

Mayor: Cr K Milne

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

Agenda

Ordinary Council Meeting Thursday 16 August 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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CONFIRMATION OF MINUTES

- 1 [CONMIN-CM] Confirmation of Minutes of the Ordinary and Confidential Council Meeting held Thursday 19 July 2018

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 Thursday 19 July 2018 are attached for information and adoption by Council.

RECOMMENDATION:

That:

1. The Minutes of the Ordinary and Confidential Council Meeting held Thursday 19 July 2018 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 Thursday 19 July 2018 (ECM5435669).
(Confidential) Attachment 2	Minutes of the Confidential Council Meeting held Thursday 19 July 2018 (ECM5433571).

2 [CONMIN-CM] Confirmation of Minutes of the Ordinary and Confidential Council Meeting held Thursday 2 August 2018

SUBMITTED BY: Corporate Governance

mhm



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As per Summary.

COUNCIL IMPLICATIONS:

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Code of Meeting Practice.

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Not applicable.

c. Legal:

Not Applicable.

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Attachment 1	Minutes of the Ordinary Council Meeting held Thursday 2 August 2018 (ECM 5467312)
<i>(Confidential)</i> Attachment 2	Minutes of the Confidential Council Meeting held Thursday 2 August 2018 (ECM 5467313).

SCHEDULE OF OUTSTANDING RESOLUTIONS

3 [SOR-CM] Schedule of Outstanding Resolutions at 16 August 2018

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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**

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.

15 SEPTEMBER 2016

REPORTS FROM THE GENERAL MANAGER IN COMMITTEE

C1 [GM-CM] Murwillumbah Railway Station

C 29

That Council:

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

Current Status: A report on future lease options will be considered more broadly as part of the Rail Trail project in accordance with the business case presented to the State and Commonwealth Governments which identified the need for complimentary tenancy of the Rail Trail to contribute to the ongoing maintenance of the infrastructure.

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: In response to Council resolution of 20 July 2017, a draft Planning Proposal has been prepared for submission to the NSW Department of Planning & Environment (DPE) for a Gateway Determination. The Planning Proposal was reviewed by the instigator (Council's Economic Development Unit) ahead of being forwarded to the Gateway in January 2018.

The Gateway Determination, with conditions was received 27 June 2018. One of the conditions was that mapping of the Obstacle Limitation Surface (OLS) and PAN-OPS was to be updated and included with the exhibition material.

Consultation with Economic Development and their consultant resulted in the OLS mapping being updated (as a draft currently), however, there is no requirement or likelihood for the PAN-OPS to be prepared given the size of the airfield.

The planning proposal as submitted to the DPE included reference to both the OLS and PAN-OPS maps. Following discussions on the matter with the DPE, they confirmed on 25 July 2018 that an amended Planning Proposal is to be resubmitted for an amended Gateway Determination.

An amended planning proposal removing references to the PAN-OPS and including the draft OLS mapping was submitted to the DPE for an amended Gateway Determination on 26 July 2018.

In summary, the planning proposal seeks to ensure preservation of the airspace surrounding the airfield by preventing unsuitable development from encroaching into the take-off and approach surface slopes.

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: In terms of:

Point 4, following representations made to relevant State agencies and Local Members, the NSW State Government has recently advised that Local Lands Services will be taking over the approval processes with Private Native Forestry.

Point 5 was held on 10 May 2018.

Point 6, legal advice has recently been received, and a further report will be submitted to Council with an update.

15 FEBRUARY 2018

ORDERS OF THE DAY

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

10

**Cr K Milne
Cr C Cherry**

RESOLVED 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.
4. Council brings forward a report on the environmental values of the Hewitville property.

Current Status: Legal advice being sought and a further report will be prepared for consideration by Council.

1 MARCH 2018

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

C1 [PR-CM] Unauthorised Forestry and Roadworks Lot 136 DP 755724 Boormans Road, Tyalgum

REASON FOR CONFIDENTIALITY:

This is subject to current legal investigations.

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.

C 8

That:

...

2. Council seek further information on previous uses of the site to inform the action in Part 1(b).
3. A further report be brought back for potential offences in regard to the Section 120 of PoEO Act.

...

Current Status: Information currently being collated with reference to previous uses of the site. A further report will be submitted back to Council.

C2 [PR-CM] Unauthorised Works within Crown Road Reserve, Zara Road, Limpinwood

REASON FOR CONFIDENTIALITY:

This is subject to current legal investigations.

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.

C 9

That Council, in respect of the current legal investigations relating to the unauthorised works within the Crown Road at Zara Road Limpinwood:

1.
4. Council seeks further advice in regard to whether it is appropriate to issue a Notice of Intention to cease using the Crown Road Reserve.

Current Status: Advice was sought with reference to the appropriate action to be undertaken, which has now resulted in Council commencing Class 5 proceedings in the Land and Environment Court. A further report will be submitted back to Council.

22 MARCH 2018

ORDERS OF THE DAY

12 [NOM] Policy for Variations to Council's Planning Controls

99

**Cr K Milne
Cr R Byrnes**

RESOLVED that Council brings forward a report on amending the Tweed and Tweed City Local Environmental Plan and Development Control Plan with a view to enhancing sustainability outcomes such as living walls, green roofs, blue green infrastructure, greenhouse gas emissions, waste, composting, community gardens, etc., in accordance with the Paris Agreement targets.

Current Status: Report to be prepared for Council consideration.

19 [NOM] Quarry Operations

107

**Cr K Milne
Cr R Byrnes**

RESOLVED that Council brings forward a report on the current state and any compliance issues at the three quarries off Numinbah Rd/ Harry's Rd, North Arm.

Current Status: Report to be prepared for Council consideration.

19 APRIL 2018

REPORTS FROM DIRECTOR ENGINEERING

23 [E-CM] Heavy Vehicle Approvals - B-Double Routes

173

**Cr R Byrnes
Cr K Milne**

RESOLVED that this Item be deferred to schedule a Workshop with the Tweed Water Alliance and to seek advice from the applicants regarding their capability to carry 50t versus 55t on their B-double configurations.

Current Status: Workshop was held on 31 May 2018.

Council is now seeking legal advice in relation to the size of the trucks to service the water extraction that the DA permits. This will be reported to Council following legal advice. Council is also liaising with the applicant on the feasibility of operating 50 tonne versus 55 tonne trucks.

Tweed Water Alliance has raised concerns that the Workshop of 31 May 2018 did not address this resolution and has requested another workshop be scheduled with Councillors.

REPORTS FROM DIRECTOR PLANNING AND REGULATION IN COMMITTEE

C1 [PR-CM] Tweed Water Alliance - Water Extraction - Request for Compliance Action at 477 Urliup Road, Urliup (DA03/0445), 2574 Kyogle Road, Kunghur (DA05/0995 & DA16/0579), 101 Bryens Road, Nobby's Creek (DA06/0603) and 10-20 Edwards Lane & 308 Numinbah Road, Kynnumboon (DA05/1507 & DA06/1023)

REASON FOR CONFIDENTIALITY:

This report contains information that may involve litigation and is subject to legal privilege.

Local Government Act

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- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

C 25

That Council in regard to the Tweed Water Alliance – Water Extraction – Request for Compliance Action at No. 477 Urliup Road, Urliup (DA03/0445), No. 2574 Kyogle Road, Kunghur (DA05/0995 & DA16/0579), No.101 Bryens Road, Nobby's Creek (DA06/0603) and Nos. 10-20 Edwards Lane & No. 308 Numinbah Road, Kynnumboon (DA05/1507 & DA06/1023):

....

3. A further report be submitted to Council detailing any response received in respect to Point 2.

Current Status: Council resolved at its meeting held 2 August 2018 to seek further advice and to take a variety of actions relevant to each of these four matters and further reports will be submitted to Council as these matters progress.

REPORTS FROM DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

C2 [CNR-CM] Acid Sulfate Soil Contamination Remediation Works and SEPP14 Coastal Wetlands at Lot 1 DP1001025 No. 337 Round Mountain Road, Round Mountain and Lot 2 DP1087664, Christies Creek

REASON FOR CONFIDENTIALITY:

This report contains information that may involve litigation and is subject to legal privilege.

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.

C 26

That Council:

...

3. Notes a further report on the status of the Acid Sulfate Soil project on Lot 1 DP 1001025 be brought back to Council including options for management of Acid Sulfate soil problems.

Current Status: Correspondence sent to land owner seeking a response to alleged unauthorised vegetation clearance. Following receipt of a response a further report will be submitted to Council.

Response has been received from the owner and Council's solicitors are currently reviewing the information and a further report will be submitted to Council.

3 MAY 2018

PLANNING COMMITTEE

NOTE: The adoption of the following Planning Committee Recommendations are referenced by Minute No 165 of the Council Meeting of 3 May 2018.

- 5 [PR-PC] Development Application DA04/0162.03 for an Amendment to Development Consent DA04/0162 for Expansion and Amalgamation of Existing Quarries at Lot 28 DP 1079480 Pollards Road, Dulguigan

P 20

Cr K Milne
Cr C Cherry

RECOMMENDED that this report be deferred to allow the community further opportunity to respond to this report.

Current Status: Workshop was held on 15 June 2018.

Council resolved at the 2 August 2018 meeting to defer this matter and to seek further legal advice prior to reporting back to Council.

8 [PR-PC] Rural Land Strategy for Adoption

P 23

Cr P Allsop
Cr C Cherry

RECOMMENDED that this report be deferred for a workshop with the Tweed Combined Rural Industries Association.

Current Status: A further Workshop was held on 18 July 2018 and further clarification is being sought from the DPI to inform a further report to the September Council meeting.

17 MAY 2018

ORDERS OF THE DAY

12 [NOM] Landscaping - South Tweed

235

Cr K Milne
Cr C Cherry

RESOLVED that Council undertakes low key landscaping improvements to Minjungbal Drive and brings forward a report on enhanced landscaping planning controls in the South Tweed locality.

Current Status: An Inspection tour has been held on 3 July 2018 with agreement on landscaping works to be undertaken, primarily at the northern end of Minjungbal Drive which includes the removal of some of the Cocos

Palms and the planting of various other trees to enhance the road amenity.

A report on planning controls to be prepared.

13 [NOM] Public Toilets - South Tweed Industrial Area

236

Cr K Milne
Cr C Cherry

RESOLVED that Council:

1. Seeks the advice of the Tweed Heads Residents' Association and Tweed Heads Business Chamber, in regard the benefit of a public toilet in the South Tweed Heads industrial area.
2. Brings forward a report on the outcome of this consultation.

Current Status: Letters have been sent to the nominated organisations and awaiting responses before preparation of report to Council.

15 [NOM] Options for Improved Land Management

238

Cr K Milne
Cr C Cherry

RESOLVED that:

1. Council officers bring back a report on options for securing land that would be suitable as offset stewardship sites under the Biodiversity Offset Scheme and how this could be funded and managed.
2. In the interim, the Mayor writes to the Local State Members for Lismore and Tweed Heads seeking State consideration for the acquisition of sites that have high biodiversity values for the addition to the National Park Estate and provide examples of such to the State Member.

Current Status: Discussions have occurred at a regional level at both the General Manager and Natural Resource Management Officer level to consider a regional approach to offsetting. Report was presented to the July Northern Rivers Joint Organisation General Managers' Group meeting where it was resolved that:

- NRJO identify a cost share arrangement for the estimated cost of \$41,500, to engage a fixed term staff person (or consultant) to be hosted at an NRJO council;
 - This person completes a regional assessment of the needs of each council to adapt development assessment processes to meet the new legislation and report this assessment with recommendations for specific requirements.
 - This person complete an assessment of the unavoidable biodiversity offset requirements likely to be generated from land already identified for development across the NRJO and report this assessment with recommendations for specific further requirements, including whether a second stage analysis of potentially available stewardship sites is required.
-

REPORTS FROM DIRECTOR ENGINEERING

24 [E-CM] B-Double Applications - Meeting held 19 April 2018

250

Cr C Cherry
Cr K Milne

RESOLVED that:

1. The Minutes of the B-Double Routes Agency Advisory Group meeting held 19 April 2018 be received and noted.

...

3. **19m B-Double (50t-55t) to Dulguigan Quarry - NHVR Consent Request Number 143550r1v1**

The application (NHVR Consent Request Number 143550r1v1) for the use of a 19m B-Double up to 55t on Riverside Drive, Tumbulgum, Terranora Road, Dulguigan Road, North Tumbulgum, Dulguigan be deferred for feedback from NSW Police representative on the B-Double Routes Agency Advisory Group.

Current Status: Briefings provided by National Heavy Vehicle Regulator at the B-Double Advisory Group Committee Meeting of 24 May 2018. Report planned for a further Council Meeting.

21 JUNE 2018

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

10 [PR-CM] Draft Surveillance Device Use for Compliance and Law Enforcement Activities Policy

294

Cr J Owen
Cr P Allsop

RESOLVED that:

1. Council endorses the public exhibition of the Draft Surveillance Device Use for Compliance and Law Enforcement Activities Policy for a period of 28 days allowing 42 days for submissions; and
2. A further report be brought back to Council following the exhibition of the draft policy.

Current Status: Public exhibition submissions closed on 31 July 2018. A further report will be provided on the draft Policy.

11 [PR-CM] Preparing a Scenic Landscape Strategy with Community and Stakeholders, Related Draft Council Policy and DCP Amendment

295

Cr J Owen
Cr P Allsop

RESOLVED that Council endorse:

1. The Draft Scenic Landscape Strategy be publicly exhibited for a period not less than 60 days during which community and stakeholder engagement is to be conducted to assist staff with the trial and testing of the Strategy;
2. The Scenic Landscape Policy is to be concurrently exhibited with the Strategy for a period not less than 60 days; and,
3. The proposed amendment of *Tweed Development Control Plan 2008* shall be publicly exhibited so as to comply with Clause 18 of the *Environmental Planning and Assessment Regulation 2000* but for a period not less than 60 days.
4. A further report be submitted to Council detailing the findings of the public exhibition and engagement for these three policies and any amendments considered appropriate.

Current Status: Officers preparing for public exhibition following Council resolution. A further report will be provided following exhibition of the draft policy.

19 JULY 2018

20 [PR-CM] Affordable Housing Context and Options Paper

359

Cr K Milne
Cr C Cherry

RESOLVED that this item be deferred to the Council Meeting on 16 August 2018.

Current Status: Deferred to 16 August 2018 Council meeting.

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

21 [CNR-CM] Jack Evans Boat Harbour Plan of Management Update

360

Cr C Cherry
Cr K Milne

RESOLVED that Council defers this item to the next Council meeting in order to receive clarification on the following:

1. Whether it is possible for Council to create a Plan of Management for the Jack Evans Boat Harbour Precinct under the Crown Land Management Act given it is advised by staff it is not possible under the Local Government Act, due to Council not being the designated Crown Land Managers for all Reserves in this Precinct.
2. If it is possible for Council to initiate the Plan of Management under the Crown Land Management Act (CLMA), then Council writes immediately to the Department of Industry - Crown Lands and requests their support in preparing a plan for the Jack Evans Boat Harbour Precinct under the CLMA.
3. The current status of Aboriginal Land Claim 24855 lodged by New South Wales Aboriginal Land Council and provision of all the relevant information of the lands subject to the Land Claim.

Current Status: Council has forwarded a letter to the Department of Industry and Crown Lands seeking clarification as per the resolution. No response has been received to date.

24 [CNR-CM] Policy - Memorials in Public Parks and Natural Areas

363

Cr C Cherry
Cr K Milne

RESOLVED that Council defers adoption of the Memorials in Public Parks and Reserves Policy and requests the officers provide options for the allocation of designated areas within public parks and reserves, which could be used to provide collective contemplation points for those wishing to sit and remember loved ones lost.

Suggestions include, but are not limited to, a dedication plaque in a designated memorial walkway or a seat at a look out point.

Current Status: Meeting scheduled for 15 August 2018 with Cr Cherry and Council officers to consider this matter.

MAYORAL MINUTE

4 [MM-CM] Mayoral Minute for July 2018

SUBMITTED BY: Cr K Milne, Mayor

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 provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: **Leader**

SUMMARY OF REPORT:

The Mayoral Minute report provides information on activities undertaken by the Mayor and Councillors during the month of July 2018

RECOMMENDATION:

That:

1. The Mayoral Minute for the month of July 2018 be received and noted.
2. The attendance of Councillors at nominated Conferences be authorised.

REPORT:

Councillors

COMMITTEE MEETINGS

Attended by the Mayor

- 24 July Tweed Coast Koala Management Committee - Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
-

INVITATIONS / MAYORAL REPRESENTATION:

Attended by the Mayor

- 4 July Bray Park Weir Project Reference Group - Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 26 July Community Safety Precinct Meeting - Tweed Heads Police Station, 83 Wharf Street, Tweed Heads.
- 28 July BEATS Gala Event - Seagulls Club, Gollan Drive, Tweed Heads West. Crs Allsop, Cherry, Owen and Polglase also attended.
- 29 July Love Pets Love Wildlife Event - Kingscliff Foreshore, Marine Parade, Kingscliff.

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

- 4 July Dedication of Plaques - Kingscliff Memorial Walk, Murphys Road, Kingscliff. Cr Byrnes attended.
- 16 July Australian Secondary Schools Under 18 Years Rugby League Official Players Dinner - Cudgen Leagues Club, Wommin Bay Road, Kingscliff. Cr Allsop attended.
- 20 July Australian Secondary Schools Under 18 Years Rugby League Finals Day and Medal Presentations - Ned Byrne Oval, 3 Wommin Bay Road, Kingscliff. Cr Byrnes attended.
- 21 July Kingscliff Hall Opening Ceremony - Kingscliff Hall, Marine Parade, Kingscliff. Cr Cooper attended.
- 22 July Danish Study Tour Welcome Ceremony - Kingscliff TAFE, Cudgen Road, Kingscliff. Cr Byrnes attended.
- 29 July Battle Recharge Presentation Ceremony - Lundberg Drive, South Murwillumbah. Cr Owen attended.

Inability to Attend by or on behalf of the Mayor

- 16 July Chinese Chef Delegation - Paper Daisy Restaurant, 21 Cypress Crescent, Cabarita. All Councillors were invited, none available.
-

REQUESTS FOR WORKSHOPS:

Councillors did not request any additional workshops during July 2018.

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

Councillors did not attend any conferences during July 2018.

Information on Conferences to be held

- 2-3 Sept 13th Mosquito Control Association of Australia Conference - Peppers Salt Resort, Bells Boulevard, Kingscliff.

Registration Member \$750 full conference, \$450 single day. Non member \$800 full conference, \$450 single day. \$150 conference dinner. <https://mcaa.org.au/>
 - 14-16 Nov 18th International Cities, Town Centres and Communities Conference - Esplanade Hotel, 46 Marine Terrace, Fremantle WA.

Early bird registration (by 070918) \$1200, standard registration \$1300. Two flights, three to four night's accommodation.
<https://www.eiseverywhere.com/ehome/296830>
-

SIGNING OF DOCUMENTS BY THE MAYOR:

- 4 July Transfer Document - Clarrie Hall Dam Land Acquisition - 79 Lone Pine Road, Doon Doon.
 - 5 July Community Options Australia Deed for Regional Assessment Service.
 - 18 July Licence for Boardwalk - Terranora Inlet.
 - 24 July Acquisition of Easements - Tumbulgum Road.
 - 24 July Deferral of Developer Contributions - Burringbar Cheese Factory (DA13/0020.01).
-

- 24 July Release On Restriction On Use - Lot 360 DP1087716/40 Avoca Street, Kingscliff.
 - 26 July Clarrie Hall Dam Land Acquisition - 79 Lone Pine Road, Doon Doon.
 - 26 July Transfer Document - Clarrie Hall Dam Land Acquisition - 511 Doon Doon Road, Doon Doon.
-

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.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

RECEIPT OF PETITIONS

5 [ROP-CM] Receipt of Petitions at 16 August 2018

SUBMITTED BY: Corporate Governance



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 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:

There were no Petitions received at the time of printing this Business Paper.

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**

6 [NOM] Environmental Land Purchases

NOTICE OF MOTION:

Councillor K Milne moves that a report be brought forward on the potential for Council to purchase significant environmental areas for the purposes of appropriate rezoning and resale.

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
- 1.1 Natural Resource Management
- 1.1.4 Environmental Sustainability - To support Council, businesses and the community to achieve the best possible combination of environmental, social and economic outcomes.

ROLE: **Leader**

From a strategic planning perspective, it should be noted that any advancement of the subject proposal would need to be underpinned by a detailed strategic investigation, including how it relates to both existing adopted State, Regional, and Local planning strategies. The current Strategic Planning and Urban Design Work Program is fully committed with existing Council endorsed projects for the next 12 months. Any advancement of the subject proposal would necessitate a re-prioritisation of the existing Program.

There is some ability for our land purchases under the VHP that this land can be used for environmental restoration eg Clarkes Road in Mooball. Council would need to fund revegetation and ongoing management but that could be aided by Landcare / CVA / community.

Delivery Program:

This action is not contained within the current Delivery Program. Preparation of the report would require substantial investigation to clarify the potential, opportunities and any limitations with the proposal. This may be best achieved through the engagement of a suitable consultant, experienced in the business viability analysis aspects of the proposal. A suitable consultant may be sourced through one of the various land trusts that currently employ this approach in NSW and other states.

Budget/Long Term Financial Plan:

As there are no funds available in the Budget and Long Term Financial Plan for the engagement of a consultant or a revolving acquisition fund, a source of funds will need to be identified. Additionally funds will need to be sourced for the ongoing maintenance of this land during the rezoning and resale period. As the land would be acquired and then down-zoned there would be a corresponding loss in value which would not be recouped through the sale process.

Legal Implications:

All such purchases shall be by private treaty negotiations, as the purpose falls outside the enabling provisions of the Local Government Act, 1993.

Policy Implications:

Council recently considered a report to purchase flood prone land in South Murwillumbah for the purpose of removing the building entitlements and ultimately protecting human life and reducing social impacts as well as removing impediments to the natural flow of a watercourse. The proposal contained within this NoM is similar albeit it is providing benefits for the environment.

7 [NOM] Natural Resource Management Budget

NOTICE OF MOTION:

Councillor K Milne moves that:

1. A report be brought forward on increasing the proportion of funds allocated in the Council budget for Natural Resource Management from 4% to 5% of rates in next years' budget, and
2. The Executive Leadership Team determines the most appropriate areas across a range of departments to source the funds form to assist in reversing the decline of threatened species.

Councillor's Background Notes

The Tweed Shire is one of Australia's top 3 biodiversity hotspots but faces significant challenges to maintain this biodiversity in the rapidly expanding urban context.

Unfortunately Tweed has the highest estimated threatened species in Australia and the number of threatened species has been increasing over the years despite the best efforts of Council staff.

All levels of Government have a responsibility to protect the environment and unless a better balance of resources is provided the state of Tweeds natural environment will continue to decline.

Delivery Program:

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 |
| 1.1.4 | Environmental Sustainability - To support Council, businesses and the community to achieve the best possible combination of environmental, social and economic outcomes. |

ROLE: **Leader**

Management Comments:

It is understood that the funding of 4% of rates referred to in this Notice of Motion relates to the below graphic that was contained within the July 2018 "Council Matters" publication:

How every \$100 you pay in rates is spent



The graphic is intended to be a simplified, broad picture of how rates and annual charges revenue is spent in aggregate

As the figures are aggregated, it may not be representative of every property because of variations in land value and it is especially not representative of many rural properties, which do not pay for Sewer and Water supply

If this graphic was reproduced excluding Solid Waste, Sewer and Water supply, the Natural Resource Management allocation would show as \$6 out of every \$100 or 6% of rate income.

An increase in budget allocation to Natural Resource Management could be allocated to increase the service level for existing programs towards the stated aim of environmental protection and threatened species conservation and recovery.

Such actions, currently delivered through a range of NRM programs (biodiversity, bushland management, sustainable agriculture, waterways, coastal, pest management and environmental sustainability), contribute to threatened species recovery through integrated delivery. This provides direct benefit to species and their habitat, increased agricultural productivity and viability, improved climate change resilience, improved water quality and the protection and maintenance of coastal values and processes. A range of other social and economic benefits including the provision and improvement of recreational, tourism, public health, property value and health and wellbeing services are reliant on effective natural resource management.

It is recommend that any report prepared would include benchmarking against relevant other councils and a prioritised schedule of proposed expenditure.

Delivery Program:

The four year delivery program which was advertised to the public for comment prior to adoption in June 2017 is based upon the adopted level of resourcing for all Council services including Natural Resource Management.

Budget/Long Term Financial Plan:

To increase the Natural Resource Management funding allocation for 2018/19, funds would need to be transferred from other general fund budget areas (i.e. such a transfer could not come from Solid Waste, Sewer or Water supply) and the associated negative impact on those services would need to be fully considered.

To increase the Natural Resource Management funding allocation in 2019/20 and subsequent years, funds would either need to be transferred from other general fund budget areas as noted above or additional sources of funds would need to be identified eg above pegging rate increase.

Legal Implications:

Nil.

Policy Implications:

Nil.

8 [NOM] Proposed Workshop - Recycled Products and Council Business

NOTICE OF MOTION:

Councillor C Cherry moves that staff hold a workshop with Councillors and bring forward a report on how more recycled products can be incorporated into Councils business potentially through:

1. Aligning processes with the ISO2400 Sustainable Procurement Standard 2017.
2. The incorporation of weighting criteria in the Procurement Policy and
3. Steps within the protocol to ensure that staff are making informed sustainable decisions
4. Training of staff to raise awareness of sustainable alternatives in alignment with the ISO standard.

Councillor's Background Notes

Recommended Priority:

High

Description of Project:

Staff will undertake an assessment of current practices and how they compare with recognised best practice. A number of strategies will be identified with potential to be incorporated into Councils Procurement Policy. A workshop will be held to examine these strategies with Councillors in order to determine the most advantageous options for Council.

Delivery Program:

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
- 1.1.4 Environmental Sustainability - To support Council, businesses and the community to achieve the best possible combination of environmental, social and economic outcomes.

ROLE: **Leader**

Management Comments:

The new Sustainable Procurement Standard ISO20400 is a comprehensive and internationally recognised guide for best practice in sustainable procurement. Comparing our current processes with this standard will be an effective way of identifying areas for improvement. The standard provides a framework for assessing whole of life costs, the circular economy (including the use of recycled products), environmental impacts and community and social impacts.

Budget/Long Term Financial Plan:

Undertaking the review will require the allocation of relevant resources. A budget for training will also need to be established to ensure the changes are well understood and implemented.

Legal Implications:

Nil

Policy Implications:

The Procurement Policy V1.1.7 will need to be updated to reflect any changes to the sustainable procurement methodology identified at the workshop and subsequently resolved by Council.

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

9 [GM-CM] Destination Tweed - Final Report 2018

SUBMITTED BY: General Manager

mhm



Making decisions with you
We're in this together

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:

The current funding and performance agreement with Destination Tweed is due to expire on 30 September 2018. Attached is a final report from Destination Tweed which is provided for Council's review.

This final report represents the end of the eight years Destination Tweed has undertaken to provide tourism services to Council. This includes running the Visitor Information Centres, managing advertising campaigns, publishing The Guide and representing the Tweed at trade shows etc.

Council acknowledges the work and support that the many board members and staff have provided over the years and would like to thank them for their efforts.

This report also recommends that the final payment for August and September be paid to Destination Tweed. This payment represents the final payment due under the current funding and performance agreement.

RECOMMENDATION:

That Council:

1. **Receives and notes Destination Tweed's Final Report 2018.**

2. **Endorses payment of the final contract instalment in accordance with contract AC2010-073 Provision of Services for Economic Development Tourism Promotion.**

3. **ATTACHMENTS 2 and 3 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because they contain:-**
 - (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:

The current funding and performance agreement with Destination Tweed is due to expire on 30 September 2018. Attached to this Council report is a final report from Destination Tweed which is provided for Council's review.

This final report represents the end of the eight years Destination Tweed has undertaken to provide tourism services to Council. This includes running the Visitor Information Centres, managing advertising campaigns, publishing The Guide and representing the Tweed at trade shows etc.

Council acknowledges the work and support that the many board members and staff have provided over the years and would like to thank them for their efforts.

This report also recommends that the final payment for August and September be paid to Destination Tweed. This payment represents the final payment due under the current funding and performance agreement.

OPTIONS:

This report to Council presents Destination Tweed's final payment under the current funding and performance contract. The options available to Council are:

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

CONCLUSION:

It is recommended that Council receives and notes the Final Report 2018 from Destination Tweed and endorses the final payment.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy - Not Applicable

b. Budget/Long Term Financial Plan:

This report recommends the payment of the final invoice for payment under the current funding agreement.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Destination Tweed – Final Report 2018 (ECM5468248)

(Confidential) Attachment 2. Destination Tweed Balance Sheet (ECM5468247)

(Confidential) Attachment 3. Destination Tweed Profit and Loss (ECM5468249)

10 [GM-CM] Draft Filming Policy, Version 1.0

SUBMITTED BY: Office of the General Manager

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
- 3.1.7 Events - To develop, attract and support events that showcase the Tweed's unique characteristics and identity.

ROLE: **Leader**

SUMMARY OF REPORT:

The Local Government Act requires Council to comply with the Local Government Filming Protocol. At its meeting on 16 June 2009, Council adopted the Local Government Filming Policy, Version 1.0, which was the Local Government Filming Protocol verbatim.

In 2017 a major feature film production was filmed at Hastings Point for an extended period. At an Extraordinary Tweed Coast Reserve Trust meeting on Friday 30 June 2017 it was resolved, in part, for Screen NSW facilitate a Workshop, subsequent to the film, to develop a protocol for the future management of filming on the Hastings Point Headland.

As a part of the process in developing this Protocol, Create NSW (formerly Screen NSW), conducted a two stage engagement process. The first of these involved an Information Feedback Session for residents of Hastings Point to share their experiences on the recent filming and to provide suggestions on processes to help inform future filming opportunities on the Headland. This session was held on Tuesday 21 November 2017 and was also attended by Screenworks Northern Rivers, Council staff and Councillors.

The second engagement session was an invitation only stakeholder group on Wednesday 22 November 2017. This session was attended by Create NSW, Screenworks Northern Rivers, Council staff, Councillors, the Location Scout engaged by Warner Bros Entertainment for the 2017 film production, the Executive of the Hastings Point Progress Association, and representatives from the Tweed Byron Local Aboriginal Land Council, Big 4 Holiday Park, and the Adventure Education Marine Environment Field Study and Resource Centre.

Instead of creating a new Policy specific to Hastings Point, Council's Local Government Filming Policy, Version 1.0 has been replaced with the draft Filming Policy, Version 1.0 and divided into two parts:

- Part A – Local Government Filming Protocol 2009
- Part B – Specific Filming Locations (Hastings Point Headland)

The draft Filming Policy, Version 1.0 is tabled for Councillor's consideration (attachment 1).

RECOMMENDATION:

That Council places the draft Filming Policy, Version 1.0 on public exhibition for a period of 28 days, and accepts public submissions for a period of 42 days, as per Section 160 of the Local Government Act 1993.

REPORT:

In 2009 the NSW Government developed the Local Government Filming Protocol. It was brought into effect through the Filming Related Legislation Amendment Act 2008 and is binding on all local governments in New South Wales. This commitment to establishing a “film friendly NSW” instigated the Premier to direct all state government agencies to be supportive of filming within the State.

Local councils are to comply with this Protocol when determining applications for filming or setting fees and the Premier has also directed that NSW Government agencies have an obligation to support location filming. The Local Government Act requires Council to comply with the Local Government Filming Protocol. At its meeting on 16 June 2009, Council adopted the Local Government Filming Policy, Version 1.0, which was the Local Government Filming Protocol verbatim.

Filming in the Tweed is recognised as a significant driver and employer for the creative industries and offers a unique advantage for natural filming locations which range from dynamic mountain ranges, scenic rural vistas to reclusive beaches. However council wants to ensure the benefits of the Shire are maximised and that film producers consider their impact on the community, residents or businesses and that public safety and the environment is well protected.

To that end, with two major film productions in two years (2015 and 2017) on one of the Shire’s most environmental sensitive natural locations – Hastings Point Headland – it was resolved at an Extraordinary Tweed Coast Reserve Trust meeting on Friday 30 June 2017 for Screen NSW to facilitate a Workshop, subsequent to the 2017 film, to develop a protocol for the future management of filming on the Hastings Point Headland.

As a part of the process in developing this Protocol, Create NSW (formerly Screen NSW), conducted a two stage engagement process. The first of these involved an Information Feedback Session for residents of Hastings Point to share their experiences on the recent filming and to provide suggestions on processes to help inform future filming opportunities on the Headland. This session was held on Tuesday 21 November 2017 and was also attended by Screenworks Northern Rivers, Council staff and Councillors.

The second engagement session was an invitation only stakeholder group on Wednesday 22 November 2017. This session was attended by Create NSW, Screenworks Northern Rivers, Council staff, Councillors, the Location Scout engaged by Warner Bros Entertainment for the 2017 film production, the Executive of the Hastings Point Progress Association, and representatives from the Tweed Byron Local Aboriginal Land Council, Big 4 Holiday Park, and the Adventure Education Marine Environment Field Study and Resource Centre.

Whilst Council is bound by the Local Government Filming Protocol it may impose specific conditions on filmmakers over the use of particularly sensitive sites. The key themes, as raised at the two sessions in November 2017, are outlined below and have been incorporated into the draft Policy:

- Community Engagement;
- Duration and Frequency;
- Economic;

- Environmental;
- Aboriginal; and
- Traffic.

In addition to the feedback from Councillors, stakeholders and the community, the Policy has been further informed by the following external parties, and Units of Council:

- Matt Carroll, Senior Manager, Create NSW (formerly Screen NSW);
- Ken Crouch, CEO, Screenworks Northern Rivers;
- Tweed Shire Council:
 - Economic Development
 - Natural Resource Management
 - Community and Natural Resources
 - Strategic Planning and Urban Design
 - Roads and Stormwater

Instead of creating a new Policy specific to Hastings Point, Council's Local Government Filming Policy, Version 1.0 has been replaced with the draft Filming Policy, Version 1.0 and divided into two parts:

- Part A – Local Government Filming Protocol 2009
- Part B – Specific Filming Locations (Hastings Point Headland)

The draft Filming Policy, Version 1.0 is tabled for Councillor's consideration (attachment 1).

OPTIONS:

That Council:

1. Places the draft Filming Policy, Version 1.0 on public exhibition for a period of 28 days, and accepts public submissions for a period of 42 days, as per Section 160 of the Local Government Act 1993.
2. Does not place the draft Filming Policy, Version 1.0 on public exhibition for a period of 28 days, and accepts public submissions for a period of 42 days, as per Section 160 of the Local Government Act 1993 and determines the next course of action.

CONCLUSION:

The NSW Government is strongly supportive of the screen industry and to that end has developed the Local Government Filming Protocol to ensure that *"New South Wales remains film friendly while maintaining a proper balance between community and economic concerns."*

Filming in the Tweed is recognised as a significant driver and employer for the creative industries and offers a unique advantage for natural filming locations which range from dynamic mountain ranges, scenic rural vistas to reclusive beaches. However it wants to ensure the benefits of the Shire are maximised and that film producers consider their impact

on the community, residents or businesses and that public safety and the environment is well protected.

COUNCIL IMPLICATIONS:

a. Policy:

Local Government Filming Policy, Version 1.0 *to be replaced*
Beach Vehicle Policy, Version 1.2
Community Strategic Plan 2017-2027
Tweed Shire Events Strategy 2016-2020
Tweed Shire Economic Development Strategy 2014
Tweed Shire Council's Aboriginal Cultural Heritage Management Plan 2017

b. Budget/Long Term Financial Plan:

Applicants are charged licence fees in accordance with the Local Government Filming Protocol and Council's adopted Fees & Charges.

c. Legal:

NSW Land Rights Act 1983
Local Government Act 1993
Filming Related Legislation Amendment Act 2008
Local Government Filming Protocol 2009
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

d. Communication/Engagement:

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

In 2017 a major feature film production was filmed at Hastings Point for an extended period. At an Extraordinary Tweed Coast Reserve Trust meeting on Friday 30 June 2017 it was resolved, in part, for Screen NSW facilitate a Workshop, subsequent to the film, to develop a protocol for the future management of filming on the Hastings Point Headland.

As a part of the process in developing this Protocol, Create NSW (formerly Screen NSW), conducted a two stage engagement process. The first of these involved an Information Feedback Session for residents of Hastings Point to share their experiences on the recent filming and to provide suggestions on processes to help inform future filming opportunities on the Headland. This session was held on Tuesday 21 November 2017 and was also attended by Screenworks Northern Rivers, Council staff and Councillors.

The second engagement session was an invitation only stakeholder group on Wednesday 22 November 2017. This session was attended by Create NSW, Screenworks Northern Rivers, Council staff, Councillors, the Location Scout engaged by Warner Bros Entertainment for the 2017 film production, the Executive of the Hastings Point Progress Association, and representatives from the Tweed Byron Local Aboriginal Land Council, Big 4 Holiday Park, and the Adventure Education Marine Environment Field Study and Resource Centre.

The key themes, as raised at these sessions, have been incorporated into the draft Policy.

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - Section 4.15 Evaluation

(1) **Matters for consideration—general**

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of:
 - (i) any environmental planning instrument, and
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
 - (iii) any development control plan, and
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, 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.

(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 4.16 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 4.16 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 4.28 (3) and (4).

(3A) **Development control plans**

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and
- (c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, **standards** include performance criteria.

(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.

11 [PR-CM] Development Application DA18/0030 Alterations to an Existing Residential Flat Building Unit (Unit 5) Comprising Two Additional Bedrooms, Construction of a Laundry Room, Alterations to Kitchen and Bathroom and Creation of a Car Parking Space at Lot 5 SP 16028 No. 5/14 Boundary Street, Tweed Heads

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 development application was reported to the Planning Committee meeting on 2 August 2018 with a recommendation for approval subject to conditions. The report also recommended that the applicant be issued with a Penalty Infringement Notice (PIN).

The application has been subject to one (1) objection which raised issues with regard to retrospective authorisation of the works, strata owners consent to lodge the application, that the garage area being used as a separate unit, amenity impacts and insufficient parking. The objector also registered and attended the Community Access Forums in advance of the Planning Committee meetings on 7 June 2018 and 2 August 2018 to articulate his objections directly to the elected members regarding this application and Development Application DA18/0278 under concurrent assessment for Unit 6 at the subject site. The objector requested that Council defer the determination of the application until an application to the NSW Civil Administration Tribunal (NCAT), to which he and the applicant of DA18/0278 are party, is determined. The objector indicated that it would likely be three (3) months before a decision would be issued.

Following consideration of the application, Council resolved that this item and DA18/0278 be deferred until such time as the objector's application to NCAT was determined.

It is noted that the application to the NSW Civil Administration Tribunal (NCAT) does not involve the applicant or Unit subject to this development application.

The NCAT application in question relates to the appeal of an earlier decision by NCAT to dismiss an application by the objector against the owner of Unit 6 in April 2018 - *Nowak v Pellicciotti [2018] NSWCATD 9*. The case related to an application by Mr Nowak (owner of Unit 4/14 Boundary Street) against Mr Pellicciotti (owner of Unit 6/14 Boundary Street and the applicant for DA18/0278) seeking 'enforcement of by-laws 1 and 14' of the strata plan. As per the judgement from this case, it was claimed that the strata by-law had been breached when the applicant recovered the floor of Unit 6 by removing the carpet and laying a different floor covering. The application sought an order that the carpet be restored.

The application was dismissed by NCAT and Mr Nowak is in the processing of appealing the decision. An appeal hearing was held in Sydney on 30 July 2018 with the applicant and respondent lodging paperwork in relation to the application for leave to appeal. A determination on this matter has not yet been made.

It is considered that the outcome of this case is irrelevant to the matters to be considered in the assessment of Development Application DA18/0030. The NCAT application relates to noise related to the replacement of carpet in an adjoining unit, Unit 6. Further, this work within the adjoining unit is exempt development and did not require development consent in accordance with *State Environmental Planning Policy (Exempt and Complying Development) 2008*.

Therefore, it is recommended that the determination of the development application is not deferred until the determination of the appeal to NCAT and that the application be approved subject to conditions of consent and that a Penalty Infringement Notice be issued to the owner of Lot 5 SP 16028 as reported to Council on 2 August 2018.

Summary of Original Report:

Council is in receipt of a development application for alterations to an existing residential flat building unit (Unit 5). The works involve additions to an approved two bedroom unit to create a four bedroom unit, construction of a laundry room, reconfiguration of the kitchen and bathroom and approval for the provision of a car parking space on the driveway on common property.

This application is in response to a compliance matter related to unauthorised works within the area adjacent to the garage. However, upon site inspection it became apparent that unauthorised works were currently being undertaken within the main level of the unit which included the addition of a bedroom and reconfiguration of the bathroom and kitchen. Subsequently, the owner seeks to achieve compliance across the entirety of the unit as part of this Development Application.

Although unauthorised works at the garage level have been undertaken, the application seeks approval for a different configuration which involves the conversion of an approved workshop area to a bedroom and construction of a laundry.

In accordance with Council's Development Control Plan, the proposed increase in bedroom numbers requires additional car parking at the site. The applicant therefore proposes to use the driveway (common property) in front of Unit 5 garage to provide for a second car parking space.

The original application which proposed the works adjoining the garage was notified for a period of 14 days in February 2018. Following the expansion of the Development

Application to include the unauthorised works on the main level of the unit, the amended application was again placed on exhibition for a period of 14 days in May 2018. Two objections to the proposal were received; one from each exhibition period raising issues with regard to the retrospective authorisation of the works, strata owners consent to lodge the application, that the garage area being used as a separate unit, amenity impacts and insufficient parking. It is noted that the objector also registered and attended a Community Access meeting in advance of the Planning Committee meeting on 7 June 2018 to articulate his objections directly to the elected members regarding this application and Development Application DA18/0278 under concurrent assessment for Unit 6 at the subject site.

The matters raised in the submissions are addressed in detail later in this report. However, in summary the following is noted:

- The approval of the application does not prevent Council from taking proceedings against the applicant under Section 9.50 of the Act with respect to a failure to obtain development consent for the works or use of the building.
- The Strata Owners Consent submitted with the application meets with the requirements of Council signed by the Body Corporate secretary and bearing the common seal of the strata plan. Further the applicant has submitted the minutes from an extraordinary meeting of the Owners Corporation whereby it was resolved to amend the by-laws to include a special exclusive use by-law to allow the applicant to provide a second car parking space in the driveway.
- The applicant has submitted a report from Bitzios Consulting (Traffic Engineering Consultants) confirming that the provision of car parking in front of the garages of Units 3, 5 and 6 (being the garages associated with current proposal and adjoining garages) will not introduce any adverse conditions and will not impede access to the garages.
- Any subsequent application(s) to NCAT to rule on non-compliance with the by-laws in relation to noise impacts is unrelated to the relevant matters for consideration in this application and a deferral of determination of this development application in this regard is unwarranted.

It is recommended that the application as submitted be approved and that a Penalty Infringement Notice be issued to the owner of Lot 5 SP16028 for undertaking development without consent.

RECOMMENDATION:

That:

- A. Development Application DA18/0030 for alterations to an existing residential flat building unit (unit 5) at Lot 5 SP 16028; No. 5/14 Boundary Street, Tweed Heads be approved subject to the following conditions:**

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Zone Planning dated March 2018 (Ref Z17291), further information received 16 July 2018 and the following Plans except where varied by the conditions of this consent:**

- Site Plan Sheet 1 of 2 prepared by Gavin Duffie dated 15 December 2017;
- No 01 Driveway – Proposed uncovered car parking spaces dated 14 June 2018 annotated in red;
- No 01 Floor Plans – Main Level Floor Plan prepared by Gold Coast Building Designers dated 4 March 2018 annotated in red;
- Garage Level Floor Plan Sheet 2 of 2 prepared by Gavin Duffie dated 15 December 2017 annotated in red;

[GEN0005]

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

[GEN0115]

3. A construction certificate for proposed works including the reconfiguration of the garage level, is required to be obtained within 90 days from the date of this consent. Construction certificate plans are to include only one laundry within the unit.

[GENNS01]

4. A final occupation certificate is to be obtained within 6 months from the date of this consent.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. **Section 7.11 Contributions**

Payment of the following contributions pursuant to Section 7.11 of the Act and the relevant Contribution Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 7.11 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

These charges include indexation provided for in the Section 7.11 Contribution Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 7.11 Contribution Plan current at the time of the payment.

A copy of the Section 7.11 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulghum Road, Murwillumbah and Brett Street, Tweed Heads.

- (a) **Open Space (Casual):**
0.2917 ET @ \$624 per ET \$182
(\$502 base rate + \$122 indexation)
CP Plan No. 5

- (b) **Open Space (Structured):**
0.2917 ET @ \$714 per ET \$208
(\$575 base rate + \$139 indexation)
CP Plan No. 5

- (c) **Shirewide Library Facilities:**
0.2917 ET @ \$933 per ET \$272
(\$792 base rate + \$141 indexation)
CP Plan No. 11

- (d) **Bus Shelters:**
0.2917 ET @ \$71 per ET \$21
(\$60 base rate + \$11 indexation)
CP Plan No. 12

- (e) **Eviron Cemetery:**
0.2917 ET @ \$135 per ET \$39
(\$101 base rate + \$34 indexation)
CP Plan No. 13

- (f) **Community Facilities (Tweed Coast - North)**
0.2917 ET @ \$1539 per ET \$449
(\$1,305.60 base rate + \$233.40 indexation)
CP Plan No. 15

- (g) **Extensions to Council Administration Offices
& Technical Support Facilities**
0.2917 ET @ \$2187.14 per ET \$637.99
(\$1,759.90 base rate + \$427.24 indexation)
CP Plan No. 18

- (h) **Cycleways:**
0.2917 ET @ \$526 per ET \$153
(\$447 base rate + \$79 indexation)
CP Plan No. 22

- (i) **Regional Open Space (Casual)**
0.2917 ET @ \$1215 per ET \$354
(\$1,031 base rate + \$184 indexation)
CP Plan No. 26

- (j) **Regional Open Space (Structured):**
0.2917 ET @ \$4264 per ET \$1,244
(\$3,619 base rate + \$645 indexation)
CP Plan No. 26

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

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

BELOW IS ADVICE ONLY

The Section 64 Contributions for this development at the date of this approval have been estimated as:

Water: 0.17 ET @ \$13,632 = \$2,317.45
Sewer: 0.25 ET @ \$6,549 = \$1,637.25

[PCC0265]

7. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water and sewerage works prior to the issue of a Construction Certificate.

[PCC1195]

8. Prior to the release of the construction certificate details demonstrating compliance with the following requirements are to be submitted to and approved by the nominated PCA.

9. These works are to ensure Unit 5 is provided with a satisfactory level of fire safety/BCA compliance;

- a) The existing fire rated ceiling to Unit 5 is damaged in places. Repair works are required to ensure the ceiling has a minimum resistance to the incipient spread of fire of not less than 60 minutes.
- b) Smoke alarms are to be installed in Unit 5 (garage level and main level) in accordance with Part E Volume 1 of the BCA. Details of the proposed location and design of the smoke alarms are to be submitted to and approved by the nominated PCA prior to works commencing. Upon installation a certificate from a licensed electrician certifying that the smoke alarms have been connected to the consumer mains power is to be submitted to the PCA.
- c) The window (installed without approval) located in the northern wall of the workshop/garage to Unit 5 is required to achieve an FRL of 90/90/90. This window is to be removed and the opening filled with masonry work having a minimum FRL of 90/90/90. Alternatively the opening is to be protected in accordance with Part C3 of the BCA.

- d) The windows to all bedrooms of Unit 5 (Third floor) are to be provided with protection in accordance with the requirements of D2.24 of the BCA.

Further to the above fire upgrading, the option is available to submit a fire engineering report containing an alternative solution addressing the Performance Requirements contained in Volume 1 of the Building Code of Australia relating to the non-compliance issues arising from the above BCA assessment. This report is to be submitted to the nominated PCA for assessment and determination prior to issue of the Construction Certificate.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

10. The erection of a structure (Unit 5 - ground and third floors) 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]

11. 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]

12. Residential building work:

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

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

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

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

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

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

[PCW0235]

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]

DURING CONSTRUCTION

14. All proposed works are to be carried out in accordance with the conditions of development consent, any approved Management Plans, approved Construction Certificate, drawings and specifications.

[DUR0005]

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

[DUR0015]

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. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 6.6 of the Environmental Planning and Assessment Act 1979.

[DUR0405]

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

[DUR0415]

21. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Work Health and Safety Regulation 2011.

The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the Dangers of Lead" and the Workcover Guidelines on working with asbestos.

[DUR0645]

22. 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]

23. 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]

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

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

[DUR2485]

25. Plumbing

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

[DUR2495]

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

[DUR2525]

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

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

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

[DUR2555]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

28. Prior to issue of an Occupation Certificate, all works/actions/inspections etc required at that stage by other conditions or any approved Management Plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

29. 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 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

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

[POC0225]

31. 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]

32. 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]

33. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met.

[POC1055]

34. Prior to the issue of an occupation certificate, a copy of the by-laws for Strata Plan 16028 shall be submitted to the Principal Certifying Authority demonstrating that an exclusive use by-law has been made for the exclusive use by Unit 5 of part of the common property (driveway) for the purposes of a car parking space.

[POCNS01]

USE

35. Unit 5 is to be used as a single dwelling unit. The garage level is not to be used or adapted for separate residential habitation or occupation. The unit is to include only one laundry.

[USE0465]

- B. A Penalty Infringement Notice be issued to the owner of Lot 5 SP16028 for undertaking development without consent.**

REPORT:

Applicant: Mr BJD Gray
Owner: Mr Brendan JD Gray
Location: Lot 5 SP 16028 No. 5/14 Boundary Street, Tweed Heads
Zoning: R3 Medium Density Residential
Cost: \$1,500

Background:

Site Details

The subject site is 754m² and is developed with a six unit residential flat building (RFB). The subject site slopes up to the south west and given this topography, the existing RFB is a split level design with 3 unit garages obtaining vehicular access from Boundary Street and the other 3 unit double garages, from Boundary Lane from a Level 2 (nominated on the Strata Plan).



Photographs 1 & 2: The development as viewed from Boundary Street (left) and from Boundary Lane (right) (Google streetview 2013).

The subject site is across the road from the NSW/QLD border that runs parallel to Boundary Street and is within an area zoned R3 medium density residential. Point Danger is 300m to the northeast with Jack Evans Boat Harbour to the southwest. The residential area is established with low to medium density development.

Site History

Town Planning Permit PN7686 approved the erection of six flats granted 30 May 1979 at the site (associated BA583/79). Conditions of this consent included the *provision of adequate vehicular access and provision to be made within the site for at least 7 car parking and/or garaging spaces each of an area of not less than 2.5m x 5.5m.*

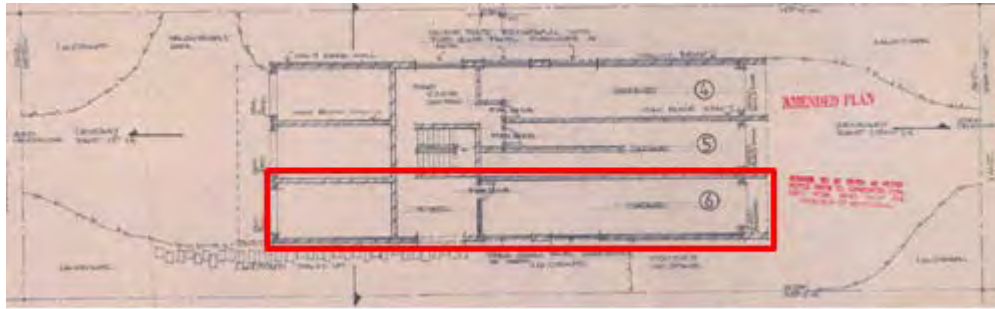


Figure 1: Approved Ground floor (Garage) Plan

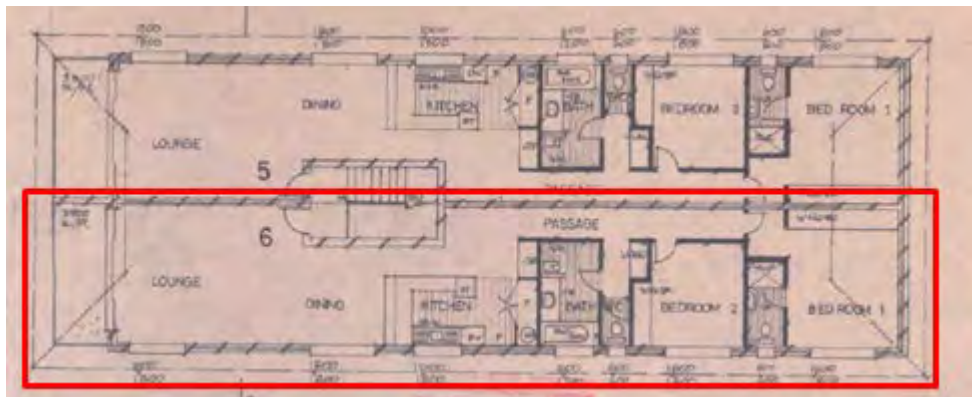


Figure 2: Approved third floor plan (Units 5 & 6)

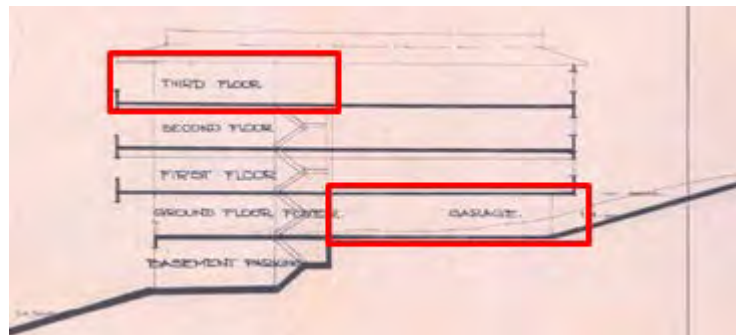


Figure 3: Approved longitudinal section plan

Note: Unit 5 (the subject unit) is nominated as Unit 6 on the Building Application plans above.

Development Consent DA06/0653

Development Consent DA06/0653 for the additions of a bathroom within the subject Unit 5 was granted 19 September 2006. This application involved approval of a bathroom and workshop area in the location of the garage and resulted in a reduction from 2 to 1 car parking spaces. The variation in car parking required at the time was justified as 'at the time of approval [of the residential flat building development] (1980), there would have been a requirement of one car space per unit, therefore approval of this proposal will not compromise this requirement'.

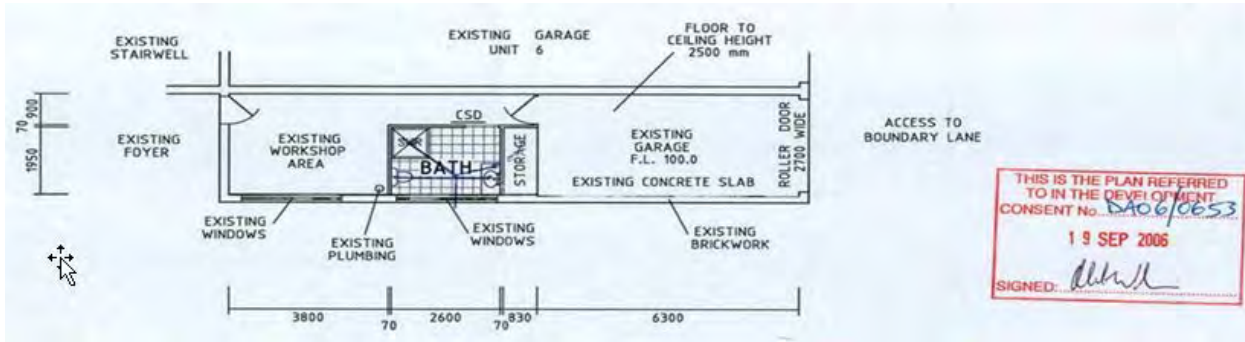


Figure 4: Approved Unit 5 Garage Level floor plan DA06/0653

Existing unauthorised configuration

At the garage level, unauthorised works have been undertaken. However, the application does not seek approval for these structures and instead seeks approval for a different configuration. The following outlines the existing unauthorised development relative to the proposed floor plan.

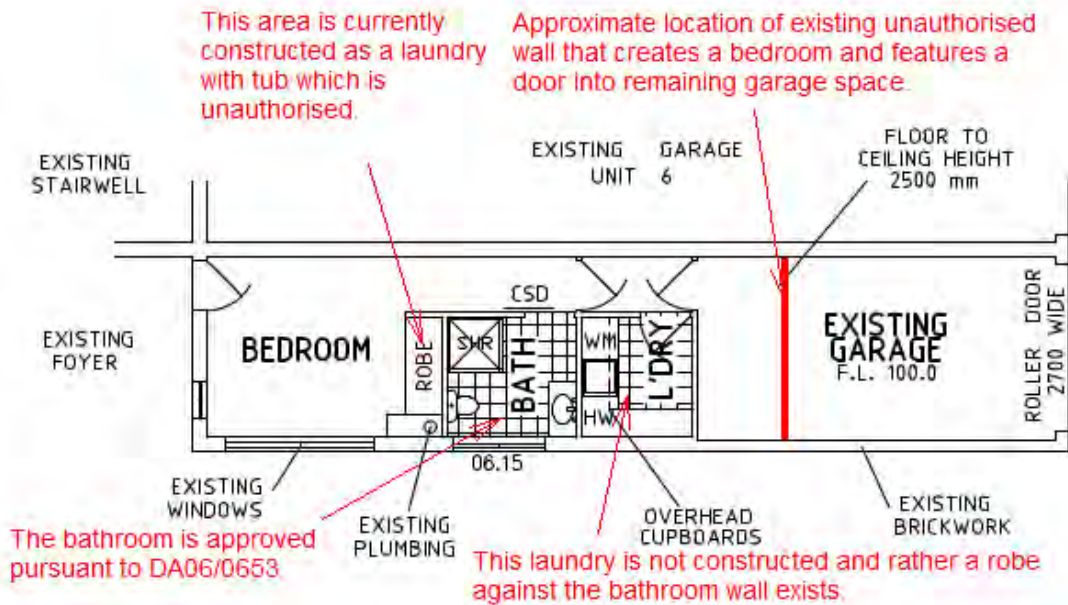


Figure 5: Unit 5 Garage Level floor plan proposed. Red annotation outlines existing unauthorised works.

Other applications relating to 14 Boundary Street

The following further approvals have been sought over individual units.

Unit 1 0418/89 Building application was granted 1 May 1989.

Unit 4 Development Consent DA07/0045 for an additional bedroom and bathroom within a garage mezzanine was granted 30 April 2007. A Section 96 application was approved for the use of the bedroom as a storage room removing the S64 developer contributions condition however the amendment was subsequently surrendered given the desired habitable use of the room.

The original consent for the development (PN7686) required the provision of a minimum of 7 car spaces, which are provided in the form of allocated basement garages. At the time of assessment of this application under Section A2 of the DCP, Unit 4 required two (2) car spaces for this proposal. There was no area in which additional formal car parking could be provided and the applicant advised that the proposal will not result in additional residents nor would the area be occupied as a separate dwelling therefore would not result in the need for additional parking. It was considered the requirement for additional on-site parking was not warranted in this instance, and the applicant was not required to provide any additional car parking with the provision of one car parking space to service the three (3) bedroom unit.

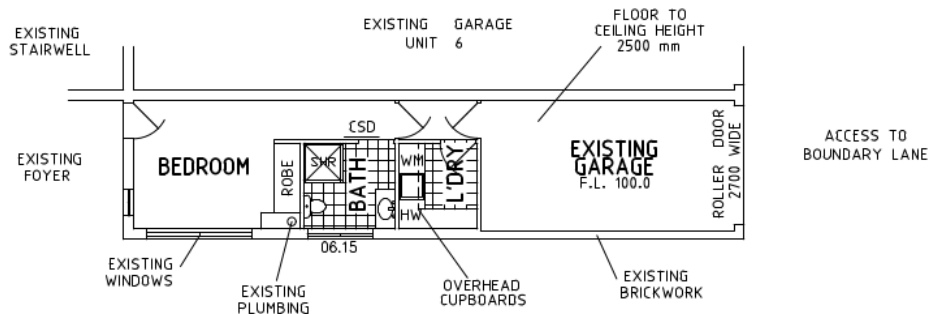
Unit 6 Development Consent DA18/0278 for additional bedroom and alterations to kitchen and bathroom in unit is currently under assessment. This application is also in response to compliance matters involving works conducted without approval.

Proposal

The subject application seeks approved for alterations to an existing residential flat building unit (unit 5). The works involve additions to an approved two bedroom unit to create a four bedroom unit, construction of a laundry room, reconfiguration of the kitchen and bathroom and approval for the provision of a car parking space on the driveway on common property.

This application was originally lodged in response to a compliance matter related to unauthorised works within the area adjacent to the garage. However, upon site inspection it became apparent that unauthorised works were also being undertaken within the main level of the unit which included the addition of a bedroom and reconfiguration of the bathroom and kitchen. Subsequently, the owner seeks to achieve compliance across the entirety of the unit as part of this Development Application.

The proposed floor plan for the unit is as follows.



Proposed Unit 5 Floor Plan for Level 2 and obtains direct vehicular access from Boundary Lane to the south of the residential flat building.



Proposed Unit 5 main level Floor Plan which comprises half of the building's Level 5 floor plate. The balcony overlooks Boundary Street northwards.

The works on the main level include:

- Relocation of the kitchen into the dining/living room area to create a more compact open plan living/dining room/kitchen;
- Renovations to the bathroom; and
- Construction of additional bedroom.

