

**Mayor:** Cr K Milne

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

# Agenda

## **Ordinary Council Meeting Thursday 19 April 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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**Items for Consideration of Council:**

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## CONFIRMATION OF MINUTES

- 1 [CONMIN-CM] Confirmation of Minutes of the Ordinary and Confidential Council Meeting held Thursday 22 March 2018

SUBMITTED BY: Corporate Governance

mhm

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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**

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The Minutes of the Ordinary and Confidential Council Meeting held Thursday 22 March 2018 are attached for information and adoption by Council.

### RECOMMENDATION:

That:

1. The Minutes of the Ordinary and Confidential Council Meeting held Thursday 22 March 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](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Attachment 1

Minutes of the Ordinary Council Meeting held Thursday 22 March 2018 (ECM 5169829).

(Confidential) Attachment 2

Minutes of the Confidential Council Meeting held Thursday 22 March 2018 (ECM 5169878).

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**2 [CONMIN-CM] Confirmation of Minutes of the Ordinary and Confidential Council Meeting held Thursday 5 April 2018**

**SUBMITTED BY: Corporate Governance**

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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 5 April 2018 are attached for information and adoption by Council.

**RECOMMENDATION:**

**That:**

- 1. The Minutes of the Ordinary and Confidential Council Meeting held Thursday 5 April 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](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Attachment 1                      Minutes of the Ordinary Council Meeting held Thursday 5 April 2018 (ECM 5194700).

(Confidential) Attachment 2      Minutes of the Confidential Council Meeting held Thursday 5 April 2018 (ECM 5194627).

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## SCHEDULE OF OUTSTANDING RESOLUTIONS

### 3 [SOR-CM] Schedule of Outstanding Resolutions as at 19 April 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**

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#### 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.*

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15 SEPTEMBER 2016

#### REPORTS FROM THE GENERAL MANAGER IN COMMITTEE

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

##### C 29

That Council:

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

**Current Status:** Council previously entered into a short term licence for the occupation of the Railway Station which has now expired and is now occupied on a month to month basis. TOMRA have entered into a licence for a small portion of the land for reverse vending machines which went live on 11 March 2018.

Short term licence has been provided to M Arts.

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**18 MAY 2017**

**ORDERS OF THE DAY**

**37 [NOM] Tweed Shire Housing Opportunities**

**222**

**Cr K Milne  
Cr C Cherry**

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

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

**Current Status:** Workshop conducted on 22 February 2018, report to be prepared for consideration by Council.

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**20 JULY 2017**

**REPORTS FROM THE GENERAL MANAGER**

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

**311**

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that:

1. The Planning Proposal for Bob Whittle Murwillumbah Airfield be prepared and submitted to the NSW Department of Planning and Environment for a Gateway Determination, in accordance with s56 of the Environmental Planning and Assessment Act.
  2. The Minister for Planning and Environment or his Delegate be advised that Tweed Shire Council is not seeking plan making delegations for this planning proposal.
  3. The Minister for Planning and Environment or his Delegate be advised that public exhibition is not required in this instance.
-

4. On receipt of the Minister's Gateway Determination Notice to proceed, any 'conditional' requirements of the Minister and any other study or work are to be completed, and included within the public exhibition material.
5. Following receipt of the Gateway Determination the planning proposal be publicly exhibited in accordance with the Gateway Determination and a further report is to be submitted to Council detailing the content of submissions received and any proposed amendment(s).

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

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**21 SEPTEMBER 2017**

**REPORTS FROM THE DIRECTOR ENGINEERING**

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

**462**

**Cr C Cherry  
Cr K Milne**

**RESOLVED** that this item be deferred for a Workshop.

**Current Status:** Workshop held 29 March, report to be prepared for Council consideration.

---

**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 a Workshop is still to be organised.

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

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**16 NOVEMBER 2017**

**ORDERS OF THE DAY**

**12 [NOM] Power Prices**

**583**

**Cr J Owen**  
**Cr W Polglase**

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

**Current Status:** Interim response provided by Mr Ben Franklin, Parliamentary Secretary for Renewable Energy and Northern Rivers referring the matter to the Minister for Resources, Energy and Utilities and undertaking to get further information back to Council.

