

A5 [LTC] Wharf Street, Tweed Heads

ORIGIN:
Roads & Stormwater

FILE NO: ECM 4927585; Traffic - Committee; Parking Zones; Pedestrian Crossings;
Pedestrian Safety; Boundary Street; Wharf Street

SUMMARY OF REPORT:

Request received for warning light from Boundary Street and Wharf Street merge alerting drivers to the pedestrian crossing ahead on Wharf Street due to near misses of hitting pedestrians.

Request received to change the current "No Parking, Taxi Limousine Excepted" sign outside Twin Towns Services Club on Wharf Street, Tweed Heads to "Drop Off Zone 2 Minutes Parking".

It is noted that the pedestrian crossing is located approximately 100m from the merging movement and that drivers' attention should be focussed on the road ahead when approaching the pedestrian crossing.

RECOMMENDATION TO COUNCIL:

That the existing "No Parking, Taxi Limousine Excepted" signs adjacent to Twin Towns Services Club on Wharf Street be replaced with "No Parking" and an additional supplementary sign be installed "Drop Off / Pick Up Only".

FOR VOTE - Mr Alan Eichmann, RMS, Snr Constable David Brigg, NSW Police, Jennifer Brinsmead on behalf of Mr Geoff Provest MP, Member for Tweed, Mr Ray Clark, TSC

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE - MURWILLUMBAH

B1 [LTC] Riverview and Wollumbin Streets, Murwillumbah

ORIGIN:

Roads & Stormwater

FILE NO: ECM 4897584; 4897526; Traffic - Committee, Linemarking, Safety; Riverview Street; Wollumbin Street; Brisbane Street; Murwillumbah Street

SUMMARY OF REPORT:

Request received for Council to clarify situation at intersection of Riverview Street and Wollumbin Street, Murwillumbah.

Council's Road Safety Officer has asked this item be discussed at the Local Traffic Committee meeting to consider linemarking at this intersection.

The meeting noted that vehicles are permitted to turn left on a single lane road when there is sufficient room to do so whilst a vehicle is turning right.

COMMITTEE ADVICE:

That as this item has been previously discussed at the LTC several years ago it was determined that there was insufficient width to install 2 lanes at this intersection.

B2 [LTC] Numinbah Road, Crystal Creek

ORIGIN:

Roads & Stormwater

FILE NO: ECM 4915169; Traffic - Committee; Speed Zones; Numinbah Road

SUMMARY OF REPORT:

Petition received to reduce the speed limit along Numinbah Road, Crystal Creek due to excessive speeding of vehicles. This issue has also been received by the Roads & Maritime Services (RMS), who is the authority on speed limits in NSW.

The item is tabled at this meeting for general discussion. The Committee considered that the existing speed limit is suitable and a review to reduce the limit is not supported. Police advise that this road is regularly included in speed enforcement.

COMMITTEE ADVICE:

That a review of the speed limit on Numinbah Road Crystal Creek was not supported as it is considered that the existing speed limit is appropriate. Further reductions may lead to increased non-compliance.

B3 [LTC] Kyogle Road, Uki

ORIGIN:

Roads & Stormwater

FILE NO: ECM 4952561; Traffic - Committee; - Traffic - Safety; Kyogle Road; Braeside Drive; Government Grant - Black Spot Program

SUMMARY OF REPORT:

Council has received funding under the Federal Black Spot Program to upgrade a section of Kyogle Road north of Braeside Drive.

The funding was the result of crashes on the road section, one of which occurred on 6 February 2016 and resulted in the death of the driver. The passenger, and wife, of the deceased has addressed a letter to Council and requested that the issues raised be considered in any design or road upgrades proposed.

The proposed design is to be tabled at the meeting and comments are sought from the Members in consideration of the submission.

Chris Hawkins (Design Unit) attended at 11.10am and left at 11.50am

COMMITTEE ADVICE:

That the concept design for Kyogle Road north of Braeside Drive was reviewed by the Committee and was considered to have addressed the concerns raised by the customer.