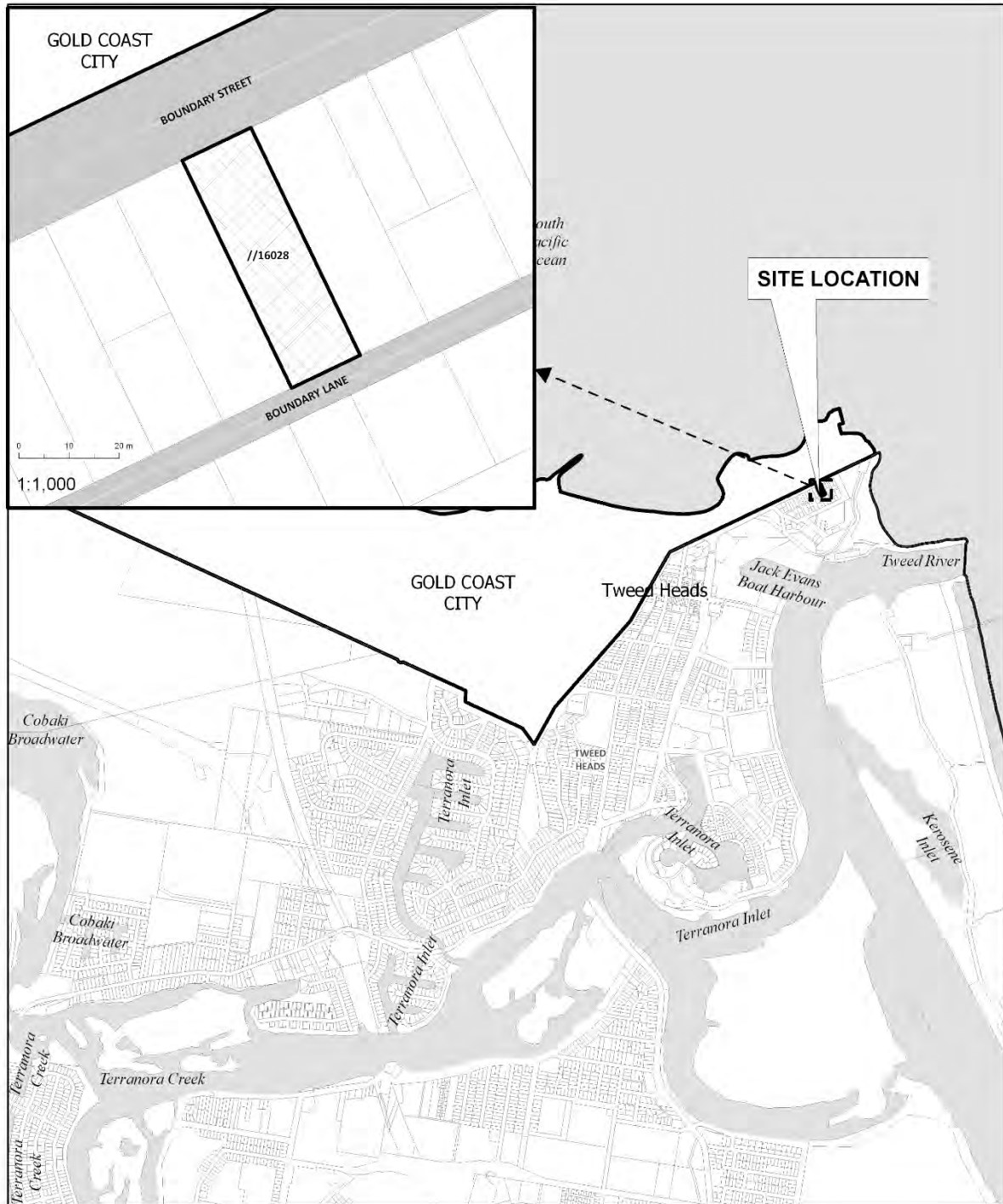
Works on the garage level include:

- Construction of a laundry room;
- Removal of an unauthorised wall reinstating a full single garage;
- Removal of existing unauthorised laundry and replacement with robe and use of the area as a bedroom.

The applicant proposes to use the driveway (common property) in front of the Unit 5 garage to provide for a second car parking space which if approved, will be conditioned to be nominated for exclusive use by Unit 5 within the Strata by-laws.

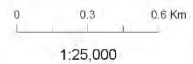
The application was referred to Council's Building Unit, Traffic Engineer and Water and Wastewater Unit. Issues which were raised in the initial assessment have been resolved and there is no objection from the various Council Units to the approval of the development subject to conditions.

SITE DIAGRAM:



Site Plan

//16028
14 boundary Street Tweed Heads



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Coordinate System - MGA Zone 56
Datum - GDA 94

Cadastre: 16/07/2018
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 3 Tumbulgun Road
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 P.O. Box 816
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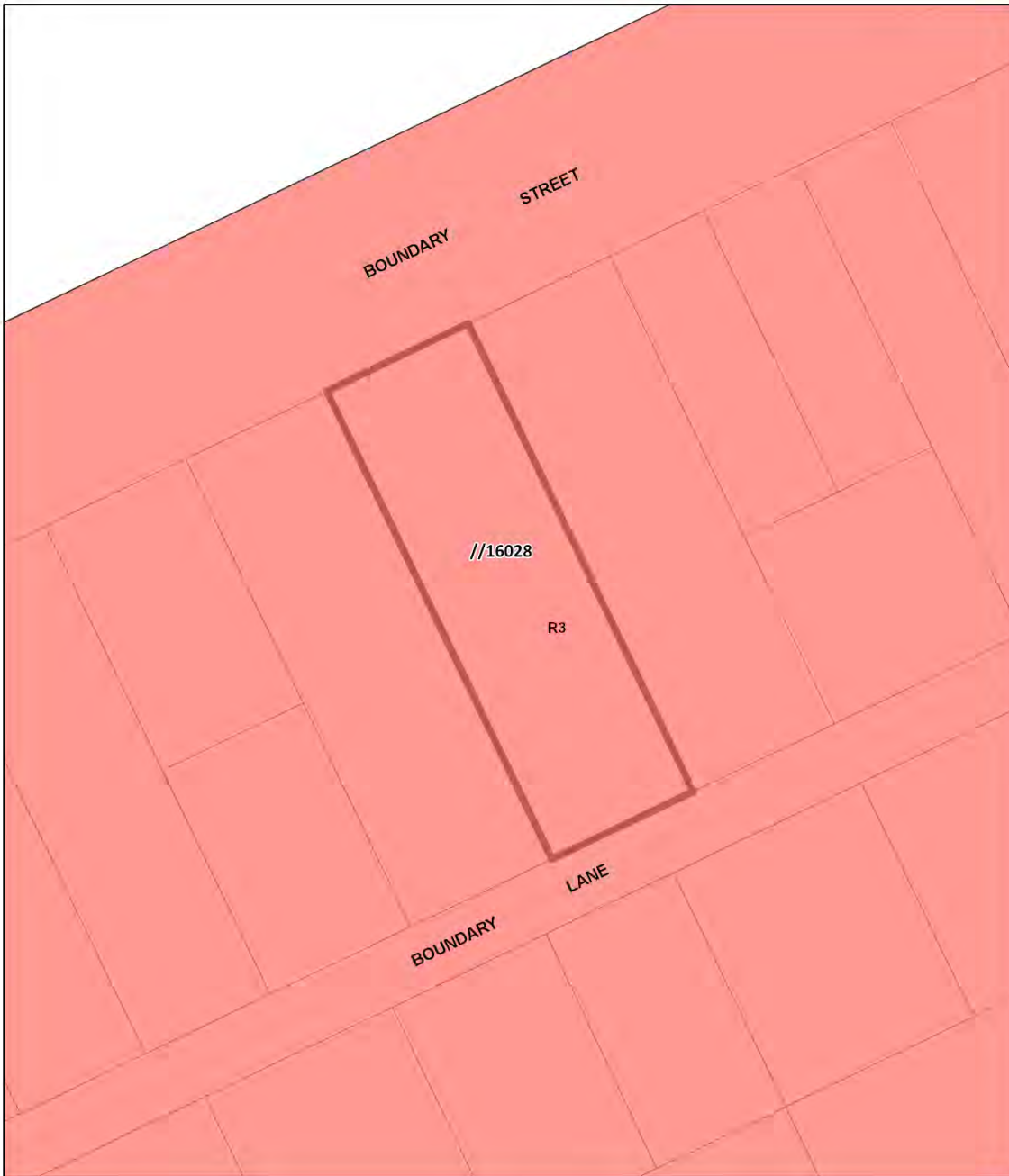
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TWEED
SHIRE COUNCIL

Date Printed: 18 July, 2018


ZONING PLAN:



-  Subject Land
-  R3 Medium Density Residential

1:500 @ A4 Portrait
0 4.5 9 m
GDA
Map Projection: Universal Transverse Mercator
Horizontal Datum: Geocentric Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

Site Plan - Local Environmental Plan
LEP 2012 - City Centre
//16028
14 boundary Street Tweed Heads

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Date Printed: 18 July 2018

AERIAL PHOTOGRAPH:



1:500 A4 Portrait
0 5 10 m
DID 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
GDA

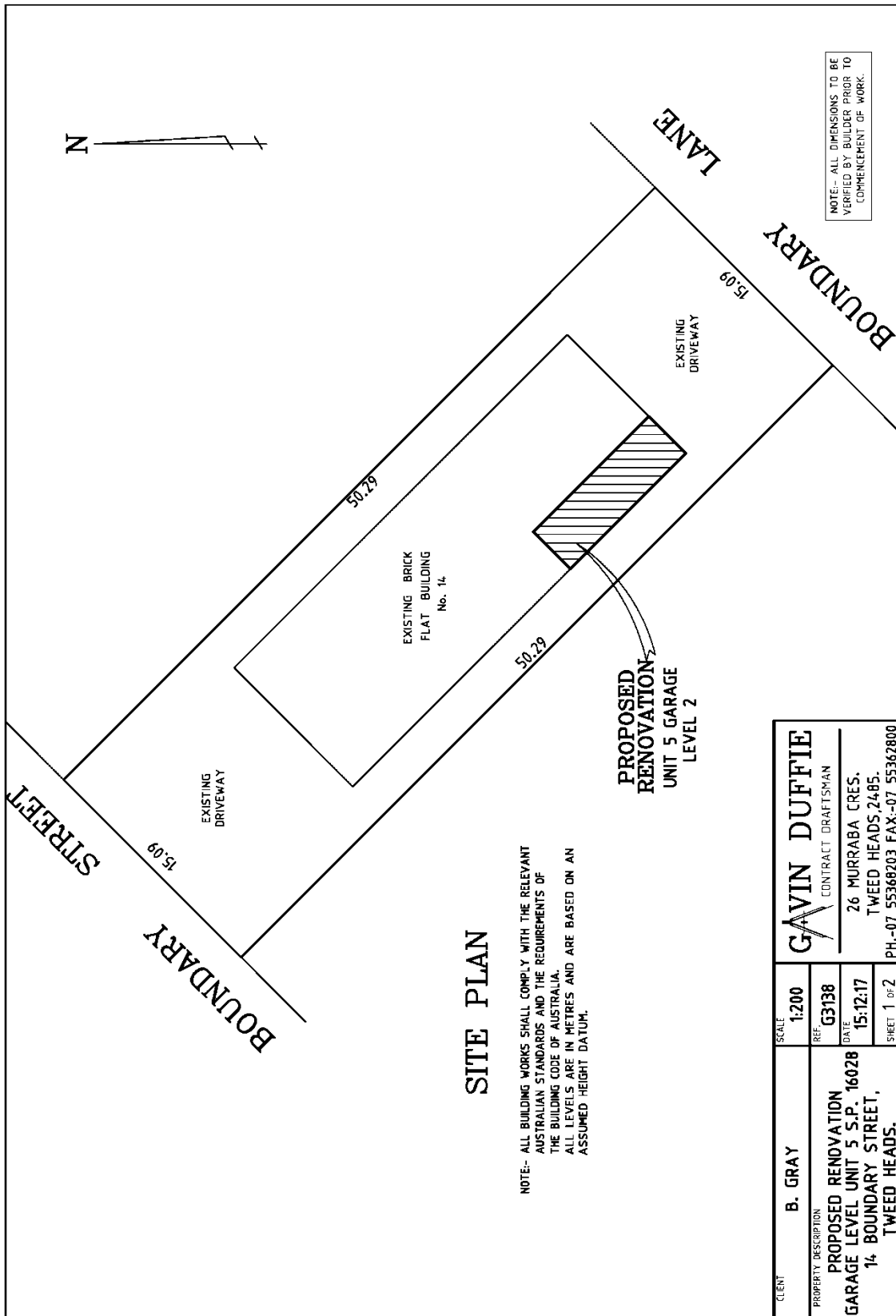
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Aerial Photography April 2018
//16028
14 boundary Street Tweed Heads

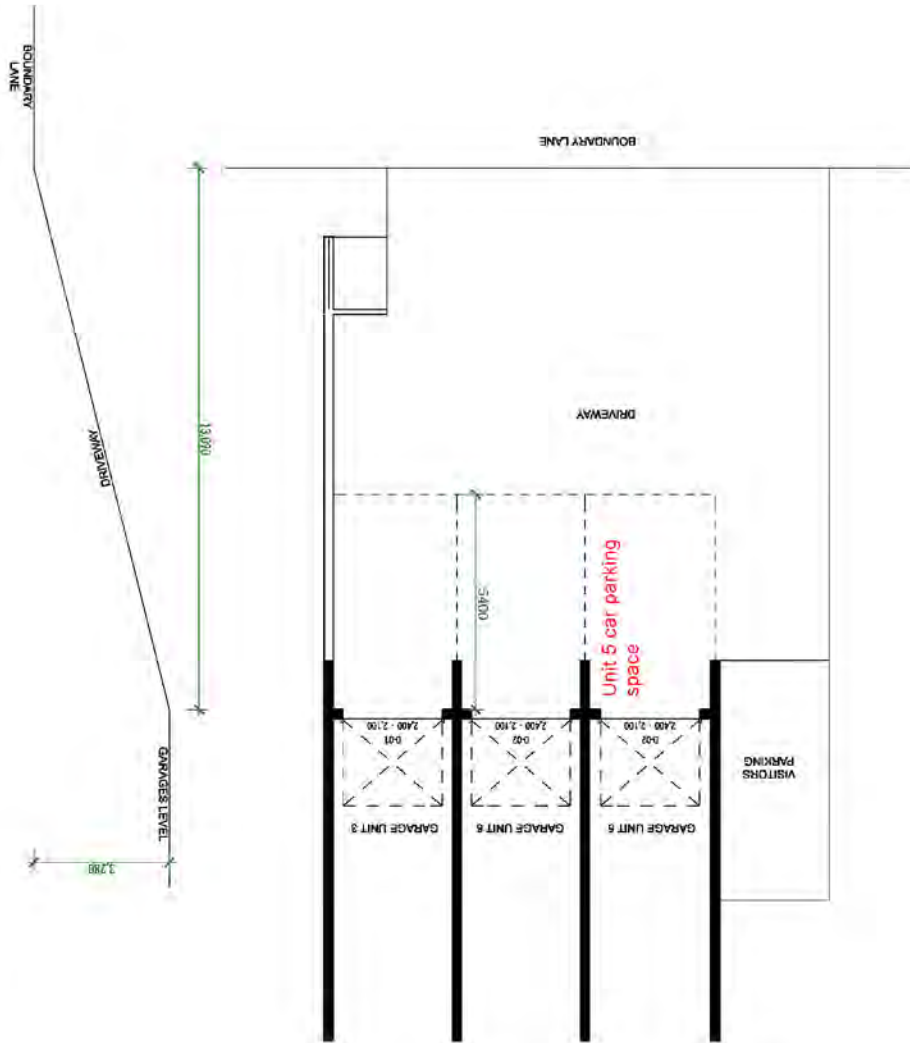
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Author: © Scott GSE Date Printed: 18 July 2018

DEVELOPMENT PLANS:



CLIENT	B. GRAY	SCALE	1:200
PROPERTY DESCRIPTION	PROPOSED RENOVATION GARAGE LEVEL UNIT 5 S.P. 16028 1/4 BOUNDARY STREET, TWEED HEADS.	REF	G3138
		DATE	15:12:17
		SHEET	1 OF 2
GAVIN DUFFIE CONTRACT DRAFTSMAN 26 MURRABA CRES. TWEED HEADS 2485. PH.-07 55368203 FAX:-07 55362800			



PRINT SIZE A3
Drawing No.: 14/06/2018_01 Driveway
Proposed uncovered car parking spaces



Floor Plan 1:100



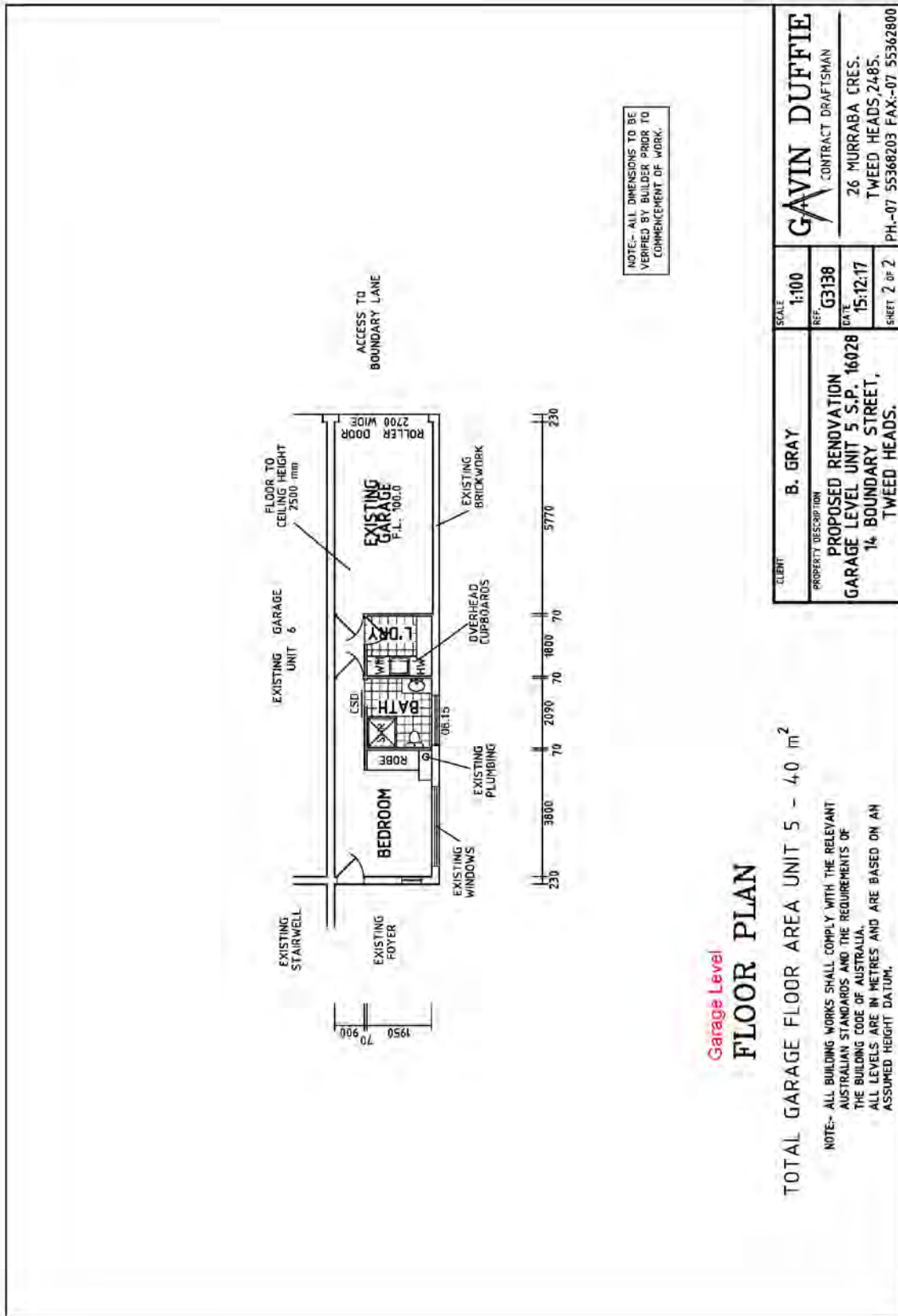
Demolition Plan 1:100

Main Level Floor Plan



Client Name: Brendan John Gray
Site Address: Unit 05 - 14 Boundary Street Tweed Heads
Issue: DA
Date: 4/3/18
Drawing No.: 01 Floor Plans

81 Palm Beach Ave Palm Beach 4221 QLD Australia p: +61 7 5598 7337
 e: info@goldcoastbuildingdesigners.com.au w: www.goldcoastbuildingdesigners.com.au
 The builder shall check and verify all dimensions and verify all errors and omissions to the Designer. Do not scale the drawings. Drawings shall not be used for construction purposes.
 Issued by the Designer For Construction.



Considerations under Section 4.15 of the Environmental Planning and Assessment Act 1979:

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

Tweed City Centre Local Environmental Plan 2012

Clause 1.2 – Aims of the Plan

The Plan aims to make local environmental planning provisions for land in Tweed City Centre in accordance with the relevant standard environmental planning instrument under section 33A of the Act with the particular aims of this Plan as follows:

- (a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents,*
- (b) *to promote employment, residential, recreational, arts, social, cultural and tourism opportunities in Tweed City Centre,*
- (c) *to encourage the responsible sustainable management and conservation of Tweed City Centre's natural and environmentally sensitive areas, the built environment and cultural heritage,*
- (d) *to promote development that is consistent with the principles of ecologically sustainable development,*
- (e) *to promote the economic revitalisation of Tweed City Centre,*
- (f) *to strengthen Tweed City Centre as a multifunctional and innovative regional centre that encourages employment and economic growth,*
- (g) *to protect and enhance the vitality, identity and diversity of Tweed City Centre,*
- (h) *to facilitate building design excellence appropriate to a regional city in Tweed City Centre.*

The proposal is generally consistent with the objectives of the plan, modifying an existing residential unit to create two additional bedrooms, consistent with the existing medium density residential use of the site. The proposal provides for additional car parking to meet the needs of a larger unit.

Clause 2.3 – Zone objectives and Land use table

The subject land is within the R3 - Medium Density Residential zone. The proposed development is defined as a residential flat building which is permitted with consent. A residential flat building is a child form of a residential accommodation which is also permitted with consent within the LEP. It is therefore considered that it is consistent with the zone.

The objectives of the R3 zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development is within an existing residential flat building. This alteration will not impact the residential use of the land and is considered to be consistent with the aims and objectives of the land use table.

Clause 4.1 - Minimum Subdivision lot size

Subdivision does not form part of this application therefore this clause does not apply.

Clause 4.3 - Height of Buildings

The maximum building height is mapped as RL 49.5m AHD. The existing building was approved at an approximate height of 14.75m well under RL 49.5m AHD. No changes to the building height are proposed and therefore the proposal complies with Clause 4.3.

Clause 4.4 – Floor Space Ratio

As there is no new Gross Floor Area proposed as a part of this application it is considered that there will be no impact upon floor space ratio. As such this clause is not applicable.

Clause 4.6 - Exceptions to development standards

No exceptions to development standards are proposed.

Clause 5.5 – Development within the Coastal Zone

Although this clause has been repealed, this was after the lodgement of the application and as such, consideration of Clause 5.5 is given.

The proposed internal alterations to an existing unit is located within the Coastal Zone however, as there is no external building work proposed it is considered that there will be negligible impact upon the zone and acceptable in this regard.

Clause 5.10 - Heritage Conservation

The site is not a within a heritage conservation area and not mapped as a known or predicted site of Aboriginal Cultural Heritage significance. Also, no external works are proposed. Therefore Clause 5.10 is considered satisfied.

Clause 6.1 – Acid Sulfate Soils

Class 5 Acid Sulfate Soils are identified on the subject site. The objective of this clause is *to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.* There is no excavation and as such there will be no disturbance on Acid Sulfate Soils on site.

Clause 6.2 – Flood Planning

The subject site is not flood prone and therefore this Clause does not apply.

Clause 6.6 – Minimum building street frontage

As the residential flat building at the subject site exists and the application is not for redevelopment of the site, this clause does not apply.

North Coast Regional Plan 2036 (NCRP)

The NCRP 3036 provides a guide for the land use planning priorities and decisions to 2036 as an overarching framework to guide subsequent and more detailed land use plans. The goals for the Plan include a thriving, interconnected economy, vibrant and engaged communities, great housing choice and lifestyle options and the most stunning environment in NSW. The proposal is considered to be consistent with the Goals and Directions outlined in the Plan.

State Environmental Planning Policies

SEPP No. 65 - Design Quality of Residential Flat Development

This Policy aims to improve the design quality of residential apartment development in New South Wales and applies to development for the purpose of a residential flat building if:

- (a) *the development consists of any of the following:*
 - (i) *the erection of a new building,*
 - (ii) *the substantial redevelopment or the substantial refurbishment of an existing building,*
 - (iii) *the conversion of an existing building, and*
- (b) *the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and*
- (c) *the building concerned contains at least 4 or more dwellings.*

As the proposal is not considered a substantial redevelopment or substantial refurbishment of an existing building and involves minor alterations to an existing unit within an existing residential flat building, this policy does not apply.

SEPP No 71 – Coastal Protection

Although SEPP 71 has been repealed, the newly adopted SEPP (Coastal Management) 2018 includes a savings provision (Clause 21) that requires the subject application to be considered against SEPP 71 given the date of lodgement.

The proposal is consistent with the aims of the plan in that the proposed internal alterations to an existing residential flat building unit is located 150m from of a

waterway or coastal foreshore given the proposal does not have a significant impact to public access to and along coastal foreshores. Nor do the internal alterations have a significant impact on the visual amenity of the coast, scenic quality of the area, water quality or the beach environment.

The bulk scale and size of the existing residential flat building development will not change as part of the proposal however is appropriate for the surrounding area. The proposal internal alterations do not negatively impact the conservation and preservation of items of heritage, archaeological or historic significance and does not necessitate Basix Certification.

It is considered the proposed patio does not compromise the intent or specific provisions of State Environmental Planning Policy No. 71 – Coastal Protection.

Further, it is noted that as a Draft document, the proposal is considered acceptable giving consideration to SEPP (Coastal Management) 2018.

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

Draft SEPP (Coastal Management) 2018

As outlined above, since the lodgement of the subject application, this SEPP has been adopted. However, Draft SEPP (Coastal Management) 2018 requires consideration.

The subject site is mapped as being within the Coastal Environment Area and the Coastal Use Area.

The proposed works are internal to Unit 5 and will not impact on the biophysical, hydrological (surface and groundwater) and ecological environment, coastal environmental values and natural coastal processes, water quality, access to the foreshore, marine vegetation or habitats or areas of Aboriginal Cultural Heritage. Further, the proposal does not impact on access to the foreshore, result in any overshadowing of loss of views or impact on the visual amenity or scenic quality of the coast.

As such the proposal is considered to be consistent with relevant provisions of the SEPP and acceptable in this regard.

There are no other draft LEPs, SEPPs or REPs relative to this proposal.

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

Tweed Development Control Plan

Section A1-Residential and Tourist Development Code

Section A1 - Part C applies to residential flat buildings however it is noted that the subject unit is located in a residential flat building which was constructed in 1979 and which predates the Plan. Nevertheless the internal changes are considered to be generally in accordance with the provisions of the Plan.

With regard to car parking (Design Control 4), the following controls require consideration:

- a. *Car parking is to be in accordance with Section A2 of the Tweed Shire Development Control Plan.*
- b. *Car parking number concessions may be given to small sites to allow car parking to be fully under the buildings footprint.*
- c. *Car parking can be either in an enclosed structure (a garage or basement) or an open roofed structure (a carport).*
- d. *Car parking cannot be located within the front setback.*
- e. *Car park entries are to be located off secondary streets and laneways where these occur.*
- f. *The driveway width from the street to the property boundary is to be minimised.*
- g. *Vehicular movement and parking areas are to be designed to minimum dimensions;*
 - *to reduce hard surfaces on the lot, and*
 - *to increase the area available for landscaping.*
- h. *On grade car parking cannot occur within 12m of the primary street boundary for flat buildings and 6m for Shop-top.*

The proposal is generally in accordance with the controls above given subject site's dual street frontage giving consideration to the existing topography of the area. The additional car parking space is proposed within the rear setback given the primary street boundary is taken to be Boundary Street not inconsistent with the above. Also, no additional driveway width, or hard stand surfaces are proposed as part of this application.

Considering the development is within an existing residential flat building constructed prior to the adoption of TDCP 2008, the proposed additions and alterations are considered to be generally in accordance with the objectives and controls for Internal Building Configuration and relevant controls and as such are considered acceptable in this regard.

Section A2-Site Access and Parking Code

Table 2a of Section A2 sets out the car parking requirements for residential units, with a two bedroom unit requiring 1.5 spaces and a three bedroom unit requiring 2 spaces. However, this is superseded by Section B2 – Tweed City Centre DCP which requires 1 space for a two bedroom unit and 1.5 spaces for a three or more bedroom unit. Therefore, the proposed four bedroom unit requires 2 spaces.

The subject unit has one existing car parking space in a garage. The application proposes a second tandem space by utilising the driveway directly in front of the garage. The applicant for DA18/0278 (Unit 6/14 Boundary Street, which is currently under assessment) is also proposing to use the driveway to provide an additional car parking space to service his unit.

The applicant was requested to submit a swept path plan and certification from a suitably qualified traffic engineer demonstrating that the provision of car parking

space(s) on the common property will not impact on on-site manoeuvrability and will not impede vehicles accessing the visitor car parking space and the garages associated with Lots 3, 5 and 6 from entering and exiting the site in a forward direction, or otherwise impede access to or from these approved car parking spaces. The applicant was advised that the swept path plan and the certification should address the cumulative impact of car parking in this area (ie car parking associated with this development application and the concurrent application at Unit 6 - DA18/0278).

A traffic report from Bitzios Consulting has been submitted and swept path plans demonstrating that a vehicle is able to forward in and reverse out of each garage to Boundary Lane in the event the vehicles are parking in the driveway in front of the adjacent garages. While the swept path plans do not demonstrate that a vehicle can enter and exit the site in a forward direction, the consultants have confirmed that the proposed tandem car parking spaces do not introduce any adverse conditions. It is noted that the swept path plans do not address the visitor car parking space which is located to the west of Unit 5 garage, however the Traffic Engineer has advised that the plans adequately address the concerns raised and consider the proposal acceptable subject to conditions of consent.

The applicant has also submitted minutes from an extraordinary meeting of the owners corporate whereby it was resolved by four (two of which were present by proxy) of the six owners to make a special by-law for the exclusive use of common property for car parking for Lots 5 and 6. The requirement for the maintenance of this exclusive use by-law is to be reiterated in the conditions of any consent issued.

Section A11-Public Notification of Development Proposals

The original application which proposed the works adjoining the garage was notified for a period of 14 days from Wednesday 7 February 2018 to Wednesday 21 February 2018.

Following the expansion of the Development Application to include the unauthorised works on the main level of the unit, the amended application was again placed on exhibition for a period of 14 days from Wednesday 16 May 2018 to Wednesday 30 May 2018.

Therefore the requirements of Section A11 are considered satisfied. Submissions received are addressed elsewhere in this report.

Section B2-Tweed City Centre

The controls in the Tweed City Centre DCP generally relate to new development or external alterations to existing development.

Section 5 – Access, parking and servicing requires the provision of 1.5 spaces (rounded up to 2 spaces) for a three bedroom unit. The proposed parking (one garage and one tandem driveway) complies with this requirement. Also the proposed parking is not located within the primary street frontage setback and is

considered satisfactory in this regard. Car parking and access has been addressed in detail within Section A2 TDCP.

Section 7 – Residential development controls sets out an objective for residential

The development is to provide a mix of dwelling types and sizes to cater for a range of household types. There is a development control that three or more bedroom units must not be less than 10% of the total mix of units within each development, therefore increasing the capacity of the unit in terms of the number of bedrooms is considered to be consistent with the Plan in this regard.

(a) (iia) Any planning agreement or any draft planning agreement under section 7.4

There are no planning agreements relevant to this site.

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

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

The site is located on land to which Government Coastal Policy applies. However the internal nature of the works is such that there is no impact on the coastal area.

Clause 92(1)(b) Applications for demolition

The proposal includes minor demolition works. Council's Building Services Unit has reviewed the application and inspected the site and has recommended appropriate conditions of consent.

Clause 93 Fire Safety Considerations

Council's Building Services Unit has reviewed the application and has advised that Clause 93 applies as the proposal includes the change of use of the storeroom/workshop to a bedroom. A smoke alarm is required and light and ventilation would need to be addressed and as such, conditions of consent have been applied accordingly to address these considerations which are detailed below.

Clause 94 Buildings to be upgraded

Consideration of Clause (1)(a) is not required since the building works carried out without Council approval involve an area of less than 50% of the existing volume of the unit.

However, Clause 94 applies to a development application *for development comprising the rebuilding, alteration, enlargement or extension of an existing building where:*

- (b) *the measures contained in the building are inadequate:*
 - (i) *to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or*

(ii) *to restrict the spread of fire from the building to other buildings nearby.*

Council's Building Services Unit has advised that the existing building does not contain adequate measures to protect persons and facilitate egress in the event of fire. Therefore the improvements outlined below are to be required which will facilitate egress and protect occupants. Further it is noted that there is no BCA concern in respect of the spread of fire from the building to other buildings nearby.

(2) *In determining a development application to which this clause applies, a consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.*

Council's Building Services Unit has advised that the existing home unit does not contain adequate measures to protect persons and facilitate egress in the event of fire. Therefore the following improvements are to be required which will facilitate egress and protect occupants:

- The existing fire rated ceiling to Unit 5 is damaged in places. Repair works are required to ensure the ceiling has a minimum resistance to the incipient spread of fire of not less than 60 minutes.
- Smoke alarms are to be installed in Unit 5 in accordance with Part E Volume 1 of the BCA. Details of the proposed location and design of the smoke alarms are to be submitted to and approved by the nominated PCA prior to works commencing. Upon installation a certificate from a licensed electrician certifying that the smoke alarms have been connected to the consumer mains power is to be submitted to the PCA.
- The window (installed without approval) located in the northern wall of the workshop/garage to Unit 5 is required to achieve an FRL of 90/90/90. This window is to be removed and the opening filled with masonry work having a minimum FRL of 90/90/90. Alternatively the opening is to be protected in accordance with Part C3 of the BCA.
- The windows to all bedrooms of Unit 5 are to be provided with protection in accordance with the requirements of D2.24 of the BCA.

Therefore following a fire safety measures upgrade outlined above, Unit 5 will generally comply with current requirements. The above upgrades have been recommended to be addressed as conditions of consent accordingly.

The Building Services Unit also noted following site inspection that the fire rated ceiling of the ceiling to the top of the common internal stairway has been compromised by the installation of a diffused lighting panel and the manhole cover is melamine and not two layers of fire grade plasterboard (one hour fire rated). It was noted an illuminated exit sign has been installed at the base of the stairs, and there is no emergency lighting installed within the fire isolated stairway. Also there should be a smoke and alarm system in accordance with AS 1670 provided to the fire isolated stairway and each sole occupancy units should have smoke detectors installed in accordance with AS3786. These issues will be pursued under separate cover to the owners' corporation.

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

It is noted that this Section of the Environmental Planning and Assessment Act has been repealed in addition to the Coastal Protection Act 1979. However, given the application was lodged prior to the repeal, consideration of this clause is addressed below.

Tweed Shire Coastline Management Plan 2005

The Tweed Shire Coastline Management Plan 2005 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. While the subject site is subject to this plan, the internal works are not of a nature that would impact on the coastal zone area.

Tweed Coast Estuaries Management Plan 2004

This Management Plan applies to the estuaries of Cudgen, Cudgera and Mooball Creeks. The subject site is not located in close proximity to any of these creeks and as such this management plan does not apply to the subject application.

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

As the subject site is not located within the Cobaki or Terranorra Broadwater to which this plan relates, this Plan is not considered relevant to the proposed development.

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

Context and Setting

The proposal relates to an existing unit in a residential flat building in an established medium density residential area. One other unit in the development has already been issued approval for the creation of a third bedroom (in the garage associated with the unit). The internal alterations for which approval is sought under this application and the addition of two bedrooms will have minimal environmental impacts within this context and setting.

Access, Transport and Traffic

As addressed in detail elsewhere in this report, the subject unit proposes two car parking spaces within the existing residential flat building development site which is subject to topographical constraints. Council's Traffic Engineer has no objection to the proposal in this regard.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The proposal is within an existing residential flat building which is located in a medium density residential area. The subject proposal to increase the bedroom numbers is considered suitable within this context.

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

The original application which only included the works on the garage level, was notified for a period of 14 days in February 2018 during which time one submission was received.

Following the expansion of the Development Application to include the unauthorised works on the main level of the unit, the amended application was again placed on exhibition for a period of 14 days in May 2018 during which time one submission was received.

A summary of the issues, the applicant's response and the planning officer's comments are set out below. Some of the matters raised by the objector over the phone or as part of Development Application DA18/0278 have also been addressed below.

Objection	Applicant's response	Planning officer's comments
Retrospective authorisation of the works		
Renovations took place in 2015 and were undertaken without Body Corporate approval or Tweed Shire Council approval.	The applicant has advised that he was not aware of the requirements of obtaining Development Consent from Council prior to such minor works being undertaken within the unit. Therefore once issued with the Show Cause Notice issued by Council on 9 November 2017, the applicant immediately engaged a planning consultant to address the notice and to prepare and lodge an application to obtain the necessary approvals required.	Under the <i>Environmental Planning and Assessment Act 1979</i> , as works were undertaken without the required approvals, Council can issue the applicant with a Penalty Infringement Notice under Section 9.50 (previously S125) of the Act as a penalty. In moving forward, regarding the ongoing use and works within the unit, whether or not the applicant was aware of the need for development consent is of no relevance in the assessment of the subject application. The proposal is required be assessed on merit in accordance with Section 4.15 of the Act.

Objection	Applicant's response	Planning officer's comments
Owners consent		
<p>The author is an owner of a unit in building and has not approved the lodgement of the application nor the works and does not support the approval of the application by Council.</p> <p>The legitimacy of the strata owners consent provided has been questioned.</p>	<p>The owners consent which accompanied the subject application included the same level of details as that submitted for DA18/0278 (adjacent site – Unit 6).</p> <p>It is noted that the <i>body corporate committee have agreed to this level of consent previously in relation to an additional bedroom in the garage of Lot 4 (the author of the submission ...). This was taken to court through CTTT (case number SCS12/13037) to allow him the opportunity to submit a DA which was subsequently approved. This was the reason the Committee allowed the subject application and adjoining application to proceed on a similar basis.</i></p>	<p>Refer to the detailed comments below in the section below 'Strata Owners Consent'.</p>
The garage area being used as a separate dwelling.		
<p>Concerns have been raised that the garage area has been and will be used as a separate unit with the laundry being used as a kitchen. Why is plumbing proposed in the bedroom?</p>	<p>The proposed unit arrangement is to be for <i>the sole use of the occupants of the primary dwelling and will not operate as a separate domicile. There has been not request by the Applicant to rent this bedroom separately thus providing Council comfort that this will not occur once approved and constructed.</i></p> <p><i>There is plumbing existing in the bedroom which is to be removed to reflect the revised layout...</i></p>	<p>The proposal is required to be assessed on merit. It is noted that the proponent states that the unit will be used as one dwelling, however, the provision of two laundries (one on each level) creates doubt regarding the potential use of each level of the unit as separate dwellings. As such this issue can be addressed by way of condition of consent restricting the development to the construction of only one laundry and requiring the unit to be used as a single dwelling. This condition has been applied accordingly.</p>

Objection	Applicant's response	Planning officer's comments
Amenity impacts		
<p>The proposed bedroom will be subject to noise from the building entrance. The garage area bedroom will have insufficient sunlight and ventilation.</p>	<p><i>The proposed bedroom will not be subject to noise impacts above what is generally accepted for ground level habitable spaces. Further to this, it is acknowledged that the submitter has also has a bedroom and bathroom approved in the upper level of their garage ... which would be subject to similar noise levels being adjacent to the building entrance corridor.</i></p>	<p>The proximity of the bedroom with the entrance to the building is not considered to result in any unacceptable noise impacts above what is generally accepted. The proposed habitable room features an openable window of an acceptable size resulting in the proposed light and ventilation being acceptable in this instance. Further, as discussed elsewhere in this report, Council's Building Services Unit has advised that requiring full compliance with the BCA is not enforceable in a building of this age and is unreasonable.</p>
Insufficient Parking		
<p>Parking is a major problem in this area and the development proposes insufficient car parking. A bedroom currently exists where the plans state a car parking space. Objection to parking in the common property.</p>	<p>The applicant acknowledges the issues of car parking in the area and to that end has complied with the information required by Council in relation to the provision of a second car parking space in the driveway. The Owners Corporation resolved to make a by-law to allow for the exclusive use of the common property for car parking for Lots 5 and 6 thereby providing 2 spaces for each unit in accordance with the requirements of the DCP.</p>	<p>The applicant has provided two (2) car parking spaces in accordance with the requirements of the DCP (1.5 spaces required in the Tweed City Centre DCP). It is noted that development approval was previously issued by Council in 2007 allowing for the creation of additional bedroom in Unit 4 without the requirement for any additional car parking. It is noted that access to the objector's garage is from Boundary Street and it has been demonstrated by way of Engineering certification that it will not be impacted by the provision of car parking</p>

Objection	Applicant's response	Planning officer's comments
		spaces in the driveway fronting Boundary Lane. It is noted that works are proposed as part of this application to reinstate a full sized garage within the unit.

The objector made a number of subsequent written submissions regarding ongoing NSW Civil and Administrative Tribunal (NCAT) applications. The matters which the objector is seeking to resolve through NCAT relate to noise impacts from the replacement of a carpet with floorboards in Unit 6. It is considered that these works are exempt development and do not form part of the works for which approval is sought under this development application for Unit 5. As such the outcome of any future application to NCAT has no bearing on the assessment of this application and any deferral of the determination is unwarranted.

It is noted that the objector also registered and attended a Community Access meeting in advance of the Planning Committee meeting on 7 June 2018 to articulate his objections to this application directly to the elected members.

Strata Owners consent

It would appear that the issue of strata owners consent for the lodgement of development applications on strata plan properties is becoming a more contentious issue, as demonstrated by this and a number of other applications before Council thereby either the legitimacy of the strata owners consent, or the ability of Council to accept an application without a strata owners consent, has been questioned by objectors to the development.

Clause 49 of the *Environment Planning and Assessment Regulation* states that:

- (1) *A development application may be made:*
 - (a) *by the owner of the land to which the development application relates, or*
 - (b) *by any other person, with the consent in writing of the owner of that land.*

The *Environment Planning and Assessment Act* states that owner has the same meaning as in the *Local Government Act 1993*, which defines owner as:

- (b) *in relation to land other than Crown land, includes:*
 - (i) *every person who jointly or severally, whether at law or in equity, is entitled to the land for any estate of freehold in possession, and*
 - (ii) *every such person who is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits of the land, whether as beneficial owner, trustee, mortgagee in possession, or otherwise, and*

- (iii) *in the case of land that is the subject of a strata scheme under the Strata Schemes Development Act 2015, the owners corporation for that scheme constituted under the Strata Schemes Management Act 2015, and*
- (iv) *in the case of land that is a community, precinct or neighbourhood parcel within the meaning of the Community Land Development Act 1989, the association for the parcel, and*
- (v) *every person who by this Act is taken to be the owner, and*

To fulfil the requirement for owners consent from an owners corporation, Council's Development Application Preparation Guide and standard Owner Consent form for a strata plan property states that:

When the application is lodged on a Strata Plan, the Owners consent is required from the Owners Corporation as well as the owner of the subject lot, this can be in the form of:

- a) *A letter on the corporation's letterhead or with the corporation seal. If the corporation does not have a corporation seal or letterhead, the corporation secretary is to sign the application form/letter of authority stating so; OR*
- b) *The official minutes of Body Corporate meeting giving consent for that particular application. There should be verification of the minutes by seal or signatures by office bearers or at the very least a signed covering letter verifying the minutes. If either of the above cannot be provided consent is required from all unit owners in the Strata Plan.*

The applicant has submitted an owners' consent form signed by the Owners Corporation Secretary and with the 'Proprietors of Strata Plan No 16028' seal.

The applicant has also submitted email correspondence that includes authorisation from the secretary of the Body Corporate, chairman of the Body Corporate and two other unit owners (four of the six unit owners) to lodge of an application for the renovation works to both the garage level and main level of Unit 5.

As the application plans did not explicit identify the use of the common property for car parking nor did the application form refer to same, the applicant was requested to submit Owners Corporation consent for the exclusive use of the common property driveway as a car parking space to service Unit 5.

The applicant was further advised that any development consent issued for the use of the common property driveway for car parking associated with proposal will be subject to a condition of consent requiring an amendment to the Strata by-laws to reflect this exclusive use. In this regard, he was advised to submit a written acknowledgment from Owners Corporation of this requirement which would formalise the use of this area as a car parking space.

The applicant has submitted the minutes of an Extraordinary General meeting of Strata Plan No 16028 (dated 5 July 2018) whereby the Owners Corporation

specially resolved to make a bylaw for the exclusive use of common property for car parking for Lots 5 and 6.

As such, it is considered that the proponent has provided sufficient owners consent for the purposes of the assessment of the subject Development Application in accordance with the *Environment Planning and Assessment Act 1979*. Any challenge to the legality of the provided owners consent with regard to the *Strata Schemes Management Act 2015* is not a Council matter and does not form part of the assessment of the subject Development Application.

(e) Public interest

It is considered that the proposal is not inconsistent with the public interest as the proposal complies with the relevant controls of applicable environmental planning instruments. The creation of additional bedrooms will provide for a mix of unit sizes in an existing residential development located within an established medium density residential area. The proposal makes provision for the required number of car parking spaces and will not displace car parking onto the street.

Section 7.11 Developer Contributions (previously Section 94)

The proposal is increasing the residential unit from a 2 bedroom unit to a 4 bedroom unit. In this instance Plans 4, 5, 11, 12, 13, 15, 18, 22, 26 and 27 apply.

Plan 4

As the rate charged is per dwelling and no additional dwellings are proposed, charges under this plan do not apply.

Plan 27

As the rate charged is per medium density unit, and no additional units are proposed, charges under this plan do not apply.

The following charges apply for plans 5, 11, 12, 13, 15, 18, 22 & 26

Credit:

2 bedroom unit = $1.7\text{ppl}/2.4\text{ppl} = 0.7083$ ET

Charges:

4 bedroom unit – 2.4 ppl = 1ET

1ET – 0.7083 ET credit = 0.2917ET chargeable.

Section 64 Developer Contributions.

Council's Water Unit has advised the following contributions will apply to any consent.

Existing Section 64 Credit: 2 bedroom unit = 0.5 ET water & 0.75 ET sewer.

Chargeable - 3 plus bedroom unit = 0.67 ET water & 1.0 ET sewer.

Total Section 64 Developer Contributions:
Water = 0.67 ET – 0.50 ET = 0.17 ET @ \$13,632 = \$2,317.45
Sewer = 1.0 ET – 0.75 ET = 0.25 ET @ \$6,549 = \$1,637.25

OPTIONS:

Option 1

- A. That Development Application DA18/0030 for alterations to an existing residential flat building unit at Lot 5 SP 16028; No. 5/14 Boundary Street Tweed Heads be approved subject to conditions; and
- B. A Penalty Infringement Notice be issued to the owner of Lot 5 SP16028 for undertaking development without consent.

Option 2

- A. That Development Application DA18/0030 for alterations to an existing residential flat building unit at Lot 5 SP 16028; No. 5/14 Boundary Street Tweed Heads be refused; and
- B. Council commences legal proceedings for undertaking development without consent.

OPTION 1 (A & B) is recommended.

CONCLUSION:

The internal alterations sought for approval under this application is considered to have minimal environmental impact and it is recommended that the application be approved subject to conditions for the following reasons:

- 1. The development as modified is substantially the same as that approved on the site under Town Planning Permit PN7686 (BA583/79) and will not result in any adverse environmental impacts on either the natural or built environments, or have any adverse social and economic impacts in the locality.
- 2. The proposal is generally consistent with the aims of the Tweed City Centre LEP 2012 and the objectives of the R3 Medium Density Residential Zoning on the site.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

No Legal Costs will be incurred for either Options 1 and 2 unless the decision is appealed by either the objector or the applicant. The applicant and the objector have a right of appeal to the Land and Environment Court in respect of any determination by Council.

c. Legal:

No legal advice is required.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

12 [PR-CM] Development Application DA18/0082 for a Telecommunications Facility at Lot 6 DP 866255; No. 233 Byangum Road Murwillumbah

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 was received by Council on 5 February 2018 proposing the construction of a 30m high monopole with the installation of three panel antennae, 11 non-EME emitting remote radio units and one 600mm dish antenna taking the overall height of the structure to 33.2m at Lot 6 DP 866255; No. 233 Byangum Road Murwillumbah (Murwillumbah Golf Club).

The application has been lodged by Urbis on behalf of Optus Mobile Pty Ltd.

State Environmental Planning Policy (Infrastructure) 2007 sets out provisions for the erection and installation of telecommunications and other communication facilities. As the proposed site is zoned RE2 Private Recreation, the provisions for the erection of a new tower as complying development do not apply. The SEPP does, however, allow for the development with consent in this zone subject to the consent authority taking into consideration the guidelines published by the Department of Planning for site selection, design, construction or operating principles for telecommunications facilities.

An assessment of the proposal against the Department of Planning guidelines is set out in this report and it is concluded that the proposal meets with the criteria set out in the guidelines subject to the imposition of appropriate conditions.

The site is located on bushfire prone land and the proposal requires the provision and maintenance of a 10m Asset Protection Zone (APZ) around the facility. The initial proposal submitted required the removal of three (3) trees to accommodate this APZ and to provide sufficient clearance from the mast. However the applicant has amended the proposal to retain all trees at this location, with branch pruning restricted to two (2) trees. The

application has been accompanied by a Bushfire Protection Assessment Report and Tree Retention Plan (incorporating an Arboricultural Impact Assessment report) indicating that the surrounding trees can be retained.

The application has also been accompanied by a Visual Impact Assessment prepared by Urbis which concludes that the proposal would have a moderate visual impact based on viewing distance, number of viewers, period of view and vantage points from surrounding areas.

At a height of 33.2m, it is evitable that the structure cannot be fully absorbed into the landscape and it is likely that the structure may be visible in the landscape from certain viewpoints including the viewsheds from Wollumbin/Mount Warning and Tweed Regional Art Gallery – Observation Deck. However having regard to the vastness of the views from these viewpoints encompassing so much visual detail and the intermediate distances (12km from Wollumbin/Mount Warning and 3.3km from Tweed Regional Art Gallery – Observation Deck), it is acknowledged that the proposal is likely to be absorbed into the landscape.

Closer to the site, the proposal will have a moderate visual impact on views of Wollumbin/Mount Warning from Byangum Road however having regard to the period of the view when moving along Byangum Road, the number of viewers on this road and the existing vertical elements (electricity poles) in the viewshed, the impact is considered reasonable. Any consent issued should be subject to a condition requiring the approval of a schedule of colours and finishes that provides a low contrast to the landscape background to ameliorate the impact in terms of views, in particular the view from Tweed Regional Art Gallery – Observation Deck.

The site is located approximately 265m from the grounds of Tweed Valley Adventist College (being approximately 564m to the nearest classroom and 692m to the nearest Primary level classroom) and 506m from the grounds of Wollumbin High School (being approximately 663m to the nearest school building). A significant number of submissions have been received from stakeholders at the Tweed Valley Adventist College (staff and families of students) objecting to the proposal on health related grounds and the proximity of the proposed mast to the school.

Optus, as a licenced mobile carrier, relies on the expert advice of national and international authorities such as the Australian Radiation Protection and Nuclear Safety Authority (ARPANSA) and the World Health Organisation (WHO) for overall assessment of health and safety impacts. The Australian Communications and Media Authority (ACMA) adopted a technical standard for continuous exposure of the public to radiofrequency (RF) electromagnetic emissions (EME) from mobile phone base stations. The standard, known as the *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2003*, was prepared by the ARPANSA and is based upon recommendations of ICNIRP (International Commission for Non-Ionising Radiation Protection), an agency associated with the WHO. Mobile carriers must comply with the Australian Standard on exposure to EME set by the ACMA.

As set out in NSW Land & Environmental Court judgement in *Telstra Corporation Limited v Hornsby Shire Council [2006] NSWLEC 133* Australian Standard RPS3 is an authoritative and scientifically credible standard to protect the health and safety of people and the environment from the harmful effects of radiofrequency fields in the frequency range of 3kHz to 300 GHz. It is not appropriate for a consent authority to set aside or disregard such an

authoritative and scientifically credible standard as the Australian Standard RPS3. Nor is it appropriate for a consent authority to pioneer standards of its own. The creation of new standards is the responsibility of other authorities with special expertise, such as ARPANSA.

The applicant has submitted EME level predications at various distances within 500m of the proposed facilities, and to the nearest classrooms and/or school buildings at Tweed Valley Adventist College and Wollumbin High School. These readings demonstrate that the maximum predicted level from the proposed facility will be 0.36% of the ARPANSA exposure limit and that the levels at the adjacent schools would range from 0.038% (Wollumbin high School) to 0.061% - 0.085% (Tweed Valley Adventist College).

The Australian Government Department of Communications have also issued a factsheet with information on communications towers, radio transmitters and safety for schools, teachers, students and parents. This is included in Attachment 1.

The application was referred to Council's Environmental Health Unit, Building Unit and Natural Resource Management Unit. The Natural Resource Management initially raised concerns with regard to proposed tree removals, however the proposal has been modified to address this. The Unithas subsequently raised no objection to the proposal subject to the imposition of appropriate conditions on any consent issued.

Prior to the lodgement of the application, the applicant undertook pre-lodgement Community consultation as required by Council's resolution of May 2010, though the extent of the consultation did not extend to a community meeting as recommended in the resolution.

The application was advertised for a period of 14 days from Wednesday 21 February to Wednesday 7 March 2018. During this time, three (3) submissions were received, one (1) of these in support of the proposal and the other two (2) objecting to the proposal. However after the close of the submission period, a further 40 objections were received in the period up to 12 April 2018.

As outlined above, a significant proportion of the objectors (41 of the 42 objections) have raised concerns with the potential health impacts, and in particular the proximity to Tweed Valley Adventist College. The other issues raised related to the adequacy of existing mobile phone services, potential impact on visual amenity and possible property devaluation. These matters are addressed in more detail in the report.

RECOMMENDATION:

That Development Application DA18/0082 for a telecommunications facility at Lot 6 DP 866255; No. 233 Byangum Road MURWILLUMBAH be approved subject to the following conditions:

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Urbis and dated January 2018 and Site Layout Plan No S2646-P1 Rev 05 and Site Elevation Plan No S2646-P2 Rev 05 prepared by Nokia Networks Pty Ltd and dated 8 June 2018, 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. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the Developer's expense. [GEN0135]
4. The owner is to ensure that the proposed structure 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. Vegetation management is to be undertaken in accordance with the Arboricultural Impact Assessment dated 24 June 2018 prepared by Independent Arboricultural Services pursuant to amendments prescribed in Condition 11. Pruning of trees shall be limited to those trees identified as Tree 819 and Tree 820 in Site Photos (pp. 22 and 23) of the report. No vegetation shall be removed to facilitate or maintain the development unless otherwise approved by Council's General Manager or delegate. [GENNS01]
6. The development shall be carried out in accordance with the recommendations of the Bushfire Protection Assessment Report prepared by Ecological Australia and dated 25 June 2018.
- (a) An Asset Protection Zone of 10m is to be provided around the telecommunications mast and equipment shelter as identified in the Bushfire Protection Assessment Report.
- (b) An Asset Protection Zone is to be implemented and maintained in a manner that it is free of surface/elevated fuels and contains minimum canopy cover.
- (c) Construction material shall be able to withstand 40kW/m² of radiant heat and withstand ember penetration of the structure (ODU).
- (d) External cabling to be underground where possible, or shielded, as outlined in Section 2.3 of the Bushfire Protection Assessment Report.
- (e) Electricity shall be underground wherever practicable. Where overhead electrical transmission lines are installed:
- No lines are to be installed with short pole spacing, unless crossing gullies, and
 - No part of a tree shall be closer to a powerline than the distance specified in the *ISSC 3 Guide for the Management of Vegetation in the Vicinity of Electricity Assets* (ISSC 2016).

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. Prior to the issue of a Construction Certificate, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved by the Principle Certifying Authority. The CEMP shall be consistent with the Guideline for the Preparation of Environmental Management Plans (DIPNR, 2004). A copy of the approved plan shall be submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:

- a) Hours of work;
- b) Contact details of site manager;
- c) Traffic and pedestrian management;
- d) Noise and vibration management;
- e) Construction waste management;
- f) Erosion and sediment control; and,
- g) Flora and fauna management.

[PCC0125]

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

[PCC0865]

9. The Structural elements of the telecommunications facility are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0945]

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

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

[PCC1155]

11. Prior to issue of a Construction Certificate the Arboricultural Impact Assessment dated 24 June 2018 prepared by Independent Arboricultural Services is to be amended and submitted for the approval of Council's General Manager or his delegate showing the following:

- (a) Alignment of tree protection fencing in accordance with Australian Standard AS4970:2009 Protection of trees on development sites.

- (b) An amended plan of proposed areas of low pressure water excavation (as shown on Page 8 of the report) for any underground services, earth electrode and associated conductor cable installation within the Tree Protection Zone.

The Construction Certificate shall not be issued until the approval of the General Manager or his delegate has been issued.

[PCCNS01]

- 12. Prior to issue of a Construction Certificate final engineering drawings shall be submitted for the approval of the General Manager or his delegate demonstrating the following:

- (a) No above or underground structures or services within the Structural Root Zone of Tree 820 (*Eucalyptus microcorys*) and 819 (*Lophostemon confertus*)
- (b) Minimal encroachment of underground services within the Tree Protection Zone of Tree 820.
- (c) That earthworks are to be minimised to avoid unnecessary soil disturbance within Tree Protection Zones to be retained and protected.

[PCCNS02]

- 13. Prior to the issue of a Construction Certificate, the applicant should submit a schedule of finishes and colours for the telecommunications mast and the equipment shelter to the General Manager or his delegate for approval. The colour scheme shall be such that the colour and reflectivity shall be no more than 2 degrees/10% contrast of hues and tones of the surrounding background with particular regard to the backdrop when viewed from the Tweed Regional Art Gallery Observation Deck. The 256 grayscale chart in the *NSW Government, Department of Planning and Environment, 2015. Wind Energy: Visual Assessment Bulletin AB01 for State Significant Wind Energy* shall be used as a reference to measure contrast.

[PCCNS03]

PRIOR TO COMMENCEMENT OF WORK

- 14. 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]

- 15. The erection of the structure and associated equipment in accordance with this 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, 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]

16. 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]

17. 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]

18. The telecommunications facility and ancillary facilities are to be installed in accordance with the applicable specifications (if any) of the manufacturers for the installation of such equipment.

[DURNS02]

DURING CONSTRUCTION

19. All proposed works are to be carried out in accordance with the conditions of development consent, any approved Management Plans, approved Construction Certificate, drawings and specifications.

[DUR0005]

20. Should any Aboriginal object or cultural heritage (including human remains) be discovered all site works must cease immediately and the Tweed Byron Local

Aboriginal Land Council (TBLALC) Aboriginal Sites Officer (on 07 5536 1763) are to be notified. The find is to be reported to the Office of Environment and Heritage. No works or development may be undertaken until the required investigations have been completed and any permits or approvals obtained, where required, in accordance with the National Parks and Wildlife Act, 1974.

[DUR0025]

21. 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 5.00pm

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]

22. 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]

23. 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]

24. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 6.6 of the Environmental Planning and Assessment Act 1979.

[DUR0405]

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

[DUR0415]

26. Excavation

(a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.

(b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

27. 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]

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

[DUR1015]

29. 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]

30. 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]

31. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials.

[DUR2205]

32. The exportation or importation of waste (including fill or soil) from or to the site must be in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW Environmental Protection Authority "Waste Classification Guidelines".

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

33. Prior to issue of an Occupation Certificate, all works/actions/inspections etc required at that stage by other conditions or any approved Management Plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

34. 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 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

35. 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]

36. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met.

[POC1055]

37. Prior to the issue of an Occupation Certificate or immediately prior to the commissioning of telecommunication facility whichever occurs first, the nominated Project Arborist shall provide to Council's General Manager or delegate a certification report that includes the following information:
- (a) Confirmation that all works have been undertaken in accordance with Australian Standard *AS4970 - 2009 Protection of trees on development sites*, industry best standards, the approved Arboricultural Impact Assessment Dated 24 June 2018 prepared by Independent Arboricultural Services and details of any remedial actions recommended by the Project Arborist to avoid/minimise disturbance of existing vegetation.
 - (b) A brief assessment of the condition of the trees, details of any deviations from approved essential tree protection management actions/measures and if applicable evaluation of any remedial actions undertaken to mitigate impact on existing vegetation as a result of project works.

[POCNS01]

USE

38. 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]
39. 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]
40. 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]
41. All wastes shall be collected, stored, and disposed of to the satisfaction of the General Manager or his delegate.
- [USE0875]
42. In the event that the telecommunications facility is no longer required or the equipment becomes obsolete, it is to be removed and the site restored, to a condition that is similar to its condition before the facility was constructed.
- [USENS01]
43. The installation of the communications infrastructure must be in compliance with the following:

- (a) ARPANSA, Australian Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency fields - 3khz to 300GHz, in Radiation Protection Standard RPS3 2002, ARPANSA ; Australian, clause 5.7, pages 28-29, as amended from time to time: and**
- (b) The Australian Communication Industry Forum Code 'ACIF' C564:2004 (December 2004).**

[USENS02]

- 44. The applicant is to provide certification to the General Manager or his delegate of the operation of the telecommunications facility in accordance with the approved electromagnetic energy (EME) levels within thirty (30) days after the operation of the tower, and again at a twelve month interval.**

[USENS03]

- 45. The telecommunications facility is not to cause adverse radio frequency interference with any airport, port or Commonwealth Defence navigational or communications equipment.**

[USENS04]

REPORT:

Applicant: Optus
Owner: Murwillumbah Golf Club Pty Ltd
Location: Lot 6 DP 866255; No. 233 Byangum Road MURWILLUMBAH
Zoning: RE2 - Private Recreation and RU1 - Primary Production
Cost: \$150,000

Background:

Application details

The application seeks approval for the construction of a mobile phone base station on land at Murwillumbah Gold Club, 233 Byangum Road, Murwillumbah. The owner of the land is Murwillumbah Golf Club Limited.

Development consent is sought for:

- The erection of a 30m monopole;
- The installation of a turret head frame on the top of the monopole;
- The installation of three (3) panel antennae on the frame resulting in an overall height of 33.2m;
- The installation of 11 non-EME emitting remote radio units;
- The installation of one 600mm dish antenna;
- The erection of a three-bay outdoor equipment unit measuring 2.254m long x 0.926m wide and 2.126m high; and
- Ancillary equipment associated with the safe operation of the facility, such as cabling, earthing and electrical works.

The proposal as initially submitted was for the facility to use the natural product colours however the applicant has indicated that the development, if approved, could be subject to a condition requiring the facility to be painted to minimise the visual impact.

The proposal as initially submitted also included the removal of three (3) adjacent trees to provide for a 10m APZ around the facility and to remove trees which could physically impact on the structure. The applicant has submitted amended plans relocating the mast and equipment slightly to the south of the 7.5m x 7.5m lease area to increase the separation distance from the trees and to allow for the retention of all trees, with pruning restricted to two trees.

No fencing is proposed with the lease area open to the Golf Course.