---

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.

---

**7 [NOM] Land Audit - Tiny Homes**

19

**Cr R Byrnes**  
**Cr R Cooper**

**RESOLVED** that a report be generated by Council listing available and appropriate Council land for the purpose and utilisation of a 'Tiny Homes' project of a small scale that can be managed by a *not for profit* organisation or Housing NSW. Further, that Council writes to the NSW State Government requesting a list of available and appropriate State owned/Crown Land for the purpose of a 'Tiny Homes' project.

**Current Status:** Workshop was held on 15 March 2018.

Officers are currently reviewing the Council land register and a further report will be prepared for 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.

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**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 being sought with reference to the appropriate action to be undertaken. A further report will be submitted back to Council.

---

**C3 [PR-CM] Unauthorised Works at Lot 1 DP783892, No.1110 Urliup Road, Urliup**

**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 10**

That Council in respect of the investigations into the alleged Unauthorised Works at Lot 1 DP783892, No.1110 Urliup Road, Urliup, pursue the water pollution offences either in the Local Court or by issuing Penalty Infringement Notices as guided by Council's solicitors. A further report be brought back to Council subsequent to the Solicitors advice.

**Current Status:** Advice being sought with reference to the appropriate action to be undertaken. 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:** Reported to be prepared for Council consideration.

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**13 [NOM] Protecting Tweed's Native Forests**

**101**

**Cr P Allsop  
Cr J Owen**

**RESOLVED** this item be deferred for a future Workshop to be scheduled on the above Motion.

**Current Status:** A workshop is scheduled for 10 May 2018.

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**15 [NOM] Sustainable, Wildlife and Marine Life Friendly Products and Packaging Policy**

**103**

**Cr K Milne  
Cr P Allsop**

**RESOLVED** that this item deferred to the Council Meeting on 19 April 2018.

**Current Status:** There is further discussions being held on this Motion with the view to resubmitting to a future meeting.

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**16 [NOM] Sustainability Awards**

**104**

**Cr K Milne  
Cr J Owen**

**RESOLVED** that Council brings forward a report on developing a range of Sustainability Awards

**Current Status:** Reported to be prepared for Council consideration.

---

**18 [NOM] Review of Murwillumbah CBD Street Trees**

**106**

**Cr K Milne  
Cr J Owen**

**RESOLVED** that Council brings forward a report on the state of the street trees in Murwillumbah CBD in regard to their health, any gaps, and options for appropriate species for replanting or replacement if required and where improved shading could be achieved.

**Current Status:** Reported 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:** Reported to be prepared for Council consideration.

---

**REPORTS FROM THE GENERAL MANAGER**

**20 [GM-CM] Northern Rivers Joint Organisation**

**108**

**Cr K Milne  
Cr P Allsop**

---

**RESOLVED** that:

1. In accordance with Part 7 of Chapter 12 of the Local Government Act 1993:
  - i) Council informs the Minister for Local Government of Council's endorsement of the Minister recommending to the NSW Governor the establishment of the Northern Rivers Joint Organisation in accordance with this resolution.
  - ii) Council approves the inclusion of the Council's area in the Northern Rivers Joint Organisations area.
  - iii) The Northern Rivers Joint Organisation be established to cover the Council's area and any one or more of the following council areas:
    - Ballina Shire.
    - Byron Shire,
    - Kyogle,
    - Lismore City
    - Richmond Valley, and
    - Tweed Shire.
  - iv) Consideration also be given to extending non-voting associate membership to the following organisations:
    - Rous County Council; and
    - Gold Coast City Council.