GENERAL TRAFFIC ADVICE - TWEED HEADS

B4 [LTC] Bus Stop Change Requests - Kingscliff

ORIGIN:

Roads & Stormwater

FILE NO: ECM 4940903; Traffic - Committee; Bus - Stops; Beach Street; Lorien Way, Shoal Place; Beach Street; Kingscliff Street

SUMMARY OF REPORT:

Request received for:

1. Removal of the bus J-poles in Beach Street, Kingscliff.
2. Install bus J-poles in Lorien Way. Suggest north and southbound between Shoal Place and Beach Street.
3. A Bus J-pole is requested for installation in Kingscliff Street on the eastern side between Zephyr Street and Beach Street.

In the opinion of Surfside Buslines this is the safest way to pick up and drop off the volume of school children who are in this area.

A bus J-pole is not a regulatory device but indicates to passengers and bus drivers a suitable place to access the bus services.

Surfside Buslines has indicated that the majority of both school and public bus travellers are coming from Lorien Way and associated side streets and that the demand in Beach Street does not warrant a designated stop.

A series of observations in recent months have indicated that the bus J-poles in Beach Street are often parked out and unable to be serviced safely. The demand for parking in the northern section of Lorien Way is much lower compared to Beach Street.

There is currently a bus J-pole in Kingscliff Street (northbound), just south of Zephyr Street, but no matching southbound stop.

COMMITTEE ADVICE:

That:

1. The bus J-poles be removed from Beach Street and installed in an appropriate location in the northern end of Lorien Way.
2. A bus J-pole sign be installed on Kingscliff Street between Zephyr and Beach Street for southbound travellers.

B5 [LTC] Leisure Drive and Winders Place, Banora Point

ORIGIN:
Roads & Stormwater

FILE NO: ECM 4940836; Traffic - Committee; Traffic - Lights; Leisure Drive; Winders Place, Banora Point

SUMMARY OF REPORT:

Petition/request received for:

1. The installation of a right hand turn arrow at the traffic lights on Leisure Drive into Winders Place.
2. The installation of a camera to monitor the drivers who continually disobey the lights.
3. Adjustment of the time frame to allow aged people to cross the road in a sensible time frame.
4. Drivers performing illegal right hand turns out of the Caltex Petrol Station.

Observations for a 15 minute period indicate that on Leisure Drive eastbound through the intersection there were 146 vehicles, out of Winders Place 15 vehicles and right turn into Winders Place 14 vehicles. 6 pedestrians were observed with 1 pedestrian having difficulty in crossing within the 7 second green time and the 16 second flashing red time.

COMMITTEE ADVICE:

That data provided at the meeting in relation to traffic movements at the signals at the intersection of Winders Place and Leisure Drive be considered by the Roads and Maritime Services (RMS) in any signal upgrades.

B6 [LTC] Leisure Drive, Banora Point

ORIGIN:
Roads & Stormwater

FILE NO: ECM 4902793; Traffic - Committee, Signals; Resident/Ratepayers & Community Associations; Leisure Drive; Winders Place

SUMMARY OF REPORT:

Request received for "right" turning arrow when turning right from Leisure Drive into Winders Place, Banora Point to improve traffic flow and improve safety for vehicles turning right into Winders Place.

Observations for a 15 minute period indicate that on Leisure Drive eastbound through the intersection there were 146 vehicles, out of Winders Place 15 vehicles and right turn into Winders Place 14 vehicles. 6 pedestrians were observed with 1 pedestrian having difficulty in crossing within the 7 second green time and the 16 second flashing red time.

COMMITTEE ADVICE:

That data provided at the meeting in relation to traffic movements at the signals at the intersection of Winders Place and Leisure Drive be considered by the Roads and Maritime Services (RMS) in any signal upgrades.

B7 [LTC] Minjungbal Drive and Blundell Boulevard, Tweed Heads South

ORIGIN:
Roads & Stormwater

FILE NO: ECM 4899865; Traffic - Committee; Lights; Minjungbal Drive; Blundell Boulevard

SUMMARY OF REPORT:

Request received to prohibit right hand turn from Tweed City Shopping Centre onto Minjungbal Drive at the intersection with Blundell Boulevard.