Site selection

The applicant has advised that there are currently some mobile network problems in and around Murwillumbah and that these include some area where Optus has poor or no coverage due to the location and performance of existing sites, the inability of the radio signal to penetrate inside buildings and the increased demand for mobile phone services.

The applicant has advised that Optus undertook a detailed process in selecting the site of the facilities and that several alternative candidate sites were considered.

The *Telecommunications Act 1997* and *SEPP Infrastructure* require that all carriers consider co-location and upgrading of the existing facilities as a priority. The applicant advised that Optus investigated the potential to co-locate at the following nearby sites:

1. Telstra site at 143 North Arm Road, North Arm (1.62km west)
2. NSW SES site at 83 Riverview Street, Murwillumbah (1.81km east)
3. NBN site at 452 Numinbah Road, Nobby's Creek (1.49km northwest)



However all sites were indicated by the applicant as being too far from the target coverage area to provide adequate coverage.

The applicant advises that Optus identified two new candidate sites based on the selection criteria which included engineering constructability, minimal environmental impact, visual amenity, topographical constructions, occupational health and safety, Optus radio frequency coverage objectives and the ability to secure tenure on the property.



This was the subject site and a site on the Murwillumbah Lawn Cemetery. It was considered by the applicants that this alternative site being within a cemetery and close to residential development was likely to attract a lot of community concern, with the visual impact also determined to be greater.

Site details

The subject site is legally described as Lot 6 DP 866255 and is known as 233 Byangum Road, Murwillumbah.

The subject site is located at the southern end of Murwillumbah Golf Club, with the proposed structure to be constructed adjacent to the existing grounds keeping sheds within an area surrounded by mature and semi-mature trees. The proposal is to be accessed by a tarmacked road that runs from the main access to the Golf Club to the sheds.

The site is identified as Bush fire prone land, with the proposal located in a buffer area between an area of an area of Category 1 and 2 vegetation. A cluster of trees to the southwest of the site and to the east are identified as being of Very High and High Ecological Status, though these are not immediately adjacent to the proposal.

A small portion of the Golf Course (to the rear of Tamarisk Avenue) is identified as Regional significant farmland. Portions of the site are also flood affected but not at location of proposal.

The site is outside of the Gold Coast Airport Obstacle Limitation Surfaces Maps and that of the Murwillumbah Airfield.

Surrounding Area

The golf course covers an area of 43.67ha extending back approximately 900m – 1,140m from North Arm Road to the Rous River with a site width ranging from 350m – 500m. The lands to the west of the Golf Course are developed for low density residential housing with Wollumbin High School further west and rural lands to the north of this. The land to be south is also developed for low density residential development with Mountain View Retirement Village located in this area. There is a cemetery immediately to the east of the subject site with low density residential beyond to the east and north. Tweed Valley Adventist College lies to the northeast of the subject site.

The closest residential development to the proposed tower is to the south being approximately 140m away. The grounds of Wollumbin High School are located approximately 506m from the proposed mast with the nearest school building approximately 658m. The grounds of Tweed Valley Adventist College are located approximately 257m from the proposed mast with a dwelling on the grounds approximately 303m from the proposed mast with approximately 556m to the nearest school building.

Strength of the Electromagnetic field

The applicant has advised that the facility would operate within the exposure standards in:

1. The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) standard (the Radiation Protection Standard for Maximum Exposure levels to Radiofrequency Fields – 3KHz to 300GHz (ARPANSA Standard))
2. Radiocommunications (Electromagnetic Radiation Human Exposure) Standard 2003, and
3. Any other standards endorsed by the Commonwealth Government and the Australian Communications and Media Authority (ASMA).

The Radiocommunications (Electromagnetic Radiation Human Exposure) Standard 2003 was prepared by ARPANSA and adopted by AMCA in 200. It is the same as that recommended by ICNIRP (International Commission for Non-Ionising Radiation Protection), an agency associated with the World Health Organisation (WHO).

The Standard operates by placing a limit on the strength of the signal (or RF EME) that mobile carriers can transmit to and from any network base station. The standard is not based on distance restrictions or the creation of buffer zones, but setting a signal strength with a significant safety margin which cannot be exceeded. All mobile carriers, including Optus, must comply with the Australian Standard.

The applicant has advised that the maximum strength of the electromagnetic field that the facility would produce is less than 0.35% of the ARPANSA mandated exposure limit (based on the maximum level of radiofrequency (RF)/electromagnetic cumulative energy (EME) at 1.5m above the ground from the antennae.

Pre-lodgement Community Consultation

Set out below is a summary of the pre-lodgement consultation undertaken by the applicant.

June 2017 – The applicant contacted Council advising of the intention to lodge a Development Application.

The applicant was issued with a copy of Council's resolution in relation to pre-application consultation requirements for development applications for telecommunications facilities:

*RESOLVED that where Tweed Shire Council is the consent authority for the installation of Telecommunication networks the provider/applicant/proponent be requested to undertake the following community consultation **before** submitting any Development Application(s) for the installation of Mobile Towers and all supporting equipment within the shire;*

- advertisements in the Tweed Link in two consecutive publications,
- two independent newspapers,
- a community meeting held within the area that could be affected by the proposal,
- letter box drops to the surrounding homes/businesses etc. that could be affected,
- door knocks to the surrounding area that could be affected

and that this preliminary consultation forms part of the Development Application (as supplementary written information and includes copies of all correspondence - inwards and outwards regarding the consultation process undertaken), when finally submitting the Development Application to Council for review/processing/consideration.

July 2017 – The applicant advised that Optus would undertake community consultation and a draft consultation plan was submitted.

Aug 2017 – The applicant issued letters to Wollumbin High School, Wollumbin High School Parents and Citizens Association, Tweed Valley Adventist College, two local Members of Parliament, Murwillumbah Ratepayers and Residents Association, and 261 of the nearest dwellings and businesses.

The letter was accompanied by a set of plans, an ARPANSA Environmental EME report (February 2017) and two photomontages of facility from Byangum Road and Tamarisk Avenue.

A notice was published in the Tweed Link dated 22 August 2017 and 29 August 2017.

Sept 2017 – The applicant received three submissions (including one which represented a number of community members) raising the following issues:

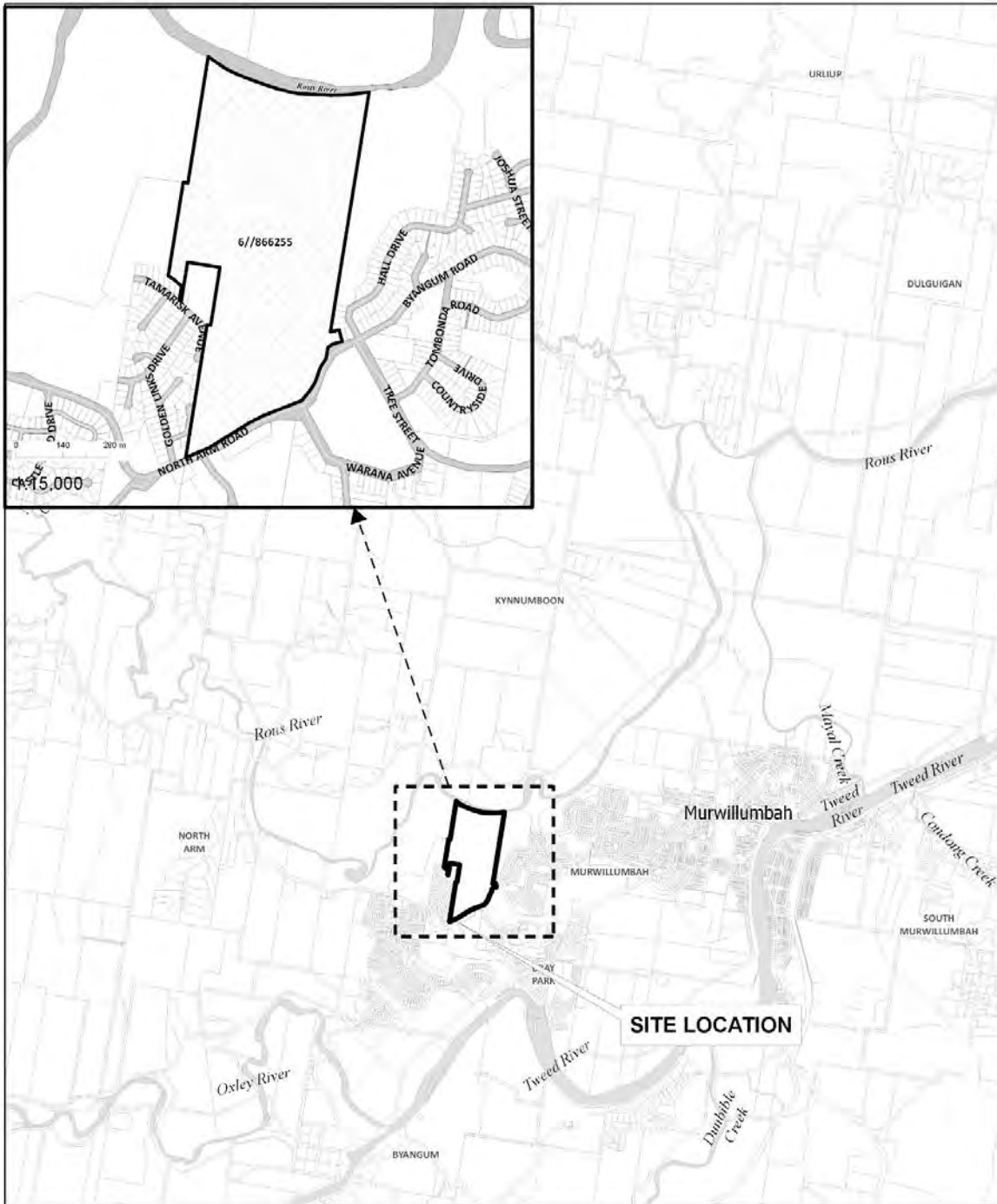
- Potential impact on visual amenity
- Possible property devaluation
- Possible alternative location, and
- Electromagnetic emissions and public health and safety.

The applicant indicated that the submissions were considered and the submitters responded to in writing. A copy of the responses was submitted with the application. It is noted that one submitter has indicated that he did not receive any follow-up correspondence from the applicant in relation to his pre-application submission. Based on this advice, the applicant was consulted and requested to re-issue this correspondence to the submitter in question.

The applicant also consulted with Council as the the owner of Murwillumbah Airfield.

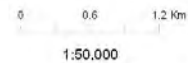
Based on the consultation undertaken, Optus determined to proceed with a development application.

SITE DIAGRAM:



Site Plan

Lot 6 DP 866255
No. 233 Byangum Road, MURWILLUMBAH



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Coordinate System - MGA Zone 56
Datum - GDA 94

Cadastral: 18/07/2018
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Civic and Cultural Centre
3 Tumbulgun Road
Murwillumbah NSW 2484
PO Box 816
Murwillumbah NSW 2484

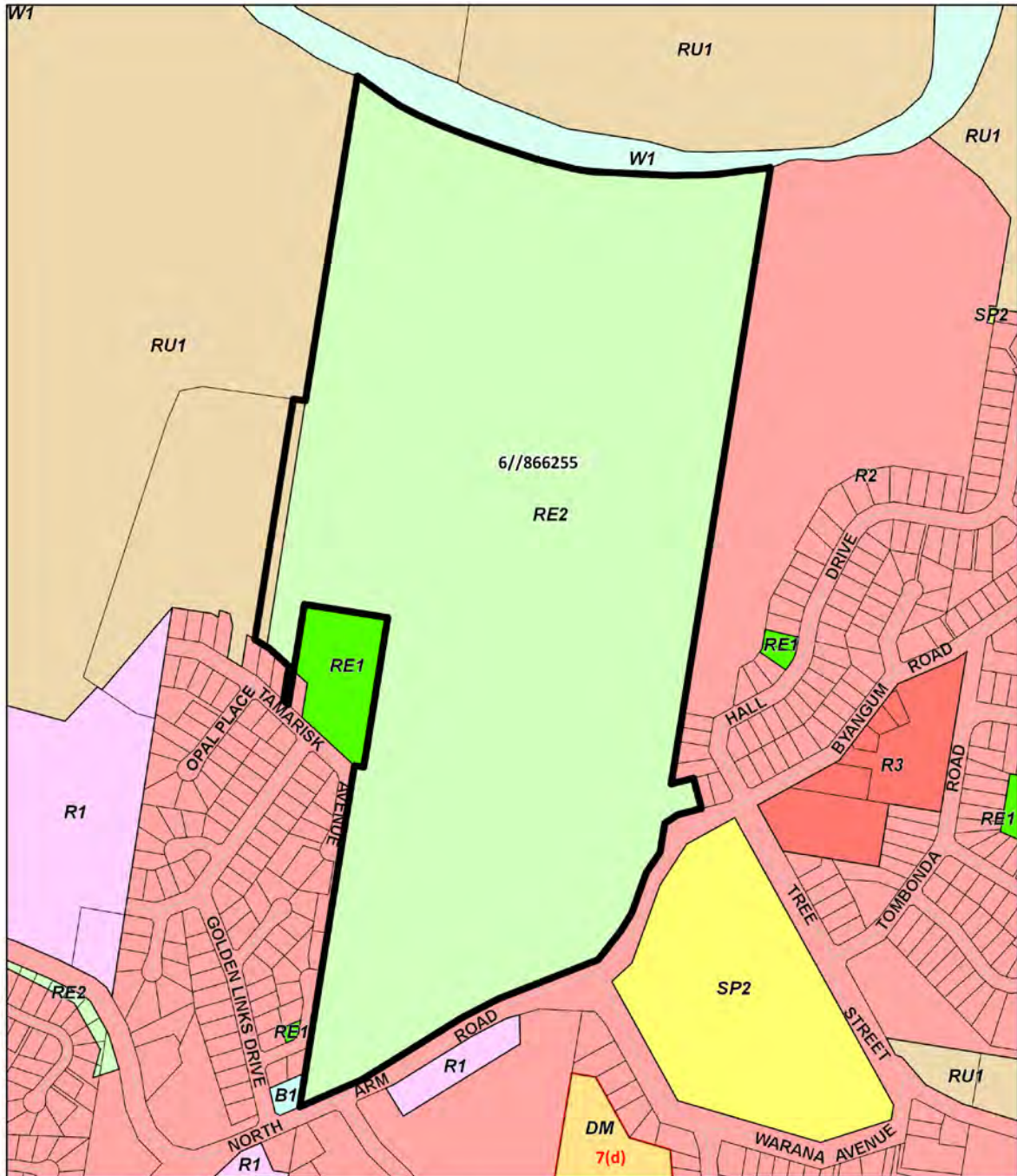
T: (02) 6670 2400 / 1300 292 872
F: (02) 6670 2403
W: www.tweed.nsw.gov.au
E: planning@tweed.nsw.gov.au



TWEED
SHIRE COUNCIL

Date Printed: 03 August, 2018

ZONING MAP:



Subject Land

Subject Land

Tweed Local Environmental Plan 2014

- B1 Neighbourhood Centre
- R1 General Residential

- R2 Low Density Residential
- R3 Medium Density Residential
- RE1 Public Recreation
- RE2 Private Recreation
- RU1 Primary Production
- SP2 Infrastructure

- W1 Natural Waterways
- DM, Deferred Matter

LEP 2000 (as at 2014)

- 7(d) Environmental Protection (Scenic / Escarpment)

1:6,000 A4 Portrait
0 50 100 m

GDA
Map Projection: Universal Transverse Mercator
Horizontal Datum: Geocentric Datum of Australia 1994
Grid: 52m Grid of Australia, Zone 55

Site Plan - Local Environmental Plan

Lot 6 DP 866255
No. 233 Byangum Road, MURWILLUMBAH

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AERIAL PHOTOGRAPH:



1:5,000 @ A4 Portrait
0 50 100 m

DO NOT SCALE
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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geodetic Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

GDA

TWEED
SHIRE COUNCIL

Civic and Cultural Centre
3 Tumbulgum Road
Murwillumbah NSW 2484
PO Box 9116
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Aerial Photography April 2018

Lot 6 DP 866255
No. 233 Byangum Road, MURWILLUMBAH

© 2018 Imagery - Tweed Shire Council
© Cadastre - Tweed Shire Council
Boundaries shown should be considered approximate only.

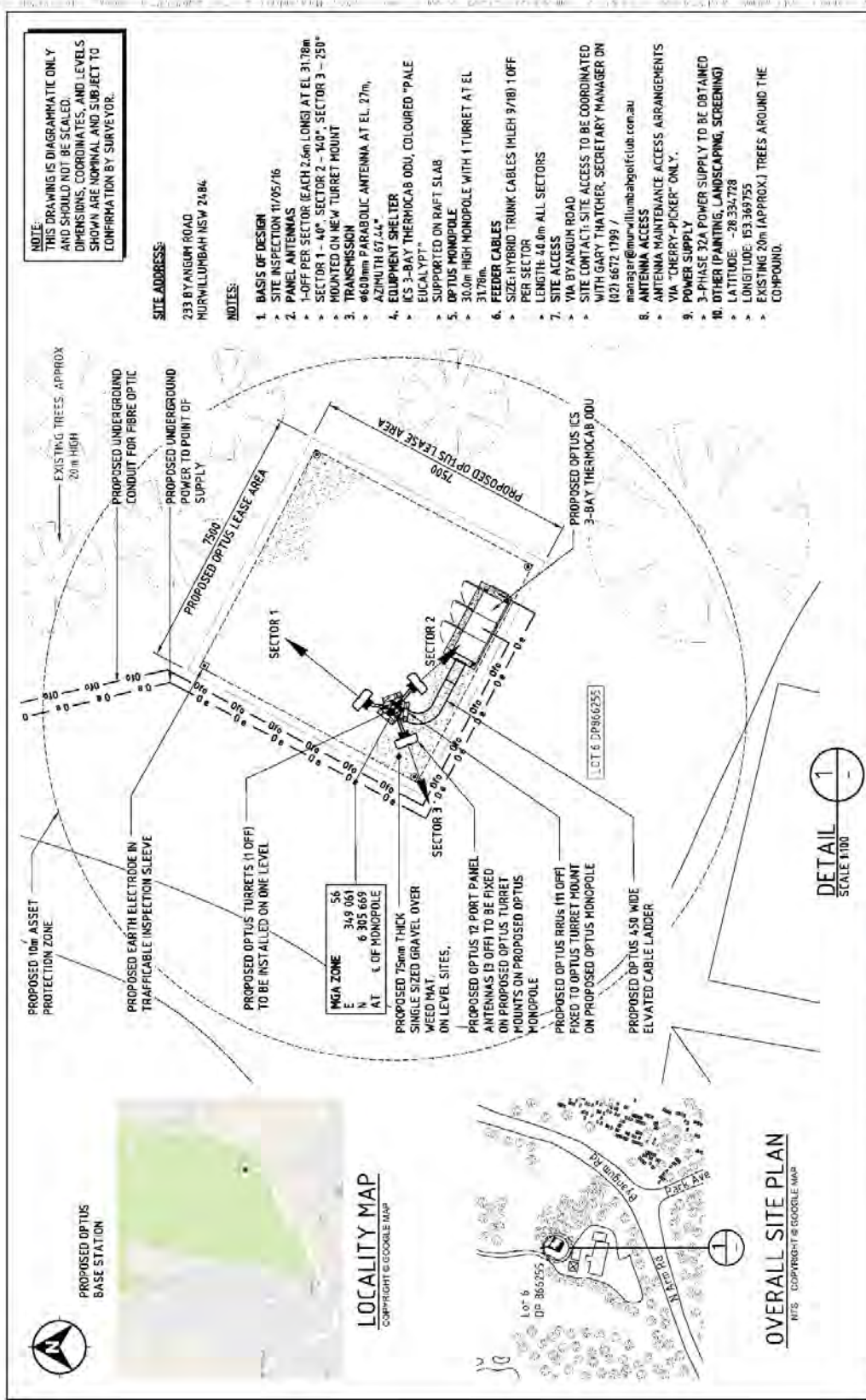
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AUSTL: 3/2018-019 Date Printed: 03 August 2018

LOCATION CONTEXT MAP:



DEVELOPMENT PLANS:



NOTE:
THIS DRAWING IS DIAGRAMMATIC ONLY AND SHOULD NOT BE SCALED. DIMENSIONS, COORDINATES, AND LEVELS SHOWN ARE NOMINAL AND SUBJECT TO CONFIRMATION BY SURVEYOR.

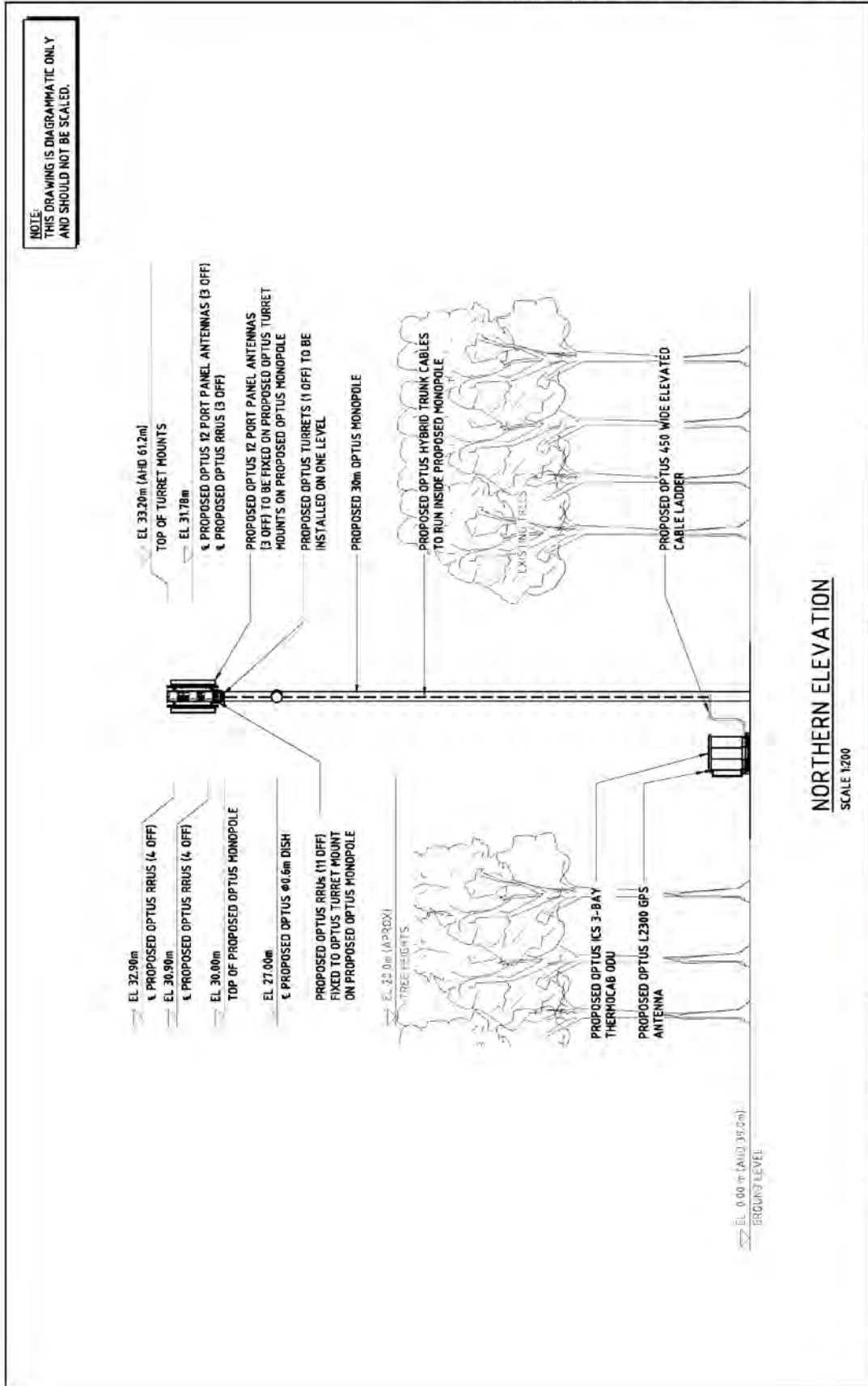
SITE ADDRESS:
233 BYANGUM ROAD
MURWILLUMBAH NSW 2484

NOTES:

1. BASIS OF DESIGN
2. SITE INSPECTION 11/05/16
3. PANEL ANTENNAS
 - ▶ 1-OFF PER SECTOR (EACH 2.6m LONG) AT EL. 31.78m
 - ▶ SECTOR 1 - 40° SECTOR 2 - 40° SECTOR 3 - 250°
 - ▶ MOUNTED ON NEW TURRET MOUNT
4. TRANSMISSION
 - ▶ 460mm PARABOLIC ANTENNA AT EL. 27m,
 - ▶ AZMUTH 67.44°
5. EQUIPMENT SHELTER
 - ▶ ICS 3-BAY THERMOCAB ODU, COLOURED "PALE EUCALYPT"
 - ▶ SUPPORTED ON RAFT SLAB
6. OPTUS MONOPOLE
 - ▶ 30.0m HIGH MONOPOLE WITH 1 TURRET AT EL. 31.78m.
7. FEEDER CABLES
 - ▶ SIZE: HYBRID TRUNK CABLES (MILEH 9/18) 1 OFF PER SECTOR
 - ▶ LENGTH: 10.0m ALL SECTORS
8. SITE ACCESS
 - ▶ VIA BYANGUM ROAD
 - ▶ SITE CONTACT: SITE ACCESS TO BE COORDINATED WITH GARY THATCHER, SECRETARY MANAGER ON (02) 6672 1795 / manager@murwillumbahoptclub.com.au
9. ANTENNA ACCESS
 - ▶ ANTENNA MAINTENANCE ACCESS ARRANGEMENTS VIA "CHERRY-PICKER" ONLY.
10. POWER SUPPLY
 - ▶ 3-PHASE 37A POWER SUPPLY TO BE OBTAINED
 - ▶ OTHER (PAINTING, LANDSCAPING, SCREENING)
11. LATITUDE: -28.334728
12. LONGITUDE: 153.369755
13. EXISTING 20m (APPROX.) TREES AROUND THE COMPOUND.

<p>NOKIA NETWORKS P/L 111 HORTON ROAD, SYDNEY NSW 1585</p>		Project: MOBILE NETWORK AUSTRALIA SITE NO - S2646 - C MURWILLUMBAH WEST 233 BYANGUM RD	Drawing Title: DRAFT SITE LAYOUT Drawing No: S2646-P1 Revision: 05
		FOR APPROVAL	

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NORTHERN ELEVATION
SCALE 1:200

<p>NOKIA Nokia Networks Pty Ltd A wholly owned subsidiary of Nokia Corporation</p>		<p>OPTUS</p>		<p>MOBILE NETWORK AUSTRALIA SITE NO - S2646 - C MURWILLUMBAH WEST 7333 BANGUNG RD</p>		<p>MOBILE NETWORK AUSTRALIA SITE NO - S2646-P2 FOR APPROVAL</p>		<p>DRAFT SITE ELEVATION</p>	
<p>10/18/18 10:53:00 AM (LOCAL TIME) - 10/18/18 10:53:00 AM (LOCAL TIME)</p>		<p>10/18/18 10:53:00 AM (LOCAL TIME) - 10/18/18 10:53:00 AM (LOCAL TIME)</p>		<p>10/18/18 10:53:00 AM (LOCAL TIME) - 10/18/18 10:53:00 AM (LOCAL TIME)</p>		<p>10/18/18 10:53:00 AM (LOCAL TIME) - 10/18/18 10:53:00 AM (LOCAL TIME)</p>		<p>10/18/18 10:53:00 AM (LOCAL TIME) - 10/18/18 10:53:00 AM (LOCAL TIME)</p>	

PHOTOGRAPH MONTAGES:

The following images have been extracted from the applicant's Visual Impact Assessment Report prepared by Urbis and dated June 2018.



Figure 1: Photomontage image Location map (Source: Google Earth, 2017)



Figure 2: Photo montage of proposed facility (unpainted) viewed from Tamarisk Avenue (View 1)



Figure 3: Photo montage of proposed facility (unpainted) viewed from Ingram Place (View 2)



Figure 4: Photo montage of proposed facility (unpainted) viewed from Park Avenue (bus stop) (View 3)



Figure 5: Photo montage of proposed facility (unpainted) viewed from Hall Drive (View 4)



Figure 6: Photo montage of proposed facility (unpainted) viewed from Byangum Road (View 5)



Figure 7: Photo montage of proposed facility (**Painted Pale Eucalypt**) viewed from Byangum Road (View 5)



Figure 8: Photo montage of proposed facility (**unpainted**) when viewed from junction of Park Avenue/North Arm Road (View 6)



Figures 9 & 10: Photographs of existing vegetation on North Arm Road frontage viewed from Park Avenue

The following photographs illustrate the viewsheds from Lion's Lookout, Murwillumbah and the Tweed Regional Art Gallery – Observation Deck as they relate to the subject site



Figure 11: Photographs of view from Lion's Lookout, Murwillumbah



Figure 12: Photograph of view from Tweed Regional Art Gallery – Observation Deck

Federal Legislation:

Telecommunications Act 1997

The *Telecommunications Act 1997* which came into operation on 1 July 1997 provides a system of regulating telecommunications and the activities of carriers and service providers.

Under the Act, telecommunications carriers are exempt from state and territory planning laws in three limited instances:

1. There are exemptions for the inspection of land, maintenance of facilities, installation of low impact facilities, subscriber connections and temporary defence facilities. These exemptions are detailed in the *Telecommunications (Low Impact facilities) Determination 1997* and Amendment No 3 of 2015 and are subject to the *Telecommunications Code of Practice 1997*;
2. A limited case-by-case appeals process exists to cover installation of facilities in situations of national significance; and
3. There are some specific powers and immunities from the previous *Telecommunications Act 1991*.

The *Telecommunications (Low Impact facilities) Determination 1997* contains a schedule of telecommunications facilities that the Commonwealth Government will continue to regulate – facilities that are essential to maintaining telecommunications networks and which are unlikely to cause significant community disruption during their installation or operation.

These facilities are considered to be 'low-impact' and do not require planning approval under state or territory laws and are exempt from the operation of state laws in relation to tenancy.

The current proposal is **not** consistent with the provisions outline in Part 3 of the Determination and therefore cannot be considered to be a low –impact facilities. Proposed installations which do not fall under the Determination require approval under State planning legislation unless they are exempt development under an Environmental Planning instrument.

An assessment of the proposal against the provisions of *State Environmental Planning Policy (Infrastructure) 2007* is set out later in this report and confirms that the proposal is not complying development as the site is zoned RE2 - Private Recreation.

Therefore the proposal requires development consent.

Considerations under Section 4.15 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 proposal is generally consistent with the aims of the aims of the plan. The provision of a telecommunications network will encourage a sustainable, local economy, enable local businesses to operate in the area and provide telecommunications connectivity to the local community in this area.

The applicants have amended the original proposals to retain all trees in the vicinity of the proposal which will assist in minimising the visual impact of the proposal and the impact on the environment.

Clause 2.3 – Zone objectives and Land use table

Clause 2.3(2) requires the consent authority to have regard to the objectives of a zone when determining a development application.

The proposal is located on a site which is predominately zoned RE2 - Private Recreation with a small portion of the site (approximately 0.9%) zoned RU1 - Primary Production. The proposal mast is to be located in Zone RE2, approximately 480m from the area of the site zoned RU1..

The objectives of the RE2 - Private Recreation zone are:

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

In Zone RE2, the following uses are permitted without consent (Item 1):

Environmental facilities; Environmental protection works

The following uses are permitted with consent (Item 2):

Biosolids treatment facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Charter and tourism boating facilities; Centre-based child care facilities; Community facilities; Eco-tourist facilities; Emergency services facilities; Entertainment facilities; Flood mitigation works; Food and drink premises; Forestry; Function centres; Helipads; Heliports; Industrial training facilities; Information and education facilities; Jetties; Kiosks; Marinas; Markets; Mooring pens; Moorings; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Respite day care centres; Roads; Sewage treatment plants; Signage; Tourist and visitor accommodation; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities.

The plan states that any development not specified in Item 1 or 2 above is prohibited in the zone. However, in accordance with Clause 115(1) of SEPP (Infrastructure) 2007, development consisting of a telecommunications facility is permissible with consent in any zone overriding any prohibition under the LEP.

It is not considered that the proposal would impact on the continued use of the remainder of the site as a golf course or adversely impact on the natural environment.

Clause 4.3 - Height of Buildings

This clause relates to the height of a building. As defined in the *Environmental Planning and Assessment Act 1979*, a **building** *includes part of a building, and also includes any structure or part of a structure (including any temporary structure or part of a temporary structure), but does not include a manufactured home, moveable dwelling or associated structure within the meaning of the Local Government Act 1993.*

Further the LEP defines **building height (or height of building)** as meaning:

- (a) *in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but **excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.***

Therefore this clause does not apply to the installation of telecommunications structures or associated equipment.

Clause 5.11 - Bush fire hazard reduction

The site is mapped on Council's Geographical Information System as being bushfire prone land containing Vegetation Category 1, Vegetation Category 2 and Vegetation Buffer with the site located in the buffer area (Refer to Figure below).



Legend: ■ Vegetation Category 1 ■ Vegetation Category 2 Vegetation ■ Buffer

Figure 12: Bush fire prone land mapping

The application has been accompanied by a Bushfire Protection Assessment Report prepared by Ecological Australia (dated June 2018). The assessment assesses the bushfire threat to the proposal and sets out recommended bushfire protection measures to achieve the aims and objectives of the NSW Rural Fire Service (RFS) document *Planning for Bush Fire Protection 2006* and *Practice Note 1-11- Telecommunication Towers in Bush Fire Prone Areas*.

Telecommunications towers are defined as critical infrastructure for fire-fighting and emergency communication, and for providing warnings and other information to the community during bushfire and other emergencies. As such the RFS have a suite of Deemed to Satisfy protection solutions relating to asset protection zones and building construction standards.

As set out in Practice Note 1/11, the applicant is proposing a 10m Asset Protection Zone (APZ) around the tower and the equipment shelter, along with the use of building materials designed to withstand 40kW/m² of radiant heat (which equates to a construction specification for Bushfire Attack Level (BAL) 40 in AS3959-2009).

Some direct branch pruning (as set out in the Arboricultural Impact Assessment Report) and management of understorey fuels will be required to achieve and maintain the APZ.

The report concludes that the proposal can achieve the Deemed-to-Satisfy provisions of Practice Note 1/11 and sets out a number of recommendations in relation to the APZ, construction materials and electrical connections. Appropriate conditions in this regard are included in the recommendation.

Clause 7.1 – Acid Sulfate Soils

The lot is mapped as be affected by acid sulfate soils Class 1, 3, 4 and 5 with the proposal located on land identified as Class 5. The geotechnical investigations undertaken by the applicant did not identify the potential for acid sulfate soils. As such acid sulfate soil is not a constraint for the proposal.

North Coast Regional Plan 2036 (NCRP)

The North Coast Regional Plan 2036 (NCRP) is the NSW Department of Planning and Environment's visionary strategic document to guide land use planning priorities and decisions in the North Coast of NSW until 2036. It contains high level priorities for the region, and specific goals and actions for individual government areas. These include protecting the region's distinct social and cultural character, its biodiversity and environmental values, and its typical built character. It is also a goal of the plan to deliver a thriving, interconnected economy.

State Environmental Planning Policies

SEPP No. 55 - Remediation of Land

The aim of SEPP No. 55 is to provide a State wide planning approach to the remediation of contaminated land and to require that remediation works meet certain standards and conditions.

SEPP No. 55 requires a consent authority to consider whether land is contaminated and if contaminated, that it would be satisfied that the land is suitable, in its contaminated state (or will be suitable after remediation). Further, it advises that if the land is contaminated and requires remediation, that the consent authority is satisfied that the land will be remediated before the land is used for that purpose.

The proposed location is within an existing works area of the Murwillumbah Golf Club. A site inspection by the Environmental Health Unit on 9/3/18 noted the proposed location is in a vegetated section of the club adjacent to the maintenance sheds and offices. The sheds are all slab on ground and chemicals are kept bunded and contained.

A review of the Murwillumbah topographic map (1976) and aerial photography dated 1962 and 1970 did not reveal any potentially contaminating activities. As of 1987 the current use is noted with no cattle dip sites are located within 200 metres of the site.

The Environmental Health Unit have reviewed the application and advised that contamination is not considered a constraint for the proposed works.

SEPP (Infrastructure) 2007

Division 21 relates to the provision of telecommunications and other communications facilities.

Clause 115 of SEPP Infrastructure states that development for the purposes of telecommunications facilities, other than development in Clause 114 (development for the purposes of telecommunications facilities carried out by a public authority) or development that is exempt development under Clauses 20 or 116, may be carried out by any person with consent on any land.

In accordance with subsection (3), before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Secretary for the purposes of this clause and published in the Gazette.

NSW Telecommunications Facilities Guidelines including Broadband

The purpose of the NSW Telecommunications Facilities Guidelines including Broadband is to:

- (a) Provide a guide to the State wide planning provisions and development controls for communication facilities in NSW contained in SEPP (Infrastructure) 2007;
- (b) Provide guidance to assist the facilitation of the rollout of broadband in NSW.

Principles for the design, siting, construction and operation of telecommunication facilities that apply to all proposed telecommunications facilities in NSW are contained in this document.

Principle 1: A telecommunications facility is to be designed and sited to minimise visual impact.

Principle 2: Telecommunications facilities should be co-located wherever practical.

Principle 3: Health standards for exposure to radio emissions will be met.

Principle 4: Minimise disturbance and risk, and maximise compliance.

An assessment of the proposal against these principles is set out over in Table 1:

Table 1: Assessment of the proposal against the NSW Telecommunications Facilities Guidelines

Principle	Assessment
Principle 1: A telecommunications facility is to be designed and sited to minimise visual impact	
a) <i>As far as practical, a telecommunications facility that is to be mounted on an existing building or structure should be integrated with the design and appearance of the building or structure.</i>	N/A - The proposal does not relate to a telecommunication facility that is to be mounted on an existing building or structure. Therefore this principle is not considered to be applicable to the proposed development.
(b) <i>The visual impact of telecommunications facilities should be minimised, visual clutter is to be reduced particularly on tops of buildings, and their physical dimensions (including support mounts) should be sympathetic to the scale and height of the building to which it is to be attached, and sympathetic to adjacent buildings.</i>	<p>The proposed development is not located on top of an existing building, however it is considered that the visual impact associated with the proposal is required to be minimised, as per this principle.</p> <p>This is addressed in more detail later in this report where it is determined that the visual impact of the structure is considered to be acceptable. By their nature, telecommunications equipment is generally located at elevated locations or on tall structures, meaning that some visual impact is unavoidable. However, having regard to the existing vegetation in the area, the distance from significant public viewing locations and the level of traffic on Byangum Road, the proposed location is considered reasonable.</p> <p>To minimise the visual impact further, a condition has been included in the recommendation requiring the submission and approval of a schedule of colours and finishes which results in a low contrast to the receiving landscape.</p>
(c) <i>Where telecommunications facilities protrude from a building or structure and are predominantly backgrounded against the sky, the facility and their support mounts should be either the same as the prevailing colour of the host building or structure, or a neutral colour such as grey should be used.</i>	<p>The proposed mast will be predominantly backgrounded against the sky only in close proximity to the site. Of greater significance is the potential visual impact that the mast would have in longer distance views where Wollumbin/Mount Warning or the Tweed Caldera provides the background. On this basis, it is recommended that the proposed schedule of colours relates to the landscape background when viewed from a significant viewing point such as the Tweed Regional Art Gallery Observatory Deck as opposed to the sky.</p>
(d) <i>Ancillary facilities</i>	Ancillary equipment associated with the

Principle

associated with the telecommunications facility should be screened or housed, using the same colour as the prevailing background to reduce its visibility, including the use of existing vegetation where available, or new landscaping where possible and practical.

Assessment

proposed telecommunications facility will be housed within an electronic equipment shelter located at the base of the monopole, which will be screened by surrounding landscape.

A condition has also been included in the recommendation to address the schedule of colours and finishes of this unit.

- e) *A telecommunications facility should be located and designed to respond appropriately to its rural landscape setting.*

It is considered that the proposed development has been located and designed to minimise visual impacts. Although the facility will be visible in the landscape, particularly in close proximity to the site, existing vegetation and natural elevations in the land will provide screening to the proposed facility. Furthermore, the proposal incorporates a monopole design which is not inconsistent with existing electricity infrastructure within a rural landscape setting.

It is considered that the proposed facility would not result in a significant visual impact on the rural landscape setting.

- f) *A telecommunications facility located on, or adjacent to, a State or local heritage item or within a heritage conservation area, should be sited and designed with external colours, finishes and scale sympathetic to those of the heritage item or conservation area.*

The proposed facility is not located on, or adjacent to a State or local heritage item, or within a heritage conservation area. The proposal is considered acceptable in this regard.

- g) *A telecommunications facility should be located so as to minimise or avoid the obstruction of a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.*

The distinctive, steeply rising Wollumbin /Mount Warning set in the openness of the Tweed River Valley means that there is frequent access across the Shire and beyond to long and wide views of this iconic landmark. This means that at a significant number of locations across the Shire, there is likely to be a view of Wollumbin /Mount Warning. However Council must consider whether the view is significant and if so whether it is obstructed.

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As illustrated in Figure 6 earlier in this report, the proposal will be visible in the mid-ground in views of Wollumbin/Mount Warning from the Byangum Road.

However this is not considered to be a 'significant' view. It is considered to be a 'linear viewing situation' where the observer appreciates a sequence of views from a series of locations as they move through the landscape. The subject site is located approximately 12km from Wollumbin/Mount Warning and as the observer travels west past the subject site, more expansive views of Wollumbin/Mount Warning will be available. Further it is not considered that the view at this location would be 'obstructed'. The mast will not break the skyline and is not dissimilar from existing electricity infrastructure in the rural area. The requirement for the applicant to paint the structure to provide for a low contrast to the background will further minimise the visibility of the mast in views of Wollumbin/Mount Warning.

The proposal may be visible in long range views from the Tweed Regional Art Gallery – Observation Deck, which is considered to be a 'point viewing situation' where a single view is appreciated and the view is static in nature. Such views can be considered to be more significant than linear viewing situations (such as from a public road) in that the view doesn't change with space or time and the observer has the ability to choose the duration of the viewing experience and to appreciate finer details and more intricate components of the landscape.

However, given the separation distance between the proposal and Wollumbin/Mount Warning in the view shed (approximately 12km between the two points), the proposed mast would not obstruct the view of Wollumbin/Mount Warning.

The proposal may be visible in distance mid-ground of views of the Tweed Caldera from the Observation Deck. However given the separation distance between the Observation Deck and the proposal (3.3km)

Principle

Assessment

with the intermediate topography and landscaping, it is likely that only a portion of the mast might be seen (if it is visible at all). Subject to a painted finish which provides a low contrast with the background, the mast is not likely to be highly visible in this expansive viewshed and is not likely to dominate the existing landscape character

The proposal is not likely to be visible in long range views of Wollumbin/Mount Warning from Lion's Lookout, Murwillumbah given the elevation of the proposal site and the tree screening at the lookout with restricts the views of lower lying sites.

This issue of visual impact is addressed in more detail later in this report.

- (h) *The relevant local government authority must be consulted where the pruning, lopping, or removal of any tree or other vegetation would contravene a Tree Preservation Order applying to the land or where a permit or development consent is required.*
- (i) *A telecommunications facility that is no longer required is to be removed and the site restored, to a condition that is similar to its condition before the facility was constructed.*
- (j) *The siting and design of telecommunications facilities should be in accordance with any relevant Industry Design Guides.*

While the applicant is proposing the pruning of two trees, these are not the subject of a Tree Preservation Order.

As set out later in the report, Council's Natural Resource Management Unit has reviewed the proposal and has considered that it can be supported subject to the imposition of appropriate conditions.

It is recommended that a condition be included requiring the removal of the structure should the equipment become obsolete.

The applicant has submitted details of an assessment of the siting and design using the Precautionary Approach Checklist set out in *Industry Code C564: 2011 Mobile Phone Base Station Deployment* (commonly referred to as the Deployment Code).

Principle 2: Telecommunications facilities should be co-located where possible

- (a) *Telecommunications lines are to be located, as far as practical, underground or within an existing underground conduit or duct.*

The applicant has stated that co-location on three other communications facility sites in the area was considered (as addressed earlier in this report). However, the three sites were indicated to be unsuitable for co-location being too far from the target

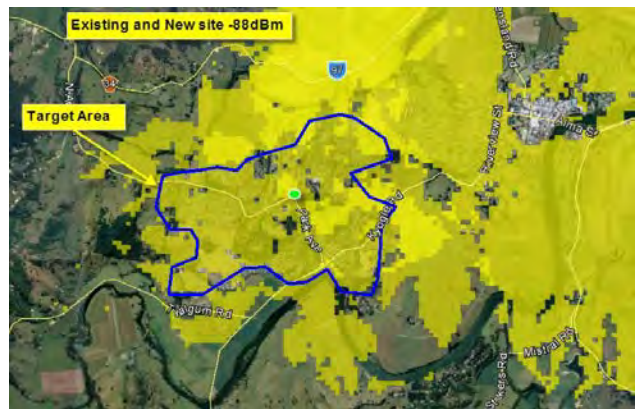
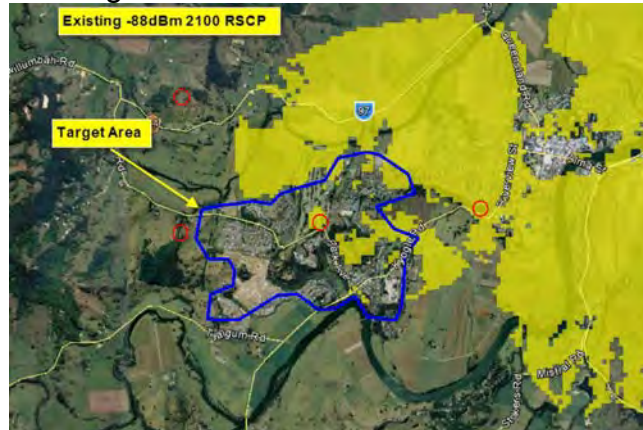
Principle

- (b) *Overhead line, antennae and ancillary telecommunications facilities should, where practical, be co-located or attached to existing structures such as buildings, public utility structures, poles, towers or other radio-communications equipment to minimise the proliferation of telecommunications facilities and unnecessary clutter.*
- (c) *Towers may be extended for the purposes of co-location.*
- (d) *The extension of an existing tower must be considered as a practical co-location solution prior to building new towers.*
- (e) *If a facility is proposed not to be co-located the proponent must demonstrate that co-location is not practicable.*
- (f) *If development is for a co-location purpose, than any new telecommunication facility must be designed installed and operated so that the resultant cumulative levels of radio frequency emission of the co-located telecommunication facilities are within the maximum human exposure levels set out in the Radiation Protection Standard.*

Note: Co-location is 'not practicable' where there is no existing tower or other suitable telecommunications facility that can provide equivalent site technical specifications including meeting requirements for coverage objectives, radio

Assessment

coverage area.



The subject site was identified by the applicant as the only viable option.

<p>Principle <i>traffic capacity demands and sufficient call quality.</i></p>	<p>Assessment</p>
<p>Principle 3: Health standards for exposure to radio emissions will be met</p>	
<p>(a) <i>A telecommunications facility must be designed, installed and operated so that the maximum human exposure levels to radiofrequency emissions comply with Radiation Protection Standard.</i></p> <p>b) <i>An EME Environmental Report shall be produced by the proponent of development to which the Mobile Phone Network Code applies in terms of design, siting of facilities and notifications. The Report is to be in the format required by the Australian Radiation Protection Nuclear Safety Agency. It is to show the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and demonstrate compliance with the Mobile Phone Networks Code.</i></p>	<p>The applicant has submitted Predicted EME Exposure Levels for the site using the ARPANSA prediction methodology and report format. This shows that the maximum environmental EME level will be 0.36% of the ARPANSA exposure limits. It is also recommended that a condition be included in the consent reiterating that the proposed facility must be designed, installed and operated so that the maximum human exposure levels to radiofrequency emissions comply with Radiation Protection Standard.</p>
<p>Principle 4: Minimise disturbance and risk, and maximise compliance</p>	
<p>(a) <i>The siting and height of any telecommunications facility must comply with any relevant site and height requirements specified by the Civil Aviation Regulations 1988 and the Airports (Protection of Airspace) Regulations 1996 of the Commonwealth. It must not penetrate any obstacle limitation surface shown on any relevant</i></p>	<p>The proposed facility is located within 30km of the Gold Coast airport, though the site is outside of the Obstacle Limitation Surface (OLS) Plan area. The site is also within 30km of the Murwillumbah airfield, which is not a registered aerodrome and which has an unrestricted airspace. Nevertheless Council has prepared an OLS map though the OLS is not formalised. The subject site is outside of the OLS plan area.</p>

Principle

Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority Australia

Assessment



- (b) *The telecommunications facility is not to cause adverse radio frequency interference with any airport, port or Commonwealth Defence navigational or communications equipment, including the Morundah Communication Facility, Riverina.*
- (c) *The telecommunications facility and ancillary facilities are to be carried out in accordance with the applicable specifications (if any) of the manufacturers for the installation of such equipment.*
- (d) *The telecommunications facility is not to affect the structural integrity of any building on which it is erected.*
- (e) *The telecommunications facility is to be erected wholly within the boundaries of a property where the landowner has agreed to the facility being*

The pr
having

The applicant has advised that the base station is designed to create no electrical interference problems with other radio based systems and complies with the requirements of relevant Australian standards in this regard.

The applicant has advised that the proposal would be developed in accordance with the relevant Australian Standards/technical specifications.

N/A

Owners consent has been submitted with the application which identifies a 7.5m x 7.5m lease area.

Principle	Assessment
(f) <i>located on the land. The carrying out of construction of the telecommunications facilities must be in accordance with all relevant regulations of the Blue Book – ‘Managing Urban Stormwater: Soils and Construction’ (Landcom 2004), or its replacement.</i>	This matter can be appropriately addressed through the imposition of appropriate conditions of development consent.
(g) <i>Obstruction or risks to pedestrians or vehicles caused by the location of the facility, construction activity or materials used in construction are to be mitigated.</i>	This matter can be appropriately addressed through the imposition of conditions of development consent, including the submission and approval of a construction traffic management plan.
(h) <i>Where practical, work is to be carried out during times that cause minimum disruption to adjoining properties and public access. Hours of work are to be restricted to between 7.00am and 5.00pm, Mondays to Saturdays, with no work on Sundays and public holidays.</i>	This matter can be appropriately addressed through the imposition of conditions of development consent, including a restriction on construction work to between 7.00am and 5.00pm Monday to Saturday.
(i) <i>Traffic control measures are to be taken during construction in accordance with Australian Standard AS1742.3-2002 Manual of uniform traffic control devices – Traffic control devices on roads.</i>	As above, this matter can be appropriately addressed through the imposition of conditions of development consent, including the submission and approval of a construction traffic management plan.
(j) <i>Open trenching should be guarded in accordance with Australian Standard Section 93.080 – Road Engineering AS1165 – 1982 – Traffic hazard warning lamps.</i>	There is not anticipated to be any open trenching outside of the site.
(k) <i>Disturbance to flora and fauna should be minimised and the land is to be restored to a condition that is similar to its condition before the work was carried</i>	The applicant has undertaken an assessment of the proposal in accordance with the <i>Environmental Protection & Biodiversity Conservation Act 1999</i> to determine whether the proposal would have a significant impact on matters of national

Principle	Assessment
<i>out.</i>	<p>environmental significance.</p> <p>The assessment found that one Threatened Ecological Community (Lowland Rainforest of Subtropical Australia) may occur in the area. There were 55 listed threatened species and 30 migratory species, seven of which have a status of critically endangered. The applicant has amended the proposal so that there is no tree removal proposed, though directional pruning of two trees will be required to achieve the necessary clearances.</p> <p>There is the potential for impacts on flora and fauna during the construction phase. To address this, a condition has been included in the recommendation requiring the approval of a construction and environmental management plan prior to the issue of a construction certificate.</p> <p>It has been determined that the proposed works are unlikely to have a significant impact on any Matters of National Environmental Significance.</p> <p>Council's NRM Unit has undertaken a detailed assessment of the proposed development with regard to potential impact upon flora and fauna. No records or evidence of threatened flora or fauna were recorded during site inspections of the subject area. NRM are satisfied that the proposed development will not significantly impact native vegetation or the environment providing adherence to conditions of consent.</p>
<p>(l) <i>The likelihood of impacting on threatened species and communities should be identified in consultation with relevant state or local government authorities and disturbance to identified species and communities avoided wherever possible.</i></p>	<p>The NRM assessment accepts that the proposed development will not have a significant impact upon the local population of those threatened species known or likely to occur onsite.</p>
<p>(m) <i>The likelihood of harming an Aboriginal Place and / or Aboriginal object should be identified. Approvals from the Department of Environment, Climate Change and Water</i></p>	<p>A Due Diligence assessment has been undertaken by Urbis in accordance with the <i>Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW</i>. This concludes that the ground has already been disturbed to provide roads and sheds and that the landscape does not indicate the</p>

Principle	Assessment
<i>(DECCW) must be obtained where impact is likely, or Aboriginal objects are found.</i>	presence of Aboriginal objects. It is concluded that an Aboriginal Heritage Impact Permit (AHIP) is not required and that the work can proceed with caution. The site is not identified in Council's Aboriginal Cultural Heritage Management Plan mapping as either a known or predictive site of heritage significance. Nevertheless, it is recommended that a condition be included in any consent issued with regard to unexpected finds.
<i>(n) Street furniture, paving or other existing facilities removed or damaged during construction should be reinstated (at the telecommunications carrier's expense) to at least the same condition as that which existed prior to the telecommunications facility being installed.</i>	The proposed development is not located in close proximity to any street furniture or the like identified over. In this regard there is considered to be no anticipated negative impacts.

Conclusion:

Having regard to the assessment provided above, the proposed development is considered to be generally consistent with the four principles set out in the NSW Telecommunications Facilities Guidelines. Therefore, the proposal is assessed as complying with the provisions of Clause 115(3) of the Infrastructure 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. An area of the site, approximately 5,240sqm (1.2% of the site area), on the western boundary of the golf course is mapped as being Regionally Significant Farmland under the Northern Rivers Farmland Protection Project. However this will not be impact by the proposal.

SEPP (Coastal Management) 2016

The State Environmental Planning Policy (Coastal Management) 2018 commenced on 3 April 2018 and guides development in coastal areas, including land adjacent to beaches, estuaries, coastal lakes, coastal wetlands and littoral rainforests. It promotes appropriate and sensitive development in our coastal

areas, recognising they are some of the most socially, environmentally and economically valuable lands in NSW.

The northern site portions of the site are mapped as being within the Coastal Environment Area and the Coastal Environment Area, though the location of the mast itself is outside of these areas.

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) *This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

14 Development on land within the coastal use area

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
 - (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*

- (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
- (iv) Aboriginal cultural heritage, practices and places,*
- (v) cultural and built environment heritage, and*
- (b) is satisfied that:*
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*
- (2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

It is considered that the proposal is consistent with the provisions of these clauses.

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

The subject site is mapped as being affected by LEP Amendment 17 – Short term rental accommodation. This amendment does not have any significant impacts on the proposed development.

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

Tweed Development Control Plan 2008

A2 - Site Access and Parking Code

Access to the site is via an internal road that currently accesses the groundkeeping shed. There is no proposal to create any new accesses.

The DCP does not set out any car parking requirements for telecommunications equipment. Car parking requirements associated with the development would be limited to maintenance and inspections. It is considered that there is adequate area at the ground keeping sheds and adjacent to the site to accommodate any such car parking.

A16 - Preservation of Trees or Vegetation

The initial proposal included the removal of three (3) trees. The proposal has since been amended to retain all trees in the vicinity of the proposal, with pruning restricted to two trees.

The impact on flora and fauna, and in particular the impact on trees, is set out in more detail later in this report.

(a) (iia) Any planning agreement or any draft planning agreement under section 7.4

There is no planning agreement or draft planning agreement relating to the site or the proposal.

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

Having regard to the distance of the site from the coast, the proposal will not impact on the Government Coastal Policy as identified in Clause 92(1)(a)(ii).

Clauses 92(1)(b) (Applications for demolition), 93 (Fire Safety Considerations) and 94 (Buildings to be upgraded) are not relevant.

(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 24km from the coast and not located within a specific area identified under that Plan. The site is not located adjacent to any coastal estuaries covered by this plan.

Tweed Coast Estuaries Management Plan 2004

The site is not 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

EME and Health

Two Australian Government agencies, the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and the Australian Communications and Media Authority (ACMA) are responsible for regulating RF EME.

As set out in the *Australian Government Department of Communications Factsheet – Communications towers, radio transmitters and safety - Information for schools, teachers, students and parents:*

'ARPANSA is an independent Australian Government agency charged with protecting Australians from exposure to EME. ARPANSA is responsible for advising what safe levels of EME exposure are. ARPANSA has developed a public health standard which sets limits for human exposure to RF EME. The limits are set well below the level at which adverse health effects are known to occur and include a wide safety margin to protect the public. The exposure standards take into account the many sources of RF EME present in the modern environment.

The ACMA licenses the operation of Radiocommunications transmitter. Licences require transmitters to comply with the exposure limits set out in the ARPANSA standard.'

All transmitters must operate below ARPANSA's public exposure standard which is also known as the *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2003*.

To demonstrate compliance with the standard, ARPANSA created a prediction report using a standard methodology to analyse the maximum potential impact of any new telecommunications facility and carriers are obliged to undertake this analysis for each new facility and to make it publicly available. The ARPANSA created compliance report demonstrates the maximum signal strength of a proposed facility assuming that it is handling the maximum number of users 24 hours a day. This illustrates the greatest possible impact at peak usage.

The predicted EME levels resulting from the facility are shown in Table 2 below.

Table 2: Calculated EME levels extracted from Environmental EME Report prepared by Novasol/Optus dated 21 September 2017.

Distance from the antennas at Murwillumbah Golf Club, 233 Byangum Road in 360° circular bands	Maximum Cumulative EME Level at 1.5m above ground – all carriers at this site					
	Existing Equipment			Proposed Equipment		
	Electric Field V/m	Power Density mW/m ²	% ARPANSA exposure limits	Electric Field V/m	Power Density mW/m ²	% ARPANSA exposure limits
0m to 50m				2.13	12.042	0.17%
50m to 100m				1.97	10.25	0.13%
100m to 200m				2.8	20.79	0.32%
200m to 300m				3.089	25.31	0.36%
300m to 400m				2.77	20.41	0.29%
400m to 500m				2.13	12.064	0.17%
Maximum EME level				3.089	25.31	0.36
				238.47 m from the antennas at Murwillumbah Golf Club, 233 Byangum Road		

Additional Locations	Height / Scan relative to location ground level	Maximum Cumulative EME Level All Carriers at this site Existing and Proposed Equipment		
		Electric Field V/m	Power Density mW/m ²	% of ARPANSA exposure limits
1 Tweed Valley Adventist College (Primary Class)	0m to 3m	1.51	6.078	0.085%
2 Tweed Valley Adventist College (Secondary Class)	0m to 3m	1.28	4.32	0.061%
3 Woolumbin High School	0m to 3m	1.0093	2.7	0.038%

The applicant has advised that in reality, base stations are designed to operate at the lowest possible power level to accommodate only the number of customers using the facility at any one time. This 'adaptive power control' function would ensure that the base stations operate at minimum, rather than maximum power levels at all times.

As set out in Table 2 above, the ARPANSA prediction report for the proposed facility estimates that maximum environmental EME level will be 0.36% of the ARPANSA exposure limits.

Further, the NSW Land & Environmental Court in *Telstra Corporation Limited v Hornsby Shire Council [2006] NSWLEC 133* determined that the Australian Standard RPS3 is an authoritative and scientifically credible standard to protect the health and safety of people and the environment from the harmful effects of radiofrequency fields in the frequency range of 3kHz to 300 GHz. It is not appropriate for a consent authority to set aside or disregard such an authoritative and scientifically credible standard as the Australian Standard RPS3. Nor is it appropriate for a consent authority to pioneer standards of its own. The creation of new standards is the responsibility of other authorities with special expertise, such as ARPANSA.

The same logic applies to Council in the determination of this application. Though a significant number of the objections to this application have raised the issue of potential health concerns and in particular the proximity of the proposal to Tweed Valley Adventist College (as set out later in this report), Council is obliged to use the ACMA's Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2003 in the assessment of the application.

Reference is made in a number of the objections to the NSW Department of Education Policy on Mobile Telecommunications Facilities (PD/2005/0148/V01). The Department of Education adopts a policy of 'prudent' avoidance by not endorsing the installation of any mobile telecommunications facilities on school property. The policy notes that while the department cannot state a specific separation distance between a proposed mobile telecommunications facility and a school, the department has a 'preference' for a distance of at least 500 metres from the boundary of the property.

It should be noted that this is a policy of the Department of Education and relates to their advice to departmental schools only. The specification of a 'preferred' separation distance appears to be based on a precautionary approach. However,

the policy has no statutory status in the assessment of development applications for mobile telecommunications facilities.

Given the concern around communications towers, radio transmitters and safety for schools, the Australian Government Department of Communications have issued a factsheet with information for schools, teachers, students and parents (this document is included in Attachment 1). This factsheet specifically addresses the question of whether mobile phone transmitters should be located a specified number of metres from schools:

*'Because transmitter must operator below the ARPANSA standard, there is no particular advantage locating these away from schools. **In fact, poor location of the transmitters can affect the performance of mobile handsets, requiring more power to be emitted from the handset to connect with nearby transmitters. This is potentially of greater concerns as handsets are used near the body.***

Based on the above, there are no grounds to refuse the application on the basis of fears associated with EME. The applicant has demonstrated that the proposed facility will be well below the standards set by ARPANSA and ACMA, which already contain a significant safety factor.

Visual Impact

Council have prepared a Draft Scenic Landscape Strategy to provide an assessment framework and suite of management principles that ensure that the unique scenic landscape qualities of the Shire are recognised and that any adverse impacts on those qualities by development or land use is avoided or minimised to the greatest extent possible.

The draft strategy was reported to Council on 21 June 2018 and it was resolved to proceed to exhibition of the draft document. Council is currently in the process of preparing the exhibition documentation and the necessary interactive mapping systems to support the draft strategy.

As the draft strategy has not yet been publicly exhibited or subject to public consultation in its current format, it is not a relevant policy or guideline in the assessment of this application.

Nevertheless, some of the information on viewing locations and view analysis collated in the preparation of the Draft Strategy is useful in the assessment of the visual impact of the proposal.

The Draft Strategy identifies two types of viewing situations or locations from which people can experience and enjoy views:

'Linear viewing situations' includes roads and any other routes along which an observer appreciates a sequence of views from a series of locations as they move through the landscape.