where matters of interest may have relevance.
  - v) On the expiry of a period of 28 days from the making of this resolution, the General Manager provides the Minister for Local Government:
    - a) with a copy of this resolution including the date on which Council made this resolution, and
    - b) inform the Minister for Local Government that this resolution has not been rescinded, for the purpose of the Minister for Local Government issuing a certificate under section 400P of the Local Government Act 1993.
2.
  - a) Council delegates to the Mayor or any other representative the requirement to seek consensus decision-making to be included in the Charter for the proposed Northern Rivers Joint Organisation.
  - b) The Mayor writes to fellow Northern Rivers Organisation of Councils (NOROC) Mayors, who have resolved for the Joint Organisation, to advise of Council's decision and to seek their commitment to support consensus decision-making within the Charter and that this commitment be provided by 13 April 2018 to enable Tweed Shire Council time to reconsider its decision should consensus decision-making not be supported.
3. Council flags its intention of withdrawing as a member of the Northern Rivers Organisation of Councils (NOROC).

**Current Status:** Mayor and GM agreed to brief all NOROC Mayors and GMs regarding Tweed's resolution.

Letter has also been forwarded from the Mayor to respective NOROC Mayors requesting a response by 13 April 2018.

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## MAYORAL MINUTE

### 4 [MM-CM] Mayoral Minute for March 2018

**SUBMITTED BY:** Cr K Milne, Mayor

mhm



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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**

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## Councillors

## COMMITTEE MEETINGS

### Attended by the Mayor

- 26 March NOROC Regional Priorities Workshop - Lismore City Council, Oliver Avenue, Lismore.
- 

## INVITATIONS / MAYORAL REPRESENTATION:

### Attended by the Mayor

- 3 March Charity Chilli Festival - Cudgen Leagues Club, 3 Wommin Bay Road, Kingscliff.
  - 8 March Bureau of Meteorology Community Education Event - Murwillumbah Services Club, 10 Wollumbin Street, Murwillumbah.
  - 21 March Tumbulgum Residents, National Heavy Vehicle Regulator, Roads and Maritime Services Meeting - Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
  - 23 March Multicap Tweed Heads Hub Launch Event - Multicap, 1/47 Greenway Drive, South Tweed Heads.
  - 28 March Possums Community Preschool Reopening Event - Possums Community Preschool, 20 McLeod Street, Condong.
-

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

- 6 March International Women's Day Event - Tweed Regional Gallery, Mistral Road, South Murwillumbah. Cr Cherry attended.
- 18 March Kingscliff Triathlon - Marine Parade, Kingscliff. Cr Byrnes attended.

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

- 26 March North Coast Region of the United Hospital Auxiliaries of NSW Inc. Regional Conference Opening - Tweed Heads Bowls Club, Florence Street, Tweed Heads. No Councillors were available.
- 

**REQUESTS FOR WORKSHOPS:**

Councillors did not request any additional workshops during March 2018.

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**CONFERENCES:**

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

- 15-16 March Climate Leadership Conference - Dockside Cockle Bay Wharf, Wheat Road, Darling Harbour. Crs Milne and Cherry attended.
- 20-23 March Australian Coastal Councils Conference - Novotel Geelong, 10-14 Eastern Beach Road, Geelong. Cr Cherry attended.

**Information on Conferences to be held**

There was no information received on pending conferences during March 2018.

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**SIGNING OF DOCUMENTS BY THE MAYOR:**

- 1 March Deed of Grant - Loan to Salt Surf Life Saving Club.
- 

**COUNCIL IMPLICATIONS:**

- a. **Policy:**  
Code of Meeting Practice.
-

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

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

**c. Legal:**

Not applicable.

**d. Communication/Engagement:**

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

**RECOMMENDATION:**

**That:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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## RECEIPT OF PETITIONS

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

**SUBMITTED BY:** Corporate Governance

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

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

**ROLE:** Collaborator

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#### SUMMARY OF REPORT:

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

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

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

#### RECOMMENDATION:

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

**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.

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## ORDERS OF THE DAY

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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**

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## 6 [NOM] Memorial of Contribution - Dr Betty Marks

### NOTICE OF MOTION:

**Councillor P Allsop moves that Council:**

- 1. Finds a suitable location to create a memorial for Dr Betty Marks.**
- 2. Requests a plaque or appropriate memorial to be included as part of the new Tweed Heads Hospital to recognise Dr Betty Marks services to the local medical profession.**

### Councillor's Background Notes

#### Recommended Priority:

A memorial ceremony for Dr Betty Marks was held on 10 April 2018 at the All Saints Anglican Church, Murwillumbah.