A review of the crash history from the past 5 years found 1 injury crash relating to a motorist emerging from a driveway and 2 injury crashes involving pedestrians at these signals.

COMMITTEE ADVICE:

That the Minjungbal Drive intersection with Blundell Boulevard be referred to the Roads and Maritime Services (RMS) for review in consideration of best practice for line marking and/or signage to reduce the risk of vehicle conflict.

B8 [LTC] Dry Dock Road, Tweed Heads South

ORIGIN:
Roads & Stormwater

FILE NO: ECM 4892550; Traffic - Committee; Line marking; Safety; Dry Dock Road; PN 5012; PN 32432

SUMMARY OF REPORT:

Request received for the installation of a "No Stopping" line in front of 100 and 102 Dry Dock Road, Tweed Heads South to assist residents exiting the properties safely.

Prohibitive parking is generally not supported for private property access unless there are exceptional circumstances.

COMMITTEE ADVICE:

That prohibitive parking is not supported at 100 and 102 Dry Dock Road. Prohibitive parking is generally not supported for private property access unless there are exceptional circumstances.

B9 [LTC] Greenway Drive, Tweed Heads South

ORIGIN:
Roads & Stormwater

FILE NO: ECM 4840170; Traffic - Committee; Traffic - Pedestrian Crossings; Traffic - Safety; Greenway Drive

SUMMARY OF REPORT:

Request received for the installation of a pedestrian crossing installed at the Bunnings store location to enable customers to safely cross Greenway Drive. The speed of vehicles has also been raised as a daily occurrence.

Preliminary pedestrian counts indicated that pedestrian numbers are too low at this location to warrant a marked pedestrian crossing.

It was noted at the site inspection that a Variable Message Sign (VMS) has been placed on the nature strip in this location and this may be contributing to the adverse safety conditions for pedestrians in this area. The organisation responsible for placing this VMS should be contacted by Council and requested to remove it.

COMMITTEE ADVICE:

That:

1. The Police be alerted to the customer's concerns in relation to speeding on Greenway Drive.
2. The organisation responsible for placing the Variable Message Sign on the nature strip off Greenway Drive adjacent to Eureka Furniture be contacted and requested to remove it.
3. The customer be advised that the warrants for a marked pedestrian crossing are not met on Greenway Drive adjacent to the Bunnings store.

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held Thursday 15 February 2018 in the Mt Warning Meeting Room commencing at 9.30am.

The meeting was advised that Council at its meeting held 13 December 2017 requested that the Local Traffic Committee meetings be moved to another day of the week, rather than Thursdays. It was noted that RMS has concerns with moving days of the Tweed meeting as they attend Byron, Lismore, Tweed and Ballina concurrently and moving Tweed's day of meeting may disrupt the other local government areas.

There being no further business the Meeting terminated at 12.50pm.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

A1 [LTC] Tweed Valley Banana Festival 24 and 25 August 2018

Nil.

A2 [LTC] Murwillumbah Cycle Club Events - 2018

Nil.

A3 [LTC] Stuart Street, Tweed Heads

Nil.

A4 [LTC] Tweed Coast Holiday Parks Kingscliff Triathlon 18 March 2018

Nil.

A5 [LTC] Wharf Street, Tweed Heads

Nil.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

SECTION A - FORMAL ITEMS SECTION - DELEGATIONS FOR REGULATORY DEVICES FOR ENDORSEMENT BY COUNCIL:

A1 [LTC] Tweed Valley Banana Festival 24 and 25 August 2018

That the temporary road closures on 24 and 25 August 2018 associated with the Tweed Valley Banana Festival be supported subject to standard conditions.

That the proposed Tweed Valley Banana Festival on 24 and 25 August 2018 be supported subject to standard conditions of approval, NSW Police approval being obtained, community and business consultation and advertising in the Tweed Link.