'Point (or static/stationary) viewing situations' are locations from which a single view or scene is appreciated and are static in nature. They include lookouts. Public parks and reserves, beaches, headlands and places of interest such as Tumbulgum Jetty or Tweed Regional Art Gallery.

It is important to distinguish between linear and point viewing situations because the way in which an observer is exposed to and experiences a scenic landscape from these situations is different and this can affect their visibility and appreciation of certain landscape qualities or elements. Similarly, the visual impact of changes to the landscape depends on whether the observer is in a linear and point viewing situation. The linear viewing experience is dynamic with the potential to change dramatically and rapidly as the observer moves through the landscape (such as travelling on a road). Generally the observer can appreciate the broader views and the finer details and foreground might be obstructed and difficult to focus on.

In contrast, when the observer is stationary at a point viewing situation the view doesn't change with time or space and the observer has more ability to choose the duration of the viewing experience and appreciate the finer details of the landscape. Observers of static views are more likely to be affected by smaller and less obvious changes to the landscape as they have more time to focus on them in and their impact within the broader landscape setting.

The subject application has been accompanied by an updated Visual Impact Assessment prepared by Urbis and dated June 2018.

In terms of linear viewing situations, the applicant has identified six views (as shown in Figures 2-7 earlier):

- Tamarisk Avenue (View 1)
- Junction of North Arm Road and Ingram Place (View 2)
- Bus stop on Park Avenue (View 3)
- Hall Place (View 4)
- Byangum Road (View 5)
- Junction of Park Avenue and North Arm Road (View 6).

The applicant then assessed these views based on the following criteria:

Period of view – This is classified as short term (less than 1 minute), moderate term (1-120 minutes) or long term (>120 minutes) and is dependent on the route the observer is following and the mode of transport (walking, car, etc).

Number of viewers – This is a measure of the likely number of viewers with low being less than 100 people per day, moderate being 100-1,000 people per day and high being more than 1,000 people per day.

Distance zone -	This is a measure of how far the subject is from the viewer where distances of greater than 1.5km is considered to be the background, between 200m and 1.5km is considered to be the middle ground and distances of less than 200m is considered to be the foreground.
Visibility -	<p>The rationale for the assessment of visibility is that a proposal is highly visible if many people can see the proposed development at relatively close distances over a long period.</p> <p>A proposal is moderately visible if a medium number of people can see it at a medium distance over a moderate period or many people will see it over a short period.</p> <p>Alternatively, a proposal has a low visibility if it is essentially not visible.</p>
Visual absorption capacity –	Is a measure of the landscape ability to absorb physical changes without transforming its visual character and quality.
Visual impact rating	This is an assessment of the visibility of a proposal against the visual absorption capacity of the landscape.

A summary of the visual impact ratings as determined by the applicant is set out in Table 3 over.

Table 3: Outcomes of Visual Impact Assessment prepared by Urbis and dated June 2018

View	Period of view	Number of viewers	Approximate distance of view	Visibility	Visual absorption capacity	Visual impact rating
1	Moderate Term	Low	480 metres	Moderate	Moderate	Moderate
2	Moderate Term	High	375 metres	Low	High	Low
3	Moderate term	High	670 metres	Low	High	Low
4	Moderate term	Moderate	330 metres	Moderate	Moderate	Moderate
5	Moderate term	High	620 metres	Moderate	Moderate	Moderate
6	Short term	High	75 metres	High	Moderate	High

As can be seen, the applicant has identified that one view will have a high impact and three (3) of the views will have moderate impact.

The view affected by the high impact is the junction of Park Avenue and North Arm Road (Refer to Figure 8). However as submitted by the applicant *'due to the undulating and winding nature of North Arm Road and Byangum Road and the mature vegetation and tall trees along the southern edge of the golf course, the proposal would be glimpsed only, except when approached from Park Avenue. In addition, while the number of viewers would be high, the viewing time would be short.'*

Of the moderately impacted viewed, View 5 from Byangum Road is the most significant. As illustrated in Figures 6 and 7 earlier in this report, the proposal will be visible in the mid-ground in views of Wollumbin/Mount Warning from the Byangum Road. However this is not considered to be a 'significant' view of Wollubmin/Mount Warning. As a 'linear viewing situation', the observer will only be able to appreciate a sequence of views of Wollumbin/Mount Warning as they move through the landscape. The subject site is located approximately 12km from Wollumbin/Mount Warning and as the observer travels west past the subject site, more expansive views of Wollumbin/Mount Warning will be available. Further it is not considered that the view at this location would be 'obstructed'. The mast will not break the skyline and is not dissimilar from existing electricity infrastructure in the rural area. The requirement for the applicant to paint the structure to provide for a low contrast to the background will further minimise the visibility of the mast in views of Wollumbin/Mount Warning.

The visual impact assessment report prepared by the applicant fails to address the impact on more long distance views towards the site or important point viewing situations which might readily be identified such as views from

Wollumbin/Mount Warning, Lions Lookout in Murwillumbah or the Tweed Regional Art Gallery – Observation Deck.

The view from Wollumbin/Mount Warning, whilst highly significant is so vast and encompasses so much visual detail that most change can be easily absorbed into the visual landscape. However, as above, the requirement for the applicant to paint the structure to provide for a low contrast to the background will assist in minimising the visibility of the mast in views of the Tweed Caldera from Wollumbin/Mount Warning.

Photographs taken from Tweed Regional Art Gallery – Observation Deck and Lions Lookout in the direction of the subject site are shown in Figures 11 and 12 earlier in this report.

The proposal may be visible in long range views from the Tweed Regional Art Gallery – Observation Deck. However, given the separation distance between the proposal and Wollumbin/Mount Warning in the view shed (approximately 12km between the two points), the proposal mast would not obstruct the any view of Wollumbin/Mount Warning from this location.. The proposal may be visible in distance mid-ground views of the Tweed Caldera from the Observation Deck. However given the separation distance between the Observation Deck and the proposal (3.3km) with the intermediate topography and landscaping, it is likely that only a portion of the mast might be seen (if it is visible at all). Subject to a painted finish which provides a low contrast with the background, the mast is not likely to be highly visible in this expansive viewshed and is not likely to dominate the existing landscape character.

The proposal is not likely to be visible in long range views of Wollumbin/Mount Warning from Lion's Lookout, Murwillumbah given the elevation of the proposal site and the tree screening at the lookout with restricts the views of lower lying sites.

Further to the above assessment, the following considerations are relevant:

- The mast will be seen as a monopole with a frame mounted antennae.
- The mast will be screened at lower levels (from most perspectives) by the adjoining trees and NRM has advised that the adjacent trees to grow to a maturity of 40-60m (refer to comment on flora and fauna below).
- The signals transmitted between the base station antennae and mobile phones need to be unimpeded and therefore antennae generally need to be elevated, being either at an elevated location (such as the top of a hill) or attached to a high mast, indicating that some visual impact is inevitable.
- The applicant has advised that, as a rule, the higher a base station is elevated and/or the taller its base station structure, the greater is range of coverage. While a reduction in height may reduce visual impacts, it may also result in the requirement for more infrastructure (base station structures) to achieve the same coverage.

On this basis, the visual impact associated with the proposal are considered to be reasonable and not incompatible with the urban fringe nature of the area.

Flora and Fauna

The applicant has submitted an amended tree retention plan prepared by EcoLogical Australia (dated 25 June 2018) and an Arboricultural Impact Assessment prepared by Independent Arboricultural Services (dated 24 June 2018).

The original proposal required the removal of three (3) trees. The applicant has modified the proposal and is now retaining all trees, though the pruning of two trees will be required to provide clearance and to achieve the required 10m APZ around the mast and equipment.

The application has been reviewed by Council's Natural Resource Management (NRM) who provided the following advice:

- No records or evidence of threatened flora or fauna were recorded during site inspections of the subject area.
- The development footprint is predominately clear of any vegetation.
- The vegetation community nearest to the proposed facility was determined to be generally analogous with either Urban Bushland or Tallowwood Open Forest with most common species consisting of:
 - *Eucalyptus microcorys* (Tallowwood)
 - *Corymbia intermedia* (Bloodwood)
 - *Lophostemon confertus* (Brushbox)
 - *Eucalyptus siderophloia* (Ironbark)
 - *Eucalyptus grandis* (Flooded Gum); and
 - *Araucaria heterophylla* Pine (Norfolk Island Pine)The understory was generally disturbed and consisted of weedy species and juvenile Norfolk Island Pines.
- The nearest vegetation consists of one very large *Eucalyptus microcorys* (Tallowwood) (Tree 820) and one semi-mature/juvenile Brushbox (*Lophostemon confertus*) (Tree 819).

Impacts to tree 820 and 819 generally limited to:

- Pruning of one limb
- Underground services (electricity and fibre optic cables) within TPZ (not likely to impact tree 819)
- Installation of a monopole and associated equipment shelter.
- Installation of four (4) earth electrodes with trafficable inspection sleeves which generally includes:
 - Four (4) 150mm diameter by 500mm deep inspection sleeve (PVP pipe) with a 10mm earthing rod and 75mm core drill extending 3m deep.
 - Four (4) lightning conductor bonding cables at a depth of 500 mm connecting a lower leg of the monopole to an earthing rod.

- Minor changes to ground surface within the 7.5m x 7.5m leased area to facilitate weed mat installation and gravel placement.
- No impacts to canopy cover to achieve APZ requirements is considered necessary based on Bushfire Report which specifies a 10m APZ (max 15% canopy cover) from the proposed infrastructure which has already been achieved without the need for further vegetation removal.
- No significant adverse impacts to other vegetation are anticipated.
- Extent of canopy pruning in the short term has been considered. Details regarding any long term canopy impacts (i.e. on-going pruning) have not been considered as part of the arborists report despite surrounding trees having potential to grow higher than the proposed monopole given sufficient time i.e. another ~30 years - Brush Box (mature height of 40m or more), Hoop Pine (mature height of 60m) and Tallowwood (40m to occasionally more than 60m).

It is noted however that the majority of such vegetation is downslope of the proposed monopole which provides additional growing time before any possible signal blocking implications (which have been reported by the applicant to not result from vegetation alone).

- Evaluation of the potential impacts to the structural integrity and health of the trees proposed to be impacted has not been provided, however management measures have been provided.
- An evaluation of potential impacts to the roots due to pad establishment or underground services establishment has not specifically been undertaken however management measures have been made to reduce impacts to roots including low pressure hydro-excavation for installation of the facility and associated underground services.
- No impacts to canopy cover to achieve APZ requirements is considered necessary based on Bushfire Report which specifies a 10m APZ (max 15 % canopy cover) from the proposed infrastructure which has already been achieved without the need for further vegetation removal.
- No significant adverse impacts to other vegetation are anticipated

NRM are satisfied that the proposed development will not significantly impact native vegetation or the environment providing adherence to recommended conditions of consent.

Construction

There will be some short term impacts associated with the proposed construction including the transportation of the prefabricated monopole sections, equipment and construction machinery to the site and the installation of the monopole, equipment units and the antennae by crane.

Potential construction impacts include traffic impacts, noise and vibration, and erosion or sedimentation of exposed soil.

The potential impacts can be managed by condition with a requirement for the following:

- Preparation, approval and implementation of a construction traffic management plans,
- Preparation, approval and implementation of a soil erosion and sediment plan
- Compliance with noise standards
- Construction restricted to hours of 7.00am to 5.00pm Monday to Saturday with no work on a Sunday or public holiday.

Noise

The applicant has advised that once installed and operational that there will be some low-level noise from the ongoing operation of the air-conditioning equipment associated with the equipment shelter but that this would be comparable with a domestic installation and will be generally in accordance with the background noise levels prescribed by Australian Standards AS1055.

(c) Suitability of the site for the development

Necessity for the proposal

In *Telstra Corporation Limited v Hornsby Shire Council*, Commissioner Preston CJ indicated that there is some doubt as to whether the need for a proposed development is a relevant consideration under S4.15(1) of the EP&A Act and that ordinarily these are matters to be resolved by market forces. However, as outlined earlier, in this case, the applicant has submitted evidence that Optus has a coverage issue in the area and that the proposal seeks to address this issue.

Surrounding Landuses/Development

The proposal is considered to be compatible with the surrounding landuses and development. As outlined earlier in this report, the submissions to the proposal did identify significant concern with regard to the proximity of the proposal to residential development and educational facilities. However the proposal meets with the ACMA's Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2003, and as such the development cannot be deemed to be incompatible on health-related grounds.

Soils

The applicant has submitted a geotechnical Investigation report prepared by AW Geotechnical Pty Ltd and dated November 2016. The report advises that the site is unlikely to be affected by acid sulphate soils. No water table was encountered during the testing nor expected in the proposed footing depth.

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

The application was advertised for a period of 14 days from Wednesday 21 February to Wednesday 7 March 2018. During this time, three (3) submissions were received, one (1) of these in support of the proposal and the other two (2) objecting to the proposal. However after the close of the submission period, a further 40 objections were received in the period up to 12 April 2018.

The issues raised in the submissions are outlined below. It is noted that a significant proportion of the objectors (41 of the 42 objections) have raised concerns with the potential health impacts, and in particular the proximity to Tweed Valley Adventist College.

1. Proximity of the telecommunications mast to Tweed Valley Adventist College
 - i. Department of Education advises that telecommunication towers should not be within 500m of a school
 - ii. Concerns with regard to exposure of 200 students and 35 staff to any levels of EME – links of exposure to cancer, tumours, miscarriages, etc.
 - iii. Unknown potential for negative health impacts is too uncertain to allow development to proceed
 - iv. Adverse impact of mast on enrolments at school with parents likely to withdraw their children
 - v. Proximity of the mast to the school grounds with access to the site close to the tower
2. Proximity of the telecommunications mast to residences
 - i. Harmful effects of electro-magnetic frequencies which would be emitted by such a tower – there is research which demonstrates that such towers should not be located within 800 of any residence for this reason
 - ii. Unfair and unnecessary to risk the health of locals to benefit a telecommunications company increasing their local market share
 - iii. Proximity to a retirement village and nursing home in the area
 - iv. Anecdotal evidence of 5G towers causing headaches, etc
 - v. Concerns re health will devalue residential properties in the area
3. There is adequate coverage in the area at present.
4. Visual Impact of the tower
 - i. No attempt to disguise the tower – painting/camouflage, etc
 - ii. Views of Wollumbin/Mount Warning, an iconic environmental feature, currently enjoyed by local residents will be diminished, thereby devaluing properties and putting a blemish on the natural beauty of the area
 - iii. Impact on tourism in terms of impact on views on route to the Natural Arch
 - iv. Indicates that there must be a more suitable site (as demonstrated by Telstra)

- v. Having regard to the proposed location of the tower so close to the community and on a main road, requests that Council decreases the visual impacts via a different site, camouflage and/or painting.

The applicant's response to the submissions is attached in Attachment 1.

These issues have all been addressed earlier in this report.

(e) Public interest

Consideration must be given to the public interest in providing acceptable levels of coverage in the area. The applicant is a licensed carrier who is currently expanding and improving their mobile phone networks to meet the growing demand for mobile telecommunications services, with coverage issues identified in the subject area. It is recognised that mobile phones now form an integral part of the communications network with residents, businesses, workers and visitors in an area often reliant on mobile phones for communication and on a reasonable standard of service.

The applicant has demonstrated that the proposal will meet the EME exposure limits set by the ACMA.

While the construction of a 33.2m high mast and associated antenna will be highly visible in the immediate area and will be moderately visible in the wider area, the visual impacts are considered to be acceptable having regard to the location of the site relative to significant tourist routes and public lookouts, the retention of trees on the site which will assist in ameliorating the impact and subject to a condition requiring the approval of a schedule of finishes and colours which provide for a low contrast to the landscape background.

On this basis, it is considered that the approval of the application is in the public interest.

OPTIONS:

1. Approve the application subject to conditions for the following reasons:
 - a) The proposal has been assessed *State Environmental Planning Policy (Infrastructure) 2007* and the associated guidelines published by the Department of Planning for site selection, design, construction or operating principles for telecommunications facilities and is considered to be consistent with these principle and to be in the public interest.
2. Refuse the application

Option 1 is recommended.

CONCLUSION:

The two key issues in the assessment of this application has been consideration of EME levels and visual impacts. Both are important considerations, though the public submissions opposing the development have been predominantly based on a fear of potential health impacts.

Telstra Corporation Limited v Hornsby Shire Council [2006] NSWLEC 133 referred to earlier in this report provides some guidance on the question of fear of that a telecommunications facility will emit electromagnetic energy that will harm the health and safety of residents, rationality and the law.

In determining the impact of a proposed development on the amenity of an area, the consent authority may consider the community responses to the proposed development as set out in the submissions.

'However, in considering the community responses, an evaluation must be made of the reasonableness of the claimed perceptions of adverse effect on the amenity of the locality. An evaluation of reasonableness involves the identification of evidence that can be objectively assessed to ascertain whether it supports a factual finding of an adverse effect on the amenity of the locality.'

'A fear or concern without rational or justified foundation is not a matter which, by itself, can be considered as an amenity or social impact pursuant to s79C(1) (now s4.15(1)) of the EPA Act.'

In *Telstra Corporation Limited v Hornsby Shire Council*, it was found that the residents' perceptions of an adverse effect on the health and safety of residents and on the environment by exposure to RF EME emitted from the proposed base station were without justification in objective, observable, likely consequences. The claimed effects were considered to unsubstantiated and without reasonable evidentiary foundation:

'The concerns expressed by the residents as to RF EME emitted from the proposed base station do not relate to intangible matters. Rather, the concerns relate to matters which are capable of measurement and testing against established standards to see whether the concerns are justified or not: Telstra Corporation Ltd v Pine Rivers Shire Council & Ors [2001] QPELR 350 at 364. Testing against the relevant Australian Standard RPS3 proves that concerns are not justified.'

The court ruled that in these circumstances, little, if any, weight can be given to the residents' perceptions and that this has been the consistent conclusion of other courts and tribunals which have determined other cases involving unsubstantiated community perceptions of adverse effects on amenity from exposure to RF EME from a proposed development.

Having considered the proposal against the NSW Telecommunications Facilities Guidelines (SEPP Infrastructure) it is recommended that the application be approved subject to the recommended conditions.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Nil

c. Legal:

The applicant has a right of appeal in the NSW Land and Environment Court in respect of any Council determination of this application.

d. Communication/Engagement:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Applicant's response to issues raised in objections including Factsheets (ECM 5468250)

Attachment 2. Environmental EME Report (ECM 5468262)

13 [PR-CM] Development Application DA18/0133 for a 72 lot Subdivision (Seabreeze Estate Stages 18A and 18B) at Lot 1747 DP 1215252; Seabreeze Boulevard Pottsville

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:

Council has received a development application for a 72 lot residential subdivision of Lot 1747 DP 1215252 being the 'Potential School Site' pursuant to Section B15 Seabreeze Estate, Pottsville. The subdivision proposes 69 residential allotments, 2 public reserves and 1 drainage reserve.

The application was notified for a period of 30 days from Wednesday 14 March 2018 to Friday 13 April 2018. Council received 27 submissions with 22 objecting to the proposal and 5 in support of the proposal.

The application was referred to the Department of Education (now referred to as *School Infrastructure NSW*) for comment, the Department advised that there was not sufficient demand for another government primary or secondary school and that the Department does not wish to acquire the subject site for a school. However, the Department is interested in acquiring a site in the Dunloe Park Estate through a Voluntary Planning Agreement. The advice from the Department states;

"In relation to existing facilities, it is noted that a construction project is underway at Pottsville Beach Public School to deliver permanent accommodation to meet long-term enrolment demand. Secondary students from Pottsville are zoned to Kingscliff High School which has 17 surplus teaching spaces in 2018.

The Department of Education has been working toward the completion of an overarching strategy for educational facilities within the Tweed. This includes a detailed review of demographic forecasts and existing assets. Although the strategy

has not been completed, our work to date supports previous advice that the department does not wish to acquire the school site identified through Council's Development Control Plan.

Our discussions with the proponent for Dunloe Park Estate have indicated that a school site will be identified which will be acquired through the Voluntary Planning Agreement provisions as part of the rezoning process."

Council officers were contacted by non-government educational provider stating that they offered to purchase the site based on a value provided by an independent land valuer based as a school site. The landowners did not accept the offer as they are seeking a value based on a residential development potential.

The application is integrated development under the Rural Fires Act 1997 and the Water Management Act 2000. The NSW Rural Fire Service and Water NSW have provided general terms of approval.

The NSW Planning and Environment advised that as a waiver under SEPP 71 was provided under a previous Development Application DA15/0422 on 2 June 2015 for a 65 lot subdivision on the same site, the Department will not be issuing another waiver.

The application was referred internally with the following units requesting further information; Water Unit, Development Engineering Unit, Natural Resource Management Unit and Recreational Services Unit. The request for further information has not been issued to the applicant, as the application is not consistent with Council's Development Control Plan which identifies the site as a potential school site and is recommended for refusal.

RECOMMENDATION:

That Development Application DA18/0133 for a 72 lot subdivision (Seabreeze Estate Stages 18A and 18B) at Lot 1747 DP 1215252; Seabreeze Boulevard Pottsville be refused for the following reasons:

- 1. The proposal is not consistent with Section B15 of Council's Development Control Plan, which identifies the site as a potential school site; and**
- 2. The proposal is not consistent with Section B21 of Council's Development Control Plan, which identifies the site as a potential school site**

REPORT:

Applicant: Newland Developers Pty Ltd
Owner: Altitude Lifestyle Pty Ltd
Location: Lot 1747 DP 1215252; Seabreeze Boulevard POTTSVILLE
Zoning: R2 - Low Density Residential
Cost: \$2,400,000

Background:

DA15/0422

Council has previously received and determined a development application for a 65 lot residential subdivision on this site. The development application referenced DA15/0422, was refused at Council's Planning Committee meeting on 1 October 2015.

The applicant lodged a Class One Appeal, which was dismissed by the court on 24 January 2017.

Council Meeting dated 14 February 2013

It is noted that Council resolved the following at the Council Meeting dated 14 February 2013:

- 1. Receives and notes the further advice received from NSW Department of Education and Communities that the site is not required for departmental education purposes at this time; and*
- 2. Receives the proponent's request to amend the Development Control Plan thereby retaining the existing Section B15 of the Tweed Development Control Plan; and*
- 3. Reviews the education infrastructure strategies and controls contained within Tweed Development Control Plan, Section B21 Pottsville Locality Based Development Code and this be undertaken as part of the Planning Reform Unit's general maintenance program endorsed in its Work Program 2012-2015, and*
- 4. Notes the earmarking of the 'Potential Future School Site' in the existing Section B15 to be reviewed, if requested, no earlier than 2018.*

DA18/0133 (The Current Application)

The application was referred internally with the following units requesting further information; Water Unit, Development Engineering Unit, Natural Resource Management Unit and Recreational Services Unit. The request for further information has not been issued to the applicant, as the application is not consistent with Council's Development Control Plan which identifies the site as a potential school site and is recommended for refusal.

The application was notified for a period of 30 days from Wednesday 14 March 2018 to Friday 13 April 2018. Council received 27 submissions with 22 objecting to the proposal and 5 in support of the proposal.

The proposed subdivision is recommended for refusal, as it has been previously demonstrated that there is a population demand for a school within the locality and an alternative school site has not been formalised.

SITE DIAGRAM:



Site Plan

1747 DP 1215252
Seabreeze Boulevard POTTSVILLE

0 0.5 1 Km
1:40,000



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Coordinate System - MGA Zone 56
Datum - GDA 94

Cadastral: 18/07/2018
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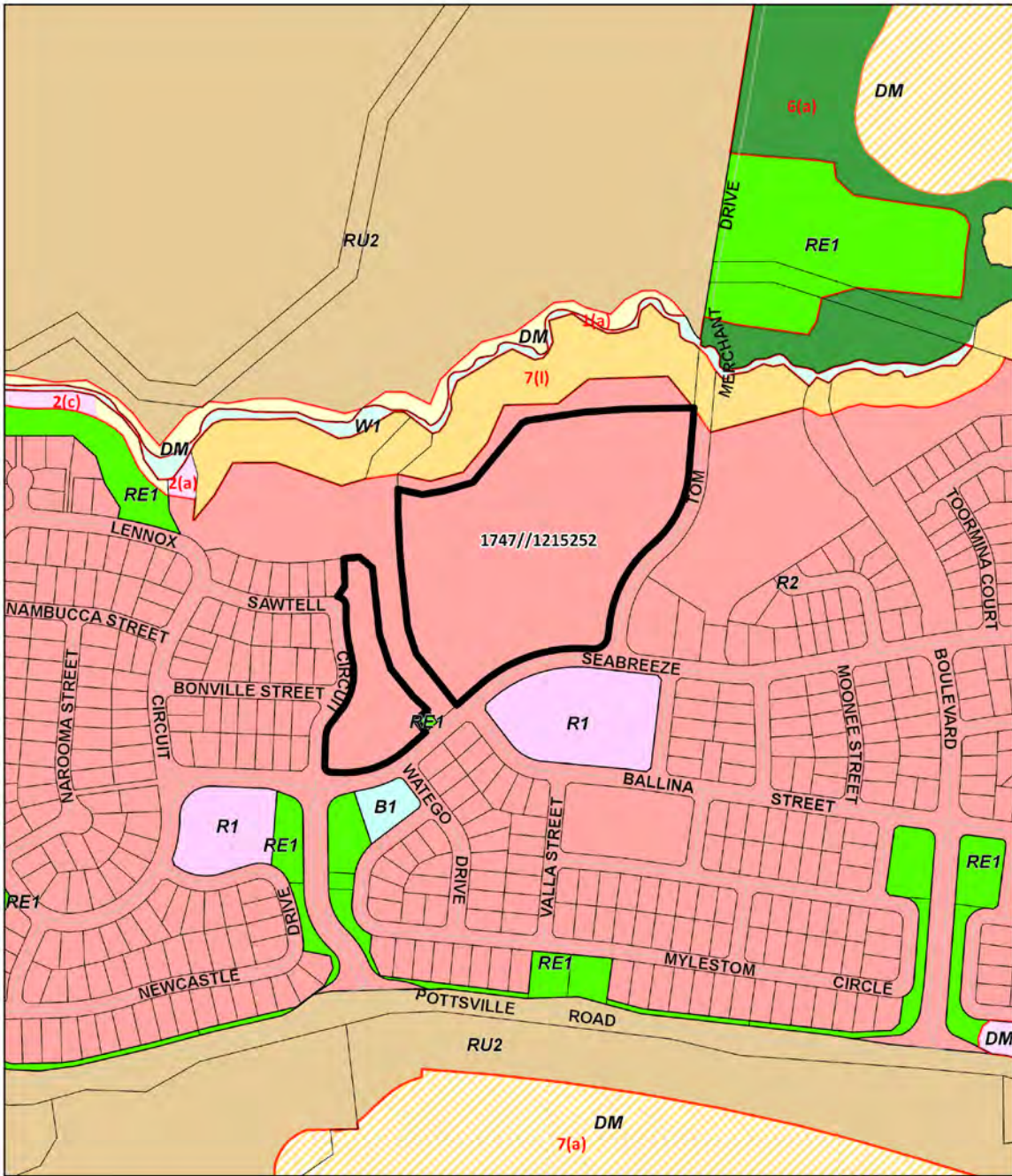
W: www.tweed.nsw.gov.au
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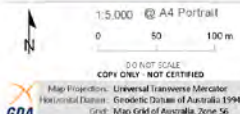
Date Printed: 01 August, 2018

ZONING MAP:



Subject Land Tweed Local Environmental Plan 2014

- Subject Land
- B1 Neighbourhood Centre
- R1 General Residential
- R2 Low Density Residential
- RE1 Public Recreation



Site Plan - Local Environmental Plan

1747 DP 1215252
Seabreeze Boulevard POTTSVILLE

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TWEED SHIRE COUNCIL

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AERIAL PHOTOGRAPHY:



1:5,000 @ A4 Portrait
 0 50 100 m
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 Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geoidic Datum of Australia 1994
 Grid: Map Grid of Australia, Zone 56

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Aerial Photography April 2018
 1747 DP 1215252
 Seabreeze Boulevard POTTVILLE

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DEVELOPMENT/ELEVATION PLANS:



B & P SURVEYS
111/115 BOWVILLE STREET, NEWLAND
PH: 08 8332 2222
WWW.BANDP.COM.AU

PROPOSED SUBDIVISION
OF LOT 1827 IN DP702522
SEABREEZE ESTATE
MORNINGTON PENINSULA
CITY OF COONAMUNG

IMPORTANT NOTES:
1. THIS PLAN IS A PRELIMINARY PLAN AND IS NOT TO BE USED FOR CONSTRUCTION.
2. THE PLAN IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT.
3. THE PLAN IS SUBJECT TO THE APPROVAL OF THE STATE GOVERNMENT.
4. THE PLAN IS SUBJECT TO THE APPROVAL OF THE COMMONWEALTH GOVERNMENT.
5. THE PLAN IS SUBJECT TO THE APPROVAL OF THE RELEVANT AGENCIES.
6. THE PLAN IS SUBJECT TO THE APPROVAL OF THE RELEVANT AGENCIES.
7. THE PLAN IS SUBJECT TO THE APPROVAL OF THE RELEVANT AGENCIES.
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9. THE PLAN IS SUBJECT TO THE APPROVAL OF THE RELEVANT AGENCIES.
10. THE PLAN IS SUBJECT TO THE APPROVAL OF THE RELEVANT AGENCIES.

NEWLAND DEVELOPERS PTY LTD
111/115 BOWVILLE STREET, NEWLAND
PH: 08 8332 2222
WWW.BANDP.COM.AU

Considerations under Section 4.15 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

Insufficient information has been provided to enable determination that the development complies with the aims of the plan.

Clause 2.3 – Zone objectives and Land use table

The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed subdivision is permissible with consent and is considered consistent with the zone objectives as it will provide housing needs for the community.

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

A minimum lot size requirement of 450m² is required for the subject site and development. The proposed subdivision complies with the minimum lot size requirement.

Clause 4.3 - Height of Buildings

A nine metre building height applies to the subject site. No buildings are proposed as part of this application.

Clause 5.5 – Development within the Coastal Zone

The site is located 1.5km from the coastal foreshore and does not have frontage to the foreshore, as such the proposal is considered not to be in conflict with the clause. The following comments are made in response to the considerations within the clause:

- (2) *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:*
 - (a) *existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*
 - (i) *maintaining existing public access and, where possible, improving that access, and*
 - (ii) *identifying opportunities for new public access, and*

The proposal will not alter the existing public access to and along the coastal foreshore, as the site does not have frontage to the foreshore. No opportunity exists to provide new public access to the foreshore.

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

The development is suitable for the locality and is compatible with the character of the area.

- (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, and*

The proposal will not create any detrimental impact on the amenity of the coastal foreshore, particularly in the form of overshadowing or loss of views from a public place.

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

The scenic qualities of the NSW coast will remain unchanged.

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

The proposal will not impact on biodiversity and ecosystems.

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

The proposal will not create a cumulative impact on the coastal catchment. No significant adverse impacts on the environment are expected.

- (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*

The proposed development will not impede the physical, land-based right of access of the public to or along the coastal foreshore due to the large separation of 1.5km between the proposal and the coastal foreshore.

- (b) *if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

The proposal is to be connected to Council's reticulated sewerage 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*

The proposal is to be connected to Council's reticulated stormwater system.

- (d) *the proposed development will not:*
(i) *be significantly affected by coastal hazards, or*
(ii) *have a significant impact on coastal hazards, or*
(iii) *increase the risk of coastal hazards in relation to any other land.*

The proposed development will not be significantly affected by coastal hazard or significant impact on coastal hazards or increase the risk of coastal hazards in relation to any other land due to the large separation of 1.5km between the proposal and the coastal foreshore.

Clause 5.10 - Heritage Conservation

The site is not identified as being an area of heritage significance or heritage conservation.

Clause 5.11 - Bush fire hazard reduction

Bushfire hazard reduction is not proposed in conjunction with this application. The application is integrated development with the NSW Rural Fire Service as the proposal is for the subdivision of land for residential purpose that is bushfire prone. The Department provided general terms of approval dated 12 April 2018.

Clause 7.1 – Acid Sulfate Soils

The site is identified as having class 3 Acid Sulphate Soils, with works relating to the installation of services might be located greater than 1 metre below the natural ground level. The application provided an Acid Sulfate Soil Management Plan,

which was reviewed by Council's Environmental Health officer. Appropriate conditions have been recommended if the application were to be supported.

Clause 7.2 - Earthworks

The proposed earthworks are minor and considered not to have a detrimental impact on the site and neighbouring property. The proposal is considered consistent with the clause.

Clause 7.3 – Flood Planning

The site is identified as being affected by flooding with small portions of the site affected by the Q100 requiring a flood level of 3.1m AHD and minimum floor level of 3.6m AHD. However, the majority of the site is not affected by the Q100 but large portions of the site are affected by the Probable Maximum Flood level. It is noted that previous approval DA13/0577 required the area subject to this application to be filled to a level of 3.1m AHD, therefore this development application would also be required to be filled to the designed flood level of 3.1m AHD. Flooding is considered not to be a constraint for the proposal due to the above, however, a suitable condition would be recommended to ensure that the site is filled to 3.1m AHD, should the application be approved.

Clause 7.4 - Floodplain risk management

Council officers have requested further information with regards high level flood evacuation route.

Clause 7.5 - Coastal risk planning

The site is not land identified as Coastal Risk.

Clause 7.6 - Stormwater Management

The objective of this clause is to minimise the impacts of urban stormwater on land. Council officers have requested further information with regards to stormwater quality.

Clause 7.10 - Essential Services

Reticulated water, sewer, power and telephone services will be provided to the site to create the proposed lots. Council's Water and Wastewater Engineer requires further information in relation to water and sewer infrastructure in order to finalise their assessment.

North Coast Regional Plan 2036 (NCRP)

The site is identified under the plan as an urban growth area. The proposal is considered to be consistent with the plan.

State Environmental Planning Policies

SEPP No. 14 - Coastal Wetlands

An area mapped as SEPP 14 wetland is located approximately 300m to the north and approximately 330m to the south of the subject site. The proposed subdivision is therefore not considered to raise any implications in respect of SEPP 14.

The policy was repealed on 2 April 2018.

SEPP No. 55 - Remediation of Land

The aim of SEPP 55 is to provide a State wide planning approach to the remediation of contaminated land and to require that remediation works meet certain standards and conditions.

Council's Environmental Health Officer has reviewed the application and advised that the application includes correspondence from Gilbert & Sutherland, Dated 5 August 2013 that concludes *"following extensive prior investigation the proposed subdivision area would be free from contamination. In accordance with Clause 7 of the SEPP 55 – Remediation of Land, the site is suitable for the proposed uses"*.

It is considered the prior investigations and current statements provided have been prepared by a suitably qualified and experienced consultant and no further considerations are required. On this basis no further consideration is required in respect to contaminated land.

SEPP No 71 – Coastal Protection

This Policy aims to, amongst other things, protect and manage the natural, cultural, recreational and economic attributes of the NSW coast; protect and improve existing public access to and along the coast; to protect and preserve Aboriginal cultural heritage; to ensure visual amenity of the coast is protected; to protect beach environments and beach amenity as well as coastal vegetation and the marine environment; to manage the coastal zone in accordance with the principles of ecologically sustainable development; to ensure the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area; and encourages a strategic approach to coastal management.

The site is located within a 'sensitive coastal location' due to the location being within 100m of the mapped high water mark of Cudgera Creek. As the subdivision of land is located within a residential zone a Master Plan or waiver is required by Clause 18(1) of the SEPP. The Department of Planning and Environment waived the need for a Master Plan.

The proposed development will not alter the existing public access arrangements to the coastal foreshore or along Cudgera Creek. The proposed development would be unlikely to have any adverse impact on the amenity of the coastal

foreshore in respect of overshadowing or loss of views as the site is located approximately 1.5km from the coastal foreshore.

The site has been previously cleared of substantial vegetation and has been highly disturbed. It is therefore considered that the proposal would be unlikely to impact on Threatened Species, wildlife corridors or habitats. Further, the site does not comprise any marine vegetation. Conditions will be applied to any Development Consent in relation to sediment and erosion controls to ensure no impact to water quality. As the site has been previously cleared and filled it is unlikely that the proposal would impact on matters relating to the conservation and preservation of items of heritage or archaeological significance. It is generally considered that the proposal is in accordance with the provisions of the SEPP.

The policy was repealed on 2 April 2018.

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

State Environmental Planning Policy (Coastal Management) 2018

At the time of lodgement (21 February 2018), the Coastal Management SEPP 2018 was in draft form and commenced 3 April 2018.

SEPP (Coastal Management) 2018

The subject site is mapped as being within the Coastal Environment Area and Coastal Use Area.

The objectives of each clause are as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) *This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

14 Development on land within the coastal use area

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
 - (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
 - (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
 - (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*
- (2) *This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

The proposal is considered to be consistent with the objectives of each clause.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

Council's Development Engineer assessed the proposal and has requested further information in order to determine the application in relation to the following items:

- 1) Lots 1815 & 1816 to be amalgamated – prohibited location of driveway
Proposed Lot 1815 does not comply with AS 2890.1 – Off street car parking (prohibited locations of access driveways) and is to be combined with proposed Lot 1816 to ensure a compliant driveway can be constructed.
- 2) Driveway compliance (Lot 1856)
Demonstrate that proposed Lot 1856 can provide a driveway that complies with AS2890.1 – Off street car parking (prohibited locations of access driveways).
- 3) Driveway compliance (vehicular access)
Demonstrate that vehicular access can be provided in accordance with Tweed Shire Council's standard drawing SD017 Driveway access to properties fronting roads with kerb and gutter for proposed allotments 1815, 1816, 1817, 1818, 1854, 1855, 1856 & 1857. The detail is to include a gradient transition of 12.5% from the 2.5% gradient across the road reserve.
- 4) Lot layout amendments – 3m x 3m truncations
The plans are to be amended to provide 3m x 3m truncations on proposed Lots 1818, 1853 and 1854 for sight distance requirements as specified in DCP A5 – Subdivision Manual.
- 5) Cul-de-sac cross section
The Road 4 cul-de-sac cross sectional details as detailed in the engineering report does not reflect the width of the road or cul-de-sac as per the road layout plan and is to be amended for clarity.

Council's Traffic Engineer raised no concerns regarding the proposal, from a traffic generation and sightline perspective.

A3-Development of Flood Liable Land

The site is identified as being affected by flooding with a design flood level of 3.1m AHD and the Probable Maximum Flood level.

It is noted that previous approval DA13/0577 required the area subject to this application to be filled to a level of 3.1m AHD, therefore this development application would also be required to be filled to the designed flood level of 3.1m AHD. Flooding is considered not to be a constraint for the proposal due to the above, however, a suitable condition would be recommended to ensure that the site is filled to 3.1m AHD, should the application be approved.

All residential allotments shall be provided with a high level flood evacuation route in accordance with A3. The submitted plans are limited to the subject site only and do not verify that a high level evacuation route is provided. Therefore additional information is required.

A5-Subdivision Manual

Council's Development Engineer assessed the proposal and has requested further information in order to determine the application in relation to the following items:

Geotechnical advice

The Morrison geotechnical report estimates up to and excess of 100mm of settlement will occur for future houses one year after completion of the dwelling. It is considered unreasonable to expect future home owners to require house foundations to be designed for such excessive settlements on a new green field subdivision site.

Further geotechnical advice and recommendations are to be provided on how to significantly reduce the settlement and ensure future home owners are not burdened with the responsibility of additional costs for dwelling and foundation construction due to such settlements.

Retaining wall detail

- a) Survey detail is to be provided to show the exact location and height of the existing rock retaining walls located along the northern and eastern boundaries of the subject land Lot 1747 DP 1215252. DCP A5 Subdivision Manual requires all retaining walls and batters to be located on land belonging to the lot owner.
- b) Geotechnical and structural certification from suitably qualified engineer/s for the existing retaining walls is required.
- c) Provide evidence of any approvals for the retaining walls.

A11-Public Notification of Development Proposals

The application was notified for a period of 30 days from Wednesday 14 March 2018 to Friday 13 April 2018. Council received 27 submissions with 22 objecting to the proposal and 5 in support of the proposal.

A13-Socio-Economic Impact Assessment

The threshold trigger for the preparation of a Social Impact Assessment (SIA) report for a subdivision (under the guidelines of Section A13 of the Tweed DCP 2008) is 50 lots. The proposed subdivision comprises 72 residential lots and accordingly a SIA has been prepared by the applicant. The SIA considers that the proposal would be consistent with Section B 15 - Seabreeze Estate and would result in a positive social and economic outcome.

It is considered that the proposal is not consistent with the provisions of Section B 15 - Seabreeze Estate, as the subject site is identified as a future school site. The proposal would be likely to create an adverse social impact due to the inconsistency of Section B 15 – Seabreeze Estate and the number of submissions received objecting to the proposal.

A15-Waste Minimisation and Management

A Waste Management Plan has been provided with the submitted details. It is considered that the proposal does not raise any specific concerns in respect to waste management. Council's Waste unit advised that the submitted WMP is suitable for the proposal.

B15-Seabreeze Estate, Pottsville

The subject site is Lot 1147 DP 115395 is identified as the 'Potential School Site' pursuant to Section B15 Seabreeze Estate. The proposal seeks to create 72 lots within the subject site and therefore is inconsistent with Section B15 of Council's Development Control Plan.

The Structure Plan shows the indicative layout for development of the estate (Map 7A as shown below) and indicates the preferred location and siting of major elements of the estate such as the potential school site. The proposal is not consistent with the Structure Plan.



Map 7A - Structure Plan Stage 2 blue is potential school site.

B21-Pottsville Locality Based Development Code

The proposal is considered to be inconsistent with the code, as the code identifies the subject site within the Seabreeze Estate as one of three potential school sites. Development control requirements are provided within Section 3.5 should Council receive an application over these identified sites which do not include the provision of a school facility. Any development application is to detail, to the satisfaction of Council, the circumstances as to why a school cannot or should not be provided on the site, with respect to, but not limited to, the following criteria:

- Building and Urban Design

- Siting of the school
- Recreation Areas
- Parking and servicing
- Traffic and pedestrians
- Noise generation
- Landscaping

The application has not provided detail with respect to the above mentioned criteria. Therefore the proposal is considered to be inconsistent with Section B21.

(a) (iii) Any planning agreement or any draft planning agreement under section 7.4

A planning agreement does not apply to the site.

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

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

The subject site is designated as Coastal Land and therefore this clause applies. As previously detailed within this report the proposal will result in any overshadowing or restriction of public access to the coastal foreshore. The development is considered consistent with the clause.

Clause 92(1)(b) Applications for demolition

There is no demolition proposed.

Clause 93 Fire Safety Considerations

Clause 93 is not applicable to the proposed subdivision.

Clause 94 Buildings to be upgraded

Clause 94 is not applicable to the proposed subdivision.

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

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The subject site is not located on the coastal foreshore and is not affected by coastal hazards. As such the proposed subdivision does not negate the objectives of the plan.

Tweed Coast Estuaries Management Plan 2004

The subject land is located in close proximity to the Cudgera Creek however the proposal is unlikely to impact on matters relating to habitat or biodiversity values of the waterway given it does not propose any clearing of vegetation or earthworks in

the immediate vicinity of the creek system. Conditions will be applied to the Development Consent in respect of sediment and erosion control, if the application was to be approved.

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

As the subject site is not located within the Cobaki or Terranorra Broadwater (within the Tweed Estuary), this Plan is therefore not considered 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 proposed subdivision will provide a predominantly low density residential environment that consists primarily of detached dwellings, which is consistent with the existing context and setting of the existing built development within the Seabreeze Estate as well as the broader Pottsville locality. However, due to the site being a potential school site the proposal is considered to create a likely social impact on the locality.

Access, Transport and Traffic

The existing traffic network has the capacity to cater for the increase in traffic as a result of the subject subdivision.

Flora and Fauna

The site is clear of vegetation except for the existing White Fig Tree which is located in the north eastern corner of the site. The proposed public reserve lot 1872 is to be designed around the White Fig Tree and dedicated to Council. Council's Natural Resource Management Unit raised no objections to the proposal in relation to vegetation removal, however Council officers have requested further information in relation to an arboriculture health assessment of the White Fig Tree.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The subject land is located within the Seabreeze Estate, a low density residential subdivision that comprises primarily detached dwellings. Due to the site being a potential school site the site is considered not to be suitable for the proposed residential subdivision.

Topography

The site is relatively level due to previous approvals requiring earthworks. Concerns are raised in regards to settlement and the structural integrity of the existing retaining wall. Further information is required in relation to these matters.

Tweed Coast Comprehensive Koala Plan of Management

The subject site is within the Southern Tweed Coast Koala Management Area. The site is not within a Koala Plan of Management Precinct and is not identified as containing Preferred Koala Habitat. The site is devoid of any vegetation (apart from the White Fig Tree within the public reserve) and no clearing will be required. Council's Natural Resource Management Unit did not raise any concerns with regard to the proposal and the Tweed Coast Comprehensive Koala Plan of Management. No further assessment under this Plan is considered necessary.

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

NSW Rural Fire Service

The application required an integrated referral to the Rural Fire Service due to its siting within a bushfire protection area. A response from the RFS has been received issuing a bushfire safety authority for the subject proposal.

Department of Primary Industries – Water

The application required an integrated referral to WaterNSW, for de-watering. The department has provided a response issuing General Terms of Approval.

Department of Education and Communities

The application was referred to the Department of Education (now referred to as School Infrastructure NSW) for comment. The Department on 21 March 2018, advised that there was not sufficient demand for another government primary or secondary school and that the Department does not wish to acquire the subject site for a school. However, the Department is interested in acquiring a site in the Dunloe Park Estate through a Voluntary Planning Agreement.

Department of Planning & Environment

The NSW Planning an Environment advised that as a waiver under SEPP 71 was provided under a previous Development Application DA15/0422 on 2 June 2015 for a 65 lot subdivision on the same site, the Department will not be issuing another waiver for this application.

Public Submissions Comment

The application was notified for a period of 30 days from Wednesday 14 March 2018 to Friday 13 April 2018. Council received 27 submissions in relation to the proposal, of which 22 were against with five in support of the proposal. The main issue raised in the submissions was a strong objection to the development of the potential school site for anything other than a school.

(e) Public interest

The proposal is considered not to be in the public interest.

OPTIONS:

1. Refuse the development application, subject to reasons for refusal: or
2. Support the development application in principle and request a further report and conditions to be reported to Council for determination.

Council Officers recommend Option 1.

CONCLUSION:

Taking into consideration that the proposal is inconsistent with both the Section B15 and B21 of Council's Development Control Plans and Council's resolution; no new information has been provided by the applicant to demonstrate that the use of the site should be reviewed; the number of submissions received by Council objecting to the proposal; and issues raised by units within Council, it is considered appropriate that the application be refused on the information provided to date.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not applicable

c. Legal:

The applicant may lodge an appeal in the Land and Environment Court in respect of Council's determination.

d. Communication/Engagement:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

14 [PR-CM] Development Application DA18/0278 for the Use of an Additional (Third) Bedroom in Unit 6 at Lot 6 SP 16028 and the Provision of a Car Parking Space on the Driveway No. 6/14 Boundary Street, Tweed Heads

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:

UPDATED REPORT

This development application was reported to the Planning Committee meeting on 2 August 2018 with a recommendation for approval subject to conditions. The report also recommended that the applicant be issued with a Penalty Infringement Notice (PIN).

The application has been subject to one (1) objection which raised issues with regard to noise impacts, owners consent, car parking and the fact that works were undertaken without consent. The objector made representations to the elected members at the Community Forum meeting preceding the Planning Committee meeting and requested that Council defer the determination of the application until an application to the NSW Civil Administration Tribunal (NCAT), to which he and the applicant are party, is determined. The objector indicated that it would likely be three (3) months before a decision would be issued.

Following consideration of the application, Council resolved that this item and DA18/0030 be deferred until such time as the objector's application to NCAT was determined.

The NCAT application in question relates to the appeal of an earlier decision by NCAT to dismiss an application by the objector against the applicant in April 2018 - *Nowak v Pellicciotti [2018] NSWCATD 9*. The case related to an application by Mr Nowak (owner of Unit 4/14 Boundary Street) against Mr Pellicciotti (owner of Unit 6/14 Boundary Street and the applicant for DA18/0278) seeking 'enforcement of by-laws 1 and 14' of the strata plan. As per the judgement from this case attached in Attachment 1, it was claimed that the strata by-law had been breached when the applicant recovered the floor of Unit 6 by removing the

carpet and laying a different floor covering. The application sought an order that the carpet be restored.

The application was dismissed by NCAT and Mr Nowak is in the process of appealing the decision. An appeal hearing was held in Sydney on 30 July 2018 with the applicant and respondent lodging paperwork in relation to the application for leave to appeal. A determination on this matter has not yet been made.

It is submitted that the outcome of this case is irrelevant to the matters to be considered in the assessment of DA18/0278, or for that matter DA18/0030. The NCAT application relates to noise related to the replacement of carpet in Unit 6 with floor covering. As set out in *State Environmental Planning Policy (Exempt and Complying Development) 2008*, this work is exempt development and did not require development consent.

Part 2 Exempt Development Codes, Subdivision 26 Minor building alterations (internal)

2.51 Specified development

- (1) *A minor internal building alteration for the replacement or renovation of:*
(a) *a doorway, wall, ceiling or floor lining, or*

is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item.

The development application currently before Council (DA18/0278) relates to the use of a room as a third bedroom. It does not seek to retrospectively approve works undertaken to create the room as *Environmental Planning & Assessment Act 1979* does not provide for retrospective approval. The applicant for DA18/0278 will need to apply and obtain a Building Certificate for these works which relate to a relocation of walls, relocation of the kitchen and other internal alterations (a matter which has been addressed in the recommended conditions). However as above, these unauthorised works did not include the replacement of the carpet.

The relief which the objector seeks (replacement of the floor covering in Unit 6 with carpet and/or compliance with the noise impact requirements set out in the Building Code of Australia (BCA) 2016) cannot be achieved through DA18/0278. Not only is the replacement of the carpet not covered by this development application, but the requirements of the BCA cannot be imposed on works to a single unit in a multi-unit building which was constructed prior to the BCA.

While the BCA provides a method for an objective assessment of noise, this relates to new buildings of current building standards. The unit complex at 14 Boundary Street was constructed in accordance with a development consent issued in 1979 (PN7686/BA583/79). As is explicitly stated in the NCAT judgement attached, the expectations of occupants in building which are much older with a thinner floor slab must necessarily be less than those in a new building where compliance with the standard is required. Under Clause 94 of the *Environmental Planning and Assessment Regulation*, a consent authority may only require buildings to be upgraded where the development application for development comprising the rebuilding, alteration, enlargement or extension of an existing building where:

- (a) *the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume*

- of the building, as it was before any such work was commenced, measured over its roof and external walls, or*
- (b) *the measures contained in the building are inadequate:*
- (i) *to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or*
 - (ii) *to restrict the spread of fire from the building to other buildings nearby.*

Even, if the works proposed under DA18/0030 were to be considered this for the purposes of this clause, this would still represent less than half of the volume of the building.

Therefore, it is recommended that the determination of the application is not stayed until the determination of the appeal to NCAT and that the application be approved as per the draft conditions reported to Council on 2 August 2018. It is also recommended that a Penalty Infringement Notice be issued to the owner of Lot 6 SP 16028.

Summary of Original Report:

A development application was received by Council on 6 April 2018 seeking approval for the use of an additional bedroom thereby changing a two bedroom unit into a three bedroom unit at No 6/14 Boundary Street, Tweed Heads and approval for the provision of a car parking space on the driveway on common property at 14 Boundary Street, Tweed Heads.

The applicant undertook the following works in Residential Unit 6 in 2017:

- Relocation of the kitchen into the dining/living room area to create a more compact open plan living/dining room/kitchen;
- Renovations to the bathroom and laundry; and
- Construction of an additional room which the applicant is seeking to use as a bedroom.

The NSW planning system does not allow for the retrospective approval of unauthorised works, though an applicant can apply for a Building Certificate to provide immunity from action to remove the works in future. Approval, however, is required for the future use of the new spaces created by the works. In this regard, the applicant is seeking approval for the use of the recently created room as a bedroom.

The applicant also proposes to use the driveway (common property) in front of Unit 6 garage to provide for a second car parking space.

The application was referred to Council's Building Unit, Traffic Engineering Unit and Water & Wastewater Unit. Issues which were raised in the initial assessment have been resolved and there is no objection from the various Council Units to the approval of the development subject to conditions.

The current application was notified from 2 May 2018 to 16 May 2018. During this time, one submission was received. The issues raised in the submission related to the retrospective authorisation of the works, strata owners consent to lodge the application, noise impacts from a change to the floor covering and car parking concerns. The submission was also accompanied by affidavits from other two residents in relation to noise impacts resulting from the change in flooring, a noise impact report and a report on the mental health impacts resulting from the noise transmission.

After the expiry of the submission period, the objector has submitted further correspondence raising the following issues:

- Further information on noise impacts from the replacement of carpet with floor boards;
- Legitimacy of the strata body consent to lodge an application;
- Requesting that the application not be determined until a second application by the objector to NSW Civil and Administrative Tribunal (NCAT) in relation to alleged breaches to the by-laws is heard; and
- Objection to parking in the common property.

The matters raised in the submission are dealt with in detail later in this report. However, in summary the following is noted:

- The *Environmental Planning and Assessment Act 1979* precludes the retrospective approval of unauthorised works. However the current application does not seek retrospective approval for the unauthorised works undertaken by the applicant, but approval for the use of the new room created as a bedroom. This application can be considered under Section 4.69 (previously S109A) of the Act.
- The approval of this application does not prevent Council from taking proceedings against the applicant under Section 9.50 of the Act with respect to a failure to obtain development consent for the works or use of the building.
- The Strata Owners Consent form submitted with the application meets with the requirements of Council signed by the Body Corporate secretary and bearing the common seal of the strata plan. Further the applicant has submitted the minutes from an extraordinary meeting of the Owners Corporation whereby it was resolved to amend the by-laws to include a special exclusive use by-law to allow the applicant to provide a second car parking space in the common property driveway.
- The applicant has submitted a report from Bitzios Consulting (Traffic Engineering Consultants) confirming that the provision of car parking in front of the garages of Units 3, 5 and 6 (being the garages associated with current proposal and adjoining garages) will not introduce any adverse conditions and will not impede access to the garages.
- The replacement of carpet in Unit 6 with floor boards was undertaken as exempt development and does not form part of the development seeking approval under this application. The applicant sought Body Corporate approval for the replacement of the carpet under the *Strata Schemes Management Act 2015*. Any potential non-compliance is a matter for the Body Corporate to investigate and pursue if appropriate.
- While the Building Code of Australia (BCA) 2016 provides a method for an objective assessment of noise, this relates to new buildings of current building standards. The expectations of occupants in building which are much older with a thinner floor slab must necessarily be less than those in a new building where compliance with the standard is required.
- Any subsequent application(s) to NCAT to rule on non-compliance with the by-laws in relation to noise impacts is unrelated to the relevant matters for consideration in this application and a deferral of determination of this development application in this regard is unwarranted.

It is recommended that the application as submitted be approved and that a Penalty Infringement Notice be issued to the owner of Lot 6 SP16028 for undertaking development without consent.

RECOMMENDATION:

That:

- A. Development Application DA18/0278 for the use of an additional (third) bedroom in Unit 6 at Lot 6 SP 16028 and the provision of a car parking space on the driveway; No. 6/14 Boundary Street TWEED HEADS be approved subject to the following conditions:**

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Zone Planning and dated March 2018 (Ref Z18067) and Plan Nos 01 Driveway (dated 14 June 2018), 01 Floor Plans (dated 4 March 2018), 03 Kitchen cabinetry (dated 18 April 2018) and 05 Bathroom (dated 18 April 2018), prepared by Gold Coast Building Designers, 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]

DURING CONSTRUCTION

- 3. 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]
- 4. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Work Health and Safety Regulation 2011.**

The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the Dangers of Lead" and the Workcover Guidelines on working with asbestos.
[DUR0645]

5. 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]
6. 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]
7. Council is to be given 24 hours notice for the following inspection:
- (a) completion of work and prior to occupation of the building.
- [DUR2485]
8. Plumbing
- (a) A plumbing permit is to be obtained from Council.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.
- [DUR2495]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

9. Prior to issue of an Occupation Certificate, all works/actions/inspections etc required at that stage by other conditions or any approved Management Plans or the like shall be completed in accordance with those conditions or plans.
- An Occupation Certificate shall be obtained within three (3) months of the date of this consent.
- [POC0005]
10. 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 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).
- [POC0205]
11. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.
- [POC0225]

12. 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]

13. Section 7.11 Contributions

Payment of the following contributions pursuant to Section 7.11 of the Act and the relevant Contribution Plan.

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 7.11 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

These charges include indexation provided for in the Section 7.11 Contribution Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 7.11 Contribution Plan current at the time of the payment.

A copy of the Section 7.11 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

- | | |
|-------------------------------------------------------------------------------------------------------------------------|-------|
| (a) Open Space (Casual):
0.1667 ET @ \$624 per ET
(\$502 base rate + \$122 indexation)
CP Plan No. 5 | \$104 |
| (b) Open Space (Structured):
0.1667 ET @ \$714 per ET
(\$575 base rate + \$139 indexation)
CP Plan No. 5 | \$119 |
| (c) Shirewide Library Facilities:
0.1667 ET @ \$933 per ET
(\$792 base rate + \$141 indexation)
CP Plan No. 11 | \$156 |
| (d) Bus Shelters:
0.1667 ET @ \$71 per ET
(\$60 base rate + \$11 indexation)
CP Plan No. 12 | \$12 |

- (e) Eviron Cemetery:
0.1667 ET @ \$135 per ET \$23
(\$101 base rate + \$34 indexation)
CP Plan No. 13

- (f) Community Facilities (Tweed Coast - North)
0.1667 ET @ \$1539 per ET \$257
(\$1,305.60 base rate + \$233.40 indexation)
CP Plan No. 15

- (g) Extensions to Council Administration Offices
& Technical Support Facilities
0.1667 ET @ \$2187.14 per ET \$364.60
(\$1,759.90 base rate + \$427.24 indexation)
CP Plan No. 18

- (h) Cycleways:
0.1667 ET @ \$526 per ET \$88
(\$447 base rate + \$79 indexation)
CP Plan No. 22

- (i) Regional Open Space (Casual)
0.1667 ET @ \$1215 per ET \$203
(\$1,031 base rate + \$184 indexation)
CP Plan No. 26

- (j) Regional Open Space (Structured):
0.1667 ET @ \$4264 per ET \$711
(\$3,619 base rate + \$645 indexation)
CP Plan No. 26

[POC0395]

14. 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]

15. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met.

[POC1055]

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

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

BELOW IS ADVICE ONLY

The Section 64 Contributions for this development at the date of this approval have been estimated as:

Water: 0.17 ET @ \$13,632 = \$2,317.45

Sewer: 0.25 ET @ \$6,549 = \$1,637.25

[POCNS01]

17. Prior to the issue of an occupation certificate a building certificate is to be obtained in respect of the unauthorised building works including the creation of a third bedroom.

[POCNS02]

18. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act in respect of the water and sewerage works already carried out to the kitchen, bathroom and laundry prior to the issue of an Occupation Certificate. This application in to include certification in respect of AS 3500 from a licenced plumber.

[POCNS03]

19. Prior to the issue of an occupation certificate, a copy of the by-laws for Strata Plan 16028 shall be submitted to the Principal Certifying Authority demonstrating that an exclusive use by-law has been made for the exclusive use of part of the common property (driveway) for the purposes of a car parking space.

[POCNS04]

20. To ensure that Unit 6 is provided with a satisfactory level of fire safety/NCC compliance the following works are required:

- i) the existing penetrations are to be removed and a ceiling having a minimum 60 minute incipient rating reinstated, or the penetrations protected in order to achieve a resistance to the incipient spread of fire of not less than 60 minutes.

Prior to the issue of an occupation certificate details demonstrating compliance with the above mentioned requirement is to be submitted to Tweed Shire Council.

Further to the above fire upgrading, the option is available to submit a fire engineering report containing an alternative solution addressing the Performance Requirements contained in Volume 1 of the Building Code of Australia relating to the above mentioned non-compliance issue to Tweed Shire Council for assessment and determination prior to works commencing.

[POCNS05]

- B. A Penalty Infringement Notice be issued to the owner of Lot 6 SP 160288 for undertaking development without consent.

REPORT:

Applicant: Mr M Pellicciotti
Owner: Mr Marcello Pellicciotti & Ms Mariana R Claro
Location: Lot 6 SP 16028 No. 6/14 Boundary Street, Tweed Heads
Zoning: R3 Medium Density Residential
Cost: \$2,500

Background:

Introduction

The applicant purchased Unit 6/14 Boundary Street on 9 December 2016 as a two bedroom unit. The applicant requested a copy of the Building Information for the lot and when this was issued (8 August 2017), the applicant was advised that should he intend to undertake any building works including alterations and additions to an existing building to check with Council's Building and Environmental Health Unit prior to commencing such works to determine whether or not approval is required.

In October 2017, Council received a complaint in relation to building work in the unit outside of standard construction hours. An inspection of the property was undertaken on 25 October 2017 and it was noted that the works which were undertaken did not require consent.

Council received a second complaint on 21 February 2018 in relation to the creation of a third bedroom in the unit. Council inspected the property again on 28 February 2018 and it was established that works had been undertaken without consent.

On 28 February 2018, a letter was issued to the owner of Unit 6 (subject site) advising that it was established that works had been undertaken in the unit and that Council's records showed that no development approval was obtained for the works (ILL17/1138). The applicant was further advised that Council may consider granting approval for the use of the bedroom subject to the lodgement of a development application.

Site Details

The subject site is across the road from the NSW/QLD border that runs parallel to Boundary Street and is within an area zoned R3 Medium Density Residential. Point Danger is 300m to the northeast with Jack Evans Boat Harbour to the southwest. The residential area is established with low to medium density development.

The subject site is 754m² and is developed with a six unit residential flat building (RFB). The subject site slopes up to the south west and given this topography, the existing RFB is a split level design with 3 unit garages obtaining vehicular access from Boundary Street and the other 3 unit double garages, from Boundary Lane from a Level 2 (nominated on the Strata Plan).

Site History

Governing consent

Town Planning Permit PN7686 (BA583/79) issued on 30 May 1979 approved the erection of six flats at the site. Conditions of this consent included the provision of adequate vehicular access and provision to be made within the site for at least 7 car parking and/or garaging spaces each of an area of not less than 2.5m x 5.5m.