#### Description of Project:

It is requested that Council locates a suitable site or creates a landmark to install of a commemorative plaque.

## Management Comments:

### Delivery Program:

mhm



Making decisions with you  
*We're in this together*

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

**ROLE:** **Leader**

---

### Budget/Long Term Financial Plan:

The costs will be dependent on the nature of the memorial and the site.

### Legal Implications:

Nil

### Policy Implications:

The Draft Memorials in Public Spaces states:

Council will not generally permit plaques and memorials commemorating deceased persons to be placed in public parks or natural areas.

In certain circumstances they may be allowed, but will only be considered where they meet the following criteria:

They commemorate a deceased individual who was a member of the Tweed community and who has made a substantial contribution to the Tweed community.

The contribution of the individual was extra-ordinary and over and above what might reasonably be expected through paid employment or their voluntary contribution to the community, and that contribution stands out from others who may have also made a valuable contribution.

A request to place a plaque or memorial commemorating a deceased individual will only be considered where the individual has been deceased for at least one year, to allow for appropriate development of historical perspective.

Plaques or memorials may also be considered where they:

- Commemorate a significant historical or cultural event which has a profound meaning for the broader Tweed community, or is of national or state significance. The subject of a requested plaque or memorial must have a clear association and strong significance to the location proposed for the plaque or memorial.

Requests for plaques and memorials will only be considered where they are consistent with, if existing, a Council plan for the proposed area of open space. If there is no master plan or concept plan for the proposed area of open space then the request must be consistent with Council's Open Space Strategy and the land's public purpose.

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## REPORTS THROUGH THE GENERAL MANAGER

### REPORTS FROM THE GENERAL MANAGER

#### 7 [GM-CM] ED-EOI 01-2017 - Expression of Interest - Marketing, Promotion and Destination Management

SUBMITTED BY: General Manager

Valid

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

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

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

ROLE: **Leader**

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#### SUMMARY OF REPORT:

The following item was deferred from the Council meeting of 5 April 2018 to allow a workshop to be held on 13 April 2018 providing Councillors with further information in relation to this Expression of Interest process.

An Expression of Interest was called for interested parties to provide Marketing, Promotion and Destination Management (ED-EOI 01-2017) services to Council. This is the first step of a multi-staged process.

At the time of closing eight Expressions of Interest were received.

The evaluation of the offers against the Selection Criteria is contained in the EOI Evaluation Report included in **CONFIDENTIAL ATTACHMENT 1**. The recommendations are based on the evaluation.

Also attached, as **CONFIDENTIAL ATTACHMENT 2**, is the independent Probity Advisors Interim Probity Report with respect to the EOI Evaluation process.

**RECOMMENDATION:**

That, in respect to the Expression of Interest for Marketing, Promotion and Destination Management (ED-EOI 01-2017):

1. Council invites the nominated short listed proponents to submit a Tender for the provision of Marketing, Promotion and Destination Management Services (ED-RFT 01-2017), as recommended below (in alphabetical order):

Amanti Tourism	NZBN: 9429045
Destination Tweed	ABN 63 058 796 857
DR Tourism	ABN 87 619 651 857
Sparrowly Group	ABN 97 621 726 663
The Monday Agency	ABN 87 611 335 490

2. Council engages Local Government Procurement to assist with the Request for Selective Tender process for the provision of Marketing, Promotion and Destination Management Services (Stage 2) to the successful shortlisted parties of the Expression of Interest (Stage 1).
3. ATTACHMENTS 1 and 2 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:

### Expression of Interest Background

A public Expression of Interest (EOI) was released to the open market for interested parties to provide Marketing, Promotion and Destination Management (ED-EOI 01-2017) services to Council. This is the first step of a multi-staged process. Dependant on Council's decision resulting from this report, the second stage will be for the successful shortlisted respondents to the EOI to be invited to participate in the selective tender process.