- 1. NSW Police approval being obtained.**
- 2. Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.**
- 3. Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.**
- 4. The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.**
- 5. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.**

6. Adequate public liability insurance being held by the event organiser.
7. All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.
8. Consultation with emergency services and any identified issues addressed.
9. Arrangements made for private property access and egress affected by the event.
10. That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.
11. The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.
12. The event be conducted and signposted (in accordance with RMS Guide to Traffic Control at Worksites) and a copy of this plan be submitted to Council at least 2 weeks prior to the event.
13. A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.

A2 [LTC] Murwillumbah Cycle Club Events - 2018

That the proposed Murwillumbah Cycle Club Events - 2018 be supported, subject to:

1. NSW Police approval being obtained.
2. Endorsement of the events by Cycling Queensland.
3. Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.
4. Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents for the Tyalgum Cup and Lundberg Drive races.
5. The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the commencement of the season and one week before the Tyalgum Cup and Lundberg Drive races. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.
6. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.
7. Adequate public liability insurance being held by the event organiser.
8. All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.
9. Consultation with emergency services and any identified issues addressed.
10. Arrangements made for private property access and egress affected by the events.
11. That the applicant organise for the events to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au Our

Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the events' details.

12. The submission and approval of a Community Event application/Major Event application for the Tyalgum Cup races and Lundberg Drive races and compliance with any conditions imposed therein.
13. The event be conducted and signposted (where applicable this supersedes signposting in accordance with RMS Guide to Traffic Control at Worksites) in accordance with the current RMS Guidelines for Bicycle Road Races to ensure consistency across the network.
14. A report be provided to Council, by the event organiser, within 2 weeks of conduct of the Tyalgum Cup races and Lundberg Drive races, showing compliance with the above conditions.

A3 [LTC] Stuart Street, Tweed Heads

That yellow No Stopping lines be installed on Stuart Street within 10 m of Navigation Lane and continue into Navigation Lane on both sides to the entrance of the Ultima car park.

A4 [LTC] Tweed Coast Holiday Parks Kingscliff Triathlon 18 March 2018

That the conduct of the Tweed Coast Holiday Parks Kingscliff Triathlon Sunday 18 March 2018 be supported subject to Standard Conditions.

1. NSW Police approval being obtained.
2. Endorsement of the event by Triathlon NSW.
3. Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.
4. Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.
5. The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.
6. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.
7. Adequate public liability insurance being held by the event organiser.
8. All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.
9. Consultation with emergency services and any identified issues addressed.
10. Arrangements made for private property access and egress affected by the event.
11. That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.

12. The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.
13. The event be conducted and signposted (where applicable this supersedes signposting in accordance with RMS Guide to Traffic Control at Worksites) in accordance with the current RMS Guidelines for Bicycle Road Races to ensure consistency across the network.
14. A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.
15. A review is conducted of the triathlon course, by the event organiser in consultation with Police and Council officers, to reduce the impact on the Kingscliff business community.

A5 [LTC] Wharf Street, Tweed Heads

That the existing "No Parking, Taxi Limousine Excepted" signs adjacent to Twin Towns Services Club on Wharf Street be replaced with "No Parking" and an additional supplementary sign be installed "Drop Off / Pick Up Only".

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

54 [SUB-TCWC] Minutes of the Tweed Coast and Waterways Committee Meeting held 13 December 2017

SUBMITTED BY: Natural Resource Management

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.1 Natural Resource Management
- 1.1.3 Coastal Management - To protect and manage the use and quality of the Tweed's beaches and foreshores.

ROLE: Collaborator

SUMMARY OF REPORT:

The Minutes of the Tweed Coast and Waterways Committee Meeting held 13 December 2017 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Tweed Coast and Waterways Committee Meeting held 13 December 2017 be received and noted.

REPORT:

The Minutes of the Tweed Coast and Waterways Committee Meeting held 13 December 2017 are reproduced as follows for the information of Councillors.

Venue:

Canvas & Kettle Meeting Room

Time:

9.00am

Present:

Cr Katie Milne, Rhonda James (Chair), Tom Alletson, Sam Dawson, David Cranwell, John Harbison, Lindy Smith, Bill Fenelon, Jonathan Yansch, Richard Murray (guest, DPI Fisheries Intern), Peter Comerford, Scott Petersen, Eli Szandala, Marama Hopkins, Robert Quirk, Carl Cormack, Hamish Brace.