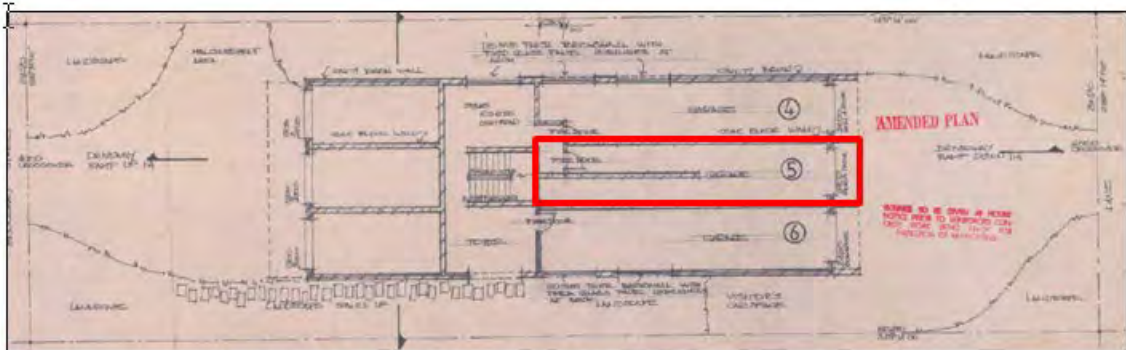


Figure 1: Approved Ground floor (Garage) Plan

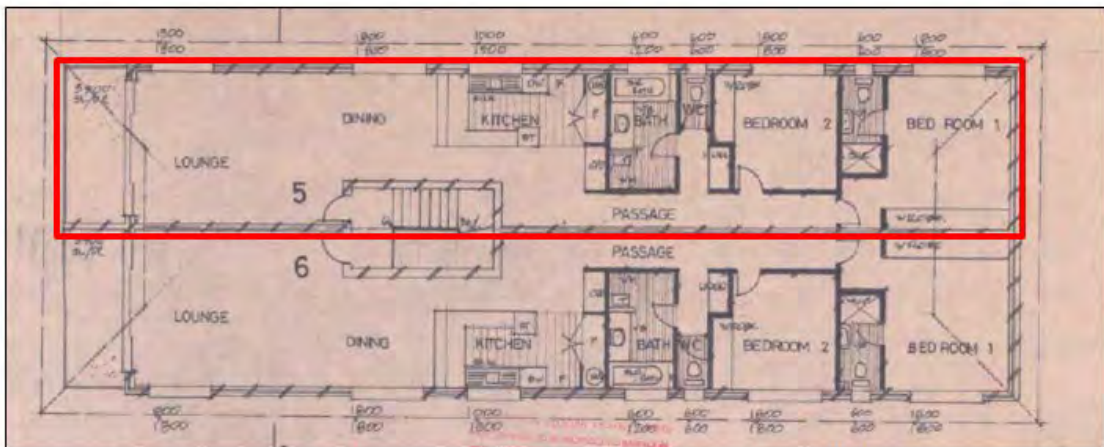


Figure 2: Approved third floor plan (Units 5 & 6)

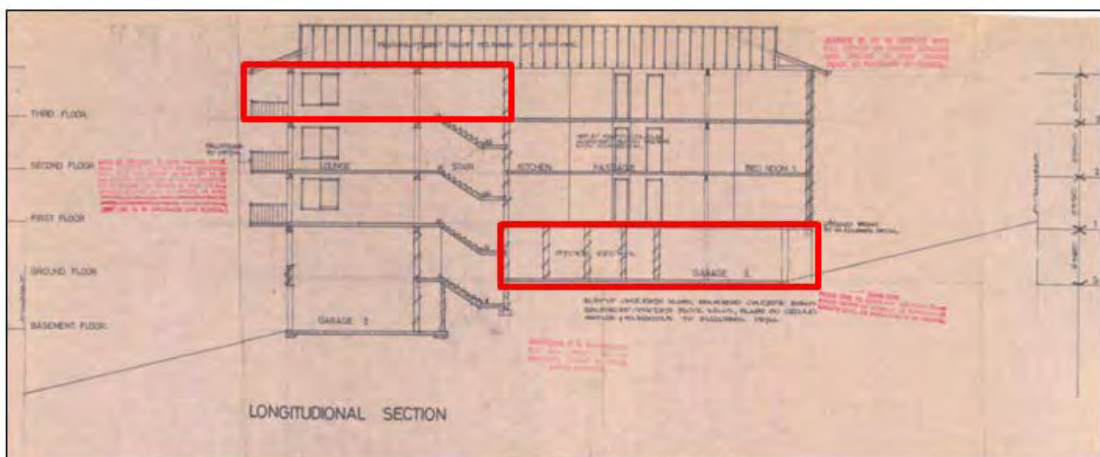


Figure 3: Approved longitudinal section plan

Note: Unit 6 (the subject unit) is nominated as unit 5 on the BA plan above, and vice versa.

Applications relating to 14 Boundary Street

The following further approvals have been issued for the individual units.

Unit 1

0418/89 - Building application granted 1 May 1989.

Unit 4

DA07/0045 - Development Approval for an additional bedroom and bathroom within a garage mezzanine was granted 30 April 2007.

A Section 96 application was approved for the use of the bedroom as a storage room removing the S64 developer contributions condition however the amendment was subsequently surrendered given the desired habitable use of the room.

The original consent for the development (PN7686) required the provision of a minimum of 7 car spaces, which are provided in the form of allocated basement garages. At the time of assessment of this application under Section A2 of the DCP, Unit 4 required two (2) car spaces for this proposal. There was no area in which additional formal car parking could be provided and the applicant advised that the proposal will not result in additional residents nor would the area be occupied as a separate dwelling therefore would not result in the need for additional parking. It was considered the requirement for additional on-site parking was not warranted in this instance, and the applicant was not required to provide any additional car parking with the provision of one car parking space to service the three (3) bedroom unit.

Unit 5

DA06/0653 - Development Approval for additions to bathroom were granted on 19 September 2006. This application involved approval of a bathroom and workshop area in the location of the garage and resulted in a reduction from 2 to 1 car parking space. The variation in car parking required at the time was justified as *'at the time of approval [of the residential flat building development] (1980), there would have been a requirement of one car space per unit, therefore approval of this proposal will not compromise this requirement'*.

DA18/0030 – Concurrent Development application for alterations to a two bedroom unit to create an additional bedroom in the unit and a fourth bedroom in the ground floor garage. This application was submitted to Council in response to a compliance matter related to unauthorised works within the area adjacent to the garage. However, upon site inspection it became apparent that unauthorised works were currently being undertaken within the main section of the unit which included the addition of a bedroom and reconfiguration of the bathroom and kitchen (similar works to that undertaken on the subject site). Subsequently, the owner modified the application to include works in the unit. This application is also being reported to Council.

Current Proposal

The applicant has undertaken the following unauthorised works on the site in 2017:

- Relocation of the kitchen into the dining/living room area to create a more compact open plan living/dining room/kitchen;
- Renovations to the bathroom and laundry; and
- Construction of additional room to be used as a bedroom.

The current application seeks approval for the use of the additional room as a bedroom. The applicant also proposes to use the driveway (common property) in front of the Unit 6 garage to provide for a second car parking space as required by the Tweed DCP 2008.

On 13 June 2018, the applicant was requested to submit the following information:

- a. A revised site plan clearly identifying the proposed car parking space on the common property that will service the proposal.
- b. A swept path plan and certification from a suitably qualified traffic engineer demonstrating that the provision of car parking space(s) on the common property under this application and DA18/0030 (if applicable) will not impact on on-site manoeuvrability and will not impede vehicles accessing the visitor car parking space and the garages associated with Lots 3, 5 and 6 from entering and exiting the site in a forward direction, or otherwise impede access to or from these approved car parking spaces.
- c. Owners Corporation consent for the exclusive use of the common property driveway as a car parking space to service Unit 6.

The applicant was advised that any development consent issued for the use of the common property driveway for car parking associated with the creation of a third bedroom in Unit 6 will be subject to a condition of consent requiring an amendment to the Strata by-laws to reflect this exclusive use.

- d. The applicant was advised that there has been one (1) objection to the proposal and a summary of the issues raised were referred to the applicant with an invitation to respond to the issues raised.

On 12 July 2018, the applicant submitted the following further information:

- A revised site plan identifying car parking spaces on the common property in front of the garages serving Units 3,5 and 6 (subject site),
- A traffic report from Bitzios Consulting including a vehicle swept path analysis demonstrating that a vehicle can utilise the proposed car parking space within the driveway adjacent to the garage of unit 6 without restricting access for vehicles entering the adjacent garages and driveways associated with Units 3 and 5. It further advised that the use of the proposed car parking spaces associated with Units 3, 5 and 6 will not impact on on-site manoeuvrability and will not impede vehicles accessing the visitor car parking space.
- Minutes of an Extraordinary General meeting of Strata Plan No 16028 (dated 5 July 2018) whereby the Owners Corporation specially resolved to make a bylaw for the exclusive use of common property for car parking for Lots 5 and 6.
- A response to the issues raised by the objector in the submission received during the notification period (set out later in this report).
- A copy of the judgement from a NCAT hearing into an alleged breach of the strata by-laws relating to noise.

During the assessment of the application, the applicant also submitted information directly to the Building unit in relation to air-conditioning, lighting, fire hoods, fire protection, etc.

Building Unit

The application was referred to the Building Unit who advised that the following (in summary):

- In addition to creating a third bedroom and altering the bathroom, laundry and kitchen layout, ceiling down lights and a cassette type air-conditioning unit had been installed which compromised the existing ceiling having a minimum resistance to the incipient spread of fire of not less than 60 minutes.
- The site inspection revealed the fire rated ceiling to the top of the common internal stairway has been compromised by the installation of a diffused lighting panel and the manhole cover is melamine and not two layers of fire grade plasterboard (one hour fire rated). There were also unauthorised plumbing works.
- The applicant subsequently supplied the Building Unit with the following documentation:
 - Structural engineers certification – VGC Engineers – 8 March 2018.
 - Photographs of wet area flashing and details of wet area products.
Comment: Certification required in respect of AS3740
 - Plumbing diagram - Kitchen, bathroom & laundry.
Comment: Certification required in respect of AS 3500.
 - Flooring underlay
 - Flooring detail – Regupol K225 5mm cork and rubber acoustic underlay.
 - Flooring installation. White Sands European oak engineered timber flooring – 11 May 2017.
 - Flooring test report – AWTA Product Testing _ 01/08/14.
Comment: Certificate satisfies clause C1.10 of the BCA.
 - Smoke detector certification – AS3786-2014, 3.7.2 of Volume 2 – NCC. Ozzie Electrical & Sola 19 May 2017.
 - Axis Building Certification – 7 March 2018 Bedroom window restrictors.
 - Palmer Acoustics Australia Pty Ltd - Field Impact Insulation Tests – 11 October 2017.

The owner also submitted proposals to address the penetrations through the fire rated ceiling in his unit by the installation of:

- Fire Rated Light Box Detail
- Pipe insulation details for AC bulkhead
- Fire Hoods used to all downlights in the apartment

The owner was given the direction to carry out rectification works to ensure the ceiling has a minimum resistance to the incipient spread of fire of not less than 60 minutes.

The Building Surveyor has advised that if the application is approved:

- i) A Building Certificate will be required in respect of the unauthorised building works.
- ii) A Sewer application will be required inclusive of certification in respect of AS 3500 and confirmation that there are no penetrations through fire rated building elements.

In relation to the noise complaints and compliance with the BCA, the Building Surveyor has advised that Palmer Acoustics Australia Pty Ltd (who undertaken the noise impact assessment on behalf of the objector) was contacted and it was advised that the field test obtained a noise impact reading of 62 and 63 L'nT,w respectively for the living room and bedroom of Unit 6 accordingly. It was advised that whilst the reading in the bedroom is one measurement above the minimum requirement of 62 (which does not satisfy the deemed to satisfy requirements of the Clause F5.3 of the BCA) it is not considered significant to require any modification. It was further advised that airborne sound impact assessment was not carried out since this is dependent on the existing floor slab and any floor coverings would not affect this rating. It is to be noted the unit owner installed the timber floors as exempt development and in accordance with the fact sheet issued by NSW Fair Trading which required owners' corporation approval.

The Building Surveyor has no objection to the proposal subject to the imposition of appropriate conditions.

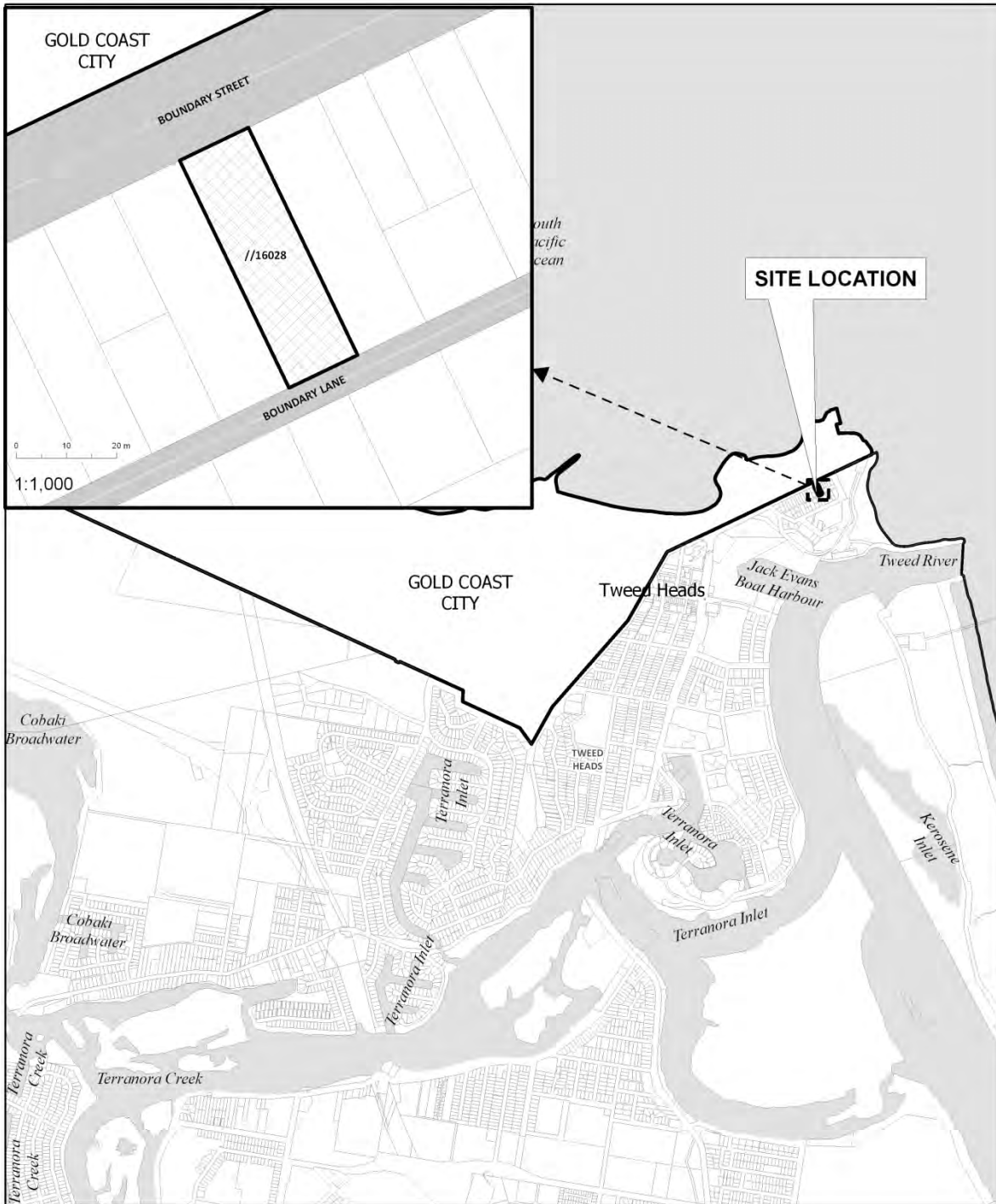
Traffic Engineering Unit

The application was referred to the Traffic Unit for comment. The Traffic Engineer recommended that the applicant submit swept path plans demonstrating that parking in the driveway would not impede access to the adjoining garages and advised that an exclusive use by-law for the use of the driveway for parking would be required. The Traffic Engineering Unit has reviewed the further information submitted and raised no objection to the proposal subject to appropriate conditions.

Water and Wastewater Unit

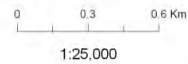
The Water and Wastewater Unit have raised no objection to the proposal subject to appropriate conditions including the levying of Section 64 contributions.

SITE DIAGRAM:




Site Plan

//16028
Unit 6 14 boundary Street Tweed Heads



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GDA  Cadastre: 16/07/2018
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Coordinate System - MGA Zone 56
Datum - GDA 94

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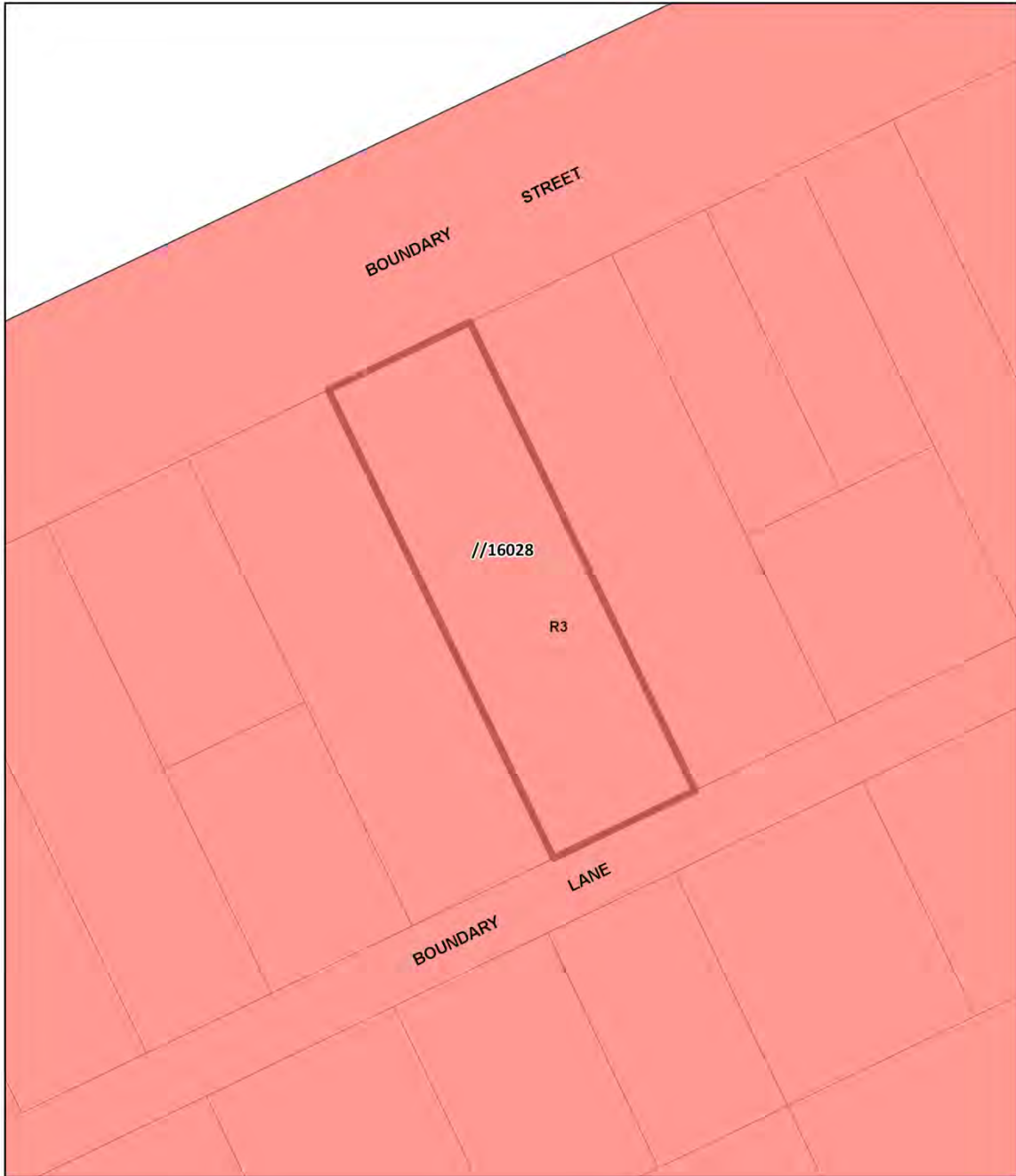
Civic and Cultural Centre
3 Tumbulgun Road
Murwillumbah NSW 2484
PO Box 816
Murwillumbah NSW 2484



T: (02) 6670 2400 / 1300 292 872
F: (02) 6670 2483
W: www.tweed.nsw.gov.au
E: planningreforms@tweed.nsw.gov.au



Date Printed: 16 July, 2018

ZONING PLAN:



-  Subject Land
-  R3 Medium Density Residential

1:500 @ A4 Portrait
0 4.5 9 m
DID NOT SCALE
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GDA Map Projection: Universal Transverse Mercator
Horizontal Datum: Geoidetic Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

Site Plan - Local Environmental Plan
LEP 2012 - City Centre

//16028
Unit 6 14 boundary Street Tweed Heads

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Date Printed: 16 July 2018

AERIAL PHOTOGRAPH:



1:500 A4 Portrait
0 5 10 m
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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geocentric Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

GDA
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TWEED
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W | www.tweed.nsw.gov.au
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Aerial Photography April 2018

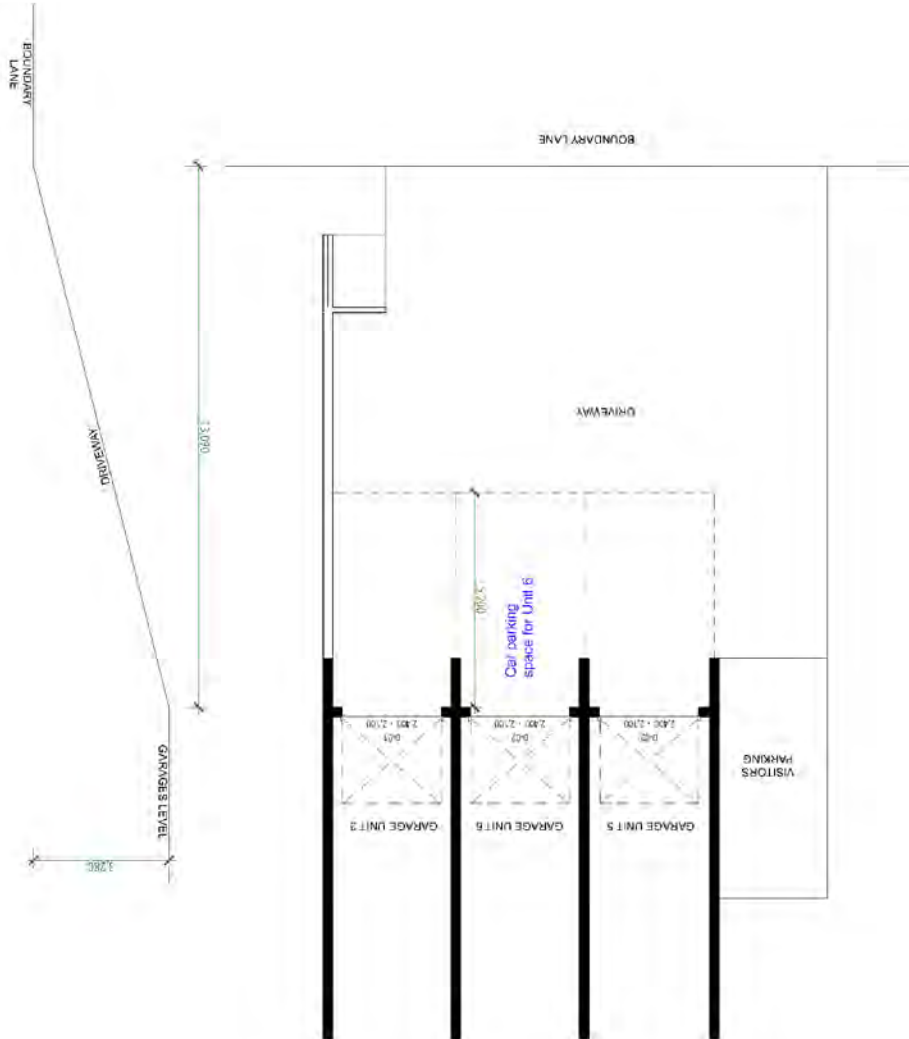
//16028
Unit 6 14 boundary Street Tweed Heads

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Boundaries shown should be considered approximate only.

Author: S Scott - GIS

Date Printed: 16 July 2018

DEVELOPMENT/ELEVATION PLANS:



PRINT SIZE A3

Drawing No.

14/06/2018 01 Driveway



Floor Plan

1:100



Demolition Plan

1:100



GOLD COAST BUILDING DESIGNERS
GCBD
 8/1 PALM BEACH AVE. SUITE 201/208
 PALM BEACH QLD 4221

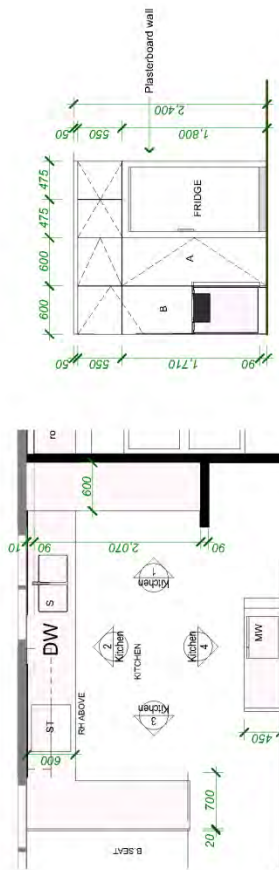
Client Name:
 Marcello Pellicciotti & Mariana Rangel Claro

Site Address:
 Unit 06 - 14 Boundary Street Tweed Heads

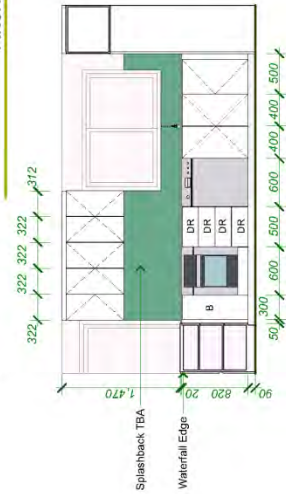
Issue: DA

Date: 4/3/18
 Drawing No.: 01 Floor Plans

81 Palm Beach Ave. Palm Beach 4221 QLD Australia p +61 7 5508 7337
 e info@goldcoastbuildingdesigners.com.au w www.goldcoastbuildingdesigners.com.au
 The drawings are not checked and every detail is subject to the Designer's discretion to the Engineer. Do not rely on these drawings for construction purposes. All drawings are subject to the Engineer's approval. Do not use these drawings for construction purposes.



Kitchen 1 1:50



Kitchen 2 1:50



Kitchen 3 1:50

Kitchen 4 1:50



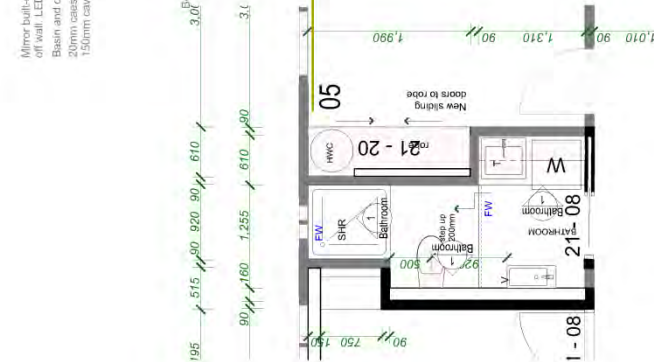
Project No: 06 BOU 17 Client: Marcelo Pellicciotti
 Site Address: 14/ 6 BOUNDARY ST.
 Issue: PRELIM Date: 18/04/2017 Drawing No.: 03 Kitchen Cabinetry
 6 Mumdin Court Currumbin Valley QLD Australia p.+61 7 5598 7337 e. info@goldcoastbuildingdesigners.com.au w. www.goldcoastbuildingdesigners.com.au
 THIS INCLUDES PRELIMINARY WORK ONLY. ALL DIMENSIONS ARE GIVEN IN METRES AND COMPASSION TO THE PACKAGE. DO NOT SCALE THE DRAWING. DRAWINGS INTEND FOR USE FOR CONSTRUCTION PURPOSES UNLESS ISSUED BY THE DESIGNER FOR CONSTRUCTION.



Bathroom 1 1:50



Bathroom 2 1:50



Ground Interiors 1:50



GOLD COAST BUILDING DESIGNERS
 4/11 - 16, 182, 175, 156 - 1842 - 128938

Project No: 06 BOU 17

Client: Marcello Pellicciotti

Site Address: 14/ 6 BOUNDARY ST

14/ 6 BOUNDARY ST

Issue: PRELIM.

Date: 18/04/2017

Drawing No: 05 Bathroom

6 Mumdjin Court Curumbin Valley 4223 QLD Australia p: +61 7 5598 7337 e: info@goldcoastbuildingdesigners.com.au w: www.goldcoastbuildingdesigners.com.au
 This drawing is preliminary and subject to change without notice. It is not to be used for construction purposes until issued by the Designer For Construction.

SITE PHOTOGRAPHS:



Photograph 1: Development as viewed from Boundary Street (Source: GoogleStreetview 2013).



Photograph 2: Development as viewed from Boundary Lane (Source: GoogleStreetview 2013).

Considerations under Section 4.15 of the Environmental Planning and Assessment Act 1979:

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

Tweed City Centre Local Environmental Plan 2012

Clause 1.2 – Aims of the Plan

- (1) *This Plan aims to make local environmental planning provisions for land in Tweed City Centre in accordance with the relevant standard environmental planning instrument under section 33A of the Act.*
- (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,*
 - (b) *to promote employment, residential, recreational, arts, social, cultural and tourism opportunities in Tweed City Centre,*
 - (c) *to encourage the responsible sustainable management and conservation of Tweed City Centre's natural and environmentally sensitive areas, the built environment and cultural heritage,*
 - (d) *to promote development that is consistent with the principles of ecologically sustainable development,*
 - (e) *to promote the economic revitalisation of Tweed City Centre,*
 - (f) *to strengthen Tweed City Centre as a multifunctional and innovative regional centre that encourages employment and economic growth,*
 - (g) *to protect and enhance the vitality, identity and diversity of Tweed City Centre,*
 - (h) *to facilitate building design excellence appropriate to a regional city in Tweed City Centre.*

The proposal is generally consistent with the objectives of the plan, allowing for the use of the existing residential unit as a three bedroom unit, in line with another unit in the development. The proposal provides for additional car parking to meet the needs of a larger unit.

Clause 2.3 – Zone objectives and Land use table

The objectives of the R3 zone are as follows:

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

The proposal relates to an existing unit with the provision of additional car parking on-site to ensure that the demand for car parking is not displaced to the street.

Clause 4.4 – Floor Space Ratio

The proposal will not result in any change to the Gross Floor Area or the Floor Space Ratio.

Clause 4.6 - Exceptions to development standards

There are no compliance issues with the development standards.

North Coast Regional Plan 2036 (NCRP)

The NCRP 3036 provides a guide for the land use planning priorities and decisions to 2036 as an overarching framework to guide subsequent and more detailed land use plans. The goals for the Plan include a thriving, interconnected economy, vibrant and engaged communities, great housing choice and lifestyle options and the most stunning environment in NSW. The proposal is considered to be consistent with the Goals and Directions outlined in the Plan.

State Environmental Planning Policies

SEPP No. 65 - Design Quality of Residential Flat Development

This Policy aims to improve the design quality of residential apartment development in New South Wales and applies to development for the purpose of a residential flat building (as set out in Section 4) if:

- (a) *the development consists of any of the following:*
 - (i) *the erection of a new building,*
 - (ii) *the substantial redevelopment or the substantial refurbishment of an existing building,*
 - (iii) *the conversion of an existing building, and*
- (b) *the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and*
- (c) *the building concerned contains at least 4 or more dwellings.*

The proposal is not considered a substantial redevelopment or substantial refurbishment of an existing building being a single unit in a six (6) unit RFB. The use of the unit will remain as residential with the application involves the change of use of an area previously used as a kitchen to use as a bedroom. As such, this policy does not apply.

SEPP (Coastal Management) 2018

The subject site is mapped as being within the Coastal Environment Area and the Coastal Use Area.

The objectives of each relevant clause are as follows:

13 *Development on land within the coastal environment area*

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*

- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) *This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

The application related to the change of use of a space internal to Unit 6 and will not impact on the biophysical, hydrological (surface and groundwater) and ecological environment, coastal environmental values and natural coastal processes, water quality, access to the foreshore, marine vegetation or habitats or areas of Aboriginal Cultural Heritage.

14 Development on land within the coastal use area

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*

- (iv) *Aboriginal cultural heritage, practices and places,*
(v) *cultural and built environment heritage, and*
- (b) *is satisfied that:*
- (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
(ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
(iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*
- (2) *This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

The proposal does not impact on access to the foreshore, result in any overshadowing of loss of views or impact on the visual amenity or scenic quality of the coast.

The proposal is considered to be consistent with the objectives of each clause.

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

There are no draft LEPs, SEPPs or REPs relative to this proposal.

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

Tweed Development Control Plan

Part A1 - Residential and Tourist Development Code

DCP Part A1 - Part C applies to small residential flat buildings which are described as buildings usually contain six dwellings; two per floor. The unit is located in a small residential flat building which was constructed in 1979/80 and which redates the DCP. Nevertheless the proposed use is generally consistent with the provisions of the DCP.

The objectives for small residential flat buildings include the following:

- *To provide more compact housing types within a small scale building form.*
- *To provide more housing choices.*
- *To create an urban building form and strong built edge along the street.*
- *To more efficiently use land in proximity to services and centres.*
- *To provide a residential flat building type for steep sites.*
- *To provide greater residential densities.*

The use of the unit as a three bedroom unit is generally consistent with the objectives above.

There is no proposed change to the building entry, building envelope, fencing, landscaping or deep soil zone provision.

In terms of the car parking, the DCP sets out the following general controls:

- a. *Car parking is to be in accordance with Section A2 of the Tweed Shire Development Control Plan.*
- b. *Car parking number concessions may be given to small sites to allow car parking to be fully under the buildings footprint.*
- c. *Car parking can be either in an enclosed structure (a garage or basement) or an open roofed structure (a carport).*
- d. *Car parking cannot be located within the front setback.*
- e. *Car park entries are to be located off secondary streets and laneways where these occur.*
- f. *The driveway width from the street to the property boundary is to be minimised.*
- g. *Vehicular movement and parking areas are to be designed to minimum dimensions;*
 - *to reduce hard surfaces on the lot, and*
 - *to increase the area available for landscaping.*
- h. *On grade car parking cannot occur within 12m of the primary street boundary for flat buildings and 6m for Shop-top.*

The proposal is generally in accordance with the controls above. Unit 6 has one existing car parking space in a dedicated garage with a second space to be provided in the driveway. With a dual street frontage, the primary street boundary is taken to be Boundary Street. The proposed car parking accessible from Boundary Lane (the secondary street).

The controls in this part of the DCP relating to acoustic privacy are restricted to the location of air conditioning equipment and protecting dwellings from road traffic related noise.

Part A2 - Site Access and Parking Code

Table 2a of Part A2 sets out the car parking requirements for residential units with a two bed unit requiring 1.5 spaces and a three bed unit requiring 2 spaces. This is superseded by Part B2 – Tweed City Centre DCP which requires 1 space for a two bedroom unit and 1.5 spaces for a three bedroom unit. However in this instance, this is rounded up to 2 spaces.

The applicant has one existing car parking space in a garage and has proposed to use the driveway directly in front of his garage to provide a second space. The applicant for DA18/0030 (Unit 5/14 Boundary Street) is also proposing to use the driveway to provide an additional car parking space to service his unit.

The applicant was requested to submit a swept path plan and certification from a suitably qualified traffic engineer demonstrating that the provision of car parking

space(s) on the common property will not impact on on-site manoeuvrability and will not impede vehicles accessing the visitor car parking space and the garages associated with Lots 3, 5 and 6 from entering and exiting the site in a forward direction, or otherwise impede access to or from these approved car parking spaces. The applicant was advised that the swept path plan and the certification should address the cumulative impact of car parking in this area (ie car parking associated with this development application and the concurrent application at Unit 5 - DA18/0030).

The applicant has submitted a traffic report from Bitzios Consulting and swept path plans demonstrating that a vehicle is able to forward in and reverse out of each garage to Boundary Lane in the event the vehicles are parking in the driveway in front of the adjacent garages. While the swept path plans do not demonstrate that a vehicle can enter and exit the site in a forward direction, the consultants have confirmed that the proposed tandem car parking spaces do not introduce any adverse conditions. The swept path plans also do not address the visitor car parking space (which is located to the southwest of Unit 5 garage), however the Traffic Engineering Unit have advised that the plans address the concerns raised in their initial referral which related to access to the garages only.

The applicant has also submitted minutes from an extraordinary meeting of the owners corporate whereby it was resolved by four (two of which were present by proxy) of the six owners to make a special by-law for the exclusive use of common property for car parking for Lots 5 and 6. The requirement for the maintenance of this exclusive use by-law is to be reiterated in the conditions of any consent issued.

A11 – Public Notification of Development Proposals

The application was notified for a period of 14 days from 2 May 2018 to 16 May 2018 during which time one submission was received. The matters raised in this submission are dealt with later in this report.

Therefore the requirements of Section A11 are considered satisfied.

B2 - Tweed City Centre

The controls in the Tweed City Centre DCP generally relate to new development or external alterations to existing development.

Section 5 – Access, parking and servicing requires the provision of 1.5 spaces (rounded up to 2 spaces) for a three bedroom unit. The proposed ground parking does not to address the primary street frontage.

Section 7 – Residential development controls sets out an objective for residential Development to provide a mix of dwelling types and sizes to cater for a range of household types. There is a development control that three or more bedroom units must not be less than 10% of the total mix of units within each development, therefore there is no objection in principle to increasing the capacity of the unit in terms of the number of bedrooms.

(a) (iia) Any planning agreement or any draft planning agreement under section 7.4

There are no planning agreements relevant to this site.

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

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

The site is located on land to which Government Coastal Policy applies. However the nature of the works is such that there is no impact on the coastal area.

Clause 92(1)(b) Applications for demolition

The proposal may include demolition works (removal of ceiling mounted AC unit) and appropriate conditions have been included.

Clause 93 Fire Safety Considerations

Clause 93 does not apply as the proposal does not include change of use.

Clause 94 Buildings to be upgraded

Consideration of Clause (1)(a) is not required since the building works carried out without Council approval involve an area of less than 50% of the existing volume of the unit.

Clause (1)(b)(i) – The Building Unit have advised that the existing building does not contain adequate measures to protect persons and facilitate egress in the event of fire. Therefore the following improvements are to be required which will facilitate egress and protect occupants:

- a) The recent ceiling penetrations and openings within Unit 6 in respect of the down lights and air conditioning cassette unit compromise the existing fire rated ceiling. Works are required to ensure the ceiling has a minimum resistance to the incipient spread of fire of not less than 60 minutes.
- b) A site inspection revealed the fire rated ceiling to the top of the common internal stairway has been compromised by the installation of a diffused lighting panel and the manhole cover is melamine and not two layers of fire grade plasterboard (one hour fire rated). It was noted an illuminated exit sign has been installed at the base of the stairs, and there is no emergency lighting installed within the fire isolated stairway. Also there should be a smoke and alarm system in accordance with AS 1670 provided to the fire isolated stairway and each sole occupancy units should have smoke detectors installed in accordance with AS3786. These issues will be pursued under separate cover with the owners' corporation.

Clause (1)(b)(ii) - There are no BCA issues in respect of the spread of fire from the building to other buildings nearby.

Clause (2) - Unit 6, with the fire safety measures upgrade, will generally comply with current requirements. No further upgrade is considered necessary.

The upgrading to the building in regard to smoke alarms and emergency lighting to the fire isolated stairway, and confirmation of all SOUs having AS 3786 compliant smoke alarms will be pursued under separate cover.

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

Tweed Shire Coastline Management Plan 2005

The Tweed Shire Coastline Management Plan 2005 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. While the subject site is impacted by this plan, the works are not of a nature that would impact on the coastal zone area.

Tweed Coast Estuaries Management Plan 2004

This Management Plan applies to the estuaries of Cudgen, Cudgera and Mooball Creeks. The subject site is not located in close proximity to any of these creeks and as such this management plan does not apply to the subject application.

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

As the subject site is not located within the Cobaki or Terranorra Broadwater to which this plan relates, this Plan is not considered relevant to the proposed development.

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

Context and Setting

The proposal relates to the use of an additional bedroom in an existing unit in a RFB in an established medium density residential area. One other unit in the development has already been issued approval for the creation of a third bedroom (in the garage associated with the unit). The use of the third bedroom associated with the provision of an additional car parking space will have minimal environmental impacts on the area or adjacent residents.

Access, Transport and Traffic

Car parking is addressed earlier in this report

(c) Suitability of the site for the development

There is an existing residential flat building on the site and the site is located in a medium density residential area.

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

The application was notified for a period of 14 days. During this period, one submission was received with further correspondence from the objector received thereafter. A summary of the issues, the applicant's response and the planning officer's comments are set out in the Table under.

Objection	Applicant's response	Planning officer's comments
Retrospective authorisation of the works		
<ul style="list-style-type: none"> • These renovations took place over a year ago April 2017. Works were undertaken without Body Corporate approval or Tweed Shire Council approval. • Why wasn't a DA applied for prior to and before any renovations took place? 	<p>The applicant has advised that he was not aware of the requirements of obtaining Development Consent from Council prior to such minor works being undertaken within the unit. Therefore once issued with the Show Cause Notice issued by Council on 28 February 2018, the applicant immediately engaged a planning consultant to address the notice and to prepare and lodge an application to obtain the necessary approvals required.</p>	<p>The <i>Environmental Planning and Assessment Act</i> precludes retrospective approval of unauthorised works and there is no avenue for the applicant to render these works lawful under the Act. The applicant can make an application for a Building Certificate which would provide him with immunity from future action by Council to remove the works. However an assessment of the merits of such an application is outside the scope of this development application. The applicant can however in accordance with Section 4.69 (Uses unlawfully commenced) of the Act seek to render lawful the use of a building, work or land which was unlawfully commenced with the granting of development consent to that use – as per the current application. Whether or not the applicant was aware of the need for development consent is of no relevance in the</p>

Objection	Applicant's response	Planning officer's comments
		<p>assessment of this application. The proposal must be assessed on its merits.</p> <p>Nevertheless, Council can issue the applicant with a Penalty Infringement Notice under Section 9.50 (previously S125) of the Act as a penalty for having undertaken the works without consent, and this course of action has been recommended.</p>
Owners consent		
<ul style="list-style-type: none"> • Author is an owner of a unit in building and has not approved the lodgement of the DA and does not consent to the approval of the application by Council. • Questions the legitimacy of the strata owners consent to lodge a DA 	<p>The owners' consent which accompanied the subject application included the same level of details as that submitted for DA18/0030 (adjacent site – Unit 5) which was accepted by Council following provision of a letter with the common seal of the Body Corporate of the strata building.</p>	<p>Refer to the detailed comments in the section below 'Strata Owners Consent'.</p>
Noise impacts		
<ul style="list-style-type: none"> • The applicant previously confirmed in writing that he would keep the Floor Impact Transmission at the same level as carpet and underlay being a six star rating as per the (AAAC) star ratings for apartments and townhouses. Not only has this not occurred, but the works now breach the BCA in terms of noise impact. • Requests that DA not be approved until the breach of the BCA is rectified and the 6 star rating restored as it was prior to works. • The submission is supported by a noise impact assessment report (field impact insulation test results) which 	<p>The applicant has advised that he has submitted all the necessary documentation to address the acoustic issues referred to. He has also submitted the judgement of a NCAT hearing between him and the objector in which an application by the objector seeking compliance by the application with the by-laws to stop the creation of noise as a result of floor coverings was dismissed. The applicant further notes that the installation of new flooring in the unit was the subject of a separate compliance matter and is therefore not applicable to this application.</p>	<p>The subject application related to the use of an additional room (the space in which was previously used as a kitchen) as a bedroom. The removal of carpet and its replacement with floor boards did not require development consent (being exempt development) and does not form part of this application.</p> <p>Further, as outlined in the Building Unit referral, compliance with the BCA is not enforceable in a building of this age.</p>

Objection	Applicant's response	Planning officer's comments
<p>concludes that the timber floor in the main bedroom does not meet the BCA floor impact limit (a reading of 63 was recorded for the between habitable units floor impact insulation where the BCA specifies a maximum reading of not more than 62).</p> <ul style="list-style-type: none"> The submission was also accompanied by affidavits of other residents in relation to noise impacts resulting from the change in flooring. 		
Parking		
<ul style="list-style-type: none"> Parking is a major problem in this area and more pressure on parking is not required. 	<p>The applicant acknowledges the issues of car parking in the area and to that end has complied with the information required by Council in relation to the provision of a second car parking space in the driveway. The Owners Corporation resolved to make a by-law to allow for the exclusive use of the common property for car parking for Lots 5 and 6 thereby providing 2 spaces for a three bedroom unit in accordance with the requirements of the DCP.</p>	<p>The applicant has provided two (2) car parking spaces in accordance with the requirements of the DCP (1.5 spaces required for a three bedroom unit in the Tweed City Centre). It is noted that development approval was previously approved by Council in 2007 allowing for the creation of additional bedroom in Unit 4 without the requirement for any additional car parking. It is noted that access to the objector's garage is from Boundary Street and will not be impacted by the provision of car parking spaces in the driveway fronting Boundary Lane.</p>

The objector made a number of subsequent written submissions raising the following issues:

- Impacts of noise from the replacement of carpet with floor boards;
 - This is addressed above.
- Legitimacy of the strata body consent to lodge an application;
 - Refer to 'Strata Owners Consent' section below.

- Requesting that this application not be determined under a second application by the objector to NSW Civil and Administrative Tribunal (NCAT) in relation to alleged breaches to the by-laws is heard;
 - NCAT heard an application by the objector against the applicant on 9 February 2018 in relation to alleged non-compliance with by-laws protecting the peaceful enjoyment of a unit as a result of noise transmission through the floor. The application was dismissed as the Tribunal was not satisfied that the evidence was sufficient to establish that by-laws 1 and 14 (which prevent a tenant or occupier of a unit from using or enjoying that unit in a manner, or for the purposes of causing a nuisance or hazard to the occupier of any other unit) had been breached.

It was further noted in the judgement that *'Whilst the Building Code of Australia 2016 provides a method for an objective assessment of noise, it is appropriate to note that this relates to new buildings of current building standards. The expectation of occupants in buildings which are much older with a thinner floor slab must necessarily be less than those in a new building where compliance with that standard is required.'*

- The matters which the objector is seeking to resolve through NCAT relate to noise impacts from the replacement of a carpet with floorboards in Unit 6. As outlined earlier in this report, these works are exempt and do not form part of the works for which approval is sought under this development application (use of an additional bedroom). As such the outcome of any future application to NCAT has no bearing on the assessment of this application and any deferral of the determination is unwarranted.
- Objection to parking in the common property.
 - This is addressed earlier in this report. The applicant has submitted swept paths plans showing that access to the adjoining garages will not be impeded and the majority of the owners at an extraordinary strata plan meeting agreed to the applicant using the driveway for parking.

The objector also registered and attended a Community Access meeting in advance of the Planning Committee meeting on 7 June 2018 to articulate his objections to this application directly to the elected members.

Strata Owners consent

It would appear that the issue of strata owners consent for the lodgement of development applications on strata plan properties is becoming a more contentious issue, as demonstrated by this and a number of other applications before Council thereby either the legitimacy of the strata owners consent, or the ability of Council to accept an application without a strata owners consent, has been questioned by objectors to the development.

Clause 49 of the *Environment Planning and Assessment Regulation* states that:

- (1) *A development application may be made:*
- (a) *by the owner of the land to which the development application relates, or*
 - (b) *by any other person, with the consent in writing of the owner of that land.*

The EP&A Act states that owner has the same meaning as in the *Local Government Act 1993*, which defines owner as:

- (b) *in relation to land other than Crown land, includes:*
- (i) *every person who jointly or severally, whether at law or in equity, is entitled to the land for any estate of freehold in possession, and*
 - (ii) *every such person who is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits of the land, whether as beneficial owner, trustee, mortgagee in possession, or otherwise, and*
 - (iii) *in the case of land that is the subject of a strata scheme under the Strata Schemes Development Act 2015, the owners corporation for that scheme constituted under the Strata Schemes Management Act 2015, and*
 - (iv) *in the case of land that is a community, precinct or neighbourhood parcel within the meaning of the Community Land Development Act 1989, the association for the parcel, and*
 - (v) *every person who by this Act is taken to be the owner, and*

To fulfil the requirement for owners consent from an owners' corporation, Council's standard Owner Consent form for a strata plan property state that:

"When the application is lodged on a Strata Plan, the Owners consent is required from the Owners Corporation as well as the owner of the subject lot, this can be in the form of:

- a) *A letter on the corporation's letterhead or with the corporation seal. If the corporation does not have a corporation seal or letterhead, the corporation secretary is to sign the application form/letter of authority stating so; OR*
- b) *The official minutes of Body Corporate meeting giving consent for that particular application. There should be verification of the minutes by seal or signatures by office bearers or at the very least a signed covering letter verifying the minutes. If either of the above cannot be provided consent is required from all unit owners in the Strata Plan."*

The applicant has submitted an owners' consent form signed by the Owners Corporation Secretary and with the 'Proprietors of Strata Plan No 16028' seal.

The applicant has also submitted email correspondence that includes authorisation from the secretary of the Body Corporate, chairman of the Body Corporate and two other unit owners (four of the six unit owners) to lodge of an application the use of a third bedroom.

As the application plans did not explicitly identify the use of the common property for car parking nor did the application form refer to same, the applicant was requested to submit Owners Corporation consent for the exclusive use of the common property driveway as a car parking space to service Unit 6.

The applicant was further advised that any development consent issued for the use of the common property driveway for car parking associated with the creation of a third bedroom in Unit 6 will be subject to a condition of consent requiring an amendment to the Strata by-laws to reflect this exclusive use. In this regard, he was advised to submit a written acknowledgment from Owners Corporation of this requirement which would formalise the use of this area as a car parking space.

The applicant has submitted the minutes of an Extraordinary General meeting of Strata Plan No 16028 (dated 5 July 2018) whereby the Owners Corporation specially resolved to make a bylaw for the exclusive use of common property for car parking for Lots 5 and 6.

(e) Public interest

It is considered that the proposal is not inconsistent with the public interest. The creation of a third bedroom will provide for a mix of unit sizes in an existing development in an established medium density residential area. The proposal makes provision for the required number of car parking spaces and will not displace car parking onto the street in an area which is under pressure for on-street car parking.

Section 64 Developer Contributions:

The Water and Wastewater unit have advised that Section 64 contributions for the creation of an additional bedroom are as follows:

Water = 0.67 ET – 0.50 ET = 0.17 ET @ \$13,632 = \$2,317.45
Sewer = 1.0 ET – 0.75 ET = 0.25 ET @ \$6,549 = \$1,637.25

Section 7.11 Contributions

The following Section 7.11 Plans are applicable:

- Section 7.11 Plan No 4 – Tweed Road Contribution Plan – Sector 1 Tweed Heads
- Section 7.11 Plan No 5 – Local Open Space
- Section 7.11 Plan No 11 – Tweed Shire Library facilities
- Section 7.11 Plan No 12 – Bus shelters
- Section 7.11 Plan No 13 – Environ cemetery
- Section 7.11 Plan No 15 – Developer contributions for Community facilities
- Section 7.11 Plan No 18 – Council Administration Offices and Technical Support Facilities
- Section 7.11 Plan No 22 – Cycleways
- Section 7.11 Plan No 26 – Shirewide Regional Open Space

- Section 7.11 Plan No 27 – Tweed Heads Masterplan – Local Opn Space/Landscaping

Plan No 4

Proposed development = 3 bedroom unit = 3.9 trips per unit

Credit (existing) = 2 bedroom unit = 3.9 trips per unit

Trips to be levied = nil

Plan No 5

Local Structured Open Space

1 ET = 2.4 persons (equivalent of dwelling house/lot)

Proposed development = 3 bedroom unit = 2.1 persons = 0.875 ET

Credit (existing) = 2 bedroom unit = 1.7 persons = 0.7083 ET

ET to be levied = 0.1667

Local Casual Open Space

1 ET = 2.4 persons (equivalent of dwelling house/lot)

Proposed development = 3 bedroom unit = 2.1 persons = 0.875 ET

Credit (existing) = 2 bedroom unit = 1.7 persons = 0.7083 ET

ET to be levied = 0.1667

Plan No 11

Calculations as above, ET to be levied = 0.1666

Plan No 12

Calculations as above, ET to be levied = 0.1666

Plan No 13

Calculations as above, ET to be levied = 0.1666

Plan No 15

Calculations as above, ET to be levied = 0.1666

Plan No 18

Calculations as above, ET to be levied = 0.1666

Plan No 22

Calculations as above, ET to be levied = 0.1666

Plan No 26

Regional Structured Open Space - Calculations as above, ET to be levied = 0.1666

Regional Casual Open Space - Calculations as above, ET to be levied = 0.1666

Plan No 27

Proposed development = 3 bedroom unit = 1.7 persons = 0.7083 ET

Credit (existing) = 2 bedroom unit = 1.7 persons = 0.7083 ET

ET to be levied = nil

OPTIONS:

Option 1

- A. That Development Application DA18/0278 for the use of an additional (third) bedroom in Unit 6 at Lot 6 SP 16028 and the provision of a car parking space on the driveway; No. 6/14 Boundary Street Tweed Heads be APPROVED subject to condition; and
- B. That a Penalty Infringement Notice be issued to the owner of Lot 6 SP16028 for undertaking development without consent.

Option 2

- A. That Development Application DA18/0278 for the use of an additional (third) bedroom in Unit 6 at Lot 6 SP 16028 and the provision of a car parking space on the driveway; No. 6/14 Boundary Street Tweed Heads be REFUSED; and
- B. That legal proceedings against the applicant be commenced for unauthorised works.

OPTION 1 (A & B) is recommended.

CONCLUSION:

The internal alterations sought to be retained under this application is considered to have minimal environmental impact and it is recommended that the application be approved subject to conditions for the following reasons:

1. The development as modified with the use of a third bedroom is substantially the same as that approved on the site under Town Planning Permit PN7686 (BA583/79) and will not result in any adverse environmental impacts on either the natural or built environments, or have any adverse social and economic impacts in the locality.
2. The proposal is generally consistent with the aims of the Tweed City Centre LEP 2012 and the objectives of the R3 Zoning on the site.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

No Legal Costs will be incurred for Option 1 unless the decision is appealed by either the objector or the applicant. The applicant and the objector have a right of appeal to the Land and Environment Court in respect of any determination by Council.

c. Legal:

No Legal Advice is required for Option 1. Legal advice will be required with Option 2.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1: NCAT Judgement of 13 April 2018 (ECM: 5468445)

15 [PR-CM] Affordable Housing Context and Options Paper

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: **Leader and Collaborator**

SUMMARY OF REPORT:

Updated Summary since 19 July 2018

Council at its meeting of 19 July 2018 resolved as follows:

"that this item be deferred to the Council Meeting on 16 August 2018."

The report is now being reported back for Council's determination.

Original Summary

Arising from a Notice of Motion put forward by Councillor Milne, Council resolved the following at its meeting of 18 May 2017:

"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."

In response to this resolution, the Council officers conducted an Expressions of Interest process and appointed the external consultant Urbanista to provide specialised advice to Council. The consultant has worked with an inter-Divisional working group consisting of staff from the Planning and Regulation and Community and Natural Resources Divisions, and has presented to Councillor Workshops in October 2017 and April 2018.

Based on the feedback received from this consultation, and research of current demographic and housing market data in the Tweed Shire, Urbanista has completed a final Context and Options Affordable Housing Paper, which is the subject of this report, and is provided as Attachment 2.

Council officers have also considered the findings and recommendations from the Urbanista paper and drafted an Affordable, Attainable and Appropriate Housing Policy Statement for endorsement by Council for public exhibition.

RECOMMENDATION:

That Council:

- 1. Receives and notes the attached Urbanista Context and Options Affordable Housing Paper;**
- 2. Endorses the public exhibition of the attached draft Affordable, Attainable and Appropriate Housing Policy Statement for a period of 28 days allowing 42 days for submissions; and**
- 3. A further report be brought back to Council following the exhibition of the draft policy statement.**

REPORT:

Background

Broader National Context to Affordable Housing Policy

The role of Local Government in affordable housing issues and policy is often misunderstood. Councils are often mistakenly cited as the responsible authority to provide new housing stock. In reality, councils are not resourced to provide this service, but can still play an important role in a range of activities to support State and Federal Governments as housing and funding providers, such as facilitating on-the-ground support and advocacy to community and service providers and ensure a diversity and supply of new housing through their local planning controls.

A recent article in Government News (see Attachment 1 for a copy) titled “Policy inaction leading to homelessness rise” highlights the current misalignment of government policy to addressing affordable housing provision. The article makes reference to Mr Hal Pawson the lead author of a new national housing analysis report, commissioned by the community housing organisation Launch Housing. In light of the new National Housing and Homelessness Agreement soon to take effect, the report’s findings show the Commonwealth must “*lead and develop a coordinated policy response*” with the state and territory governments.

Further, this report concludes that, “*We urgently need an alignment of efforts to implement dedicated housing, income support and homelessness policies*”.

Response to Council Resolution

Arising from a Notice of Motion put forward by Councillor Milne, Council resolved the following at its meeting of 18 May 2017:

"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."

In response to this resolution, the Council officers conducted an Expressions of Interest process and appointed the external consultant Urbanista to provide specialised advice to Council. The consultant has worked with an inter-Divisional working group consisting of staff from the Planning and Regulation and Community and Natural Resources Divisions, and has presented to Councillor Workshops in October 2017 and February 2018.

Based on the feedback received from this consultation, and research of current demographic and housing market data in the Tweed Shire, Urbanista has completed a final Context and Options Affordable Housing Paper, and is provided as Attachment 2.

Council officers have also considered the findings and recommendations from the Urbanista paper and drafted an Affordable, Attainable and Appropriate Housing Policy Statement for endorsement by Council.

This draft Affordable, Attainable and Appropriate Housing Policy statement commits Tweed Shire Council to working in partnership in:

'Addressing affordable, attainable and appropriate housing particularly for those most in need, providing current and future residents with choice, opportunity and the ability to participate meaningfully in community life. This is a basic human right regardless of their age, culture, gender, race, religion, physical ability or sexual preference'.

This policy statement outlines Council's objective to address this matter; clearly states the role of local government; outlines definitions of terms; and recommends guiding principles to meet Council's vision. This policy statement addresses priority needs and in turn, there is a need to establish a course of action with allocated roles/responsibilities, resourcing and timelines. It is suggested that this policy statement be disseminated for consultation to engage stakeholders and community's feedback on this policy.

OPTIONS:

Option 1

That Council:

1. Receives and notes the attached Urbanista Context and Options Affordable Housing Paper;
2. Endorses the public exhibition of the attached draft Affordable, Attainable and Appropriate Housing Policy Statement for a period of 28 days allowing 42 days for submissions; and
3. A further report be brought back to Council following the exhibition of the draft policy statement.

Option 2

That Council defers this matter for a Workshop.

Option 1 is recommended.

CONCLUSION:

This report responds to the Notice of Motion put forward by Councillor Milne on 18 May 2017. The attached context and options paper provides some short term and long term options and priority areas to address the issue of affordable housing. Council officers have considered the findings and recommendations, and put forward a draft policy statement for endorsement for public exhibition. This policy statement clearly outlines Council's role and commitment in working in partnership with other tiers of government, community housing providers, the private sector and other organisations to addressing the issue of affordable, attainable and appropriate housing.

COUNCIL IMPLICATIONS:

a. Policy:

This policy should be considered alongside Council's commitments in its Homelessness Policy.

b. Budget/Long Term Financial Plan:

Any further strategic planning and associated action plan will require clear roles and responsibilities and resourcing.

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	Copy of article from Government News dated 29 May 2018 (ECM 5320629)
Attachment 2	Urbanista Tweed Shire Responding to Housing Needs: Context and Options Paper April 2018 (ECM 5280480)
Attachment 3	Draft Affordable, Attainable and Appropriate Housing Policy Statement (ECM 5383064)

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

16 [CNR-CM] Access and Inclusion Plan 2014-2018 - Progress Report for 2017-2018 and Final Progress Report for this Plan

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 Advocate

SUMMARY OF REPORT:

The *Tweed Access and Inclusion Plan 2014-2018* (the Plan) is Council's four-year integrated plan which links to Council's Community Strategic Plan, the four-year Delivery Program, the annual Operational Plan and associated Budget. The Plan addresses the access and inclusion barriers identified by the community priorities that will help Council to deliver its vision for an inclusive community. The purpose of this report is to provide a progress update on the implementation of the Plan since its adoption on 19 August 2014. This report covers implementation in the 2017-2018 year and an overview of achievements for the whole plan as this is the final progress report.

RECOMMENDATION:

That Council receives and notes the Access and Inclusion Plan 2014-2018 progress report for the 2017-2018 year and the final progress report for this Plan.

REPORT:

The Access and Inclusion Plan 2014-2018 includes a total of 52 actions grouped under five strategic outcomes. To date 38 actions have been achieved. Twelve actions were partially achieved and will be carried over for further work in the next Access and Inclusion Plan. Two outcomes were not achieved. The actions that have not been achieved relate to the installation of Tactile Ground Surface Indicators in the road reserve with cost factors affecting completion.

Highlights for the 2017-2018 year include:

- Tweed Heads Library upgrade completed.
- Unisex accessible toilets installed in Budd Park attached to Rainforest Information Building.
- Kingscliff Community Hall and Information Centre upgrade completed and new public toilets including accessible cubicles constructed.
- Report on access to foreshores and waterways completed and presented to Recreation Services and Natural Resource Management Teams.
- Access ramp installed on the board walk from Ambrose Brown Park to Mooball Creek at Pottsville.
- Kingscliff Central Park completed and work commenced to upgrade Lions Park.
- Seven major projects completed under the Pedestrian Access and Mobility Plan including Dry Dock Road footpath between Cox Street and Sunshine Avenue; Machinery Drive footpath between Greenway and Minjungbal Drives; Brett Street, Tweed Heads path realignment to provide pedestrian refuge and new kerb ramps.
- Financial contribution towards beach matting on Kingscliff Beach managed by the Cudgen Headland SLSC.
- 2017 Access and Inclusion Awards held with 28 nominations received.
- The inaugural Festival of Belonging was also held to celebrate Social Inclusion Week occurring at the same time as International Day of People with Disability.