At the time of closing, eight Expressions of Interest were received.

The EOI process was overseen by Local Government Procurement who were engaged to:

- Prepare EOI documentation
- Undertake advertising
- Co-ordinate EOI release
- Manage EOI process and communicate with tenderers
- Conduct Compliance Assessment
- Facilitate and Chair the EOI evaluation process

Additional to this an independent:

- Tourism specialist was engaged to provide advice and input into the EOI process. This advisor will remain engaged through the second stage, Request for Tender process.
- Probity advisor, who was engaged to advise on the development of and implementation of the probity plan, providing probity briefing to relevant stakeholders, attending, observing and providing probity advice during the EOI evaluation moderation and shortlisting meeting.

A non-mandatory EOI briefing was held on 7 March 2018 at Council offices in Murwillumbah. This briefing was conducted by Local Government Procurement and was overseen by the Probity Advisor to the project. All members of the Committee were present at this meeting.

### Expression of Interest Advertising

EOIs were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. The Request for Offers was advertised from 27 February 2018 in Sydney Morning Herald, Gold Coast Bulletin and Tenderlink webpage. The Offer was also advertised in the Tweed Link and on Council's website.

EOI submissions closed at 4.00pm (DST) on 21 March 2018 through the online tender box process operated by Tenderlink and in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484. The EOI / tender box process was managed by Local Government Procurement and was overseen by an Evaluation Committee member.

### Expression of Interest Addendums

There were no addendums issued before close of EOI.



### Expression of Interest Submissions

At the closing time for EOI Submissions, the Tender Box was opened and eight EOIs were received. EOIs are recorded below (in alphabetical order):

<b>Respondent</b>	<b>ABN</b>
Amanti Tourism Limited	NZBN: 9429045
Destination Tweed Limited	ABN 63 058 796 857
DR Tourism Pty Ltd	ABN 87 619 651 857
Kingscliff Chamber of Commerce Inc.	ABN 62 450 938 508
Miele D'Oro	ABN 54 506 108 215
Sparrowly Group Pty Ltd	ABN 97 621 726 663
The Copy Collective Pty Ltd	ABN 98 131 664 938
The Monday Agency Pty Ltd	ABN 87 611 335 490

### Expression of Interest Evaluation

An EOI Evaluation Plan was developed based on the premise that responses were to be received and scored against specific evaluation criteria.

Council's EOI Evaluation Panel was made up of:

#### Position

Local Government Procurement Representative (non-scoring Chair)  
Economic Development Consultant  
Economic Development Officer  
Events Officer

The Independent Probity Advisor was present at the Panel meeting to provide probity advice, as required, and to oversee the probity of the assessment process. The Independent Probity Advisor participated in a non-scoring role.

EOI's were evaluated based on the criteria noted in the table below which were also listed in the Conditions of the EOI.

<b>Criterion</b>	<b>Weighting</b>
Capacity	25%
Capability	25%
Marketing and Promotion Strategy	25%
Reporting and Relationship Management	25%
	100%

The details of the evaluation are shown on the EOI Evaluation Report. A copy of the EOI Evaluation Report is included as **CONFIDENTIAL ATTACHMENT 1**.

The information identifies the Respondent in relation to the EOI's and the evaluation of the services offered by the Respondent. If disclosed, the information would be likely to prejudice the commercial position of the Respondent in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the EOI.

### Local Government Procurement – Request for Tender

At its meeting on 21 September 2017 Council resolved to engage Local Government Procurement to provide services to assist Council to undertake the EOI process (Stage 1). The second stage of this process will require Council inviting the shortlisted Respondents to submit a Tender. This will require full tender provisions to be undertaken through this process. This report recommends that Council engage Local Government Procurement to undertake (Stage 2) which is the advertising, administrative processes, and reporting of the Request for Selective Tender Services, as outlined in their original quote of 1 September 2017.