Apologies:

Pat Dwyer, Stewart Brawley, Ben Fitzgibbon, Bill Hoskins, Jane Lofthouse, Tracey Stinson, Bruce Peate.

Agenda Items:

1. Briefing of Members on Code of Conduct

Neil Baldwin addressed the Committee on matters relating to standards of conduct for Council officials.

2. Marine Estate Management Agency Strategy - Presentation by Jonathan Yansch (DPI Fisheries)

Jonathan presented information on the Strategy, including background on the threat and risk assessment that was used to develop priority actions.

Robert Quirk noted that the cane industry in this area was not involved in the consultation process to develop or seek feedback on the strategy.

Tom to follow up on this and try to get someone from MEMA to contact the cane industry.

3. Tweed Estuary Management Plan Updates

Tom presented the findings of the Ecological Assessment and Recreational Use Study components of Tweed Estuary Management Plan. A hard copy executive summary was provided, and a link to the documents on Council's website was emailed to committee members.

4. Oxley River Erosion Stabilisation Project

Matt Bloor provided an update on this project, noting that despite inclement weather that bulk earthworks had been completed and revegetation commenced.

5. Roads and Maritime Services Boating Management Plan Update

This item was covered during discussions at item 3. Roads & Maritime Services has not provided information regarding the timing or content of the release of a Draft Tweed River Boating Plan.

General Business:

Nil.

Next Meeting:

The next meeting of the Tweed Coast and Waterways Committee will be held Wednesday 14 February 2018.

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Adopted by Council at its meeting on 17 November 2016 Minute No: 517 (ECM4316118).

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

C1 [PR-CM] Development Application DA16/0527 for the Demolition of Existing Structures and Erection of a Residential Flat Building (Seven Units) and Swimming Pool at Lot 14 Sec 5 DP 758571; No. 204 Marine Parade Kingscliff

REASON FOR CONFIDENTIALITY:

This application was the subject of a Class 1 Appeal.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.1 Built Environment
- 2.1.2 Development Assessment - To assess development applications lodged with Council to achieve quality land use outcomes and to assist people to understand the development process.

ROLE: **Provider**

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

C2 [CNR-CM] Park Naming - Murwillumbah

REASON FOR CONFIDENTIALITY:

To avoid embarrassment to the nominator or family of the nominee should Council determine not to support the nomination.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (a) personnel matters concerning particular individuals (other than councillors).

mhm



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.2 Places
- 3.2.7 Parks and Gardens - To provide and manage quality and accessible public parks and gardens for the enjoyment and wellbeing of the community and visitors to the Tweed.

ROLE: **Provider**

C3 [CNR-CM] Park Naming - Banora Point

REASON FOR CONFIDENTIALITY:

To avoid embarrassment to the nominator or family of the nominee should Council determine not to support the nomination.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (a) personnel matters concerning particular individuals (other than councillors).

mhm



People, places and moving around
Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.2 Places
- 3.2.7 Parks and Gardens - To provide and manage quality and accessible public parks and gardens for the enjoyment and wellbeing of the community and visitors to the Tweed.

ROLE: **Provider**

REPORTS FROM THE DIRECTOR ENGINEERING IN COMMITTEE

C4 [E-CM] Purchase of Lot 6 DP 31026 - Bray Park

REASON FOR CONFIDENTIALITY:

This report discusses commercially confidential information.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

mbm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.3 Utility Services
- 1.3.4 Water Supply -- To provide secure, high quality and reliable drinking water which meets health and environmental requirements.

ROLE: **Provider**

C5 [E-CM] Clarrie Hall Dam - Land Acquisition - 269 Doon Doon Road, Doon Doon

REASON FOR CONFIDENTIALITY:

This report discusses commercial negotiations and private financial arrangements, which should not be disclosed to the public in order to protect the privacy of the affected individuals

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.3 Utility Services
- 1.3.4 Water Supply -- To provide secure, high quality and reliable drinking water which meets health and environmental requirements.

ROLE: **Provider**

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