BACKGROUND:

The *Access and Inclusion Plan 2014-2018* is based on the concepts of access and inclusion to ensure that all people who live in or visit Tweed Shire can live their lives and be involved in the community no matter what their circumstances or abilities. It identifies various sections of Council responsible for the implementation of the Plan to ensure a whole-of-Council response to identified access barriers.

The *Access and Inclusion Plan 2014-2018* contains five strategic outcomes to address the issues raised during the community consultation. This Plan ends in August 2018.

OPTIONS:

1. That Council receives and notes the Access and Inclusion Plan 2014-2018 progress report for the 2017-2018 year and the final progress report.
2. The Council seeks more information on the Access and Inclusion Plan 2014-2018 progress report for the 2017-2018 year and the final progress report.

CONCLUSION:

The *Access and Inclusion Plan 2014-2018* is an important strategic document that informs the way Council plans for and develops an accessible and inclusive community and fulfils legislative and policy obligations at all tiers of government as well as internationally. Some lessons have been learned during the implementation of this first Access and Inclusion Plan that will inform the structure and content of the next plan. This includes making sure that the commitments in the plan can be met with the available financial and human resources. While the majority of commitments in the 2014-2018 Plan will have been met by the time the Plan expires on 30 June 2018 some will need to be considered for roll over into the next plan. Included with this report is the draft Access and Inclusion Plan 2018-2021 and accompanying documents outlined in a separate report.

COUNCIL IMPLICATIONS:

a. Policy:

Access and Inclusion v1.1

b. Budget/Long Term Financial Plan:

Access and Inclusion Plan Funding - the Long Term Financial Plan allocated \$47,023 in 2017-2018 with an annual CPI increase of 3% for 2018-2019.

Aged and Disability Community Development - the Long Term Financial Plan allocates an annual salary for the Community Development Officer - Ageing and Disability, responsible for the implementation for the *Access and Inclusion Plan* across Council.

Access Reserve - is one of Council's internally restricted cash reserves designated to specific projects to improve access and promote social inclusion across the Shire.

External Funding - to be sought via application as grants become available, is another potential source of funding.

c. Legal:

Not applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

17 [CNR-CM] Draft Access and Inclusion Plan 2018-2021

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 Advocate

SUMMARY OF REPORT:

Council adopted the first Tweed Shire Access and Inclusion Plan in 2014. The preparation of an Access and Inclusion Plan is a response to the Commonwealth *Disability Discrimination Act 1992*. This first four year Plan will end in August 2018.

This report presents the next Access and Inclusion Plan 2018-2021. This three year plan continues the work of the first Plan and meets a legislative requirement under the NSW *Disability Inclusion Act 2014*. All local Councils must develop and implement Disability Inclusion Action Plans. In Tweed we continue to call it the Access and Inclusion Plan.

The three year period for this Plan (2018-2021) is a one off to bring Tweed Shire in line with the rest of NSW Councils and the Integrated Planning and Reporting Framework time frame. Plans from 2021 will be of a four year duration.

Community consultation was undertaken by the Community Development Officer, Ageing and Disability in April, May and June 2018 with assistance from the Communications and Customer Experience Unit.

The Draft Access and Inclusion Plan 2018-2021 will inform and guide Council planning processes, design methodology, construction and service delivery along the principles of universal design.

The Draft Access and Inclusion Plan 2018-2021 is now ready for public exhibition.

RECOMMENDATION:

That Council endorses the Draft Access and Inclusion Plan 2018-2021, the Executive Summary, Easy English version, Action Tables and Consultation Report for public exhibition for a period of 28 days, allowing 42 days for submissions.

REPORT:

Access and Inclusion Plans fit within the broader Community Strategic Planning framework to support social inclusion for community members particularly people living with a disability or the challenges related to ageing, their carers and families.

The Access and Inclusion Plan 2018-2021 will address a range of issues towards improving access and inclusion for the whole community. The Plan is a whole-of-Council response to improving access for inclusion.

Central to the Draft Access and Inclusion Plan are the principles of social justice, economic resilience and universal design. To ensure access and inclusion this means:

- there is fairer distribution of economic resources and access to essential services to meet basic needs and to improve quality of life
- the human rights of people with disabilities are recognised and promoted by Council and the community
- all members of the community have better opportunities for genuine participation and consultation about decisions affecting their lives
- the views of all members of the community are valued and listened to in Council deliberations
- there is balanced decision making in Council based on social, economic and environmental goals

The NSW *Disability Inclusion Act 2014* strengthens the connection between access and inclusion planning and community strategic plans. The NSW Act requires Council to incorporate actions in the Access and Inclusion Plan into the Community Strategic Plan through the Delivery Program and the Operational Plan.

Although the Draft Access and Inclusion Plan 2018-2021 has been developed after the current Delivery Program the goals and actions fit well with those in the Delivery Program 2017-2021. The actions in the Draft Access and Inclusion Plan have been mapped against the goals in the Delivery Program.

BACKGROUND:

Access and Inclusion Plans (also called Disability Inclusion Action Plans) are a strategic response to the Commonwealth *Disability Discrimination Act 1992*. Local Government NSW produced guidelines to assist NSW Councils develop plans and comply with the 2014 *Act*. The Australian Human Rights Commission (AHRC) continues to provide advice to organisations and businesses on the preparation of Disability Action Plans. Action plans can be registered with the AHRC and act as a defence against a claim of discrimination under the *Disability Discrimination Act 1992*. The Plans reference a range of state and federal legislation and international guidelines for the framework and action plan at the local and organisational level.

The need for an Access and Inclusion Plan is underpinned by:

- a) The *Disability (Access to Premises - Buildings) Standards 2010* amendment to the *Disability Discrimination Act 1992* which mandates access requirements to new buildings and renovations to existing buildings in most classifications.

- b) The *Tweed Access and Inclusion Policy* adopted by Council in April 2014 that commits Council to follow Australian Standards and Guidelines for access and inclusion to buildings, open space environments, information and services.
- c) The *NSW Disability Inclusion Act 2014* that requires Councils to develop and implement Disability Inclusion Action Plans.

The **Draft Access and Inclusion Plan 2018-2021** presented as Attachment 1 to this report follows previous work undertaken with Council's first Access and Inclusion Plan 2014-2018.

The Draft Access and Inclusion Plan 2018-2021 includes:

- A statement of commitment outlining Council's vision for an inclusive community
- Statistical and demographic information about Tweed Shire seniors and people with disability
- Information on how the plan was put together and who was involved in consultations
- Four Key Focus Areas outlined in LGNSW Guidelines devised to meet the intentions of the *Disability inclusion Act*
- Actions, responsibility and time frames for achieving each Key Focus Area

Other documents included with this report

A number of other documents are presented with this report. These include:

- An executive summary of the Draft Access and Inclusion Plan 2018-2021 providing a short overview of the full report - Attachment 2.
- A set of action tables with more detailed information on how the Plan will be carried out over the next three years providing the full list of goals, actions, timeframe, responsibility, achievement measures and Delivery Program links - Attachment 3.
- An Easy English version of the Draft Access and Inclusion Plan 2018-2021 required under the Local Government NSW Guidelines for Disability Inclusion Action Planning for people with limited English language skills - Attachment 4.
- A Consultation Report including detailed information about the consultations carried out to prepare the Plan required under the Local Government NSW Guidelines for Disability Inclusion Action Planning - Attachment 5.

The final progress report for the current Access and Inclusion Plan 2014-2018 to provide information on what was achieved over four years will be submitted to the Council Meeting of 16 August 2018.

OPTIONS:

1. That Council endorses the Draft Access and Inclusion Plan 2018-2021, the Executive Summary, Easy English version, Action Tables and Consultation Report for public exhibition for a period of 28 days, allowing 42 days for submissions.
2. That Council seeks further information and does not place the Draft Access and Inclusion Plan 2018-2021, Executive Summary, Action Tables and Easy English version on public exhibition for a period of 28 days.

CONCLUSION:

Preparing an Access and Inclusion Plan is a requirement under the NSW *Disability Inclusion Bill 2014*. Tweed has made some important achievements under the first Access and Inclusion Plan 2014-2018. Access and Inclusion Plans are an essential response to meet the intentions of the Commonwealth *Disability Discrimination Act 1992*.

Of equal if not greater importance is recognising the human rights of all our residents and visitors enshrined in the United Nations *Convention on the Rights of People with Disabilities 2007* ratified by Australia in 2008.

An accessible and inclusive community has benefits for everyone in social, health and economic factors. The Draft Access and Inclusion Plan 2018-2021 will continue to inform the way Council plans, designs and builds a more accessible community into the future. It is recommended the Access and Inclusion Plan be placed on public exhibition.

COUNCIL IMPLICATIONS:

a. Policy:

Access and Inclusion v1.1

The Access and Inclusion Policy Version 1.0 is in need of a review in order to support Council's progress towards a universal design approach. A number of Council's adopted policies, protocols and templates will also be reviewed to include principles of access, inclusion and universal design. These reviews are included as actions in the Draft Access and Inclusion Plan 2018-2021.

b. Budget/Long Term Financial Plan:

Funding of \$48,316 per annum plus CPI is currently in place in the Long Term Financial Plan for the delivery of the Access and Inclusion Plan. There is \$45,985 roll over from the previous Plan not expended due to delays caused by the 2017 flood event. The roll over amount will complete work on projects carried over from the first Plan to improve and upgrading Designated Accessible Parking Bays in Tweed Shire.

c. Legal:

Compliance with the NSW *Disability Inclusion Act 2014*

d. Communication/Engagement:

Consult-We will listen to you, consider your ideas and concerns and keep you informed. See Attachment 5 - Consultation Report

Inform - We will keep you informed. Representatives of the Equal Access Advisory Committee, Community Options Team and members of the Tweed Disability Interagency will be alerted to the exhibition of the Access and Inclusion Plan and encouraged to make submissions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- | | |
|---------------|---------------------------------------------------------|
| Attachment 1. | Executive Summary (ECM 5447138) |
| Attachment 2. | Draft Access and Inclusion Plan 2018-2021 (ECM 5447115) |
| Attachment 3. | Action Tables (ECM 5455902) |
| Attachment 4. | Easy English Version (ECM 5447277) |
| Attachment 5. | Consultation Report (ECM 5447318) |
-

18 [CNR-CM] Tweed Regional Museum Deductible Gift Recipient Policy

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 Tweed Regional Museum has been endorsed by the Australian Taxation Office as a Deductible Gift Recipient (DGR) institution operated by Tweed Shire Council. On 23 January 2014, Council adopted the Tweed Regional Museum Deductible Gift Recipient (DGR) Fund Policy (Version 1). This Policy requires updating to reflect minor changes to relevant terminology.

The DGR Policy references processes for maintenance and administration of the Gift Fund via a separate document titled the *Tweed Regional Museum Deductible Gift Recipient (DGR) Fund Procedure*. Procedures have been drafted for implementation following the approval of the updated DGR Policy.

RECOMMENDATION:

That Council adopts the updated Tweed Regional Museum Gift Recipient (DGR) Fund Policy (Version 1.1)

REPORT:

The Tweed Regional Museum is recognised by the Australia Taxation Office (ATO) as a public museum under item 12.1.3 of Section 30-100 of the Income Tax Assessment Act 1997.

The Tweed Regional Museum is endorsed as a deductible gift recipient (DGR) institution operated by Tweed Shire Council. Deductible Gift Recipient Endorsement by the ATO enables the Tweed Regional Museum to receive income tax deductible gifts and contributions, provided that such gifts and donations are made to an appropriately administered Gift Fund.

To ensure ongoing compliance with ATO requirements, the Tweed Regional Museum Deductible Gift Recipient (DGR) Fund Policy was developed. The Policy outlines the basis for ATO recognition and endorsement of the Museum and compliance and governance requirements relevant to Fund administration.

An associated Tweed Regional Museum Deductible Gift Recipient Fund Procedure has been developed to meet ATO requirements.

On 23 January 2014, Council adopted the Tweed Regional Museum Deductible Gift Recipient (DGR) Fund Policy (Version 1). This Policy requires updating due to minor changes to ATO terminology.

The DGR Policy references processes for maintenance and administration of the Gift Fund via a separate document titled the *Tweed Regional Museum Deductible Gift Recipient (DGR) Fund Procedures*. Procedures have been drafted for implementation following the approval of the updated DGR Policy.

OPTIONS:

- 1. That Council adopts the Tweed Regional Museum Deductible Gift Recipient (DGR) Fund Policy (Version 1.1).**
- 2. That Council does not adopt the Tweed Regional Museum Deductible Gift Recipient (DGR) Fund Policy (Version 1.1) and requests further information.**

CONCLUSION:

Council's adoption of the Museum Deductible Gift Recipient (DGR) Fund Policy (Version 1.1) will ensure ongoing compliance with the Australian Taxation Office requirements and transparent administration of Gift Funds.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:
Not Applicable.

d. Communication/Engagement:
Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Draft Tweed Regional Museum Deductible Gift Recipient
(DGR) Fund Policy Version 1.1 (ECM 5473597)

19 [CNR-CM] Draft Biodiversity and Habitat Management Development Control Plan

SUBMITTED BY: Natural Resource Management

mhm



Leaving a Legacy
Looking out for future generations



Making decisions with you
We're in this together

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.
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: Advocate Leader

SUMMARY OF REPORT:

At its meeting of 21 September 2017 Council considered and unanimously resolved to place the draft Biodiversity and Habitat Management DCP (Biodiversity DCP) on public exhibition for 60 days. Accordingly, the draft Biodiversity DCP was placed on public exhibition during October and November 2017.

The revised Biodiversity DCP (Attachment 1) has benefited significantly from public submissions and extensive further consultation with internal and external stakeholders including the Office of Environment and Heritage (OEH). Most of the revisions of the exhibited draft are of a procedural nature and are designed to assist proponents to navigate the complex interplay between the *Environmental Planning Assessment Act 1979* (EP&A Act) and the new *Biodiversity Conservation Act 2016* (BC Act).

The plan aims to *“to ensure that, subject to any relevant overarching state or commonwealth legislation, the planning and design of new development maintains or improves ecological values within Tweed Shire.”*

It applies mostly to larger scale development (including subdivision) on larger parcels of land (lots $\geq 2500\text{m}^2$) containing bushland or waterways.

The Biodiversity DCP takes a three-stage approach to guide the preparation of development applications (DAs). The first stage focusses on those aspects of biodiversity with the potential to influence the shape and form of the development footprint. This includes the following “biodiversity themes”: bushland and wetlands, wildlife corridors, threatened and significant species, koala habitat, waterways and riparian areas, flying fox camps; other key habitats (raptor nests, tree hollows etc.) and; climate change. Relevant DAs will be required to meet specific objectives and development controls relating to these themes unless an equivalent or better ecological solution is proposed.

The second stage involves specific objectives and development controls that address potential construction and ongoing impacts of the development itself. Examples include biodiversity impacts arising from roads, fencing and barriers, noise and lighting, pest animals, domestic animals, and environmental weeds.

The last stage of the process involves collation of the necessary information to allow Council to appropriately assess the DA. The draft plan has minimum assessment requirements for conforming development. This should mean considerable cost savings for proponents of developments with low potential impact.

The Biodiversity DCP is designed to reflect contemporary biodiversity outcomes achieved through the current *ad hoc* approach to assessment but will provide much greater clarity and certainty for both proponents and the community.

The purpose of this report is to recommend that Council adopts revised Biodiversity DCP (Attachment 1).

RECOMMENDATION:

That:

- 1. Council adopts the Tweed Development Control Plan, Section A19 - Biodiversity and Habitat Management (Biodiversity DCP), as amended in Attachment 1.**
- 2. Public notification of the commencement of the Tweed Development Control Plan, Section A19 - Biodiversity and Habitat Management (Biodiversity DCP) be given in the Tweed Link within 28 days in accordance with Section 21(2) of the *Environmental Planning and Assessment Regulation 2000*.**
- 3. A copy of the Tweed Development Control Plan, Section A19 - Biodiversity and Habitat Management (Biodiversity DCP) be referred NSW Department of Planning and Environment within 28 days of its commencement in accordance with Section 25AB of the *Environmental Planning and Assessment Regulation 2000*.**

REPORT:

Background

The preparation of a development control plan (DCP) to address biodiversity and habitat management issues was a key recommendation of the Tweed Vegetation Management Strategy which was adopted in 2007. In 2008, Council received funding from the Northern Rivers Catchment Management Authority to develop a model biodiversity DCP which could be used by all councils on the NSW north coast. The draft model plan was completed in 2009 and parts of it have been used by Tweed and other Councils to inform the assessment of development applications (DAs) with the potential to impact on the natural environment. At its meeting of 18 November 2008 Council unanimously resolved:

1. *Accepts the grant of \$45,000 from the Northern Rivers Catchment Management Authority in accordance with NRCMA Contract IS8-9-L-1 - Development of a Model Biodiversity Development Control Plan and votes the expenditure.*
2. *Prepares a draft Biodiversity Development Control Plan based on the model plan described in 1 above consistent with adoption of the Tweed Vegetation Management Strategy 2004 at the Council meeting of 17 April 2007.*

Although part 2 of the resolution has not formally progressed until recently (due to other competing priorities), Council officers have continued to assess biodiversity issues associated with developments on *ad hoc* basis consistent with statutory requirements, limited guidance from the existing DCP (particularly Section A5 - Subdivision Manual) and overarching policy directions arising from all levels of government. While this approach has generally yielded sound environmental outcomes, the process is not entirely clear to proponents or the broader community.

With the commencement of the *Biodiversity Conservation Act 2016* (BC Act) which came into effect on 25 August 2017, it has become evident that Council will require a clear policy position on how development should address impacts on biodiversity. Specifically, under s7.13 of the BC Act, Council must determine what impacts on biodiversity must be "avoided or minimised" prior to allowing any biodiversity offsets. Without a clear policy to provide guidance on avoiding and minimising biodiversity impacts, there is a high risk that proponents will seek offsetting solutions under the BC Act which may not provide a locally-acceptable environmental outcome.

In response to these issues, Council officers prepared draft DCP Section A19 - Biodiversity and Habitat Management (Biodiversity DCP) which was considered at the Council meeting of 21 September 2017 and subsequently placed on public exhibition for a period of 60 days during October and November 2017.

The revised Biodiversity DCP (Attachment 1) has benefited significantly from public submissions and extensive further consultation with internal and external stakeholders including the Office of Environment and Heritage (OEH). Most of the revisions of the exhibited draft are of a procedural nature and are designed to assist proponents to navigate the complex interplay between the *Environmental Planning Assessment Act 1979* (EP&A Act) and the new *Biodiversity Conservation Act 2016* (BC Act).

The purpose of this report is to recommend that Council adopts revised Biodiversity DCP (Attachment 1).

What does the Biodiversity DCP seek to do?

The Biodiversity DCP aims to:

to ensure that, subject to any relevant overarching state or commonwealth legislation, the planning and design of new development maintains or improves ecological values within Tweed Shire.

The following objectives provide further detail on how this aim will be achieved:

- O1. *Retain and restore native vegetation and habitats for native species in patches of a size and configuration that will enable existing plant and animal communities to survive in the long term.*
- O2. *Provide development controls to prevent the degradation of ecological values.*
- O3. *Provide guidance on information required to enable informed decision-making.*
- O4. *Ensure that construction and operational impacts of development are avoided and/or mitigated using current best practice standards.*
- O5. *Provide guidance on acceptable measures to avoid or minimise the impact of proposed development on biodiversity including for proposals affected by Part 7 of the Biodiversity Conservation Act 2016.*
- O6. *Compensate for unavoidable habitat losses in accordance with applicable legislation, or in the absence of such legislation, contemporary best practice.*

Where does it apply?

The Biodiversity DCP applies mostly to larger scale development (including subdivision) on larger parcels of land (lots $\geq 2500\text{m}^2$) containing bushland or waterways. Indicative mapping will be provided to identify bushland and waterways.

The Biodiversity DCP does not generally apply to:

- Small privately owned parcels (or land holdings) with an area less than 2500m^2 , zoned for residential, business or industrial purposes. (Note, development on small lots will continue to be assessed under DCP Section A16 Preservation of Trees and Vegetation).
- Development on any sized lot within an established development envelope (eg. changes of use or additions to dwellings that do not increase the overall footprint of the development); or
- Public infrastructure by or on behalf of Council.

In relation to public infrastructure, Council's Engineering Division is currently developing a separate procedure to cover the environmental and biodiversity management outcomes for this work. The procedure will allow the unique characteristics of public infrastructure to be specifically addressed and provide a common framework for environmental assessment for a range of approval pathways relevant to the provision of public infrastructure (eg. SEPP Infrastructure, Part 4 or Part 5 of the Environmental Planning and Assessment Act 1979). The public infrastructure procedure is intended to also achieve the objectives within the Biodiversity DCP through adopting an overriding "maintain or improve" test.

What aspects of biodiversity does it cover?

In relation to proposals to establish or increase a development envelope, the Biodiversity DCP establishes specific objectives and development controls relating to the following individual "biodiversity themes":

- Bushlands and wetlands
- Wildlife corridors
- Threatened and significant species
- Koala habitat
- Waterways and riparian areas
- Flying fox camps
- Other key habitats (raptor nests, tree hollows etc.)
- Climate change.

In relation to managing the ongoing impacts of development, specific objectives and development controls are also included with respect to:

- Roads
- Fencing and barriers
- Noise and lighting
- Pest animals
- Domestic animals
- Environmental weeds.

Structure and Approach

The Biodiversity DCP has been prepared in five parts:

Part A Introduction - This part includes the overall aim, objectives and application of the plan, as well as contextual information explaining what biodiversity is, how the plan relates to other sections of the DCP, the Local Environmental Plan (LEP) and overarching legislation. Due to the potential operation of both the EP&A Act and the BC Act, there are two major assessment pathways which affect the level of biodiversity assessment and the information required to support a development application. A number of flowcharts are included to assist proponents to determine the appropriate legislative pathway. This part includes instructions on how to use the biodiversity section of the DCP including a set of biodiversity planning principles that underpin the provisions of the plan and which may be used to guide complex or novel development proposals.

Part B Defining the Development Envelope - This part involves identifying ecologically significant areas with the potential to influence the shape and form of a proposed development envelope. For each biodiversity theme (see above), the development controls focus on identifying "red flag" areas that need to be retained (ie. avoided and excluded from the development envelope). Depending on the scale and proximity of the proposed development, these retained areas may also need to be formally protected and/or managed to ensure their long term ecological viability. The plan provides details on how this is to occur.

Part C Managing Ongoing Impacts - Apart from the development envelope, adverse impacts on biodiversity values often arise from the construction or operation of the development itself which may put ongoing pressures on the ecological integrity of the surrounding landscape (eg. environmental weeds, habitat for exotic pest animals). Part C sets out acceptable outcomes to mitigate impacts arising from the development itself.

Part D Preparing the Development Application This part involves the collation and preparation of material required to support the development application. The level of

information required to accompany the DA is minimal for development that conforms to the standard development controls but “scales up” for non-conforming or complex proposals. In some cases (eg. assessments that trigger the BC Act) there are statutory assessment requirements that must accompany the development application. This part also makes reference to the large body of technical information to assist proponents to prepare their DAs. This includes guidelines, relevant plans and policies, indicative mapping, databases and other information.

Part E Dictionary - This part defines a number of terms that have specific meanings.

Main Features

Some of the main features of the Biodiversity DCP include the following:

- Focusses mainly on larger-scale development - This means that minor DAs with little environmental risk won't need to address the DCP. This should mean considerable cost savings for proponents who will no longer need to commission expensive ecological assessments for minor, small-scaled DAs. However, the DCP does allow for the provision of additional information should that be considered necessary.
- Covers all relevant aspects of biodiversity - The assessment of biodiversity impacts have often focussed only on specific statutory considerations such as for threatened species or koala habitat. This approach ignores many other aspects of biodiversity that should be considered under s4.5 (previously s79C) of the EP&A Act which more generally covers environmental impacts, the suitability of the site for development and the public interest.
- Provides clear guidance on the appropriate assessment pathways under the relevant legislation - With the introduction of the BC Act, the biodiversity assessment requirements vary with the type and scale of the presumed impacts on biodiversity values. The Biodiversity DCP provides guidance on the appropriate assessment pathway.
- Provides clear guidance on the types of habitat that should be retained (red-flagged areas) - These areas are generally consistent with various State government guidelines such as the Far North Coast Councils E zone review, various State Environmental Planning Policies (SEPPs) and the Office for Water Guidelines. Also, the new BC Act requires development proposals to “avoid or minimise” biodiversity impacts before allowing offsetting. The criteria for habitat retention used in the draft Biodiversity DCP responds to this requirement.
- Provides sufficient information to address various proposed LEP clauses relating to biodiversity - Due to Far North Coast Councils E zone review, various LEP clauses (Bushland, Steep Land, Riparian Lands etc.) proposed by Council were deferred from the current LEP 2014. The Biodiversity DCP provides sufficient information to support the intent of these clauses until the LEP is amended. Once the LEP is amended there may need to be some minor amendments to the DCP to better clarify the linkages between these two plans.
- Addresses the management of ongoing impacts associated with development - The Biodiversity DCP provides a number of standard controls to address the management of ongoing impacts across a range of areas (roads, fencing, weeds etc.).

- Provides a scaled approach to habitat protection and management requirements - The Biodiversity DCP explicitly addresses the nexus between scale of the development and the need to protect and manage other parts of the site likely to experience ongoing impacts of development that need to be protected and/or managed over the short, medium and/or long term.
- Clarifies the application of ecological setbacks and buffers - The Biodiversity DCP explicitly identifies “ecological setbacks” required to separate retained habitat from the development envelope. Where an ecological setback needs to be managed in a specific way it is treated as an “ecological buffer”. The Biodiversity DCP also clarifies how “development setbacks” such as bushfire asset protection zones may overlap with ecological setbacks and buffers.
- Allows for minor and other variations that provide sound ecological outcomes - Although the Biodiversity DCP is based on a number of standard development controls, they may be varied to achieve practical outcomes. Minor variations are expected to be commonly used. This approach provides flexibility without significantly compromising the expected ecological outcomes.
- Provides some worked examples of various development scenarios - A number of worked examples are presented to explain how the controls may be applied including the use of minor variations to standard conditions.
- Considerable technical support to assist proponents - The Biodiversity DCP will be supported by a substantial package of guidelines (eg. management plan requirements, survey guidelines), databases (eg. threatened species and environmental weed lists) and indicative mapping (eg. bushland, steep land, waterways) to assist in the preparation of the development application. This approach allows Council to easily update this information as necessary without having to amend the DCP itself.
- Integrates Tweed Coast Koala Plan of Management into the DCP - When adopted the Biodiversity DCP will formally include the development control aspects of Tweed Coast Koala Plan of Management. (The Tweed Coast Koala Plan of Management is an overarching strategy of Council which extends beyond development control).
- Reflects biodiversity outcomes achieved from contemporary *ad hoc* Council practice - The Biodiversity DCP yields similar ecological outcomes to those achieved over the last decade via the current *ad hoc* approach to biodiversity assessment of development proposals. However, it will formalise these contemporary standards and provide greater consistency and certainty.
- Streamlined assessment requirements for development that comply with standard controls - As noted previously, the level of information required to accompany a DA is minimal for development that conforms to the standard development controls but “scales up” for non-standard or complex proposals. This should considerably reduce assessment costs for proponents and discourage non-conforming proposals.
- Provides clarity and certainty for proponents and community - As noted above the clearly defined development controls contained in the Biodiversity DCP will serve to provide

greater certainty for all stakeholders (proponents, Council, community, State agencies etc.). The provisions will also protect individual Council staff from personal criticism and should assist in reducing conflict among proponents, the community and Council.

Preparation of the Biodiversity DCP

The Biodiversity DCP has been prepared by the Natural Resource Management (NRM) Unit in close consultation with a working group consisting of senior staff from NRM, Strategic Planning and Urban Design (SPUD), Development Assessment and Engineering and additional feedback from the Executive Management Team.

As most of the existing biodiversity related controls are currently included in the Subdivision Manual (Section A5 of the DCP) amendments to A5 will be necessary to avoid duplication. The review of A5 is currently being led by Engineering with support from NRM and SPUD.

Public Consultation

A comprehensive public exhibition was undertaken in accordance with Council's resolution of 21 September 2017. To ensure the Tweed community was given an opportunity to review and comment on the draft plan before its adoption by Council, a detailed communications plan was prepared in line with Council's Community Engagement Strategy (Attachment 2).

The exhibition, which commenced on Tuesday 21 October 2014, included a Council workshop, preparation and distribution of fact sheets, information stalls at local markets, web based information, presentations to key stakeholder groups, written notification to key stakeholders including community and ratepayer associations and individual consultations on request. The public exhibition period closed on 2 December 2014.

Outcomes of Public Exhibition

Eleven submissions were received as a result of the public exhibition. This included submissions from Office of Environment and Heritage, one environmental organisation, developers, internal Council stakeholders and a number of individuals throughout the Shire. Of the submissions received, six expressed support for the draft Biodiversity DCP and two were opposed.

The two submissions that opposed the draft Biodiversity DCP were both from large development proponents. In one case, the proponent's lands have been designated State Significant Development and approvals have been granted by the State Government. The Biodiversity DCP does not apply to State Significant Development although if it were applied it is likely to have yielded similar outcomes to the current approvals (ie. retention of most natural areas, setbacks and buffers to intense development and ongoing management of retained areas). Lands owned by the other objector are currently the subject of a major strategic planning review which if carried out in accordance with the outcomes already endorsed by Council, will be broadly consistent with the Biodiversity DCP.

Details of the issues raised in the submissions are contained in Attachment 3. Many of the issues raised resulted in improvements to the final plan (Attachment 1).

Considering the extensive public consultation carried out (including an extended 60 day consultation period; see Attachment 2), the relatively low number of public submissions received is considered likely to be due, at least in part, to a lack of general community opposition to the draft DCP (public submissions generally focus on issues of concern). It is

also likely that the technical (and perhaps abstract) nature of the content may have deterred some individuals from making a submission.

Finalisation of the Plan

In addition to changes arising from the public exhibition the finalisation of the plan has benefited from extensive further review in respect of the ways in which the DCP, which is made under the EP&A Act, interacts with the new BC Act. These amendments which have been informed by detailed independent legal advice, and extensive discussions among senior Council planning and NRM staff, legal specialists and senior OEH policy staff, involve further detailed explanation and flowcharts on how these Acts work including clear guidance on the appropriate assessment pathways.

Implementation

Once adopted by Council, the plan will be formally included as a separate section in Council's Tweed DCP 2008. This means that relevant development applications will be assessed against the provisions of the plan.

In accordance with the *Environmental Planning and Assessment Regulation 2000* the revised Biodiversity DCP also be publically notified and referred to Department of Planning and Environment.

OPTIONS:

1. Council adopts the revised Biodiversity DCP in accordance with the recommendations.
2. Council does not adopt the revised Biodiversity DCP.
3. Council seeks further amendment or clarification of the plan.

CONCLUSION:

Presently, biodiversity issues associated with developments are assessed on *ad hoc* basis, guided by statutory requirements, limited guidance from the existing DCP (particularly the A5 Subdivision Manual) and overarching policy directions from all levels of government. While this approach has generally yielded sound environmental outcomes, the draft Biodiversity DCP will greatly increase transparency for both proponents and the broader community by clearly defining acceptable ecological outcomes for development proposals.

The draft Biodiversity DCP also responds to the recently-commenced *Biodiversity Conservation Act 2016* which requires Council to determine what types of habitat should be retained prior to allowing biodiversity offsets.

COUNCIL IMPLICATIONS:

a. Policy:

Once adopted by Council, the Biodiversity DCP will be incorporated as a separate chapter into Council's overall Tweed DCP 2008.

b. Budget/Long Term Financial Plan:

Biodiversity issues associated with development proposals are currently assessed on an *ad hoc* basis. By providing greater clarity for proponents on the required information and the acceptable ecological outcomes, the Biodiversity DCP will streamline the assessment process by reducing the number of unacceptable proposals and time involved in requesting

further information. It is not expected that the plan will generate additional compliance costs. No negative impacts on the budget are anticipated.

c. Legal:

Once adopted, the Biodiversity DCP will represent Council policy on the assessment of biodiversity issues for development applications under Part 4 of the *Environmental Planning and Assessment Act 1979*. Unlike the LEP, the DCP is not a planning instrument and may be overridden at the discretion of Council.

d. Communication/Engagement:

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

See Attachment 2.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.	Tweed DCP - A19 Biodiversity and Habitat Management. Version 1.1 (11 August 2018; ECM 5458799)
Attachment 2	Communications Plan - Biodiversity DCP (ECM 5458332)
Attachment 3	Submissions Analysis - Biodiversity DCP (ECM 5458335)

20 [CNR-CM] Review of Dog Areas in Public Open Space - Updated Report

SUBMITTED BY: Recreation Services/Natural Resource Management/Regulatory Services

mhm



Leaving a Legacy
Looking out for future generations



Making decisions with you
We're in this together



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

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.
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.
2	Making decisions with you
2.2	Engagement
2.2.1	Animal Management - To provide effective and responsible care, management and public education for companion animals such as pet dogs and cats.
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:

Council has a legislative obligation under the *NSW Companion Animals Act 1998* to declare at least one public place as an off leash area, to ensure the effective management of dogs and promote responsible pet ownership in the Tweed Shire.

Community consultation undertaken in 2016 for Council's draft Open Space Strategy identified support for improving the provision of off leash dog areas. The community identified the importance of off leash areas and the effective management of dogs in the Tweed Shire. The provision of fenced, off leash areas in locations other than beaches and the need for increased enforcement were also identified, as was the need to improve the planning and siting of off leash areas.

In response to this feedback, an internal working group was established to provide advice on the improvement of existing off leash areas and the planning of additional areas as it pertains to legislation, policy, the management of public land and enforcement. This work has been compiled as *Guidelines for dog areas in public open space*. The intent of the guidelines is to provide standards, site criteria, design guidelines and a hierarchy for dog areas in public open space.

Council currently provides 14 off leash areas, comprising 10 in parks and reserves and 4 on beaches that were all established without reference to specific criteria. In preparing the guidelines, an evaluation of existing areas against the guideline criteria, environmental values including threatened species and their habitat, community input and a benchmarking activity with other councils was completed. This has resulted in proposed changes to the existing areas.

The guidelines identify three categories of dog areas in order to suitably reconcile recreational use, public safety, conservation of the natural environment and companion animal requirements.

In parks and reserves, Council provides specific areas for dogs to be off leash. All other areas are on leash or prohibited.

On beaches, creeks and headlands, suitable locations for dog areas have been identified through application of the criteria identified for each of type of area - permitted off leash, permitted on leash, and prohibited.

The proposed changes are anticipated to result in significant benefits to all beach users and the natural environment including:

- providing clearer and improved naming and descriptions that better align with readily identifiable landmarks including the existing emergency beach access naming protocol;
- standardised signage installed to ensure clarity of message and visibility from all critical locations;
- better alignment with major beach access tracks and associated parking areas;
- avoiding areas of high conservation significance including threatened species habitat, known roosting and nesting habitat for migratory and resident shorebirds and significant natural features such as headlands and estuaries;
- consistency with adopted management plans, policies and strategies such as the *Coastal Zone Management Plan for Tweed Coast Estuaries*.

The development and application of criteria for dog areas provides a strategic, consistent and objective method to identify appropriate areas for off and on leash areas, whilst maximising the protection of threatened and significant wildlife. It also ensures that recreational use of the beach can be managed to provide for all users through the identification, education and enforcement of the different categories of areas. The use of zones such as is proposed for dog areas is a standard and effective approach to multi-use of public open space.

RECOMMENDATION:

That:

- 1. Council endorses the public exhibition of the revised dog areas for 28 days with submissions to be received for a period of 42 days.**
- 2. A further report is brought back to Council following the exhibition of the revised dog areas detailing the outcomes of community and stakeholder consultation.**

REPORT:

Background

Council has a legislative obligation under the *NSW Companion Animals Act 1998* to declare at least one public place as an off leash area, to ensure the effective management of dogs and promote responsible pet ownership in the Tweed Shire

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

Whilst dog owners need suitable areas to exercise their dogs safely, other members of the community should also have the ability to use open space and recreational amenities without fear of harassment by uncontrolled dogs, and without their enjoyment of an area impacted by dog faeces and other nuisances.

The impact of domestic dogs on the natural environment, specifically of disturbance and the consequences for native wildlife is another matter of public concern. Numerous threatened and migratory species occur throughout Tweed Shire. The coastal zone including parks, foreshore reserves, beaches, estuaries dunes and headlands presents a specific challenge due to the prevalence of threatened species in an area with a high demand for recreational use.

Community consultation undertaken in 2016 for Council's draft Open Space Strategy identified support for improving the provision of off leash dog areas. More than 450 people responded to the 2016 Open Space Strategy Community Survey. 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 Shire and provided the opportunity to provide further comment.

The input received as a result of this consultation confirmed the importance of off leash areas and the effective management of dogs in the Tweed Shire. Improvements to the planning and siting of off leash areas, the provision of fenced off leash areas in locations other than beaches and the need for increased enforcement were also identified.

In response to this feedback, an internal working group was established to provide advice on the improvement of existing off leash areas and the planning of additional areas as it pertains to legislation, policy, management and enforcement. This work has been compiled as *Guidelines for dog areas in public open space*. The intent of the guidelines is to provide standards, site criteria, design guidelines and a hierarchy for dog areas in public open space. The guidelines are attached to this report to assist consideration of the recommendations herein.

A critical input to the development of the guidelines was a benchmarking activity involving evaluation of seven other municipalities' off leash areas. Neighbouring LGA's to Tweed were evaluated as well as other regional councils. The key issues identified through this process were:

- The importance of providing off leash areas to socialise dogs, especially for those living in units, apartments or small urban blocks.

- Providing an adequate number of off leash areas can reduce the instance of dogs off lead in other public places or prohibited areas, including bushland and beaches.
- Fenced off leash areas should be large enough to reduce conflict between dogs and to provide active and passive spaces within the fenced off leash area.
- The need to address dogs already unleashed before they enter the off leash area.
- Avoid providing additional off leash without considering the cost of development and maintenance and the enforcement required to ensure compliance with the rules of use.
- Consider providing a buffer between off leash dog areas and neighbouring residences.
- Dog's behaviour and temperament are important issues when planning fenced off leash areas.
- Signage, community education and enforcement are key to the success of off leash areas.
- Work in partnership with developers to provide off leash areas in new subdivisions.

Whilst undertaking the work leading to this report, Council installed improved signage at beach access points at Casuarina and Salt beaches in response to complaints about off leash dogs in this area. The signage is based on similar used in Ballina Shire and has resulted in improved compliance with the requirement to have dogs on leash at these beaches.

The signage and increased compliance activity resulted in Council receiving a petition calling for specific times of each day where dogs can be allowed off leash access at these beaches. Whilst it is acknowledged that this approach is used in other locations, it is not proposed for application in Tweed Shire as it:

- does not suitably address the impact on the environment, including threatened species. Given the ecological significance of the Tweed Coast, including large areas of retained and rehabilitated habitat, this proposal does not provide suitable protection for wildlife. There is no time based approach to providing off leash access that can satisfactorily avoid periods of wildlife activity, including the need to account for seasonal variation and breeding periods throughout the year.
- limits the use of the beach for other users at these times. The early morning and afternoons are periods of high demand for all beach users. Time based off leash access restricts access for some users, whereas area based allocation of off leash areas ensures that all users can use the relevant section of beach that suits their individual preference.

The recommendations herein are offered as a means to provide a suitable resolution of the range of issues involved with this matter, including minimising any negative impact to existing residents who purposefully settled in an area based on the current on or off leash status of the beach.

Council currently provides 14 off leash areas, comprising 10 in parks and reserves and 4 on beaches that were all established without reference to specific criteria. In preparing the guidelines, an evaluation of existing areas against the guideline criteria, environmental values including threatened species and their habitat, community input and a benchmarking activity with other councils was completed. This has resulted in proposed changes to the existing areas.

Proposed changes

The guidelines apply to all lands owned and/or managed by Council.

Two key categories of public land are identified for the purposes of the guidelines and unique criteria apply to each. The categories are parks and reserves; and beaches, creeks and headlands.

The guidelines identify three categories of dog areas in order to suitably reconcile recreational use, public safety, conservation of the natural environment and companion animal requirements. Suitable locations for dog areas have been identified through application of the criteria identified for each of the three types of area - permitted off leash, permitted on leash and prohibited.

This has resulted in proposed changes to the current off leash, on leash and prohibited areas. These changes are detailed in Attachment 1, including a mapped comparison of the current and proposed arrangements.

In parks and reserves, Council provides specific areas where dogs are permitted off leash. All other areas are only permitted on leash, unless sign posted otherwise, including where identified as a prohibited area in accordance with the *Companion Animals Act 1998*.

The proposed changes will result in an additional three permitted off leash areas in parks resulting in a more equitable distribution of areas throughout the Shire. Two of the existing off leash areas will be relocated to a nearby park. Further, the guidelines provided the criteria in which to assess future requests for off leash areas.

A summary of the proposed changes to permitted off leash areas for parks and reserves are provided below in Table 1 (current) and Table 2 (proposed). This includes two existing permitted off leash areas that are proposed for relocation to a nearby park. Table 3 identifies an additional two permitted off leash areas, which will only be considered if the proposed revised beach locations are not supported.

The guidelines provide the criteria on which to assess any further dog areas that are proposed in the future.

Table 1: Current off leash areas - parks and reserves

<i>Name</i>	<i>Description</i>	<i>Area</i>
Boyd's Family Park	Off Piggabeen Rd, Tweed Heads West	2.6 ha
Amaroo Park	Corner of Darlington Drive and Amaroo Drive, Banora Point	3.6 ha
Frangela Drive Reserve	Frangela Drive, Murwillumbah	2.5 ha
River Street Park	Between No. 73 and 89 River St, Murwillumbah	0.4 ha
Corowa Park	Corner of Chinderah Rd and Terrace St, Chinderah	0.5 ha
Turnock Street Park	Corner of Chinderah Road and Chinderah Bay Drive, Chinderah	1.1 ha
Lillie Park	End of Old Ferry Rd, Oxley Cove	0.7 ha
Bilambil Road Reserve	Corner of Naponyah Rd and Bilambil Rd, Terranora	1.0 ha
Bushland Drive Oyster Point Rd Park	Bottom of Bushland Drive, Banora Point	0.2 ha
Ducat Park	Ducat St, Tweed Heads	2.2 ha

Table 2: Proposed off leash areas - parks and reserves

<i>Name</i>	<i>Description</i>	<i>Area</i>
Boyd's Family Park	Off Piggabeen Rd, Tweed Heads West	2.6 ha
Frangela Drive Reserve	Frangela Drive, Murwillumbah	2.5 ha
River St Park	Between No. 73 and 89 River St, Murwillumbah	0.4 ha
Corowa Park	Corner of Chinderah Rd and Terrace St, Chinderah. It is proposed this off leash area will replace Turnock St Park (two off leash areas located within 100m)	0.5 ha
Lillie Park	End of Old Ferry Rd, Oxley Cove	0.7 ha
Bilambil Road Reserve	Corner of Naponyah Rd and Bilambil Rd, Terranora	1.0 ha
Bushland Drive Oyster Point Rd Park	Bottom of Bushland Drive, Banora Point	0.2 ha
Ducat Park	Ducat St, Tweed Heads	2.2 ha
Sweetnam Park	Kyogle Rd, Uki	0.3 ha
Banora Green	Darlington Dve, Banora Point. It is proposed this off leash area will replace Amaroo Park and be developed as a regional (fenced) off leash area.	4.7 ha
Suter Park or Arkinstall Park	Suter Park Dry Dock Road., Tweed Heads South or a section of Arkinstall Park (south of the playground), Cunningham St, Tweed Heads South. Council will consult with residents to identify the preferred location.	0.7 ha
Bray Park Reserve	Corner of Kyogle Rd and Tree St Murwillumbah	0.3 ha

Table 3: Possible permitted off leash areas as alternatives to proposed revised beach locations

Cotton Beach Park	Casuarina Way, Casuarina. This location will only be considered as permitted off leash following consultation with residents.	0.3 ha
Old Fingal Boat Harbour Park	Fingal Rd, Fingal Head. This location will only be considered if the current off leash dog area at Dreamtime Beach is removed as per the recommendations herein and subsequent public consultation.	0.4 ha

On beaches, creeks and headlands suitable locations for dog areas have been identified through application of the criteria identified for each of type of area - permitted off leash, permitted on leash and prohibited.

The proposed changes are anticipated to result in significant benefits to all beach users and the natural environment including:

- providing clearer and improved naming and descriptions that better align with readily identifiable landmarks including the existing emergency beach access naming protocol;
- standardised signage installed to ensure clarity of message and visibility from all critical locations;
- better alignment with major beach access tracks and associated parking areas;

- avoiding areas of high conservation significance including threatened species habitat, known roosting and nesting habitat for migratory and resident shorebirds and significant natural features such as headlands and estuaries;
- consistency with adopted management plans, policies and strategies such as the *Coastal Zone Management Plan for Tweed Coast Estuaries*

The Companion Animals Act specifies that when in any public place (other than an off leash or prohibited area), dogs must be on leash. The framework proposed herein for beaches, creeks and headlands provides on leash areas that complement the other categories and provide logical access to off leash areas. More than 11 kilometres of permitted on leash areas, distributed throughout the coastline in six locations are proposed.

There is an overall reduction 1240 m in the total length of permitted off leash area that is offset by the increased accessibility of the revised areas resulting from the better distribution of areas in relation to population centres.

A summary of the proposed changes to off leash areas for beaches, creeks and headlands are provided below in Table 3 (current) and Table 4 (proposed):

Table 4: Current off leash areas - beaches, creeks and headlands

<i>Name</i>	<i>Description</i>	<i>Length</i>
South Kingscliff Beach	From the boundary of Salt residential area north to the rockwall of Cudgen Creek	1700 m
South Fingal Head / Kingscliff Beach (Dreamtime Beach)	Access from Murphys Road Kingscliff to a point 0.5 km south of the beach access point at the Fingal Head quarry	2900 m
South Cabarita Beach (Maggies Beach)	200 m south of Norries Headland to a point one kilometre north of Cudgera Creek	1400 m
South Pottsville Beach	200 m south of the main bathing area at Pottsville Beach to 200 m north of Black Rocks	1850 m

Table 5: Proposed off leash areas - beaches, creeks and headlands

<i>Name</i>	<i>Description</i>	<i>Length</i>
Duranbah	Entire length of Duranbah Beach	490 m
Fingal north	From beach access track at Fingal Surf Club (FIN036) north to the extent as marked by signage	810 m
Kingscliff north	From beach access track opposite Ocean Street (KIN088) north to the beach access track at the northern end of Murphys Road (KIN077)	1080 m
Casuarina	From beach access track near the northern end of Cudgen Nature Reserve (Salt Casuarina Beach Access 21) north to the beach access track adjacent to Collins Lane Park (Salt Casuarina Beach Access 13). This is the north most point, south of the surf life saving club outpost with car parking availability.	1130 m
Cabarita south (Maggies Beach)	From beach access track closest to Big 4 North Star Holiday Resort Hastings Point (CAS210) north to beach access track known as 'Goanna Track' Cabarita Beach	1400 m
Pottsville south	From Black Rocks 1 (BR 1) beach access track north to Pottsville 11 (POT 11) beach access track	1700 m

The existing prohibited areas are proposed to be increased primarily to improve environmental outcomes by excluding dogs from creek mouths (estuaries), headlands and the beach areas adjacent to headlands. These areas are the most likely known and predicted locations for threatened and migratory coastal wildlife species. Both the *Coastal Zone Management Plan for the Tweed Coast Estuaries* (Hydrosphere 2013) and *Guidelines for the Management of Beach-nesting Birds on Tweed Coast Public Lands* (Wildsearch Environmental Services 2013) identify actions or recommendations to exclude dogs from these areas to protect important wildlife nesting, foraging and roosting habitat.

Threatened and significant species known to occur in these locations include Australian pied oystercatcher, beach stone-curlew, sooty oystercatcher, bar-tailed godwit, double-banded plover and fairy tern. The use of coastal areas for recreational activities including dog exercise is a key threat to these species. This can include direct impacts such as the trampling or crushing of eggs or chicks and death of eggs or chicks resulting from exposure or predation when adult birds abandon the nest as a result of disturbance. These threats exacerbate a range of other threats including the loss and modification of habitat from coastal development, weeds, erosion, higher tides and sea level rise.

Other significant wildlife species including sea turtles, swamp wallabies, bush stone curlews, glossy black cockatoo and raptors such as brahminy kite, white-bellied sea eagle and osprey also rely on the coastal zone for feeding and nesting and can be negatively impacted by inappropriate recreational use of these areas.

The proposed areas also seek to avoid locating on leash or off leash areas adjacent to areas zoned or managed for environmental protection. Alternative off leash areas are proposed to address the new prohibited areas proposed for South Kingscliff Beach (Sutherland Point) and South Fingal Head. Both of these current off leash areas provide habitat for threatened species and are located adjacent to areas of high environmental value that have been identified as potential environmental zones subject to application of criteria identified by the NSW Department of Planning and Environment's *Far North Coast E Zone Review*. The proposed areas overall do include some locations where permitted off leash or permitted on leash areas are located either partially or fully within areas identified as potential environmental zones. This has only been included where no viable alternative that suitably reconciles the criteria for all three categories has been able to be identified. Existing prohibited areas identified due to Nature Reserves (Cudgen, Wooyung and Billinudgel) are retained.

Locations near headlands also commonly correspond with public bathing areas which are also identified as prohibited areas by the Companion Animals Act (Section 14 (1) (d)).

Education and compliance

The guidelines specify standards for signage as a primary element for education and compliance. Standardised signage throughout the shire, which is suitably located to ensure visibility by open space users, is a critical aspect of the proposed approach. The significance of this issue is reflected in the inclusion of the ability to install logical and effective signage as a key criterion for proposed dog areas.

Publication of maps and supporting information on Council's website and smart phone application, and through the Tweed Link will also be essential once any of the proposed revisions are fully endorsed by Council.

It will also be critical to increase ranger presence, education and enforcement action where necessary after the initial notification and education phase. It is anticipated that through engaging in the public exhibition of the proposed revisions, notification and education of the outcomes of the review, installation of standardised and well located signage and an initial increase in ranger presence, that a high level of voluntary compliance can be achieved.

Community consultation and public exhibition

It is recommended that the proposed changes to dog areas in public open space are placed on public exhibition alongside the draft Open Space Strategy given their aligned subject matter, timing and target audience. Relevant material including comparative maps outlining the proposed changes, guidelines and supporting information will be displayed at Open Space Strategy Community Conversations in 14 locations across the Shire. In addition, a series of 'pop-up' information stands at key locations including Murwillumbah, Kingscliff Beach, Tweed Heads and Casuarina Beach; a dedicated project page on Your Say Tweed and a Stakeholder Forum including resident ratepayer, environment, business and industry groups is recommended to help affected communities understand the proposed changes and provide feedback. It is proposed that these community engagement initiatives will be supported by a digital marketing strategy, Tweed Link advertising and display posters featured at popular dog exercise areas, vets and pet/rural stores to raise awareness.

OPTIONS:

1. Endorse the public exhibition of the revised dog areas as recommended.
2. Not endorse the public exhibition of the revised dog areas

Option 1 is recommended

CONCLUSION:

The development and application of criteria for dog areas provides a strategic, consistent and objective method to identify appropriate areas for on and off leash areas, whilst maximising the protection of threatened and significant wildlife. It also ensures that recreational use of the beach can be managed to provide for all users through the identification, education and enforcement of the different categories of areas. The use of zones such as is proposed for dog areas is a standard and effective approach to multi-use of public open space.

COUNCIL IMPLICATIONS:

a. Policy:

Companion Animals Management Plan v1.0
Wildlife Protection Area Policy v2.0

b. Budget/Long Term Financial Plan:

There is a range of budget implications associated with the review of dog areas in public open space. These include with regard to signage, community education, compliance and the establishment and maintenance of the areas.

A detailed budget estimate will be prepared after the community consultation and public exhibition and reported to Council for consideration with any recommendation for the adoption of revised areas. This may include the requirement for a request for budget

variation if the costs associated with the proposed revision are unable to be met within existing operational budgets.

There is no existing budget allocation for fencing of any proposed permitted off leash areas in park and foreshore areas.

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.

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

Community consultation undertaken in 2016 for Council's draft Open Space Strategy identified support for improving the provision and management of off leash dog areas. The input received as a result of this consultation confirmed the importance of off leash areas and the effective management of dogs in Tweed. The need to improve the planning and siting of off leash areas, the provision of fenced, off leash areas in locations other than beaches and the need for increased enforcement were also identified, as was the need to improve the planning and siting of off leash areas.

In response to this feedback, an internal working group was established to provide advice on the improvement of existing off leash areas and the planning of additional areas as it pertains to legislation, policy, the management of public land and enforcement. The working group consisted of staff from Parks and Recreation Services, Regulatory Services and Natural Resource Management. This work has been compiled as the *Guidelines for dog areas in public open space*. The intent of the guidelines is to provide standards, site criteria, design guidelines and a hierarchy for dog areas in public open space. A Councillor workshop (June 2017) and report to the Executive Leadership Team (February 2018) have also occurred and outcomes integrated to the guidelines and recommendations presented herein.

The proposed communication and engagement approach should Council recommend that the proposed revisions are placed on public exhibition are detailed above at 'Community consultation and public exhibition'.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- | | |
|---------------|-----------------------------------------------------------------------------------------------|
| Attachment 1. | Guidelines for dog areas in public open space (ECM 5457460) |
| Attachment 2. | Summary table - proposed changes to dog areas on beaches (ECM 5457391) |
| Attachment 3. | Comparison maps - proposed changes to dog areas on beaches (ECM 5463688) |
| Attachment 4. | Summary table - proposed changes to dog areas in parks and reserves (ECM 5457483) |
| Attachment 5. | Comparison maps - proposed changes to dog areas in parks and foreshore reserves (ECM 5463672) |

21 [CNR-CM] Innovative Solutions Grant Program

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
- 1.1.4 Environmental Sustainability - To support Council, businesses and the community to achieve the best possible combination of environmental, social and economic outcomes.

ROLE: Collaborator Leader

SUMMARY OF REPORT:

At its meeting on 17 May 2018, Council resolved to “develop a funding stream up to \$60,000 similar to Council’s community sponsorship and events grants, for innovative solutions to waste, climate change, waterway and environmental challenges.”

This report details the Innovative Solutions Grant Program to assist individuals, organisations and community groups to develop new solutions to a range of current sustainability challenges facing Tweed Shire. The initiative leverages on some existing grant programs (as well as introducing new categories) to facilitate management, promotion and uptake of the grants.

RECOMMENDATION:

That:

1. Council adopts the Innovative Solutions Grant Program with a total cap of \$60,000 per annum.
2. The following grant categories and limits apply:
 - Water Demand Management - maximum \$15,000
 - Waste Management - maximum \$15,000
 - Sustainable Agriculture - maximum \$10,000
 - Wastewater Management - maximum \$10,000
 - River Health - maximum \$5,000
 - Biodiversity - maximum \$5,000

With individual application limits for each category applying in accordance with the requirements of those grant categories.

- 3. The Innovative Solutions Grant Working Group assesses applications as these are made, keeps track of the maximum expenditure and recommends those that meet the program criteria to Council for consideration.**
- 4. A report be prepared as part of the Annual Council Report outlining the projects and initiatives funded each year.**

REPORT:

Background

At its meeting on 17 May 2018, Council resolved to “develop a funding stream up to \$60,000 similar to Council’s community sponsorship and events grants, for innovative solutions to waste, climate change, waterway and environmental challenges.”

A workshop with staff from Engineering, Community and Natural Resources and Planning and Regulation met in June to discuss options to develop and implement the Innovative Solutions Grant Program, the criteria to be used and the assessment process.

This report outlines the Program including the objectives, eligibility criteria, assessment process and how it will be funded. The proposal is to launch Innovative Solutions Grant Program at the Sustainability Home Expo on 15 September 2018.

Innovative Solutions Grant Program

The Program is being introduced to encourage and support individuals, organisations and community groups to develop new, creative and innovative solutions to current sustainability challenges across waste management, climate change mitigation and adaptation, sustainable agriculture, water and wastewater management, biodiversity protection and river health management. The Program will provide funding of up to \$60,000 each year for innovative projects, research and initiatives or new ways of doing things that provide solutions to current sustainability challenges for the Tweed.

Council has made a strong commitment to embrace the principles of sustainability as evidenced in many of our policies and strategies. These include the Environmental Sustainability Prioritisation Strategy, commitment to the Global Covenant of Mayors, Renewable Energy Action Plan, Biodiversity and River Health Grants, Biodiversity Development Control Plan, Energy Smart Homes Policy, Integrated Water Management Strategy, Demand Management Strategy and Sustainable Agriculture Strategy.

This Program will encourage new ideas and thinking for solutions and new ways to tackle the complex and multifaceted challenges we face here in the Tweed given that we are a growing population within a very unique and bio diverse environment.

Eligibility and grant requirements

To be eligible for Innovative Solutions Grant Program funding applications need to address the following:

- A short project plan including scope, objectives, time frame, key deliverables, budget and sources of funding and in-kind contributions and how the outcomes will be communicated to the target audience.
- Specify under which Grant category the application is made:
 - Water Demand Management.
 - Waste Management.
 - Sustainable Agriculture.
 - Wastewater Management.
 - River Health.
 - Biodiversity.

- Letters of support will need to be provided to verify any agreed partnerships, other investors and in-kind contributions.
- The individual, organisation or community group submitting the application must reside in or have their main office in Tweed Shire.
- The project or initiative must operate within and provide outcomes for the Tweed.
- The applicant will need to satisfy the reporting requirements for the acquittal of Council funding.

Assessment Process

Project applications will be firstly assessed by the officer managing the grant category to determine that the project sits within the objectives and funding capacity of that program. For example, an application made for innovation within the Biodiversity Grant Program must demonstrate that innovation will contribute to the ecological priorities within Tweed Shire.

Potential projects will then be forwarded to the Innovative Solutions Grant Working Group for a secondary assessment to determine if the application meets the Innovative Solutions Grant Program criteria. Those meeting the criteria will be reported to Council for consideration and approval.

Sources of Funding

The following programs are actively engaged in promoting and encouraging best practice in the community across the range of sustainability issues relevant to Local Government.

- Waterways Management - River Health
- Water Demand Management
- Waste Management
- Biodiversity (flora and fauna)
- Sustainable Agriculture
- Water and wastewater management
- Economic development

Applications will specify the category to be assessed under. The funds allocated will be up to \$60,000 in any one year and do not roll over to the following year if the funds are not expended. Exceptional proposals may be funded across more than one category.

Risk Management

A risk management matrix is to be developed by the Innovative Solutions Grant Working Group for the governance and reporting requirements of the Program to assist in managing risks such as:

- Intellectual property rights
- Public safety
- Probity
- Whole of life costs
- Asset management

OPTIONS:

1. That Council launches the Innovative Solutions Grant Program at the Sustainability Home Expo on 15 September 2018 to be funded through the allocation of up to \$60,000 from existing funding sources and programs.

2. That Council does not launch the Innovative Solutions Grant Program and instead seeks further information.

CONCLUSION:

The proposed process outlined in this report uses existing programs and expertise to encourage, promote and assist funding innovative solutions to environmental, social and economic issues related to improved sustainability. This will further promote practical innovations and research on issues directly relating to sustainability within the Tweed community.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

\$60,000 per annum sourced from existing budgets and programs.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

The Innovative Solutions Grant Program will be promoted through various methods in accordance with the Community Engagement Strategy.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

22 [CNR-CM] Cities Power Partnership

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
- 1.1.4 Environmental Sustainability - To support Council, businesses and the community to achieve the best possible combination of environmental, social and economic outcomes.

ROLE: Collaborator Leader

SUMMARY OF REPORT:

Council has been invited to join the Cities Power Partnership (CPP), a free national program by the Climate Council. The program aims to celebrate and accelerate the emissions reduction and clean energy successes of Australian towns and cities.

RECOMMENDATION:

That Council joins the Cities Power Partnership program.

REPORT:

The Cities Power Partnership (CPP) is a free national program coordinated by the Climate Council - an independent non-profit organisation funded by donations by the public.

From the CPP website:

The Climate Council's mission is to provide authoritative, expert advice to the Australian public on climate change. The CPP program aims to celebrate and accelerate the emission reduction and clean energy successes of Australian towns and cities.

The CPP program focuses on transforming the way cities use and generate energy. Globally efficient and renewable power use in cities has the potential to deliver 70% of the total emissions reductions needed to stay on track for the 2 degrees limit set under the Paris Agreement (IEA 2016).

To date the CPP has engaged more than 250 towns, cities and rural shires throughout Australia, via local councils.

Participating in the program involves:

- a letter from the Mayor confirming our participation
- access to an online knowledge hub, communications guides and regular webinars to share relevant experiences with other participating councils
- nominating 5 actions to reduce emissions through renewable energy use, energy efficiency, low carbon transport, and advocacy
- buddying up with two other councils who share similar project areas of interest
- accessing the Power Analytics tool to track and monitor pledge projects' progress, financial and emissions outcomes
- receiving assistance with applications for project funding, grants and renewable energy incentives
- celebrating success stories in the media with support from the CPP media advisory team working with Council's communications team
- reporting on progress against actions in 6 monthly surveys
- attending the annual Power Partners Summit (Kiama, October 18 & 19).

CPP outlines 38 actions that participants can choose from.

OPTIONS:

The following actions align strongly with existing renewable energy, building design and street lighting work programs as well as recent Council resolutions. If Council supports joining the CPP, the following actions would be nominated based on alignment with existing commitments, potential benefit and resourcing implications:

Renewable Energy:

- Provide council resources to educate and support the uptake of renewable energy, such as by hiring an internal renewable energy support officer
- Install renewable energy (solar PV and battery storage) on council buildings for example childcare facilities, libraries, street lighting, recreation centres, sporting grounds and council offices
- Support community facilities accessing renewable energy through incentives, support or grants

Energy efficiency:

- Adopt best practice energy efficiency measures across all council buildings, and support community facilities to adopt these measures
- Public lighting can use a large proportion of a city's energy budget – roll our energy efficient lighting (particularly street lighting) across the municipality

CONCLUSION:

Informal feedback from Lismore City Council's participation in the CPP has highlighted the value of working together with other councils outside of the Northern Rivers region, particularly through the sharing of knowledge and resources, and leveraging the effective media reach of the CPP.

Participation in the CPP is recommended to bring greater resource sharing, support and acknowledgement for Council's efforts and commitment to progress action items that aim to reduce greenhouse gas emissions, improve energy efficiency and promote greater renewable energy uptake.