### OPTIONS:

That Council:

1. Invites the nominated shortlisted respondents to submit a Tender for the provision of Marketing, Promotion and Destination Management Services (ED-RFT 01-2017), as recommended below (in alphabetical order):

Amanti Tourism	NZBN: 9429045
Destination Tweed	ABN 63 058 796 857
DR Tourism	ABN 87 619 651 857
Sparrowly Group	ABN 97 621 726 663
The Monday Agency	ABN 87 611 335 490

2. Does not invite the nominated shortlisted respondents to submit a Tender for the provision of Marketing, Promotion and Destination Management Services (ED-RFT 01-2017), as recommended below (in alphabetical order):

Amanti Tourism	NZBN: 9429045
Destination Tweed	ABN 63 058 796 857
DR Tourism	ABN 87 619 651 857
Sparrowly Group	ABN 97 621 726 663
The Monday Agency	ABN 87 611 335 490

3. Engages Local Government Procurement to assist with the Request for Selective Tender Services for the provision of Marketing, Promotion and Destination Management Services (Stage 2) to the successful shortlisted parties of the Expression of Interest (Stage 1).
4. Does not engage Local Government Procurement to assist with the Request for Selective Tender Services for the provision of Marketing, Promotion and Destination Management Services (Stage 2) to the successful shortlisted parties of the Expression of Interest (Stage 1).

### CONCLUSION:

That Council endorses the recommendation contained within this report.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

The EOI invitation and evaluation have been conducted in accordance with the provisions of:

- The Local Government Act 1993
- Local Government (General) Regulation 2005
- Council's Procurement Policy

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

The recommended engagement of Local Government Procurement services for Stage 2 is within the Economic Development Unit budget.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

The EOI was advertised in conformance with Council's Procurement Policy and the Local Government Act, as detailed in the body of the report.

A non-mandatory EOI briefing was held on 7 March 2018 at Council offices in Murwillumbah. This briefing was conducted by Local Government Procurement and was overseen by the Probity Advisor to the project. All members of the Committee were present at this meeting.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*(Confidential)* Attachment 1. Local Government Procurement - EOI Evaluation Report (ECM 5186600).

*(Confidential)* Attachment 2. EOI Interim Probity Report (ECM 5185546).

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**8 [GM-CM] Destination Tweed Quarterly Report October - December 2017**

**SUBMITTED BY: Economic Development**

mhm

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**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**

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**SUMMARY OF REPORT:**

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

This report provides Destination Tweed's quarterly reports for the October to December 2017 quarter.

**RECOMMENDATION:**

**That Council:**

- 1. Receives and notes Destination Tweed's quarterly report for the October to December 2017 quarter.**
- 2. Endorses payment of the quarterly contract instalment in accordance with contract AC2010-073 Provision of Services for Economic Development Tourism Promotion.**
- 3. ATTACHMENT 3 & 4 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:**

As required by the current funding and performance agreement with Destination Tweed, a quarterly performance report and summary financial statement are to be provided for Council's review. This report provides Destination Tweed's quarterly report for the October to December 2017 quarter. The quarterly report is an attachment to this Council report.

**OPTIONS:**

This report to Council presents Destination Tweed's quarterly report for the October to December 2017 quarter, which is required as part of their contract. The options available 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 October to December 2017 quarterly report from Destination Tweed and endorses the quarterly payment.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable

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

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

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. Destination Tweed Quarterly Report to Council for October to December 2017 (ECM 5193438)

Attachment 2. Destination Tweed – Tweed Tourism Monitor September Quarter 2017 (ECM 5193439)

*(Confidential)* Attachment 3. Destination Tweed Financial Report – Balance Sheet for October to December 2017 (ECM 5192713)

*(Confidential)* Attachment 4. Destination Tweed Financial Report – Profit and Loss Statement for October to December 2017 (ECM 5192714)

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## 9 [GM-CM] Destination Tweed 2018 Board Membership

**SUBMITTED BY:** General Manager

mhm



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### 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:

On 7 March Destination Tweed held their Annual General Meeting. At that meeting a new Board was appointed for 2018. Also a number of special resolutions were passed by the Board which included the process for appointing two Council nominated 'non-voting' Directors to the Destination Tweed Board. The previous Constitution automatically identified the Council Board Directorship stipulating that it must be the Mayor.

This report recommends that Council make no changes to the Council nominated Directorship to the Board of Destination Tweed until the end of the current Tender process for *marketing, promotion and destination management of tourism services*. It is also recommended that Council determine any management representation with the new tenderer be in line with the new tender contract after a new tenderer has been appointed.

### RECOMMENDATION:

**That:**

1. Council makes no changes to the Council nominated Directorship to the Board of Destination Tweed until the end of the current Tender process for *marketing, promotion and destination management of tourism services*,
2. Council determines any management representation with the new tenderer in line with the new tender contract after a new tenderer has been appointed,
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:

### New Board

Council has received advice from the Chief Executive Officer (CEO) of Destination Tweed (DT) that on 7 March Destination Tweed held their Annual General Meeting (AGM). At that meeting a new Board was appointed for 2018. The newly elected Board is as follows;

- Darren Wright – Chair
- Kylie Milroy – Deputy Chair
- Belinda Hall – Company Secretary
- Peter Burr
- Paul Prout
- Frank Gyzemyter
- Two (2) Tweed Shire Council nominees

Aymon Gow and Charles Martin have retired from the DT Board. It is acknowledged the many years of service that they both have offered to the tourism industry in the Tweed through Destination Tweed.

### Council Representation

Also a number of special resolutions were passed by the DT Board which included the process for appointing two Council nominated 'non-voting' Directors to the Destination Tweed Board. The previous Constitution automatically identified the Council Board Directorship stipulating that it must be the Mayor.

These changes to the DT Constitution potentially increase the number of Directors that Council can nominate to the Board to two. The Board have approved an amendment to the constitution to allow Council to nominate two Directors to the Board. The revision to the Constitution allows for Council to nominate one Councillor as a Board Director and one alternative Board Director. These positions will need to be resolved by Council and will be special 'non-voting' Directors positions.

Prior to these amendments Council would nominate one position onto the DT Board. Through convention the acting Mayor has been nominated to the DT Board Directors position.

At its meeting of 17 November 2017 Council appointed councillor representatives to the Committees of Council for the period of this Council ending September 2020. At this meeting the position of Mayor was appointed as Council's nominee to act as Director of DT, with the Deputy Mayor to act as the alternate. Since the date of this meeting Cr Katie Milne has held the position of Mayor and has taken up Council's position on the DT Board.

### Tender Process

On 27 February Council went to the market for Expressions of Interest (EOI) for the provision of *marketing, promotion and destination management of tourism services*. This EOI closed on the 21 March and is the first step towards a selective Request for Tender. From the commencement of this process Council has prepared a Probity Plan, in consultation with an external probity advisor, to guide the tender process. This Plan outlines that Councillors responsibility for interacting with DT should be "business as usual".



Under this guidance it would be considered inappropriate to modify Council's existing DT Board Directors. As a result this report recommends that there be no change to Council's nominated DT Board membership during the Tender process. It is also recommended that Council determine any management representation with the new tenderer be in line with the new tender contract after a new tenderer has been appointed.

**OPTIONS:**

That Council;

1. Continues with the current resolution of 17 November 2017 for Committees of Council to nominate the Mayor as the delegate for the position of Non-Voting Director of Destination Tweed with the position of Deputy Mayor as the alternate delegate,
2. (a) Continues with the current resolution of 17 November 2017 for Committees of Council to nominate the Mayor as the delegate for the position of Non-Voting Director of Destination Tweed with the position of Deputy Mayor as the alternate delegate,  
  
(b) That Council determine a second Non-Voting Director of Destination Tweed,
3. Nominate new Non-Voting Board Directors to Destination Tweed Board,
4. Withdraw all Board representation on Destination Tweed.