COUNCIL IMPLICATIONS:

a. Policy:

Renewable Energy Action Plan
Environmental Design Guideline

b. Budget/Long Term Financial Plan:

\$1500 from Council's Climate Change Fund to attend the annual conference.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

As the Cities Power Partnership actions relate predominantly to Council operations, the decision to become a member of the program has been considered by Council officers and management. Council's participation in the program will enable greater promotion of Council's climate leadership and action.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. CPP Pledges (ECM 5463390)

23 [CNR-CM] Pest Management Report - July 2017 to June 2018

SUBMITTED BY: Natural Resource Management

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
- 3.1.10 Pest Management - To manage and reduce the environmental and public health impacts of pest animals.

ROLE: Provider

SUMMARY OF REPORT:

This report outlines works undertaken by Council's Pest Management Program Area to control the impacts of nuisance biting insects (mosquito and midge), other insect species (Pandanus planthopper and termite) and vertebrate pest species (rodents, rabbits, Indian myna, cats, cane toads, foxes and wild dogs) in Tweed Shire for the period July 2017 to June 2018 (inclusive).

RECOMMENDATION:

That Council receives and notes the Pest Management Report - July 2017 to June 2018 and continues the scheduled works.

REPORT:

MOSQUITOES

Enquiries

There were 29 enquiries relating to mosquitoes during the reporting period.

Seasonal abundance

The most frequently caught mosquitoes in carbon dioxide baited mosquito traps were *Culex sitiens*, *Aedes vigilax* and *Culex annulirostris*.

Figures 1 and 2 below show numbers of mosquitoes trapped in carbon dioxide baited mosquito traps at sampling sites at Piggabeen, Terranora and Koala Beach during the report period.

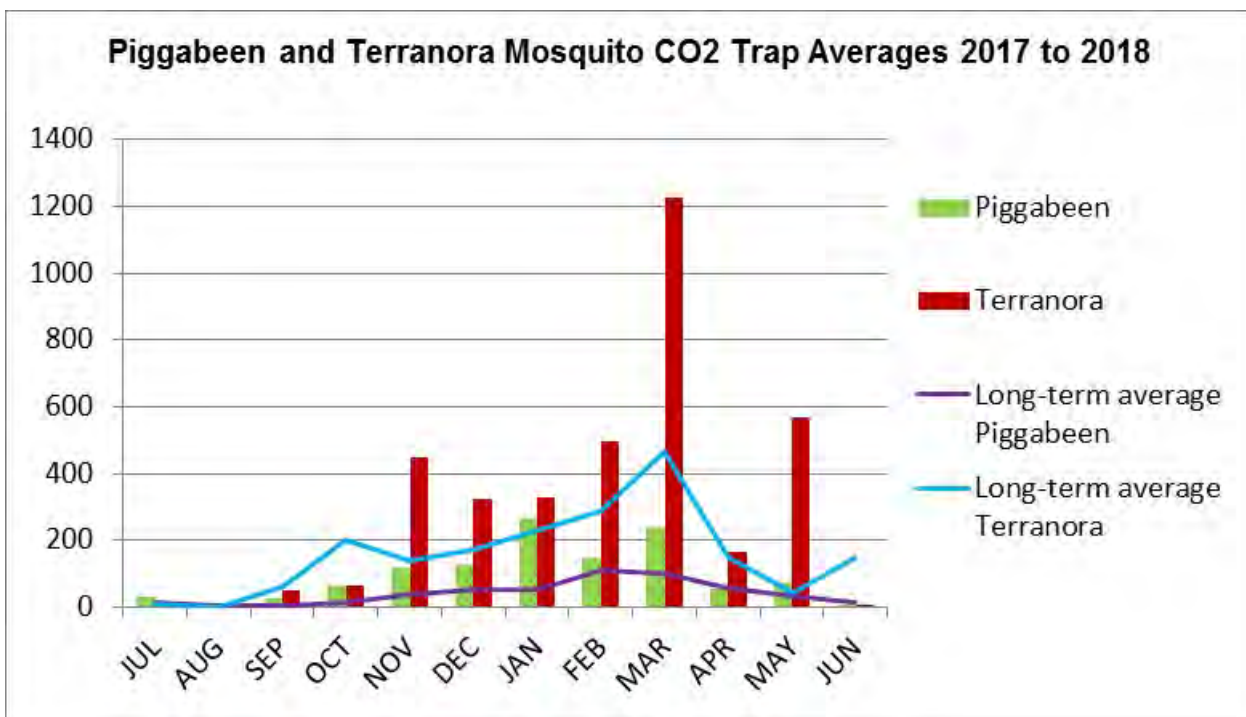


Figure 1: Results of mosquito trapping at Piggabeen and Terranora

As shown in Figure 1, results of Mosquito sampling during the reporting period were unremarkable, other than peak of Mosquito numbers in Terranora in March and May. This result is due to the high tides and extreme flooding events leading up to those months.

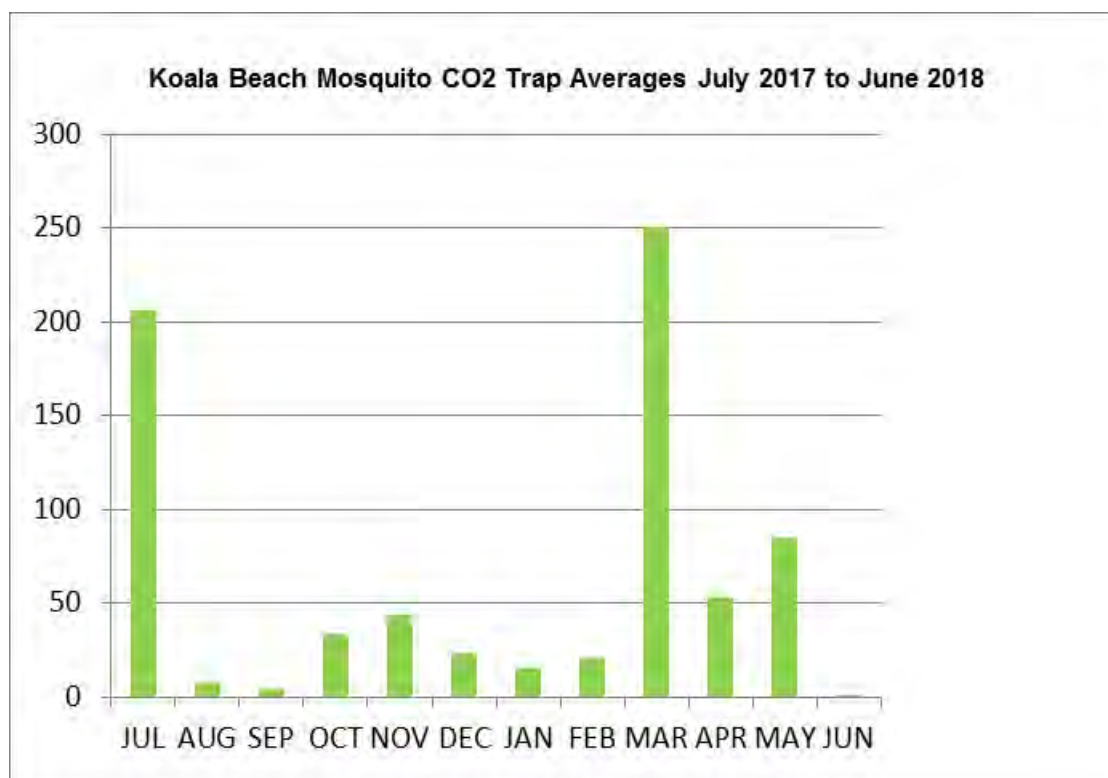


Figure 2: Results of mosquito trapping at Koala Beach Estate

Figure 2 shows that the mosquito numbers recorded during the reporting period are the second highest recorded in the four years of monitoring at this site. This result is due to the high tides and flooding events experienced leading up to those months.

Control Program

Council's mosquito control program focuses on controlling the larval stage of the mosquito lifecycle. Council uses two target specific products, one a biological larvicide and the other an insect growth regulator. These are described below.

Bacillus thuringiensis subsp. *israelensis* (Bti)

Bti is a larvicide which is ingested by the mosquito larvae, causing death within 24 hours. This larvicide is specific to mosquitoes and several other closely related flies. Bti poses no harm to other aquatic non-target organisms.

Methoprene

Methoprene is an insect growth regulator. Methoprene treated larvae are unable to successfully change from a pupa to an adult insect, breaking the biological life cycle of the insect. Methoprene is also specific in its action, posing no risk to fish, crabs, amphibians and water birds.

There were nine aerial mosquito larvicide treatments carried out over the report period using 1288kg of ProLink Prosand and 695.6L Vectobac 12AS, with a total of 901ha treated. **Table 1** below provides details on aerial treatments undertaken. Ground-based works used 92kg of ProLink Pellets and 766 ProLink briquettes.

Throughout the mosquito breeding season, aerial and ground-based treatments were carried out in response to mosquito hatches stimulated by tidal and rainfall events. The two main species of mosquito that were targeted through these control works were *Veralina*

funerea and *Aedes vigilax*. These species have the ability to transmit arboviruses, such as Ross River Virus and Barmah Forest Virus.

Arbovirus

There were 34 arbovirus notifications from Tweed Shire during the report period, 28 of Ross River Virus and six of Barmah Forest Virus. These reports were from both coastal and hinterland localities. This equates to a notification rate per 100,000 people of 37. **Figure 3** shows Tweed Shire arbovirus records for the report period against long-term averages.

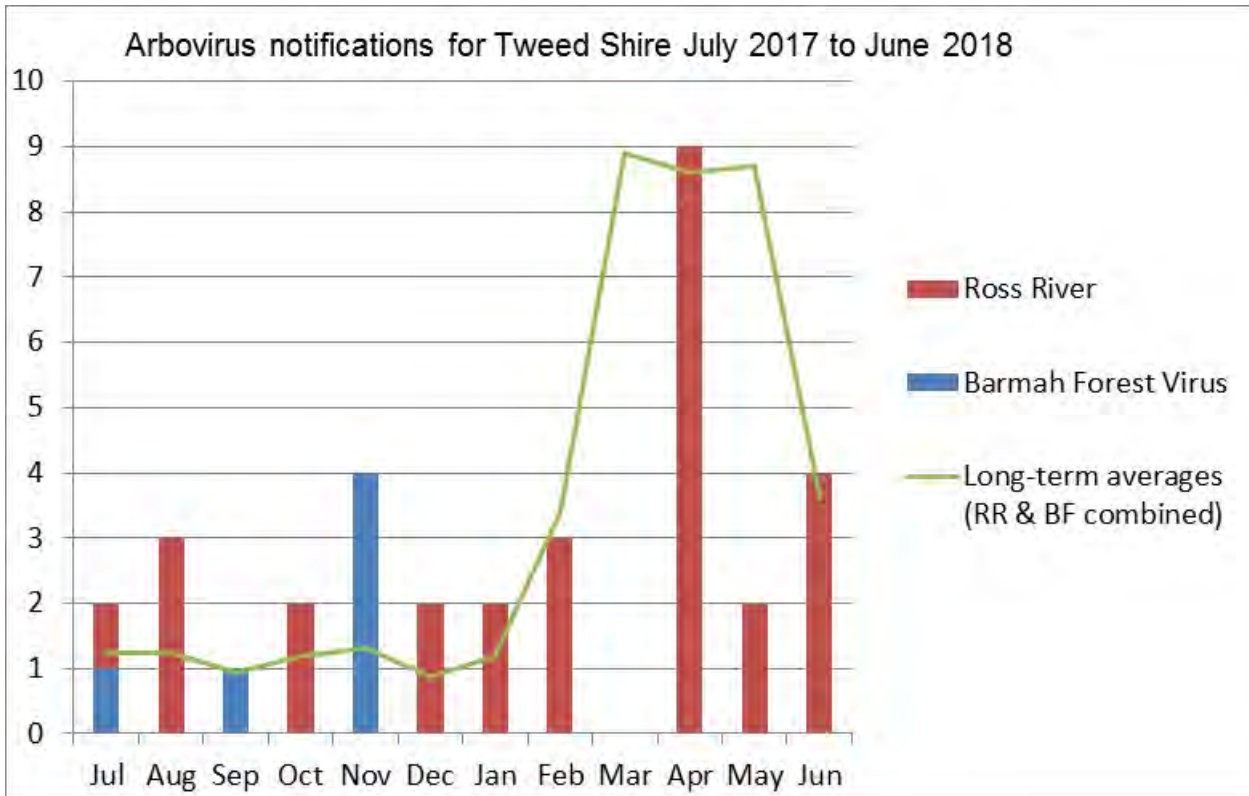


Figure 3: Arbovirus notifications in Tweed Shire from July 2017 to June 2018

Figure 3 shows that, overall, the number of arbovirus cases have exceeded long-term averages. A combination of high tide and flooding events, and extended periods of warm temperatures over the course of the reporting period provided ideal conditions for virus transmission.

Honey-baited Card Monitoring Program

Council uses a honey baited card program to monitor for mosquitoes carrying Ross River and Barmah Forest Virus. During the reporting period there was no isolates of Ross River and Barmah Forest Virus recorded at the three monitoring sites, being Piggabeen, Terranora and Koala Beach.

Exotic mosquito monitoring program

Council commenced an exotic mosquito monitoring program at the request of the Australian Government's Department of Agriculture and Water Resources in late 2015. This program monitors for presence of the Asian tiger mosquito (*Aedes albopictus*) and the Dengue and Zika carrying mosquito (*Aedes aegypti*). Council has four monitoring sites in close vicinity to the Gold Coast Airport. During the reporting period no mosquitoes were recorded at these sites.

Terranora mangrove breeding mosquito research project

Monitoring of the Mahers Lane mosquito breeding habitat modification site is ongoing. Monitoring comprises mosquito larval sampling and pH monitoring.

Exotic Mosquito Incursion Plan

Pest management staff continue to provide technical input as required into the preparation of an Exotic Mosquito Incursion Plan.

Mosquito Control Association of Australia Conference

The 13th Mosquito Control Association of Australia Conference will be held in the Tweed Shire at Peppers Salt Resort at Kingscliff from 2 to 5 September 2018. Council is a Silver Sponsor of this conference. Pest management staff are on the organising committee for this conference which will attract delegates from Australia and overseas.

BITING MIDGE

Enquiries

There were 20 enquiries relating to biting midges during the reporting period.

Seasonal activity

Canal breeding midge larval monitoring is undertaken at six sites at Tweed Heads and Banora Point being, Crystal Waters, Endless Summer, Blue Waters, Tweed Waters, The Anchorage and Oxley Cove.

At the end of the previous reporting period (October 2016 to June 2017) there had been an increase in midge larval numbers against long-term averages. Following treatment (refer below) midge larval numbers were below long-term averages for the remainder of the 2017/18 report period.

Control

At the beginning of this report period there was one control event implemented in conjunction with Gold Coast City Council. Areas treated were the Anchorage, Crystal Waters, Endless Summer, Blue Waters, Tweed Waters and Oxley Cove Estates. Good control results were achieved (>90% reduction in midge larval numbers).

Figure 4 (below) shows that midge larval numbers at monitoring sites between June 2017 to July 2018 were lower than the long-term (six year) average.

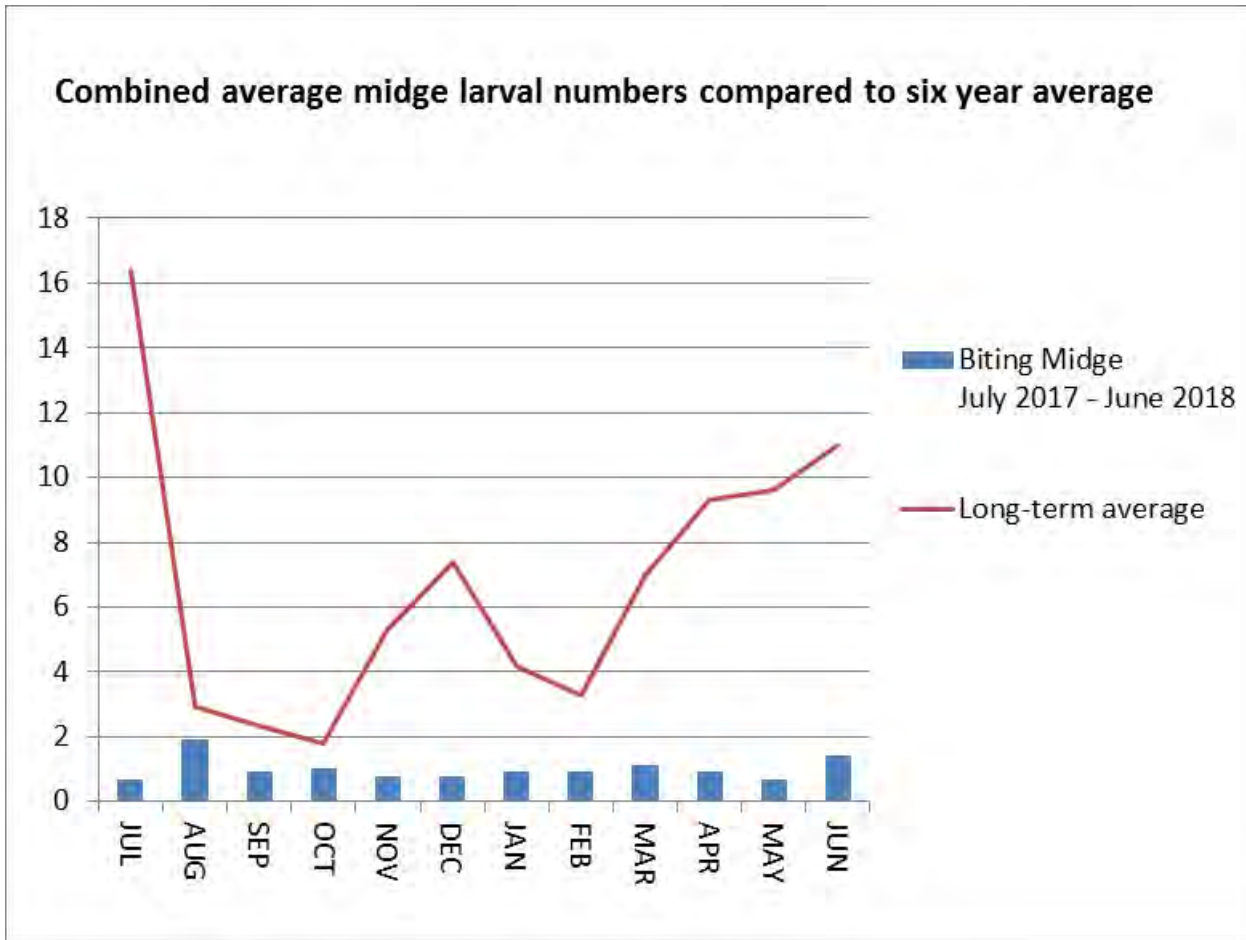


Figure 4: Biting midge larvae seasonal activity

OTHER PESTS

Enquiries and service requests from community

The most common enquiries relating to vertebrate pest species included Indian Myna, cats, foxes and rabbits. The most common enquiries relating to invertebrate pest species (other than mosquito and biting midge) related to Pandanus plant-hopper and ants.

Council Rodent Control

Rodent baiting and trapping has been carried out over the report period in Council buildings, around coastal holiday parks, water and sewerage treatment plants and pump stations.

Pandanus Plant-hoppers

Monitoring of Pandanus trees in coastal areas for plant-hopper related dieback continued during the report period.

In response to monitoring and reports from the public, 109 Pandanus trees were treated in the Fingal, Kingscliff, Casuarina, Bogangar and Pottsville areas. Monitoring of results from tree injection in the Fingal area from the previous reporting period has been positive, with trees responding well and showing new growth.

Termites

Inspection of 633 in-ground termite bait stations was carried out around Council owned buildings during the report period. No active termites were recorded in termite bait stations.

Yellow Crazy Ants

In May 2018, Yellow Crazy Ants (*Anoplolepis gracilipes*) were found at various sites within the Lismore Central Business District. This highly invasive exotic pest can build super colonies and seriously impact local fauna, agricultural production and ecosystems. In response to this exotic pest incursion, Pest Management staff made contact with Department of Primary Industries (Biosecurity and Food Safety) the lead agency in the control of the Yellow Crazy Ant infestation. The Department of Primary Industries provided key information on what to do if this exotic ant was found in the Tweed Shire. This information was provided to Contact Centre staff, NRM and Recreation Services staff and information was also provided to the community via the Tweed Link.

Community cage trap hire service

During the reporting period, the community cage trap hire service for Indian myna, rabbits and feral/stray cats was well subscribed to, with 23 cat, 21 rabbit, 19 Indian myna cage traps being lent to residents to trap these pest species on their properties.

Wild dog, fox and cat management

A Draft Operational Management Plan for Foxes on the Tweed Coast was developed to guide actions to reduce the impact of foxes on native fauna. This plan covers all Council managed bushland on the Tweed Coast. This plan will be finalised by December 2018.

An operational plan for the management of wild dogs, foxes and cats on NRM managed lands at Mount Nullum is also in preparation.

Monitoring of wild dogs, foxes and cats to inform control programs benefitting high conservation NRM lands and conservations assets (ie. susceptible threatened fauna) has been undertaken on the Tweed Coast at Fingal and between Round Mountain and Pottsville and also at Mount Nullum. At Tweed Coast sites, monitoring has revealed wild dog and cat activity to be low to very low, with fox activity to be variable between sites and seasons. In response to monitoring, the following fox control programs have been undertaken.

Three rounds of 1080 ground baiting in the Round Mountain to Pottsville area was undertaken during this reporting period, with rounds of baiting undertaken in August/September 2017, December 2017 and June/July 2018.

Three trapping programs were undertaken in November 2017 at Fingal Head, Hastings Point and Pottsville.

A comprehensive fox den fumigation program along the Tweed Coast was also undertaken between July and September 2017.

The primary purpose of fox control programs on the Tweed Coast are to protect the Endangered Bush Stone-curlew and threatened nesting shorebirds during the breeding season and other susceptible native fauna.

Monitoring suggests that fox control programs over the reporting period have been effective, with camera monitoring showing a reduction in fox activity towards the end of the reporting period. These programs have been funded through externally funded grant programs and to a lesser degree within Council's existing budget.

Pest management staff have also assisted with two other vertebrate pest control programs, being wild dog and fox control programs at the Eviron quarry and landfill site and at Mount Nullum and surrounding private properties.

Grant funded projects

The Environmental Trust Education project 'Love Cats Love Wildlife' continued throughout the report period and the Environmental Trust project "Working together to protect threatened fauna at Fingal" is close to completion. Both projects have been very successful in engaging the community in conservation and responsible pet ownership. Both grant projects are contributing to a free community event at Kingscliff in July 2018 called "Love Pets Love Wildlife".

The Public Reserves Management Fund Program for the "Monitoring and On-ground Management of Foxes and Rabbits" wrapped up during this report period. Outputs from this project included draft operational management plans for foxes and rabbits on the Tweed Coast, rabbit and fox control in the Tweed Coast Crown Reserve and an educational package developed and implemented for responsible ownership of pet rabbits.

OPTIONS:

1. That this report be received and noted.
2. That this report be received and noted and that further information requested on particular aspects of the program.

CONCLUSION:

Overall, on-ground works undertaken within the reporting period have achieved the objectives of; 1) controlling the nuisance and health impacts of biting insects (mosquito and midge) to Tweed Shire residents; 2) minimising the impact of pest species (termite and rodents) on Council infrastructure; 3) minimising impacts of vertebrate and invertebrate pests on biodiversity (wild dog, fox, Indian Myna, rabbit, cat and Pandanus planthopper); and 4) supporting Tweed Shire residents with pest enquiries and service requests.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Works are undertaken through the allocated pest management budget or through grant funded programs.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

All pest control works will be undertaken in accordance with Council's Pesticide Notification Plan and relevant legislation.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Details of aerial treatment undertaken during June 2017 to July 2018
(ECM 5463161)

24 [CNR-CM] Declaration of Wildlife Protection Areas

SUBMITTED BY: Natural Resource Management

mhm



Leaving a Legacy
Looking out for future generations



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.1 Natural Resource Management
- 1.1.4 Environmental Sustainability - To support Council, businesses and the community to achieve the best possible combination of environmental, social and economic outcomes.
- 2 Making decisions with you
- 2.2 Engagement
- 2.2.1 Animal Management - To provide effective and responsible care, management and public education for companion animals such as pet dogs and cats.

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

SUMMARY OF REPORT:

Council adopted the Wildlife Protection Area Policy in November 2017. In accordance with this Policy, and as per the NSW *Companion Animals Act* 1998 (CA Act), Wildlife Protection Areas (WPAs) are public places set apart for the protection of native animals and their habitats. Council can prohibit cats and dogs from public lands declared as a WPA for the purpose of wildlife protection.

In a report to Council in April 2018, three WPAs were proposed in accordance with this Policy. The three proposed WPAs were declared as Category 1 lands under the CA Act, meaning cats and dogs would be prohibited. Declaration of these areas were justified due to their; very high conservation significance; management for conservation outcomes; and consistency with their current dog and/or cat prohibited status.

Council endorsed the proposed WPAs, identified as Koala Beach, Pottsville Environment Park and Pottsville Wetland (south) and approved placing them on public exhibition.

Proposed WPAs were placed on public exhibition from 21 May 2018 until 17 June 2018. Twenty submissions were received from a range of individuals and organisations. Detailed analysis of the submissions including how the issues raised have been addressed is provided as an attachment to this report.

Seventeen of the twenty submissions clearly supported the declaration of WPAs. A further two submissions did not state they supported declaring proposed areas as WPAs. However they clearly inferred that protection of wildlife was essential and recognised the importance of flora and fauna conservation. Only one submission raised concerns that WPAs failed to address animal equality, particularly with regard to free-living cats.

Submissions received through the exhibition process demonstrate strong support for proposed declarations. Public education, monitoring and enforcement of cat and dog prohibition in WPAs were consistently considered by respondents as important to ensuring they achieve their aim of protecting native fauna from the impacts of domestic pets. Additionally, numerous respondents indicated their support for inclusion of other high conservation reserves and/or areas where native wildlife are seriously impacted by domestic pets as WPAs.

These comments will be taken into account during the implementation of these and future WPAs.

RECOMMENDATION:

That Council declares Koala Beach, Pottsville Environment Park and Pottsville Wetland (south) as Wildlife Protection Areas in accordance with Council's Wildlife Protection Areas Policy (November 2017).

REPORT:

Council adopted the Wildlife Protection Area Policy at its meeting of 16 November 2017. In accordance with this Policy, and as per the NSW Companion Animals Act 1998 (CA Act), Wildlife Protection Areas (WPAs) are public places set apart for the protection of native animals and their habitats. Council can prohibit cats and dogs from public lands declared as a Wildlife Protection Area for the purpose of wildlife protection.

Under the WPAs Policy, areas can be declared as one of two categories:

- Category 1 lands prohibit both cats and dogs as per S.30 c.1(b) and S.14 c. 1(h) of the NSW CA Act.
- Category 2 lands prohibit cats as per S.30 c.1(b) of the NSW CA Act. Dogs that are on a leash will be permitted on formed tracks, pathways or roads in Category 2 lands.

Criteria for the identification of candidate areas include:

- Known records of relevant species (known to be susceptible to the impacts of domestic dogs or cats) or their habitat.
- Evidence of the occurrence of domestic dogs or cats on the public land.
- Ability to identify and signpost the declaration area in accordance with legislative provisions.

Upon endorsement by Council, proposals will be publicly exhibited for a minimum of 28 days.

Three Wildlife Protection Areas were proposed in a report to Council at its meeting of 19 April 2018. Proposed WPAs are shown in **Figure One** and identified as:

- Koala Beach;
- Pottsville Environment Park; and
- Pottsville Wetland (south).

An assessment was provided on how each of the proposed WPAs met the criteria as outlined in the Policy. A summary is provided below.

- All areas provide important habitat for numerous fauna species that are susceptible to predation and/or disturbance by cats and/or dogs. This includes seventeen fauna species listed as threatened under the NSW *Biodiversity Conservation Act 2016* and/or Federal *Environment Protection and Biodiversity Conservation Act 1999*.
- Domestic dogs and cats, whether alone or accompanied by an owner have been recorded at all of the proposed WPAs.
- All proposed areas have prominent access/entry points which can be readily signposted. These points have been mapped to ensure any persons using these areas are informed that cats and dogs are prohibited. Signage will also be displayed at regular intervals on the perimeter of WPAs where deemed necessary. Signage will define the areas as a WPA and its operation under the CA Act.

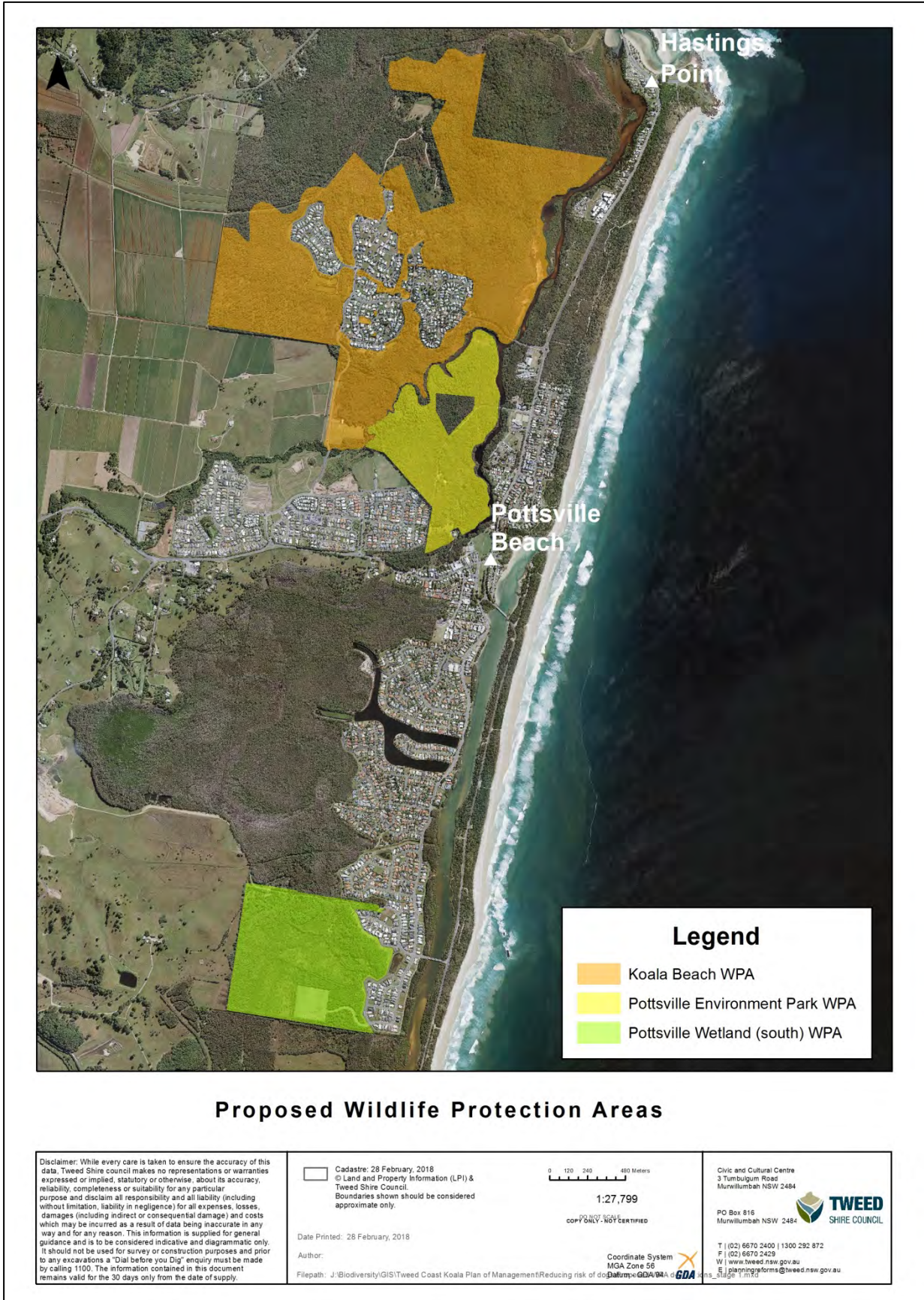


Figure One: Wildlife Protection Areas (WPA)

At its April meeting, Council endorsed the proposed WPAs and authorised placing them on public exhibition for a minimum of 28 days. The public exhibition period extended from Monday 21 May 2018 to Sunday 17 June 2018, with the exhibition period advertised through the Tweed Link and Council's website. A range of stakeholder groups were also notified of the proposal and the exhibition period and staff were available to respond to requests for further information or clarification.

Twenty submissions were received from a range of individuals and organisations. Analysis of the submissions including how the issues raised have been addressed is provided as an attachment to this report.

Seventeen of the twenty submissions clearly supported the declaration of WPAs. A further two submissions did not state they supported declaring proposed areas as WPAs. However they clearly inferred that protection of wildlife was essential and recognised the importance of flora and fauna conservation. Only one submission raised concerns that WPAs failed to address animal equality, particularly with regard to free-living cats.

Submissions received through the exhibition process demonstrate strong support for proposed declarations. Public education, monitoring and enforcement of cat and dog prohibition in WPAs were consistently considered by respondents as important to ensuring they achieve their aim of protecting native fauna from the impacts of domestic pets. Additionally, numerous respondents indicated their support for inclusion of other high conservation reserves and/or areas where native wildlife are seriously impacted by domestic pets as WPAs.

These comments will be taken into account during the implementation of these and future WPAs.

Following formal adoption by Council, WPAs will not come into effect for 30 days from the date of adoption. Declared WPAs will be listed, including a map, on Council's website as pending and as declared following the 30 day period.

In addition to signage and listing on Council's website, Council will also communicate information about declared Wildlife Protection Areas via the Tweed Link, social media and to relevant community and user groups.

OPTIONS:

1. That Council declares Koala Beach, Pottsville Environment Park and Pottsville Wetland (south) as Wildlife Protection Areas in accordance with Council's Wildlife Protection Areas Policy (November 2017).
2. That Council does not declare Koala Beach, Pottsville Environment Park and Pottsville Wetland (south) as Wildlife Protection Areas.

CONCLUSION:

Three Wildlife Protection Areas are proposed under Council's WPAs Policy, identified as Koala Beach, Pottsville Environment Park and Pottsville Wetland (south). As demonstrated previously to Council, proposed areas adequately meet the assessment criteria outlined in the Policy with declarations further justified due to the high conservation value, current

management for conservation outcomes and consistency with the current status and usage of these areas.

Proposed WPAs were placed on public exhibition from 21 May 2018 until 17 June 2018. Twenty submissions were received from a range of individuals and organisations during this period. Submissions demonstrated strong support for proposed declarations but also support for the use of WPAs to protect native fauna from the impacts of domestic animals at other high conservation Council reserves.

COUNCIL IMPLICATIONS:

a. Policy:

The proposal is consistent with the following existing Council policies:

- Wildlife Protection Areas Policy 2017
- Compliance Policy 2017
- Companion Animals Management Plan 2010
- Tweed Coast Comprehensive Koala Plan of Management 2015

b. Budget/Long Term Financial Plan:

Declaration of WPAs will result in costs associated with communications, community engagement, signage and enforcement. Amendment of existing signage will be undertaken where possible. All other costs can be met through existing operational budgets.

c. Legal:

WPAs are a provision under the NSW *Companion Animals Act 1998*. Under this Act Council can prohibit cats and/or dogs from public lands for the purpose of wildlife protection.

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*.

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

Inform - We will keep you informed.

The proposed WPA declarations were placed on public exhibition from 21 May 2018 until 17 June 2018. Exhibition involved:

- Public notification of the exhibition period via the Tweed Link, Media Release and the Tweed Shire Council website.
- Direct engagement in response to requests for further information or clarification.
- Specific notification of the exhibition to key stakeholder groups including the Pottsville Community Association, Pottsville Community Dunecare, Tweed Valley Wildlife Carers, Caldera Environment Centre, Northern Rivers Birdlife and Team Koala.

During the development of the WPAs Policy and this proposal for three WPA declarations, consultation has been undertaken with the following internal stakeholders; Compliance Unit, Recreation Services Unit and Communications and Customer Experience Unit.

Following formal adoption by Council, WPAs will not come into effect for 30 days from the date of adoption.

Declared WPAs will be listed, including a map, on Council's website as pending and as declared following the 30 day period.

In addition to signage and listing on Council's website, Council will also communicate information about declared WPAs via the Tweed Link, social media and to relevant community and user groups.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Wildlife Protection Area Declaration Submissions Analysis (ECM 5452373)

Attachment 2. Wildlife Protection Area Policy (ECM 4861448)

25 [CNR-CM] Park Naming - Banora Point

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 15 February 2018 Council resolved to call for comments regarding the proposed name change of Banora Green to John Baker Reserve in accordance with Council's Policy for Naming of Public Parks.

At the close of the exhibition period, no submissions were received.

RECOMMENDATION:

That Council renames Banora Green to John Baker Reserve and erects signage.

REPORT:

At its meeting held 15 February 2018 Council resolved to call for comments regarding the proposed name change of Banora Green to John Baker Reserve in accordance with Council's Policy for Naming of Public Parks.

At the close of the exhibition period, no submissions were received.

OPTIONS:

1. Rename Banora Green to John Baker Reserve and erects signage.
2. Take no action.

CONCLUSION:

The proposal and process is consistent with Council's 'Naming of Public Parks Policy' and therefore implementation as per the recommendation is appropriate.

COUNCIL IMPLICATIONS:

a. Policy:

Naming of Council Public Parks and Sportsfields v2.0.

b. Budget/Long Term Financial Plan:

\$400 new park sign manufacture and install. Funded within annual parks operational budget

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

The proposed name change was advertised in accordance with the 'Naming of Public Parks Policy'.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM THE DIRECTOR ENGINEERING

26 [E-CM] RFO2016114 Kingscliff Foreshore Revitalisation Construction Works - Project Completion Variations Report

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
- 3.3.2 Construction Services - To manage the construction of Council assets such as transport, drainage, water supply and other infrastructure.

ROLE: **Provider**

SUMMARY OF REPORT:

On 15 December 2016 Council resolved to award contract RFO2016114 to SEE Civil Pty Ltd to perform construction activities for the Kingscliff Foreshore Revitalisation Construction Works for the amount of \$14,096,635.41 exclusive of GST.

The old Kingscliff Beach Holiday Park southern amenities caretaker's building and Community Hall were assessed in a Conservation Management Plan as having a high conservation value and hence need to be preserved and reused in such a manner as to preserve the identified heritage values. As they are old buildings in an exposed coastal environment, the investigation, design and reconstruction costs were significant, and much greater than would be anticipated for a new build.

Based on all approved variations for the overall project (including the Community Buildings upgrades which was approved by Council to proceed as a cost plus variation to the head contract on the 5 October 2017), total variations 001-066 total an additional \$3,078,132.65. Savings from the original contract schedule total -\$280,887.45 which provides an adjusted total revised contract sum of \$16,893,880.61 exclusive of GST.

RECOMMENDATION:

That:

1. **The approved variations, amounting to \$3,078,132.65 (exclusive of GST) and the savings of -\$280,887.45 from the schedule of rates for Contract RFO2016114 Kingscliff Foreshore Revitalisation Construction Works be received and noted.**

2. **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:

Contract Background

On 15 December 2016 Council resolved to award Contract RFO2016114 to SEE Civil Pty Ltd to perform construction activities for the Kingscliff Foreshore Revitalisation Construction works for the amount of \$14,096,635.41 (exclusive of GST).

A progress report was submitted to Council on 5 October 2017 to update the variation status of the contract and to seek approval to award the old Kingscliff Beach Holiday Park southern amenities, caretaker's building and Community Hall to the Principal Contractor, SEE Civil, as a cost plus variation to their current contract. This proposal was accepted

Since that report to Council further approved variations (including the Community Buildings) have been incurred during the construction process. Total variations are \$3,078,132.65 with savings from the original contract schedule of -\$280,887.45 which provides an adjusted total revised contract sum of \$16,893,880.61 (exclusive of GST) at practical completion of the project.

These additional costs were due to changes in design, omissions in details and additional scope of works being carried out at the construction stage.

The old Kingscliff Beach Holiday Park southern amenities and caretaker's buildings were assessed in a Conservation Management Plan as having a high conservation value and hence a need to be preserved and reused in such a manner as to preserve the identified heritage values. The requirement to retain and refurbish these buildings was not anticipated in the original project scoping and budget. The proposed reuse of these buildings is for amenities to serve the new Central Park and a Visitor Information Centre (VIC).

As they are old buildings in an exposed coastal environment, the investigation, design and reconstruction costs were significant, and much greater than would be anticipated for a new build.

A summary of approved variations 001–066 and savings from the contract schedule is provided in **Confidential Attachment 1**.

OPTIONS:

Not applicable.

CONCLUSION:

That Council receives and notes the variations at practical completion amounting to \$3,078,132.65 (exclusive of GST) and savings from the original contract schedule value of -\$280,887.45 providing an adjusted total revised contract sum of \$16,893,880.61 (exclusive of GST) for Contract RFO2016114 Kingscliff Foreshore Revitalisation Construction works.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.6.

b. Budget/Long Term Financial Plan:

The total budget available to complete this project is \$21,413,400 inclusive of construction, design and project management. The projected varied contract sum for RFO2016114 is within the budget.

The project budget included an allocation of \$212,500 for the community hall upgrade. The balance of building works for the amenities and visitor information centre will be funded by savings realised from the project including the Holiday Parks commitment as reported to the Tweed Holiday Reserves Trust at its meeting held 18 August 2017.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. RFO2016114 Kingscliff Foreshore Revitalisation
Construction Works - Project Completion Variations Report
(ECM5447389).

(Confidential) Attachment 2. RFO2016114 Kingscliff Foreshore Revitalisation
Construction Works - Project Completion Variations Report -
062 066 Recommendation Memo (ECM5447826).

27 [E-CM] Policy - Reduction of Water Related Charges due to Undetectable Leakage

SUBMITTED BY: Water and Wastewater

nhm



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:

The objective of Council's Reduction of Water Related Charges due to Undetectable Leakage is to provide financial relief to owners where significant excess water consumption is recorded without fault or negligence on the owner's behalf and the owner has acted quickly to rectify the problem once it is realised.

The current policy only allows **one** adjustment per property. There have been a number of recent representations from property owners, whose applications have been denied under the current policy, requesting us to review the policy.

The entitlement conditions of the policy have been revised as summarised below:

- Entitlement per property account has been changed from one adjustment per property water account to two adjustments in five years.
- Entitlement for multi-unit strata properties now allows two adjustments in five years per individual strata property and two adjustments in five years for common property.
- Reductions in sewer usage and liquid trade waste charges associated with the adjusted water consumption are now considered in the policy.
- Otherwise minor wording and syntax changes.

The Policy has also been renamed to – *Reduction of Water Related Charges due to Undetectable Leakage* to reflect the inclusion of associated sewer usage and liquid trade waste charges.

RECOMMENDATION:

That Council:

- 1. Places on public exhibition the draft Reduction of Water Related Charges due to Undetectable Leakage v3.0 and advertises the draft policy for 28 days allowing 42 days for submissions.**
- 2. Prepares a subsequent report to Council, summarising any submissions received and including a final draft of the Policy for formal adoption by Council.**

REPORT:

Council most recently adopted the Reduction of Water Consumption Charges due to Undetectable Leakage Policy v2.1 on 19 June 2017. The objective of the Policy is to provide financial relief to owners where significant excess water consumption is recorded without fault or negligence on the owner’s behalf and the owner has acted quickly to rectify the problem once it is realised.

Under the entitlement conditions in the current policy, an adjustment for leakage per property water account shall only be granted **once** per property owner. A new property owner may apply for adjustment only after five (5) years from the date of the previous owner’s adjustment.

There have been a number of recent representations from property owners, whose applications have been denied under the current policy, requesting us to review the policy.

In preparing the revised policy, Council recently undertook some research into similar policies at other Councils:

<u>Council</u>	<u>Policy</u>
Cairns Regional Council.....	2 applications in 5 years
Gold Coast City Council	1 application in a 3 year period
Queensland Urban Utilities.....	1 application in 3 years
Coffs Harbour Council.....	1 application in 5 years
Ballina Shire Council	no limit on number of applications but Step 1 rate is still applied to the water lost and is payable by the customer
Byron Shire Council	1 application per property/owner and no reduction of water consumption charges, only reduction of sewer usage component as Byron charge residential customers sewer usage.

Once water has passed through any water meter it becomes the responsibility of the person to whom the property is rated. However, as an act of good faith after listening to the community, the entitlement conditions of the policy have been revised as summarised below:

- Entitlement per property account has been changed from one adjustment per property water account to two adjustments in five years.
- Entitlement for multi-unit strata properties now allows two adjustments in five years per individual strata property and two adjustments in five years for common property.

- Reductions in sewer usage and liquid trade waste charges associated with the adjusted water consumption are now considered in the policy.
- Otherwise minor wording and syntax changes.

The Policy has also been renamed to – *Reduction of Water Related Charges due to Undetectable Leakage* to reflect the inclusion of associated sewer usage and liquid trade waste charges.

The table below outlines the number of applications approved and denied in the last two years, and estimates the cost to Council if a 2nd application per property is approved:

Financial Year	Accepted	Denied	Proposed revised entitlement conditions under policy v3.0
2017/2018	<p>369 Approved applications.</p> <p>Total adjustments granted \$423,310.56</p> <p>Average adjustment cost: \$1147.18</p>	<p>55 Applications Denied.</p> <p>24 – 2nd Application for property</p> <p>21 – not eligible</p>	<p>If 2nd application per property approved additional cost to Council based on average adjustment estimated \$27,532.32</p>
2016/2017	<p>440 Approved applications.</p> <p>Total adjustments granted \$311,100</p> <p>Average adjustment cost: \$707.35</p>	<p>66 Applications Denied.</p> <p>36 – 2nd Application for property</p> <p>30 – not eligible</p>	<p>If 2nd application per property approved additional cost to Council based on average adjustment estimated \$25,453.80</p>

Because the revised Policy has been renamed and there are significant changes in the entitlement conditions, it should be placed on public exhibition prior to finalisation and adoption by Council.

OPTIONS:

- Council endorses the public exhibition of the Draft Reduction in Water Related Charges due to Undetectable Leakage Policy v3.0.
- Council does not endorse the public exhibition of the Draft Reduction in Water Related Charges due to Undetectable Leakage Policy v3.0.

CONCLUSION:

The Reduction in Water Related Charges due to Undetectable Leakage Policy v3.0 has been revised in response to community feedback. It provides greater scope for adjustments related to second applications, multi strata units and related sewer usage and liquid trade waste charges.

COUNCIL IMPLICATIONS:

a. Policy:

Reduction of Water Consumption Charges due to Undetectable Leakage v2.0

b. Budget/Long Term Financial Plan:

Revenue estimated that the additional cost of allowing a second adjustment would be around \$25,000/a. This will be borne by the Water Fund.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Draft Policy - Reduction in Water Related Charges due to Undetectable Leakage Policy v3.0 (ECM 5448557)

28 [E-CM] Coastal Cycleway Lighting Contract

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: **Provider**

SUMMARY OF REPORT:

This item was listed on the Council Agenda for meeting held 2 August 2018 however the assessment criteria was not available for it to be considered as a late item at this meeting. This data will be available for Council meeting of 16 August 2018.

The Request for Offer RFO2018073 Overhead Cycleway Lighting System has been called to engage a suitably qualified and experienced contractor from the open market to design, install and commission a new overhead lighting system along the beachside cycleway between Salt and Casuarina.

The offer was uploaded on Tweed Shire Council's website and advertised as per the requirements of the Local Government Regulation 2005. The offer closed on 18 July 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 16 August 2018.

RECOMMENDATION:

That Council considers an addendum report for RFO2018073 Overhead Cycleway Lighting System, Design and Install.

REPORT:

As per Summary of Report.

OPTIONS:

Not applicable.

CONCLUSION:

Not applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.6.

b. Budget/Long Term Financial Plan:

To be determined.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

29 [E-CM] B-Double Applications - Meeting held 26 July 2018

SUBMITTED BY: Director

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 B-Double Routes Agency Advisory Group meeting held 26 July 2018 are reproduced in the body of this report for the information of Council.

The Committee queried whether the 19.5m PBS vehicles that were currently operating on our road network at 50t without a road authority approval were doing so lawfully.

The National heavy Vehicle Regulator (NHVR) has provided advice to Council that PBS truck and dog trailers up to 20 metres in length and up to 50.5 tonnes can operate on Tweed Shire Council general access roads without a road authority permit because Tweed Shire Council roads have a blanket approval for PBS Level 1 vehicles in accordance with the Class 2 Heavy Vehicle Authorisation Notice 2016 (No. 1) and a copy of the Notice is an attachment to this report.

RECOMMENDATION:

That:

1. **The Minutes of the B-Double Routes Agency Advisory Group meeting held 26 July 2018 be received and noted.**
2. **Tweed Valley Way, Chinderah to 144 Smiths Creek Road, Smiths Creek Consent Request No 162822r2v1 (ECM 5408052)**

That:

- i. Council notes the advice from the National Heavy Vehicle Regulator that PBS truck and dog trailers up to 20 metres in length and up to 50.5 tonnes can operate on Tweed Shire Council general access roads without a road authority permit.**

- ii. The application (NHVR Consent Request Number 162822r2v1) for the use of an up to 20 metres PBS 3 axle truck and 4 axle dog trailer up to 57t on Tweed Valley Way, Chinderah to 144 Smiths Creek Road, Smiths Creek is supported, subject to a written assessment of the structural integrity of road assets as per 25m B-Double route requirements.**

REPORT:

The Minutes of the B-Double Routes Agency Advisory Group meeting held Thursday 26 July 2018 are reproduced as follows for the information of Councillors:

Minutes of the B-Double Routes Agency Advisory Group Meeting held Thursday 26 July 2018

Venue:

Mt Warning Meeting Room, Murwillumbah Civic & Cultural Centre, Tumbulgum Road, Murwillumbah

Time:

9.30am

Present:

Cr Chris Cherry, Cr James Owen, Snr Constable Chris Davis (NSW Police), Mr Col Brooks on behalf of Mr Thomas George MP (Member for Lismore), Mr Rod Bates on behalf of Mr Geoff Provest MP, (Member for Tweed), Ms Linda Makejev and Ms Katherine Boulton via teleconference on behalf of Mr Joshua Buckham (Roads and Maritime Services of NSW Representative)

Informal:

Ms Alana Brooks (Chairperson), Mr Danny Rose, Ms Linda Cooper (Minutes)

Apologies:

Mr Thomas George MP (Member for Lismore), Mr Geoff Provest MP, (Member for Tweed), Mr Josh Buckham (Roads and Maritime Services of NSW Representative), Cr Pryce Allsop, Cr Reece Byrnes, Cr Ron Cooper, Cr Katie Milne, Cr Warren Polglase, Mr Ray Clark, Ms Judith Finch, Mr Nick Tzannes

Minutes of Previous Meeting:

RESOLVED that the Minutes of the B-Double Routes Agency Advisory Group meeting held Thursday 24 May 2018 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Nil.

Agenda Items:

1. Tweed Valley Way, Chinderah to 144 Smiths Creek Road, Smiths Creek Consent Request No 162822r2v1 (ECM 5408052)

An application has been received to use a 19.5 metre 57t Performance Based Standards (PBS) 3 axle truck and 4 axle dog trailer to travel from Tweed Valley Way, Chinderah to Hardings Quarry at 144 Smiths Creek Road, Smiths Creek. The route is via Kyogle Road.

The applicant is already using these trucks to service the quarry at 50t capacity. At this weight they can lawfully operate on "general access" roads without a permit. This

application is for the trucks to operate at 57t. Structures along this route have not been assessed for load capacity.

Danny Rose advised that bridges on the route would be checked for spans and axle spacings.

Senior Constable Chris Davis queried whether the company is operating under approval from the National Heavy Vehicle Regulator (NHVR). Alana Brooks will seek clarification from NHVR that the trucks have approval to operate at 19.5m.

RECOMMENDATION FROM ADVISORY GROUP:

That:

1. Clarification is obtained from the National Heavy Vehicle Regulator that the trucks have approval to operate at 19.5m.
2. The application (NHVR Consent Request Number 162822r2v1 for the use of an up to 20 metres PBS 3 axle truck and 4 axle dog trailer up to 57t on Tweed Valley Way, Chinderah to 144 Smiths Creek Road, Smiths Creek is supported, subject to a written assessment of the structural integrity of road assets as per 25m B-Double route requirements.

General Business:

Nil.

Next Meeting:

The next meeting of the B-Double Routes Agency Advisory Group will be held as and when required.

The meeting closed at 9.44am.

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

1. **Tweed Valley Way, Chinderah to 144 Smiths Creek Road, Smiths Creek Consent Request No 162822r2v1 (ECM 5408052)**

The National heavy Vehicle Regulator (NHVR) has provided advice to Council that PBS truck and dog trailers up to 20 metres in length and up to 50.5 tonnes can operate on Tweed Shire Council general access roads without a road authority permit because Tweed Shire Council roads have a blanket approval for PBS Level 1 vehicles in accordance with the Class 2 Heavy Vehicle Authorisation Notice 2016 (No. 1) and a copy of the notice can be found in the body of this report.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

1. **Tweed Valley Way, Chinderah to 144 Smiths Creek Road, Smiths Creek Consent Request No 162822r2v1 (ECM 5408052)**

That:

1. Council notes the advice from the National Heavy Vehicle Regulator that PBS truck and dog trailers up to 20 metres in length and up to 50.5 tonnes can operate on Tweed Shire Council general access roads without a road authority permit.
2. The application (NHVR Consent Request Number 162822r2v1 for the use of an up to 20 metres PBS 3 axle truck and 4 axle dog trailer up to 57t on Tweed Valley Way, Chinderah to 144 Smiths Creek Road, Smiths Creek is supported, subject to a written assessment of the structural integrity of road assets as per 25m B-Double route requirements.

OPTIONS:

Council has the option to approve or not approve B-Double higher mass limit applications however it must provide reasons if the application is not approved.

CONCLUSION:

Officers have reviewed the B-Double Routes Agency Advisory Group recommendations and concur with their advice.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Nil.

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.

Government Gazette Notice - Heavy Vehicle National Law -
Class 2 Heavy Vehicle Authorisation Notice (ECM 5466537).

REPORTS FROM THE EXECUTIVE MANAGER FINANCE, REVENUE AND INFORMATION TECHNOLOGY

30 [FRIT-CM] Six Monthly Progress Report as at 30 June 2018

SUBMITTED BY: Financial Services

mhm



Making decisions with you
We're in this together



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.2	Engagement
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 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 30 June 2018 (The first financial year for the 2017/2021 Delivery Program) 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 30 June, 2018.

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 fourth quarterly report and the second six monthly report on the progress of the 2017/2018 plan (The first financial year for the 2017/2021 Delivery Program) and following adoption by Council will be made available via the Integrated Planning and Reporting Framework page on Council's website.

OPTIONS:

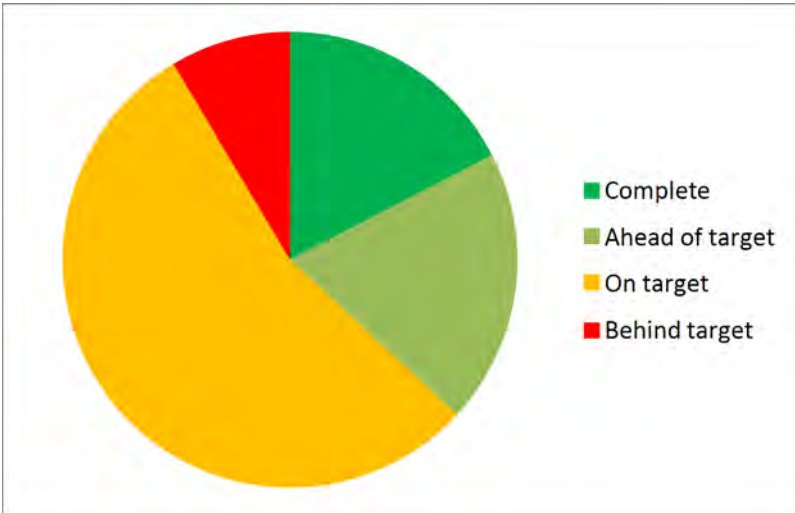
Not Applicable.

CONCLUSION:

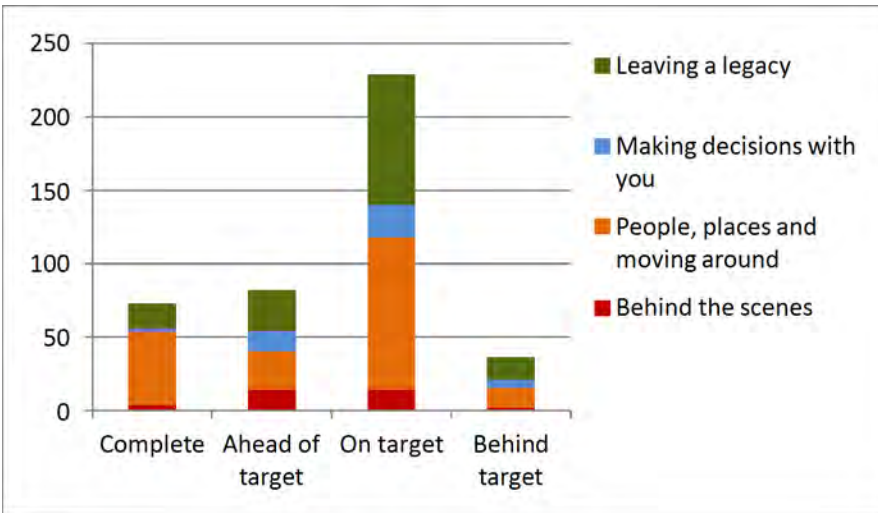
Overall Progress

Overall, 91% 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 30 June 2018 ECM
5468924.

31 [FRIT-CM] Monthly Investment Report for Period Ending 31 July 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:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested. The Executive Manager Finance, Revenue and Information Technology, 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 **\$311,187,147** invested as at **31 July 2018** and the actual net return on these funds was **\$859,774** or **3.31%** 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 July, 2018 totalling \$311,187,147 be received and noted.

REPORT:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested. The Executive Manager Finance, Revenue and Information Technology, 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 **\$311,187,147** invested as at **31 July 2018** and the accrued net return on these funds was **\$859,774** or **3.31%** annualised for the month.

1. Ethical Investments

 Ethical Financial Institutions
\$151,417,557 which represents 48.66% of the total portfolio

Source: Australian Ethical

2. Economic Commentary

Australian and World Economy and Cash Rate

At its meeting today, the Reserve Bank of Australia (RBA) Board decided to leave the cash rate unchanged at 1.50 per cent.

The global economic expansion is continuing. A number of advanced economies are growing at an above-trend rate and unemployment rates are low. Growth in China has slowed a little, with the authorities easing policy while continuing to pay close attention to the risks in the financial sector. Globally, inflation remains low, although it has increased in some economies and further increases are expected given the tight labour markets. One uncertainty regarding the global outlook stems from the direction of international trade policy in the United States.

Financial conditions remain expansionary, although they are gradually becoming less so in some countries. There has been a broad-based appreciation of the US dollar over recent months. In Australia, money-market interest rates are higher than they were at the start of the year, although they have declined somewhat since the end of June. These higher money-market rates have not fed through into higher interest rates on retail deposits. Some lenders have increased mortgage rates by small amounts, although the average mortgage rate paid is lower than a year ago.

The Bank's central forecast for the Australian economy remains unchanged. GDP growth is expected to average a bit above 3 per cent in 2018 and 2019. This should see some further reduction in spare capacity. Business conditions are positive and non-mining business investment is continuing to increase. Higher levels of public infrastructure investment are also supporting the economy, as is growth in resource exports. One continuing source of uncertainty is the outlook for household consumption. Household income has been growing slowly and debt levels are high. The drought has led to difficult conditions in parts of the farm sector.

Australia's terms of trade have increased over the past couple of years due to rises in some commodity prices. While the terms of trade are expected to decline over time, they are likely to stay at a relatively high level. The Australian dollar remains within the range that it has been in over the past two years.

The outlook for the labour market remains positive. The vacancy rate is high and other forward-looking indicators continue to point to solid growth in employment. Employment growth continues to be faster than growth in the working-age population. A further gradual decline in the unemployment rate is expected over the next couple of years to around 5 per cent. Wages growth remains low. This is likely to continue for a while yet, although the improvement in the economy should see some lift in wages growth over time. Consistent with this, the rate of wages growth appears to have troughed and there are increased reports of skills shortages in some areas.

The latest inflation data were in line with the Bank's expectations. Over the past year, the CPI increased by 2.1 per cent, and in underlying terms, inflation was close to 2 per cent. The central forecast is for inflation to be higher in 2019 and 2020 than it is currently. In the interim, once-off declines in some administered prices in the September quarter are expected to result in headline inflation in 2018 being a little lower than earlier expected, at 1¾ per cent.

Conditions in the Sydney and Melbourne housing markets have continued to ease and nationwide measures of rent inflation remain low. Housing credit growth has declined to an annual rate of 5½ per cent. This is largely due to reduced demand by investors as the dynamics of the housing market have changed. Lending standards are also tighter than they were a few years ago, partly reflecting APRA's earlier supervisory measures to help contain the build-up of risk in household balance sheets. There is competition for borrowers of high credit quality.

The low level of interest rates is continuing to support the Australian economy. Further progress in reducing unemployment and having inflation return to target is expected, although this progress is likely to be gradual. 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.

Source: RBA Monetary Policy Decision

Council's Investment Portfolio

Council's investment portfolio is conservatively structured in accordance with NSW Office of Local Government guidelines with approximately 81% 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 has increased as overseas wholesale funding alternatives become more expensive in conjunction with a rising interest rate outlook. Concurrently, Australian Prudential Regulation Authority (APRA) imposed mortgage lending restrictions is crimping bank demand for depositors funds. Banks are also using debt issuance (bonds) as a less expensive source of funds than term deposits.

Conversely, APRA regulations increasing the amount of capital required to be held by banks is also marginally increasing bank demand for depositors' funds.

Many "cash at call" rates are 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 benefited this month from some longer-dated, higher yielding bonds nearing maturity and recently purchased short-term term deposits. As longer-dated bonds and term deposits mature they are being replaced with high yielding, short-term deposits. Overall, the investment portfolio has returned a weighted average 0.99% pa above the 90 day UBS bank bill index for the last month.

3. Investment Summary

General Fund

Corporate Fixed Rate Bonds	4,061,180.00	
Floating Rate Notes	55,326,298.50	
Asset Backed Securities	0.00	
Fund Managers	0.00	
Term Deposits	87,999,999.00	
Call Account	8,799,940.00	156,187,417.50

Water Fund

Term Deposits	63,000,000.00	
Fund Managers	0.00	63,000,000.00

Sewerage Fund

Term Deposits	92,000,000.00	
Fund Managers	0.00	92,000,000.00

Total Investments		311,184,417.50
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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

Executive Manager
Finance, Revenue & Information Technology
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:

Attachment 1.

Investment Report Pack1 July 2018 to 31 July 2018 (ECM 5471154)

REPORTS FROM THE EXECUTIVE MANAGER PEOPLE, COMMUNICATION AND GOVERNANCE

32 [PCG-CM] Local Government NSW Annual Conference - Motions

SUBMITTED BY: Corporate Governance

mhm



Leaving a Legacy
Looking out for future generations



Making decisions with you
We're in this together

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.
- 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: **Advocate**

SUMMARY OF REPORT:

The Local Government NSW Annual Conference is being held 21 – 23 October 2018 in Albury. Tweed Shire Council, as a member, is able to put forward motions to be considered at the conference. Motions are required to be submitted by 12 midnight AEST Sunday 26 August 2018.

RECOMMENDATION:

That Council submits the following motions for consideration at the Local Government NSW 2018 Annual Conference.

1. Pensioner Rebates – Review of limits and level of subsidy

That Local Government NSW requests the State Government to fund an increase in the Concessions for pensioners legislated under Section 575 of the Local Government Act 1993 (NSW).

2. Superannuation for Councillors

That LGNSW requests the State Government to consider introducing Superannuation contributions in addition to Councillor fees as the remuneration levels of Councillors in NSW is considered inadequate given the increasing complexity of various legislative frameworks and assessments; diversity of functions and the time commitments involved.

3. Recycled Products and Procurement

- i) That LGNSW work with the State and Commonwealth Governments to establish mandatory components of recycled products such as glass bottles and concrete.
- ii) That LGNSW lobby State and Commonwealth Governments to work with Local Government and that all three tiers of Government adopt procurement guidelines and purchasing policies that foster market development for recycled products.

4. Privilege (Parliamentary) within Council Meetings

That LGNSW requests the State Government to consider affording parliamentary privilege at Council meetings for Councillors.

5. Homelessness – Additional Social Housing

That LGNSW lobby the NSW State Government to address homelessness as a State issue that requires a strategic targeted response across the continuum of crisis, short term and longer term solutions.

6. Psychological Injury Claims

That Local Government NSW advocate for changes to the Workers Compensation Act as it relates to Psychological Injuries.

REPORT:

Motions

LGNSW has advised that proposed motions should be strategic, affect members state-wide and introduce new or emerging policy issues and actions. Council is also encouraged to review the resolutions and outcomes of last year's conference.

Furthermore, LGNSW has recently revised the policy framework consisting of Policy Principles and Position Statements. Members should consider how proposed motions adhere to the policy principles or provide strong justification for a proposed motion which seeks to change LGNSW policy.

The following criteria is required to be met for motions to be included in the Business Paper for the Conference:

1. Consistent with the objects of the Association (see Rule 4 of the Association's rules);
2. Relate to Local Government in NSW and/or across Australia;
3. Concern or are likely to concern Local Government as a sector;
4. Seek to advance the Local Government policy agenda of the Association and/or improve governance of the Association;
5. Have a lawful purpose (a motion does not have a lawful purpose if its implementation would require or encourage non-compliance with prevailing laws);
6. Clearly worded and unambiguous in nature; and
7. Do not express preference for one or several members over one or several other members.

Council must also provide evidence of its support for the motion. Such evidence may include an extract of the minutes of the meeting at which the Council resolved to submit the motion for consideration by the Conference.

Below is a list of the motions that have been tabled along with a summary of the accompanying information to be submitted to LGNSW as part of the application process.

1. Pensioner Rebates – Review of limits and level of subsidy

That Local Government NSW requests the State Government to fund an increase in the Concessions for pensioners legislated under Section 575 of the Local Government Act 1993 (NSW).

The council rates and charges rebate concession hasn't increased for a considerable period of time, while rates have increased substantially therefore decreasing the real value of this concession to pensioners. In order to address this loss in real value, Tweed is proposing that the concession be increased. The concession reflects a state policy therefore any future increases should be fully funded by the State Government.

2. Superannuation for Councillors

That LGNSW requests the State Government to consider introducing Superannuation contributions in addition to Councillor fees as the remuneration levels of Councillors in NSW

is considered inadequate given the increasing complexity of various legislative frameworks and assessments; diversity of functions and the time commitments involved.

Whilst Councillor fees are determined by NSW Local Government Remuneration Tribunal, Tweed Shire Council calls for the remuneration levels of Councillors to be subject to the additional superannuation guarantee amount of 9.5% as is the case in Victorian Local Government.

3. Recycled Products and Procurement

i) That LGNSW work with the State and Commonwealth Governments to establish mandatory components of recycled products such as glass bottles and concrete.

ii) That LGNSW lobby State and Commonwealth Governments to work with Local Government and that all three tiers of Government adopt procurement guidelines and purchasing policies that foster market development for recycled products.

A recent decision by the People's Republic of China to impose a ban on waste imports to China significantly adversely affected Australia's recyclables market. Councils can improve the market for recyclables in Australia by adopting procurement guidelines and purchasing policies that foster market development for recycled products. Supporting the use of recycled materials will improve markets for recyclables and reduces the need to source virgin material.

4. Privilege (Parliamentary) within Council Meetings

That LGNSW lobbies the State Government to consider affording parliamentary privilege at Council meetings for Councillors.

Webcasting of Meetings and Audio recording of meetings – with the possible inclusion of these parts, in the Model Code of Meeting Practice council is advocating that all councillors and staff be afforded the equivalent of parliamentary privilege (similar to federal and state politicians) during debate at council meetings. It is noted by Council that the Minister for Local Government has previously stated that Parliamentary Privilege is an essential component for State Parliamentarians and therefore should be afforded to Local Government councillors.

5. Homelessness – Additional Social Housing

That LGNSW lobby the NSW State Government to address homelessness as a State issue that requires a strategic targeted response across the continuum of crisis, short term and longer term solutions.

Homelessness is exacerbated by social issues, social welfare cuts, social housing waitlists, housing affordability and unavailability of crisis, short-term and appropriate affordable housing options. There is a requirement to address affordable housing options that are appropriate for a range of people in different situations at different times as needs change. There needs to be an increase in the number of funding to homelessness support services for targeted groups as the current supply does not meet the current demand. There is a call for a Homelessness Strategy which outlines where all levels of government, the private and community sector need to intervene early and intervene together to prevent homelessness.

The NSW Affordable Housing SEPP should extend beyond Metropolitan Sydney and consider affordable and social housing options for regional areas.

6. Psychological Injury Claims

That Local Government NSW advocate for changes to the Workers Compensation Act as it relates to Psychological Injuries.

With figures indicating that one in five (20%) Australians aged 16-85 experience a mental illness in any year provisions in the Workers Compensation Act, as they relate to psychological injury, need to be tightened so that employers do not unreasonably carry the cost burden need to address this societal issue. Currently employers are required to take their employers as they find them, with liability for psychological injury only being reasonably excusable if the injury was wholly or predominantly caused by reasonable action taken or proposed to be taken by or on behalf of the employer with respect to transfer, demotion, promotion, performance appraisal, discipline, retrenchment or dismissal of workers or provision of employment benefits to workers.

OPTIONS:

Council needs to consider what motions will be presented to the Local Government NSW Annual Conference.

CONCLUSION:

Council needs to consider suitable motions for submission to the Local Government NSW Annual Conference.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Allowance is made within the Annual Budget for attendance at the LG NSW Annual Conference

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

33 [PCG-CM] Legal Services Register for the Period 1 April to 30 June 2018

SUBMITTED BY: Corporate Governance

AUTHORISED BY: Corporate Compliance Officer

Attendees available in support of report if required:
Peter Brack, Corporate Compliance Officer

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 April to 30 June 2018 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 April to 30 June 2018 is \$398,027, with the total amount paid for the period 1 July 2017 to 30 June 2018 \$1,377,784.

The principal legal instructions that relate to this quarter include:

Legal Matter	Amount
• 2795 – Soorley Street – Unauthorised Works	\$60,784
• 2801 – Tanglewood Estate Sewerage Treatment Plant	\$2,551
• 2802 – 3222 Kyogle Road – Unauthorised Activities	\$377
• 2815 – DA15/1064 – 1-3 Tweed Coast Road – Waterslide	\$892
• 2822 – DA16/0355 – 26 Tringa Street – 60 Lot Subdivision	\$30,603
• 2824 – Zara Road – Unauthorised Works	\$44,669
• 2825 – 1110 Uriup Road- Unauthorised Works	\$10,609
• 2832 – DA17/0383- 355 Tomewin Road – Class 1 Appeal	\$9,803
• 2835 – DA03/0445 – 447 Uriup Road – Class 1 Appeal	\$58,740
• 2837 – DA17/0084 – 128 Leisure Drive - Class I Appeal	\$13,867
• 2838 – 6 Beason Court – Short Term Rental Accommodation	\$10,874

Legal Matter	Amount
• 2839 – 337 Round Mountain Road – Legal Advice	\$7,458
• 2841- DA16/0936 – 350 Rowlands Creek Road – Legal Advice	\$1,170
• 2842 – DA16/0274 – 42 North Arm Road – Class 1 Appeal	\$36,695
• 2843 – DA17/0572 – 606 Pottsville Road – Class 1 Appeal	\$65,345
• 2844 – DA17/0498 – 26 Marine Parade – Class 1 Appeal	\$14,281
• 2845 – 74 – 76 Pearl Street – Legal Advice	\$2,096
• 2848 – Lot 136 Boormans Road – Legal Advice – Unauthorised activities	\$6,952
• 2849 – 656 Upper Crystal Creek Road – Legal Advice on Use of Property	\$10,186
• 2850- LEP Amendment – Legal Advice Proposal to Prohibit Land Use	\$2,308
• 2852 – Biodiversity Act 2016 – Legal Advice	\$7,767

RECOMMENDATION:

That Council receives and notes the Legal Services Register report for the period 1 April 2018 to 30 June 2018.

REPORT:

Expenditure incurred on legal instructions for the period 1 April to 30 June 2018 follows:

Category 1 Planning and Environmental Law	Category 2 Local Government Law	Category 3 Commercial/Property Law	Category 4 District/Local Court
\$398,027	\$0	\$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 April to 30 June 2018
DLA Piper Australia	\$124,901	\$66,237
HWL Ebsworth Lawyers	\$117,566	\$46,498
Lindsay Taylor Lawyers	\$206,721	\$84,410
Maddocks Lawyers	\$763,145	\$91,387
Marsdens Law Group	\$39,560	\$59,910
Sparke Helmore Lawyers	\$55,860	\$35,718
Wilshire Webb Staunton Beattie Lawyers	\$44,557	\$13,867
Sub Total	\$1,352,310	\$398,027

Category 2 Local Government Law (litigation and advice)	Year to Date	Current Period 1 April to 30 June 2018
DLA Piper Australia	\$0	\$0
Lindsay Taylor Lawyers	\$18,584	\$0
Local Government Legal	\$0	\$0
Maddocks Lawyers	\$0	\$0
Marsdens Law Group	\$0	\$0
Prevention Partners NSW	\$2,496	\$0
Sub Total	\$21,080	\$0

Category 3 Commercial/Property Law	Year to Date	Current Period 1 April to 30 June 2018
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 April to 30 June 2018
Attwood Marshall Lawyers	\$0	\$0
Minter Ellison – Gold Coast	\$4,394	\$0
Peter O'Donnell	\$0	\$0
Sub Total	\$4,394	\$0
Total	\$1,377,784	\$398,027

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 27 July 2018
Marsdens Law Group (2794).	DA15/0201 40 Creek Street, Hastings Point – 17 Lot Subdivision.	Council at its Meeting held on 6 August 2015 resolved to defend the Class 1 Appeal in the Land & Environment Court.	<i>Prev. Years</i> \$203,459 <i>17/18</i> (\$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.
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 <i>17/18</i> \$410,225 Total \$566,950	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. Matter partly heard. Council at its meeting held on 5 April 2018, resolved that it instructs its solicitors with Reysson solicitors to seek an adjournment of six months for the current proceedings.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 27 July 2018
Lindsay Taylor Lawyers (2801).	Tanglewood Estate Sewerage Treatment Plant.	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 \$10,653 Total \$17,434	Solicitor drafted settlement proposal, which was sent to property owner's Solicitor. Ongoing discussions and negotiations in progress between all parties.	Completed Settlement Deed agreed and now executed by all parties.
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 \$7,415 Total \$123,106	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.
Lindsay Taylor Lawyers (2814).	Barneys Point SEPP14 vegetation clearing.	Review minor amendments variation to the agreement for vegetation clearing.	17/18 \$4,474	Minor amendments reviewed, Incorporated into agreement, approved and executed.	Completed.
LEGAL SERVICES MATTERS INITIATED PRIOR TO 1 NOVEMBER 2016					
TOTAL 2017/2018			\$369,394		

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 27 July 2018
DLA Piper Lawyers (2815).	DA15/1064 1-3 Tweed Coast Road Hastings Point Redevelopment of Waterslide Playground.	Council at its meeting of 15 December 2016 resolved that it refuses the Review of Determination and advises the applicant in writing of its determination and defends any appeal lodged by the applicant in the Land and Environment Court.	Prev. Years \$120,190 17/18 \$41,260 Total \$161,450	Class 1 Appeal lodged by the applicant in the Land and Environment Court – Solicitors engaged to defend the appeal.	Completed Directions hearing held on 10 February 2017. Case was heard on 10 & 11 May 2017, commencing with an onsite inspection. On 2 March 2018, the Court made orders that the applicant is granted leave to rely on amended plans and that the appeal is upheld and DA15/1064 is determined by the grant of consent subject to conditions.
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.	Prev. Years \$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.	Prev. Years \$16,607 17/18 \$24,855 Total \$41,462	Solicitors engaged to defend the appeal. Directions hearing held on 13 February 2017, s34 conference was conducted on site on 30 May 2017, with a further directions hearing being	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

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 27 July 2018
				conducted on 5 June 2017.	appeal, with amended DA16/0527 being 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.	Council at its Meeting held on 16 March 2017 resolved that Council's 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 \$60,872 Total \$81,576	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	<i>Prev. Years</i> \$49,392 17/18 \$352,921 Total \$402,313	Solicitors engaged to defend the appeal. Appeal commenced, documentation filed with the Court. Court ordered the Applicant to pay Council costs of \$6,000 thrown away through the lodgement of amended stormwater plans.	Completed 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. 6 March 2018, Court directed that the applicant is to file and serve by 30 March 2018, settled documentation to reflect the Commissioner's determinations.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 27 July 2018
		solicitors to defend the Class 1 Appeal in the Land and Environment Court.			
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 continuing investigation of the unauthorised works.	<i>Prev. Years</i> \$14,889 17/18 \$80,883 Total \$95,772	Solicitors engaged and have provided appropriate advice. Council at its meeting held on 1 March 2018, resolved that it continues to pursue the alleged offence of Section 76A of the EP&A Act.	In Progress Council's Solicitors have commenced Class 5 proceedings in the Land and Environment Court against the property owner for undertaking activities without Development Consent. Proceedings adjourned to 3 August 2018 to enable the parties to have detailed discussions on the unauthorised works.
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.	<i>Prev. Years</i> \$8,008 17/18 \$30,844 Total \$38,852	Solicitors engaged and have provided appropriate advice. Solicitor for property owner has been requested to respond to a S119J Notice under the EP & A Act 1979.	In Progress There has been various communications between Council's Solicitor and property owner's Solicitor resulting draft deed to rectify unauthorised works being prepared for Council's approval.
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.	<i>Prev. Years</i> \$4,949 17/18 \$10,055 Total \$15,004	Solicitors engaged, documentation lodged with the Land and Environment Court, s34 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.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 27 July 2018
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.	<i>Prev. Years</i> \$5,625 <i>17/18</i> \$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 conference was held on 14 August 2017, which started with an onsite inspection. 18 August 2017, parties reached an agreement as to the terms of a decision. Formal orders were issued on 24 August 2017, by the Court, appeal upheld, development application was approved, with conditions of consent.
HWL Ebsworth (2832).	DA17/0383 Demolition of existing Dwelling and Construction of Caravan Park in 5 Stages. 355 Tomewin Road Dungay.	Council at its Meeting held on 7 June 2018, resolved that it engages solicitors and relevant experts (as required) to attend any necessary section 34 conference and defend the Class 1 Appeal.	<i>17/18</i> \$9,803	Solicitors engaged, a directions hearing was held in the Land and Environment Court on 25 June 2018.	In Progress A Directions hearing was held on 27 July 2018, and the Orders were Council is to file and serve documentation by 10 August 2018. The matter is listed for further Directions hearing on that date.
Marsdens Law Group (2835).	DA03/0445.03 447 Uriup Road Uriup. Council at its meeting held on 11 May 2017 resolved to refuse the development application for an amendment to DA03/0445.	Council at its Meeting held on 2 November 2017 resolved that it engages legal representation for the Land and Environment Court Class 1 Appeal.	<i>17/18</i> \$77,278	Solicitors engaged directions hearing held on 13 November 2017. Matter was heard on 22 and 23 March 2018. On 30 April 2018 the Court granted the applicant leave to amend the Class 1 Appeal application.	In Progress. On 2 May 2018. Amended application placed on public exhibition, matter being reviewed. Amended facts and contentions sent to Council's Solicitors. Appeal now scheduled for a hearing on 12/13 September 2018.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 27 July 2018
Wilshire Webb Staunton Beattie (2837).	DA17/0084 128 Leisure Drive Banora Point. Council at its meeting held on 7 September 2017, resolved to refuse the development application.	Council at its Meeting held on 2 November 2017 resolved that it engages legal representation for the Class 1 Appeal and provides delegation to a Councillor and General Manager to undertake negotiations during any upcoming s34 conference.	17/18 \$19,702	Solicitors engaged s34 conferences held on 21 March, 3 and 6 April 2018. On 27 April Orders of the Land and Environment Court were that the s34 conference be terminated and the Appeal listed for mention on 11 May 2018.	In Progress. Without prejudice discussions have been held the with applicants solicitor, draft conditions of consent have been prepared, updated plans, reviewed, now waiting on an schedule of amendments from the applicant's solicitor.
Sparke Helmore Lawyers (2838).	6 Beason Court Casuarina.	Council at its Meeting held on 2 November 2017 resolved that legal advice be sought regarding options (including but not limited to Orders) to cease the continued unauthorised use.	17/18 \$15,082	Solicitors engaged, detailed advice received. Proposed order to cease using the property for an unauthorised use has been issued to the property owner.	In Progress Council has issued a Development Control Order on the owner to cease use of the property for tourist and visitor accommodation. Advice received use has ceased.
Lindsay Taylor Lawyers (2839).	337 Round Mountain Road 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 \$24,228	Solicitors engaged to provide appropriate advice, which has been received and reviewed by Council Officers.	In Progress A Notice has been issued under the POEO Act regarding the SEPP 14 clearing. Letters have been sent to property owner requesting a response to the Notice.
HWL Ebsworth (2842).	DA16/0274 42 North Arm Road Council at its meeting held on 6 July 2017, resolved to refuse the development application.	Council at its Meeting held on 7 December 2017 resolved that it engages legal representation for the Land and Environment Court Class 1 Appeal and	17/18 \$45,316	Solicitors engaged. Directions hearing held on 11 December 2017, with a s34 conference held on 4 and 22 May 2018.	In Progress Directions hearing held on 12 June 2018, applicant has withdrawn the appeal, with an agreement to pay Council's costs of \$25,000 within 28 days.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 27 July 2018
		provides delegation to the Mayor and General Manager to undertake negotiations as necessary.			
DLA Piper (2843).	DA17/0572 606 Pottsville Road Council at its meeting held on 16 November 2017, resolved to refuse the development application.	Meeting held on 13 December 2017 resolved that it engages legal representation for the Land and Environment Court Class 1 Appeal to attend any necessary s34 conference and defend the appeal and delegates the Mayor and General Manager to undertake negotiations as necessary.	17/18 \$83,641	Solicitors engaged, Directions hearing held on 22 February, matter heard on 29 and 30 May and 20 June 2018.	Completed. Discussions being held on draft conditions of consent. Court ordered the applicant to present amended plans and operational management plan for its consideration. Appeal listed for a resumed hearing on 25 July 2018, where the Court ordered that the Appeal be dismissed. As this is a Class 1 Appeal no costs were awarded.
Sparke Helmore Lawyers (2844).	DA17/0498 26 Marine Parade Kingscliff. Council at its meeting held on 15 February 2018, resolved to refuse the development application.	Council at the 15 February 2018 Meeting resolved that it provides delegation to Council's General Manager to provide instruction to Council's solicitor in the Land and Environment Court Class 1 appeal (including in any Section 34 conference).	17/18 \$23,176	Solicitors engaged. A directions hearing in the Land and Environment was held on 29 January 2018, a s34 conference was held onsite on for 29 June 2018. The s 34 conference was then terminated.	In Progress. The appeal has now been listed for a hearing on 13 and 14 February 2019.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 27 July 2018
Lindsay Taylor Lawyers (2848).	Lot 136 Boormans Road Tyalgum.	Council at its meeting held on 1 March 2018 resolved to pursue an investigation of the apparent offence under section 76A of the EP&A Act and other actions.	17/18 \$20,101	Council Officers have been investigating the matter, sought advice from solicitors. Solicitors now engaged to comply with council resolution.	In Progress Solicitors and Council Officers are progressing with obtaining information in compliance with the Council resolution.
Lindsay Taylor Lawyers (2850).	LEP Amendment – Proposal to prohibit land use.	Council at its Planning Committee Meeting of 7 December 2017 resolved to obtain legal advice regarding Water Extraction & Bottling – Council's potential liabilities.	17/18 \$2,308	Detailed advice provided to Council on 3 April 2018.	Completed.
COUNCIL INITIATED LEGAL SERVICES AFTER 1 NOVEMBER 2016					
TOTAL 2017/2018			\$938,154		

LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 27 July 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.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 27 July 2018
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 Urliup Road Urliup.	Assist with completion of Notice to Produce of documents to the 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 \$2,970	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.
Lindsay Taylor Lawyers (2845).	74-76 Pearl Street Kingscliff.	Provide advice in relation to the pathway for assessing a proposed development application.	17/18 \$5,622	Solicitor engaged, advice was provided on 6 February 2018.	Completed

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 27 July 2018
Sparke Helmore (2849).	656 Upper Crystal Creek Road Crystal Creek	Provide advice in relation to demolition orders of the construction and use of a building on the property.	17/18 \$10,186	Solicitor engaged, various advices have been provided. Council has sent correspondence to the property owner .	In Progress The latest was the issue of a Development Control Order. The time period for complying with the order has now expired, an investigation will be undertaken to review for compliance.
Lindsay Taylor Lawyers (2852).	Biodiversity Act 2016.	Provide advice on Draft Biodiversity DCP & Biodiversity Act 2016 Conservation.	17/18 \$7,767	Solicitor engaged, written advice was provided on 19 April 2018, followed by telephone advice on 16 May 2018.	Completed.
LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016					
TOTAL 2017/2018			\$44,762		

LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016

Category 2 - Local Government Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 27 July 2018
Marsdens Law Group	7 Year Special Rate Variation.	Class 4 Appeal Land and Environment Court.	Prev. Years \$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.
Lindsay Taylor Lawyers	Cobaki Development.	Provide advice on the provision of Water & Sewerage Services to a Private Sector Provider.	Prev. Years \$3,009 17/18 \$14,104 Total \$17,113	Detailed letters of advice provided to Council.	Completed.

Category 2 - Local Government Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 27 July 2018
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.
Prevention Partners	Adani Mine Tender Assessment/ Procurement advice.	Provide advice on the proposed implementation of Council's decision of 6 October 2017.	17/18 2,496	Solicitor engaged, advice provided on 4 December 2017.	Completed.
LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016					
TOTAL 2017/2018			\$21,080		

LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016

Category 3 - Commercial/Property Law					
Provider (Reference)	Description of Matter	General Instructions	Costs to Date	Comments	Current Status as at 27 July 2018
TOTAL 2017/2018			\$0		

LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016

Category 4 – District/Local Court					
Provider (Reference)	Description of Matter	General Instructions	Costs to Date	Comments	Current Status as at 27 July 2018
Minter Ellison (2840)	656 Upper Crystal Creek Road	Defend Penalty Infringement Notice appeal.	17/18 4,394	Solicitor engaged. Case notes reviewed.	Completed Infringement notice withdrawn upon advice of Solicitor.
TOTAL 2017/2018			\$4,394		

OPTIONS:

Reporting as per Legal Services Procedure requirements.

CONCLUSION:

Legal expenses for the quarter related primarily to actions instigated in previous periods.

COUNCIL IMPLICATIONS:

a. Policy:

Legal Services Procedure

b. Links to Existing Strategic Plans:

Not Applicable

c. Budget/Long Term Financial Plan:

Total legal services budget - \$1,190,414.

Total legal expenditure 1 July 2017 to 30 June 2018 - \$1,377,784

	Total Cost 2017/2018
Matters Initiated prior to 1 November 2016	
Category 1 -Planning and Environmental Law	\$369,394
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Council Initiated Legal Services after 1 November 2016	
Category 1 - Planning and Environmental Law	\$938,154
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Legal Services Protocol Initiated after 1 November 2016	
Category 1 - Planning and Environmental Law	\$44,762
Category 2 - Local Government Law	\$21,080
Category 3 - Commercial/Property Law	\$0
Category 4 - District/Local Court	\$4,394
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TOTAL	<u>\$1,377,784</u>

d. Legal:

Solicitors engaged from the appointed Legal Services Panel, or engaged for a specific legal matter.

e. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.



34 [PCG-CM] Compliments and Complaints Analysis Report for the Period 1 April to 30 June 2018

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 April to 30 June 2018 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 April to 30 June 2018.

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.

Under the Compliments and Complaints Handling Policy the following applies:

"What is a Complaint?"

- *A complaint is an expression of dissatisfaction, made in respect to:*
- *A Council Officer's 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 nor not.*
- *The quality of service provided by council.*
- *Council failing to act upon a request from the public,*
- *The policies adopted by council.*
- *Dissatisfaction with Council's action following the lodgement of a request for service (management through Council's customer request management system) or a request for information (managed through Government Information Public Access Act)."*

"What is not a Complaint?"

- *A request for service is covered by the customer request management (CRM) process. Examples are; reporting of road potholes, water leaks, dust and noise, overgrown allotments and dog issues.*
- *A request for information or an explanation of a policy or procedure.*
- *Objections to a development application before Council determination or appeals in relation to the determination by council.*
- *Concerns raised regarding decisions of the elected council."*

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 70 Compliments for the period 1 April to 30 June 2018, as follows:

Compliment Type	Ref	Details of Compliment	Comments
General Manager	1.1	General Manager 1.Compliment Thank you to Councillors and Staff who supported the resident, Environment & Industry Roundtable.	Noted by General Manager, forwarded to Councillors and appropriate members of Staff.
People, Communication and Governance	2.1	Communication & Customer Experience and Other Divisional Customer Service 8.Compliments In various Units for excellent customer service and being helpful.	Noted by Managers, Coordinators and referred to nominated Staff.
Planning and Regulation	3.1	Development Assessment Unit 1.Compliment Thank you for your assistance with a planning compliance short term holiday letting matter.	Noted by Unit Director.
	3.2	Compliance Team 4.Compliments Thank you for excellent customer service.	Noted by Division Team Leader and referred to nominated member of Staff.
	3.3	Development Assessment Unit 5.Compliments Thank you for professional assistance with Development Applications.	Noted by Division Director, or Manager and referred to nominated member of Staff.
Engineering	4.1	Roads and Stormwater Unit 8. Compliments Construction of footpaths in Burringbar, installing bollards at Duranbah Beach, repairing a dangerous footpath, repairing Lake Kimberly bridge, maintenance of Banora Point waterways, contractor undertaking footpath construction work in Tweed Heads, recently completed roadworks on Kennedy Drive and Leisure Drive.	Noted by Unit Manager and referred to relevant Staff.
	4.2	Infrastructure Delivery Unit 2.Compliments Thank you for the great drainage work on Pottsville Road and handing my wallet the Police.	Noted by Unit Manager, referred to nominated member of Staff and referred to all Engineering Divisions.

Compliment Type	Ref	Details of Compliment	Comments
	4.3	Water and Wastewater Unit 2 Compliments Quick response for attending to a sewerage overflow and a broken water main.	Noted by Unit Manager and referred to relevant Staff.
	4.4	Roads and Stormwater Unit 1.Compliment Appreciation for Manager attending Association Meeting and presenting information on flooding.	Noted by Unit Manager
	4.5	Triathlon Events 1.Compliment Thanking various Units of Council for assistance with Triathlon events and improvements to roads used for the events.	Noted by Unit Director
Community and Natural Resources	5.1	Kingscliff Foreshore Revitalisation 4 Compliments Congratulating Council on a well planned and executed project,	Noted by nominated member of Staff.
	5.2	Parks Tree Team 4.Compliments Maintenance of trees in Casuarina, Tweed Heads and Tweed Heads West(2),	Noted by Unit Manager and referred to relevant Staff.
	5.3	Waste Management Unit 4.Compliments Appreciate the garbage employee who went out of his way to collect our red bin, removal of illegal rubbish(2) and arranging collection of missed garbage bin,	Noted by Unit Coordinator.
	5.4	Tweed Regional Art Gallery 9 Compliments <i>Organising including recent activities(2) , Border Art Prize function(2), a personal recent visit, a public program, a recent panel discussion, a volunteer guides visit, a recent workshop</i>	Noted by Gallery Coordinator or nominated Staff members.
	5.6	Cemetery Team 1.Compliment Excellent customer service.	Noted by Unit Manager and referred to nominated member of Staff.
	5.7	Parks & Recreation Team 11.Compliments Top dressing of Frangela Drive Reserve, clearing overgrown land, design of Tyalgum Skate Park, questionnaire regarding the Eunga Street Park, repairing damaged gate on Flagstaff Hill, repairing damaged bollards, maintenance to Cabarita public toilets, general appearance of Budd Park and riverside, care of walking tracks at Pottsville Environment Park, replacement of a footpath tree in Kingscliff and general parks appearance of Banora Point.	Noted by Unit Manager and referred to relevant Staff.

Compliment Type	Ref	Details of Compliment	Comments
	5.8	Natural Resources Unit 4.Compliments Monitoring flying foxes at Frangela Drive Reserve, rectifying dune issue at Salt, congratulating on Winter Sustainability Newsletter and clearing of Pottsville Koala Reserve walkway	Noted by Unit Manager and referred to nominated Staff.

During this quarter 12 subject complaints (there may be numerous complaints made on any one subject) have been recorded as follows:

Complaint Type	Ref	Details of Complaint	Comments
Office of General Manager	1.1	Hindmarsh Road and other Council Matters Have sent copious items of correspondence to the Mayor, Councillors and General Manager outlining concerns pertaining to the above complaint matters.	Completed Acknowledgement letters were sent. A comprehensive letter from the General Manager has recently been sent responding to the complainant's concerns.
	1.2	350 Rowlands Creek Road – DA16/0936 A number of emails have been received from a complaint pertaining to Council Officers not responding to traffic report correspondence and other matters relating to the handling of the development application.	Completed The General Manager has responded to the emails sent in by the complainant, providing governance advice.
	1.3	Tweed Regional Aquatic Centre, Murwillumbah Complainant requesting that Council 'turn the loud offensive hammering noise off' (of the heat pumps).	Completed Council has previously advised the complainant that his complaints will be received and noted.
People, Communication and Governance.	2.1	<i>Nil</i>	
Planning and Regulation	3.1	33 Bay Street Tweed Heads The noise, sound and bass are still clearly audible. Requests for information are still ignored.	Completed Complainant has been advised that an independent consultant has taken noise readings from an adjoining property, noise readings now complies with Council's conditions.
	3.2	B & B Business Complainant advises has spent large amounts of money & time ensuring business was compliant, dismayed to still see competing with other 52 businesses in Pottsville.	Completed Detailed response sent to the complainant, outlining Council's current procedure in dealing with Short Term Holiday Letting and in particular the decision of Council's Meeting of 5 April 2018.
	3.3	Kingscliff Parking Issues and Response to Correspondence. Responding to Council's letter dated 6 February 2018, in particular to an email sent to Rangers and photographs of cars parking in Kingscliff.	Completed A comprehensive letter has recently been sent responding to the complainant's concerns.

Complaint Type	Ref	Details of Complaint	Comments
	3.4	No Action on Noise Complaint Complainant unhappy with Council's response that the issue was outside of Council's responsibility due to after hours, time of offence.	Completed Complainant advised of Council's after hours complaint information together with EPA guidelines in dealing with neighbourhood noise and noise abatement orders.
	3.5	Short Term Rental Accommodation Information on the number of complaints received in reference to the above subject have been previously reported to Council's Planning Committee Meetings of 3 May and 7 June 2018.	In Progress Council Officers have either taken action through the issue of a Development Control Order or responded to complaints received in accordance with the Planning Committee Meeting Recommendations.
Engineering	4.1	Roadside Mowing in Bilambil Heights Area. Complainant has lodged a number of complainants concerning the standard of roadside mowing in the Bilambil Heights area.	Completed A detailed response acknowledging the complaint's concerns has been sent. advising that the roadside growth summer period impacts on the level of service.
	4.2	Roadworks on Leisure Drive /Fraser Drive Banora Point Complaining that Council is conducting roadworks on Leisure Drive not required, a section of Fraser Drive is full of potholes.	Completed Detailed explanation given for the roadworks that were carried out on Leisure Drive and that pavement treatment has recently been undertaken on a section of Fraser Drive.
	4.3	Water Connection Issue Complaining that this is the third letter to write some simple answers to the questions. Have now referred the complaint to an independent agency to review.	Completed Council has responded noting the complainant's action being taken.
Community and Natural Resources	5.1	Collection of Bulk Waste – Nunderi Note left, bulk waste exceeded collection limit- complainant advised only left collection limit.	Completed Remaining bulk waste has since been removed by the Contractor.

OPTIONS:

Reporting as per Compliments and Complaints Handling Policy.

CONCLUSION:

Compliments and Complaints received during the Period 1 April to 30 June 2018.

COUNCIL IMPLICATIONS:

a. Policy:

Compliments and Complaints Handling v1.4
Response to Correspondence Policy v1.5

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

35 [SUB-FMC] Minutes of the Floodplain Management Committee Meeting held 15 June 2018

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: **Leader**

SUMMARY OF REPORT:

The Minutes of the Floodplain Management Committee Meeting held 15 June 2018 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the Floodplain Management Committee Meeting held 15 June 2018 be received and noted; and
2. The Executive Leadership Team's recommendations be adopted as follows:
 1. Murwillumbah CBD Flood Levee and Drainage Study Final Report adoption
That the Murwillumbah CBD Levee and Drainage Study be adopted as a Floodplain Risk Management Study and Plan of Council.
3. 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.*

REPORT:

The Minutes of the Floodplain Management Committee Meeting held 15 June 2018 are reproduced as follows for the information of Councillors:

Venue:

Canvas and Kettle Room, Murwillumbah Civic Centre

Time:

9.00am

Present:

Cr James Owen, Danny Rose, Leon McLean, Stuart Russell, Doreen Harwood (Tweed Shire Council), Caroline Ortel (Office of Environment and Heritage), Mark Somers, Peter Mair (NSW State Emergency Service), Robert Quirk, Max Boyd, Dion Andrews, Mike Allen, Steven Smith

Apologies:

David Oxenham, Brenda Hannigan (Tweed Shire Council), Martin Rose, (Office of Environment and Heritage), Wayne Pettit (NSW State Emergency Service), Felicia Cecil.

Minutes of Previous Meeting:

Moved: Robert Quirk

Seconded: Steven Smith

RESOLVED that the Minutes of the Floodplain Management Committee meeting held Friday 16 February 2018 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

From Meeting held 16 February 2018:

1. Discussions with ABC North Coast regarding Flood Coverage

Minutes of this meeting were circulated to the group and discussed. SES' moves towards integrating ABC North Coast within the Incident Control Centre were welcomed by the group. Bureau of Meteorology and SES have also strengthened their relationship during operations. Both agencies welcome real time information from local observers, and there are many ways this can be received.

2. Report on Recommendations from Independent Review of SES Operations, North Coast Floods 2017

As part of the discussions on the "Owens Report", the Committee recommended that:

"Council formally approaches the Murwillumbah Showground Trust requesting use of their land off Banner Street as an alternate site for SES Accommodation in Murwillumbah, and enlist the support of the Local Member Thomas George MP."

Doreen Harwood confirmed that in 2016 Council did approach the Showground Trust through Thomas George as a potential site, however the Trust was not supportive.

Council is currently investigating two alternate sites in Murwillumbah.

Accommodation for Tweed Heads SES was also discussed. There is a tenure issue on the current Crown Land site, with indications that the current lease arrangements will not be extended. SES is keen to remain on the site. There is some community opposition to this site. Negotiation with Crown Lands continues.

Agenda Items:

1. Murwillumbah CBD Flood Levee and Drainage Study Final Report adoption

Leon McLean explained to the Committee the changes made to the final report, which was tabled. These changes included:

- a) Amended flood mapping to remove shallow flow depths. These caused concern for residents in elevated areas.
- b) Amended recommendations concerning flood planning levels, specifically in the area behind the East Murwillumbah levee.
- c) Amended planning recommendations regarding the extent of medium density development that should be considered on the western side of Knox Park. While much of this land adjoins flood free land along Riverview Street, there are other zoned areas that are unsuitable from a flood risk perspective.

The Committee recommended adoption of the study, and endorsed the following preferred risk management options:

- Remediation of the Commercial Road Levee, including installation of a formalised spillway;
- Installation of a new pump system for the area behind the Dorothy Street levee;
- Temporary flood barriers for commercial properties (private measure);
- Modifications to existing planning documents;
- Local Flood Plan / flood intelligence updates;
- Flood warning system upgrades;
- Community education.

As the report constitutes a Floodplain Risk Management Study and Plan under the NSW Floodplain Development Manual, rather than strictly a Flood Study as suggested by the title, OEH agreed that this should be incorporated into the recommendation to Council. This will assist in future flood grants for projects recommended by the study.

Moved: Mike Allen

Seconded: Max Boyd

RECOMMENDATION:

That the Murwillumbah CBD Levee and Drainage Study be adopted as a Floodplain Risk Management Study and Plan of Council.

FOR VOTE: Unanimous

2. Voluntary House Purchase Scheme Update

Danny Rose provided a presentation (copy attached to the minutes) on the progress of the Voluntary House Purchase / Voluntary House Raising (VHP/VHR) Schemes that were approved for funding by OEHL prior to Christmas 2017, and were reported to the Committee and Council in February 2018. The schemes present many challenges, but the first offers under VHP for high priority properties are being reported to the June 2018 Council meeting.

The second half of the presentation related to options before Council in dealing with future flood risk, specifically new development applications in the high flood hazard areas being targeted by VHP.

The Committee considered that given recent flood experience, the community and Councillors should be supportive of changes to planning schemes to limit residential development in high hazard areas, and opportunities as outlined should be pursued.

3. Gauge Project Update

Leon McLean gave an update on the grant funded projects at Tumbulgum and Burringbar / Crabbes Creek. Council is working closely with the Bureau of Meteorology (BoM) in scoping these projects and they should be implemented by early 2019.

4. Performance of M1 during 2017 Flood (Tumbulgum Community Association)

Steven Smith tabled a submission to NSW Roads and Maritime, and a Ministerial response, regarding community concerns from Tumbulgum regarding the potential for the Pacific Highway to have adversely impacted on the village during the 2017 floods. The Committee noted that similar concerns had also been raised by the Burringbar community.

Steve referred to photos taken after the peak that were published in the Tweed Link that he said demonstrated some differentiation in flood behaviour either side of the highway, and that the community could correlate these with various impacts such as silt deposition in the village. While not all Committee members agreed with these conclusions, Council officers will pursue RMS and OEHL to confirm whether or not there are any studies being conducted into this issue on behalf of the two community groups, and to ensure that in similar major events in the future that RMS collects relevant data to confirm the efficacy of the highway drainage structures.

COMMITTEE ACTION:

Council officers will contact Roads and Maritime Services and Office of Environment and Heritage to ascertain whether any studies are being conducted into the hydraulic operation

of the Pacific Highway during the 2017 flood and any measures in place to collect flood data from future events.

General Business:

5. South Murwillumbah Floodplain Risk Management Study and Plan

Leon gave a brief overview of the study, to which Catchment Simulation Solutions (who conducted the Murwillumbah CBD study) has been appointed. The Technical Sub-Committee will hold a start-up meeting with the consultant in the coming weeks to commence the project, with an update to be provided to the next full Committee meeting.

This study will inform both the VHP and Industrial Land swap projects in South Murwillumbah, and therefore is on a shortened timeframe, aiming for results prior to Christmas 2018.

6. Floodplain Management Australia National Conference, Gold Coast 29 May – 1 June 2018

Robert Quirk gave a brief summary of his experience at the recent conference, which was also attended by Danny, Leon and Cr Owen.

Robert provided the following commentary on the event:

"I would like to thank Tweed Shire Council and in particular the Flood risk management team for allowing me to join them at the FMA conference on the Gold Coast for three days of the four day National Conference.

Papers

There were many interesting papers as engineers reported on Cyclone Debbie and its impacts in the QLD and Northern NSW regions.

I asked if I could attend the conference to catch up on the latest work on climate change, and while there were some interesting papers on CC and the predictions I was a little disappointed that there were not more papers on the topic.

Highlights

It was highlighted that in Europe and the USA there are massive amounts of money being spent to reduce the impacts not only of climate change but also of the major events. Many will recall the storm two years ago which devastated the east coast of the USA (in particular New York City). The USA government has allocated US\$14billion to reduce the impacts should a similar event occur in the future. The Netherlands spends 97% of its flood budget on reducing the impacts of major events and only 3% on recovery. The Australian budget for flood preparedness is around \$53 million. While our recovery and damage bill is in the billions of dollars.

Mara Bun

Mara one of the key note speakers took us on a trip through millennia from the antarctic forest trees in the Gold Coast hinterland to the storm of 1967, seems I was the only person at the conference who could recall the storm. After she spoke I also told her I could recall the 1954 event. Wow I must be getting old.

Field trip

The Tweed has many people at risk on the floodplain. When we compare ours to the problems of the Gold Coast and developers wishing to put even more people at risk. One developer has the solution and that is that all houses would have trapdoors in the roof so helicopters could evacuate the people at a time of flooding. Oh well what can one say when there are people like that about.

Award

Danny Rose was up for the floodplain manager of the year award. Speaking to delegates prior to the conference dinner, we were pretty confident going to the presentation that Danny may have taken out this prestigious award, it was not to be. Danny congratulation you were in the mix and you most certainly have the respect of all the delegates I spoke to.

Thanks again to Council for allowing me to attend as part of your team, it was a pleasure.

Robert"

7. March 2017 Flood Report

Max Boyd commended Council officers on the summary report for the 2017 flood event. It provides a useful record of the event and its impacts, and similar reports should be prepared for each flood event as they occur. Danny agreed that this was the approach now taken to record these events for Council and the community.

Next Meeting:

The next meeting of the Floodplain Management Committee will be held next quarter, with a date to be determined.

The meeting closed at 12:30pm.

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

1. Murwillumbah CBD Flood Levee and Drainage Study Final Report adoption

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

1. Murwillumbah CBD Flood Levee and Drainage Study Final Report adoption

That the Murwillumbah CBD Levee and Drainage Study be adopted as a Floodplain Risk Management Study and Plan of Council.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice v2.6.

Terms of Reference - Reviewed by Council 21 August 2013.

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:

(Confidential) Attachment 1. Voluntary House Purchase Schemes PowerPoint Presentation (ECM 5408345).

For further information: Minutes of the Tweed Flood Event Media Coverage Meeting held 8 March 2018 (ECM 5392815)

For further information: Letter from Tumbulgum Community Association (ECM 5392818)

36 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 26 July 2018

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 Thursday 26 July 2018 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 Thursday 26 July 2018 be received and noted; and**
2. **The Executive Leadership Team's recommendations be adopted as follows:**
 - A1 **[LTC] Casuarina Way, Casuarina**
That a yellow "No Stopping" line be installed on Casuarina Way, Casuarina on the southern approach to the Grand Parade roundabout, for 20 metres south of the kerb ramp.
 - A2. **[LTC] Brett Street and Keith Compton Drive**
Item moved to the B Section of the minutes.
 - A3. **[LTC] Tweed Coast Enduro - 16 February 2019**

That the proposed Tweed Coast Enduro on Saturday 16 February 2019 be supported, subject to:

- 1. NSW Police approval being obtained.***
- 2. Endorsement of the event by Triathlon Australia.***
- 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.***

A4. [LTC] Kingscliff Triathlon 2 December 2018

That the proposed Kingscliff Triathlon on Sunday 2 December 2018 be supported subject to:

- 1. NSW Police approval being obtained.***
- 2. Endorsement of the event by Bicycle NSW.***
- 3. Consultation with the Kingscliff Chamber of Commerce.***

4. ***Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.***
5. ***Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.***
6. ***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.***
7. ***Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.***
8. ***Adequate public liability insurance being held by the event organiser.***
9. ***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.***
10. ***Consultation with emergency services and any identified issues addressed.***
11. ***Arrangements made for private property access and egress affected by the event.***
12. ***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.***
13. ***The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.***
14. ***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.***
15. ***A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.***

REPORT:

The Minutes of the Local Traffic Committee Meeting held Thursday 26 July 2018 are reproduced as follow for the information of Councillors:

VENUE:

Mt Warning Meeting Room

TIME:

Commencing at 9.30am

PRESENT:

Committee Members: Cr James Owen, Ms Linda Makejev and Ms Katherine Boulton, Roads and Maritime Services of NSW (via teleconference), Snr Constable Chris Davis, NSW Police, Mr Col Brooks on behalf of Mr Thomas George MP, Member for Lismore, Mr Rod Bates on behalf of Mr Geoff Provest MP, Member for Tweed.

Informal: Cr Chris Cherry, Ms Alana Brooks (Chair), Linda Cooper (Minutes Secretary).

APOLOGIES:

Mr Thomas George MP, Member for Lismore, Mr Geoff Provest MP, Member for Tweed, Mr Joshua Buckham, Roads and Maritime Services of NSW, Mr Ray Clark, Ms Judith Finch, Mr Nick Tzannes

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

MIN1 [LTC-MIN] Confirmation of Previous Minutes Meeting held 28 June 2018

ORIGIN:

Roads & Stormwater

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 28 June 2018 be adopted as a true and accurate record of proceedings of that meeting.

SCHEDULE OF OUTSTANDING RESOLUTIONS

SCH1 [LTC-SOR] Schedule of Outstanding Resolutions 26 July 2018

From Meeting held 20 July 2017:

[LTC] Berkleys Lane, Pottsville (A4)

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.

From meeting held 22 March 2018:

A plan was tabled at the meeting for review which shows two accessible parking bays and a shared zone on the western side of the car park adjacent to the shops, the conversion of the existing accessible parking space to general parking and the installation of two new general car parking spaces. The plan was developed in consultation with the Access Committee and adjacent businesses.

From meeting held 19 April 2018:

The Road Safety Officer advised that the community has raised concerns with the new configuration of accessible parking and will advise further after attending a meeting today.

From meeting held 24 May 2018:

The Road Safety Officer advised that the plan as submitted was not supported by the Access and Inclusion Committee. It was decided that the plan go back to the Access and Inclusion Committee for an overall review of accessible parking in Pottsville CBD to determine future priorities.

From meeting held 28 June 2018:

A review of accessible parking in the Berkleys Lane precinct recommended that two additional accessible parking bays be installed, one adjacent to the chemist and one near the newsagency. Following completion of the concept design, the community will be consulted and given the opportunity to provide feedback before it is brought back to the Local Traffic Committee.

From meeting held 26 July

The community has been invited to provide feedback via the Tweed Link on the proposed changes to accessible parking in the Berkleys Lane precinct. Once the review of feedback is complete, the item will be brought back to the Committee for endorsement.

The Chair has asked that the item be removed from the Schedule of Outstanding Resolutions.

Current Status: *That Item Berkleys Lane, Pottsville - Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 26 July 2018 be removed from the Schedule of Outstanding Resolutions.*

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 20 July 2017 (Item A4).

BUSINESS ARISING

Nil.

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES - MURWILLUMBAH

Nil.

DELEGATIONS FOR REGULATORY DEVICES - TWEED HEADS

A1 [LTC] Casuarina Way, Casuarina

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5385156; TRA18/0026; Traffic - Committee, Parking Zones; Pedestrian Safety; Casuarina Way, Casuarina

SUMMARY OF REPORT:

The customer has noticed many cars parking outside the Chemist and Liquorland on Casuarina Way, just south of the Grand Parade roundabout and obscuring the vision of pedestrians trying to safely cross the road.

During the site inspection an SUV was parked adjacent to Liquorland which significantly reduced sight distance for pedestrians at the kerb ramp on the western side of Casuarina Way. The RMS supplement to Australian Standard 1742 Part 10 requires 20 metres of "No Stopping" on the approach to a centre refuge without kerb extensions.

RECOMMENDATION TO COUNCIL:

That a yellow "No Stopping" line be installed on Casuarina Way, Casuarina on the southern approach to the Grand Parade roundabout, for 20 metres south of the kerb ramp.

FOR VOTE - Mr Rod Bates on behalf of Mr Geoff Provest, MP Member for Tweed, Snr Constable Chris Davis, Ms Linda Makejev, Roads & Maritime Services of NSW, Cr James Owen

AGAINST VOTE - Nil

ABSENT. DID NOT VOTE - Nil

PRESENT. DID NOT VOTE - Mr Col Brooks on behalf of Mr Thomas George, MP Member for Lismore

A2 Brett Street and Keith Compton Drive - moved to Section B - Item B5

A3 [LTC] Tweed Coast Enduro - 16 February 2019

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5408306; Traffic - Committee; Festivals/Events - Other; Bicycle Matters - General; Philip Street; Wooyung Road; Tweed Coast Road; Kellehers Road; Overall Drive

SUMMARY OF REPORT:

Request received for the annual Tweed Coast Enduro on 16 February 2019 in Pottsville.

The long-distance triathlon will attract about 550 participants, 100 social participants and accumulated 1000 spectators.

Friday 15 February

4.00pm - 7.00pm Registration

Saturday 16 February

5.00am Registration

6.00am Estimated First Swimmers Away

8.00am Swim Curfew

12.00pm Cycle Leg Curfew

3.00pm Podium Presentations

3.00pm Run Leg Curfew

6.00pm Complete site pack down

RECOMMENDATION TO COUNCIL:

That the proposed Tweed Coast Enduro on Saturday 16 February 2019 be supported, subject to:

1. NSW Police approval being obtained.
2. Endorsement of the event by Triathlon Australia.
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.

FOR VOTE - Mr Rod Bates on behalf of Mr Geoff Provest, MP Member for Tweed, Snr Constable Chris Davis, Ms Linda Makejev, Roads & Maritime Services of NSW, Cr James Owen

AGAINST VOTE - Nil

ABSENT. DID NOT VOTE - Nil

PRESENT. DID NOT VOTE - Mr Col Brooks on behalf of Mr Thomas George, MP Member for Lismore

A4 [LTC] Kingscliff Triathlon 2 December 2018

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5417622; Traffic - Committee; Festivals/Events - Kingscliff; Community Events on Council Administered Land; Parks - Faulks, Jack Julius, Rotary Lions, Jack Bayliss, Ed Parker, Sutherland Point; Roads - Closures - Temporary; Cudgen Creek; Marine Parade; Wommin Bay Road; Chinderah Bay Drive; Pearl Street; Casuarina Way; Moss Street; Sutherland Street

SUMMARY OF REPORT:

Application for a major community event received for the 18th Tweed Coast Holiday Parks Kingscliff Triathlon to be conducted on Sunday 2 December 2018. The estimated attendance this year is for 1200 triathlon competitors and 2000 spectators. The event has the same course routes that were approved last year.

Timings are:

Friday 30 November 2018 Delivery of resources and set up tents in the car park 10.00am-5.00pm located in front of Cudgen SLSC. Delivery of safety fence, CCBs, collect water barriers, etc.

Saturday 1 December 2018 Registration and bike racking (700 participants).
2.00-5.00pm

Sunday 2 December 2018
5.00am - 6.30am Registration and bike racking (700 participants).

6.00am Briefings

7.00am - 2.00pm Swim: Cudgen Creek

Ride: Marine Parade, Wommin Bay Road,
Chinderah Bay Drive

Run: Marine Parade, Moss Street, Sutherland Street
Sutherland Point

Juniors (7-9 yrs) 100m, 3km, 500m
Big Kids (10-12 yrs) 200m, 6km, 1km
Tempta (13+ yrs) 300m, 10km, 2.5km
Sprint (15+ yrs) 750m, 20km, 5km
Olympic (15+ yrs) 1.5km, 40km, 10km
Tempta Group (13+ yrs) 300m, 10km, 2.5km
Sprint Group (15+ yrs) 750m, 20km, 5km
Olympic Group (15+ yrs) 1.5km, 40km, 10km
Tempta Tag (13+ yrs) 300m, 10km, 2.5km
Sprint Tag (15+ yrs) 750m, 20km, 5km
Olympic Tag (15+ yrs) 1.5km, 40km, 10km

Bump Out

9.00am - 3.30pm Progressive bump out as each stage of the triathlon is completed.

Temporary road closures from 6.30am to 3.00pm on Sunday 2 December 2018 are:

- Marine Parade
- Wommin Bay Road
- Chinderah Bay Drive from Jenners Corner to the Southern Dead end
- Moss Street
- Sutherland Street from Moss Street to Casuarina Way to Roundabout on Point Break Circuit.

RECOMMENDATION TO COUNCIL:

That the proposed Kingscliff Triathlon on Sunday 2 December 2018 be supported subject to:

- 1. NSW Police approval being obtained.**
- 2. Endorsement of the event by Bicycle NSW.**
- 3. Consultation with the Kingscliff Chamber of Commerce.**
- 4. Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.**
- 5. Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.**
- 6. 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.**
- 7. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.**
- 8. Adequate public liability insurance being held by the event organiser.**

9. 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.
10. Consultation with emergency services and any identified issues addressed.
11. Arrangements made for private property access and egress affected by the event.
12. 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.
13. The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.
14. 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.
15. 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 Rod Bates on behalf of Mr Geoff Provest, MP Member for Tweed, Snr Constable Chris Davis, Ms Linda Makejev, Roads & Maritime Services of NSW, Cr James Owen

AGAINST VOTE - Nil

ABSENT. DID NOT VOTE - Nil

PRESENT. DID NOT VOTE - Mr Col Brooks on behalf of Mr Thomas George, MP Member for Lismore

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE - MURWILLUMBAH

B1 [LTC] Tweed Valley Triathletes 2018 to 2019 Season

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5391413; Traffic - Committee; Festivals/Events - Other; Bicycle Matters - General; Tumbulgum Road, Racecourse Road, Cane Road, Queensland Road, Murwillumbah Street, Wharf Street, Reynolds Street, Charles Street, George Street, York Street, Martin Street

SUMMARY OF REPORT:

Request received to use roads in the Tweed Shire for the Tweed Valley Triathletes season commencing Saturday 22 September 2018 and concluding on Saturday 16 March 2019.

The senior (adult) course, as well as a swim leg in the pool, comprises a 14km cycle and 4km run. The cycle and run leave from the Tweed Regional Aquatic Centre. The cycle leg consists of a circuit which includes Tumbulgum Road, Cane Road, Queensland Road, Murwillumbah Street and Wharf Street. This circuit is repeated. The run leg goes along Tumbulgum Road and then onto Racecourse Road for 1km and returns the same way.

The intermediate (teenage / adult) course includes a 7km cycle leg along Tumbulgum Road, Racecourse Road, Queensland Road, Murwillumbah Street and Wharf Street and a 2km run leg from the pool to the Tumbulgum Road / Racecourse Road intersection and return.

The junior (children) course includes a cycle along Tumbulgum Road to Reynolds Street and then 2 circuits of Charles Street, George Street, York Street, Martin Street and Reynolds Street before riding back to the Aquatic Centre via Tumbulgum Road.

Adult members are on the road between 6:05am and 7:10am. Junior members are on the road between 7:30am and 8:00am.

During junior events adults are placed at the Council car park entrance / exit, at the Tumbulgum Road / Reynolds Street intersection and at intersections on the circuit. Adults direct children to pull over and stop if the traffic is not clear. Adults do not direct motorists. Adults ride with the juniors to ensure they comply with road rules.

COMMITTEE ADVICE:

That the proposed Tweed Valley Triathletes 2018 to 2019 Season 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. Endorsement of the event by Bicycle NSW or Cycling QLD.**
- 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 first event for the season. 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 and select Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.**
- 12. 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.**

B2 [LTC] Norco Street, Uki

ORIGIN:
Roads & Stormwater

FILE NO: ECM 5205755; Traffic - Committee, Linemarking, Pedestrian Crossings, Speed Zones; Pedestrian Safety; Norco Street, Uki

SUMMARY OF REPORT:

The Uki Village and District Residents Association has requested a 10km/h shared zone and pedestrian crossing in Norco Street to improve safety for pedestrians.

Shared zones are defined under Rule 24 in the NSW Road Rules (2008) as a *“road or network of roads or a road related area where spaces is shared by vehicles and pedestrians and where priority and quality of life take precedence over ease of vehicle movement”*.

The 90 degree parking layout in Norco Street is unsuitable for a shared zone because it is undesirable to have vehicles reversing into a pedestrian area.

The site would not meet the warrants for a pedestrian crossing because the minimum number of vehicles in Norco Street would be too low. Specifically, even if the crossing was used by predominantly school children or aged pedestrians, RMS guidelines require a minimum of 200 vehicles movements per hour in peak times.

COMMITTEE ADVICE:

That the request for a pedestrian crossing and shared zone on Norco Street, Uki is not supported, however, pedestrian upgrades can be considered as part of the review of the Pedestrian Access and Mobility Plan (PAMP), which will include main streets in rural villages.

GENERAL TRAFFIC ADVICE - TWEED HEADS

B3 [LTC] Altitude Aspire Roundabouts

ORIGIN:
Roads & Stormwater

FILE NO: ECM 5430948; 5431029; Traffic - Committee; Roundabouts; Section 94 Plan No. 31 - Terranora Area E; LEP - Area E - Terranora - GT1/LEP/2000/10

SUMMARY OF REPORT:

The Roads and Maritime Services have requested that the *“plans for the proposed roundabouts for Altitude Aspire residential subdivision, Terranora be referred to the Local Traffic Committee for consideration of the regulatory facilities”*.

Currently, there are only concept plans available and the roundabout is unlikely to be constructed in the next few years. It may be several years before detailed designs are available.

COMMITTEE ADVICE:

That the concept plans for proposed roundabouts at Altitude Aspire are noted and that the detailed designs are reviewed by Council Engineers before construction.

B4 [LTC] Keith Compton Drive, Powell, Florence and Solander Streets, Tweed Heads

ORIGIN:
Roads & Stormwater

FILE NO: ECM 5420215; Traffic - Committee, Parking Zones; Parking Infringement Notices; Hospital - Tweed Heads; Powell Street; Florence Street; Keith Compton Drive; Solander Street

SUMMARY OF REPORT:

Request received to increase the parking zone time limit from 2 hours to 4 hours around The Tweed Hospital.

Recent hospital renovations are putting increased demand on parking in the vicinity of the hospital. The 2P is reflective of the high demand for parking in the hospital precinct. The hospital also provides 2P for customers in their on-site car parks.

COMMITTEE ADVICE:

That the request to increase the parking time limits from 2P to 4P in the vicinity of The Tweed Hospital on Keith Compton Drive, Powell, Florence and Solander Streets, Tweed Heads is not supported.

B5 [LTC] Brett Street and Keith Compton Drive, Tweed Heads

ORIGIN:
Roads & Stormwater

FILE NO: ECM 5376057; Traffic - Committee, Linemarking, Safety; Pedestrian Safety; Brett Street, Keith Compton Drive, Tweed Heads

SUMMARY OF REPORT:

The customer has advised that caravans are permanently parking at the intersection of Brett Street and Keith Compton Drive, Tweed Heads. This is causing traffic and pedestrian safety issues. The customer has requested that Council consider installing yellow line marking on both sides of the intersection.

The sight distance for motorists entering Keith Compton Drive from Brett Street is not considered to be impeded by larger vehicles parked in this particular space. It is noted that

the kerb ramp is not obstructed but sight distance for pedestrians/cyclists is restricted by the caravan.

A number of pedestrians, including vulnerable pedestrians, would likely use this crossing point, given the proximity to the hospital, library and Council Offices. This is also a crossing point to connect the shared path network.

The Committee decided that the owners of the subject caravans should be contacted and asked to move their vehicles to a safer location. The pedestrian sight lines could be reviewed once the caravans are moved.

COMMITTEE ADVICE:

That the item be deferred to permit further investigation into ownership of the caravans parked at the intersection of Brett Street and Keith Compton Drive and whether the issue can be resolved by requesting the owners move the caravans to a safer location.

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held Thursday 23 August 2018 in the Mt Warning Meeting Room commencing at 9.30am.

There being no further business the Meeting terminated at 10.36am.

EXECUTIVE LEADERSHIP TEAM COMMENTS:

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES - MURWILLUMBAH

Nil.

DELEGATIONS FOR REGULATORY DEVICES - TWEED HEADS

A1 [LTC] Casuarina Way, Casuarina

That a yellow "No Stopping" line be installed on Casuarina Way, Casuarina on the southern approach to the Grand Parade roundabout, for 20 metres south of the kerb ramp.

A2. [LTC] Brett Street and Keith Compton Drive

Item moved to the B Section of the minutes.

A3. [LTC] Tweed Coast Enduro - 16 February 2019

That the proposed Tweed Coast Enduro on Saturday 16 February 2019 be supported, subject to:

- 1. NSW Police approval being obtained.*
- 2. Endorsement of the event by Triathlon Australia.*

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.**

A4. [LTC] Kingscliff Triathlon 2 December 2018

That the proposed Kingscliff Triathlon on Sunday 2 December 2018 be supported subject to:

1. **NSW Police approval being obtained.**
2. **Endorsement of the event by Bicycle NSW.**
3. **Consultation with the Kingscliff Chamber of Commerce.**
4. **Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.**
5. **Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.**
6. **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.*
- 7. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.**
 - 8. Adequate public liability insurance being held by the event organiser.**
 - 9. 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.**
 - 10. Consultation with emergency services and any identified issues addressed.**
 - 11. Arrangements made for private property access and egress affected by the event.**
 - 12. 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.**
 - 13. The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.**
 - 14. 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.**
 - 15. A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.**

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice v2.6

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.

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR ENGINEERING IN COMMITTEE

C1 [E-CM] Offer of Compensation for Consolidation of High Flood Hazard Land, South Murwillumbah

REASON FOR CONFIDENTIALITY:

Matters concerning just terms compensation negotiations with a private landholder.

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: -

- (b) the personal hardship of any resident or ratepayer.

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: **Leader**