**CONCLUSION:**

This report recommends that Council not change its appointment of the Mayor as the delegate and the Deputy Mayor as the alternate delegate to the DT Board in line with resolution of 17 November 2017 until the end of the current funding and performance contract with DT which is due to expire on 30 September 2018.

**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:**

*(Confidential)* Attachment 1. Destination Tweed Constitution – Amended AGM 7 March 2018 - Destination Tweed (ECM 5173033)

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## 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.

**10 [PR-CM] Development Application D90/0436.09 for an Amendment to Development Consent D90/0436 for the Erection of a Tavern and Nine (9) Shops at Lot 171 DP 629328 No. 28-40 Overall Drive, Pottsville**

**SUBMITTED BY: Development Assessment and Compliance**

mhm



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

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

**ROLE:** **Provider**

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**SUMMARY OF REPORT:**

Council is in receipt of a Section 4.55 Application (previously known as Section 96) to amend the development consent for the Pottsville Tavern. The application seeks to amend the approved hours of operation of the Tavern.

Development Consent D90/0436 for the erection of a tavern and nine shops was approved 21 January 1991. Since the original approval there have been a number of Section 96 modification applications to amend the approved hours of operation of the Tavern which are restricted to 10am to 10pm.

Amended Development Consent D90/0436.05 granted 20 May 2010 approved a variation to the operation hours after two previous applications were refused (0090/2001S96 refused 5 March 2002 and D90/0436.04 refused 19 April 2007). The modified approval amended the hours of operation for the Tavern to allow extended trading hours to 12 midnight on Friday and Saturday for a 12 month trial period subject to the following condition:

*10A. Hours of operation for a maximum period of 12 months from the date of this amended consent:*

*Sunday to Thursday – 10.00am to 10.00pm*

*Friday and Saturday – 10.00am to 12.00 Midnight*

*Variation of the above hours are permitted for a maximum of six (6) times per year with the written approval of the General Manager, or delegate, of Tweed Shire Council within the 12 month period.*

*Following the lapse of the 12 month period the hours of operation shall be restricted to 10.00am to 10.00pm.*

*Any further application for the variation of hours of operation outside of 10.00am to 10.00pm shall be prepared by a suitably qualified person and accompanied by a noise impact assessment in accordance with AS 1055 Acoustics – Description and measurement of environmental noise, the Noise Guide for Local Government June 2004 and any other relevant and accepted guideline.*

The trial of the extended hours of operation was not fully implemented and subsequent applications to vary the hours of operation have been refused by Council citing potential amenity impacts on the surrounding residential community as the primary reason for refusal (D90/0436.07 refused 25 November 2013 and D90/0436.08 refused 12 June 2014).

This current Section 4.55 application seeks to amend the current approved 10am to 10pm trading hours as follows:

- Wednesday to Saturday – 10.00am to 11.00pm
- Sunday to Tuesday – 10.00am to 10.00pm

The application is supported by an Environmental Noise Impact Report and a Draft Plan of Management for the Tavern which concludes that predicted noise impacts associated with the proposal are considered to be acceptable with regard to the applicable NSW noise policy criteria and appropriate mitigation and management measures. The report is considered to be adequate for the proposal and any consent will be required to comply with the recommendations of the report.

The application was referred the NSW Police Tweed/Byron Local Area Command Licencing Unit for review who had no objection to the proposed extended trading hours subject to the application being notified to allow the community to comment. NSW Police further stated that there have been no recent noise complaints made in relation to the Tavern.

Advice was sought from the Department of Industry Liquor & Gaming regarding complaints registered to the Tavern's Hotel Licence. Liquor & Gaming reported that two disturbances were registered against the premises in 2011 and no further disturbances have been registered since that time.

The application was notified to surrounding residences and six submissions were received objecting to the proposal. The reasons for objecting to the proposal relate primarily to the potential noise and amenity impacts. The matters raised in the objections are adequately addressed by the imposition of conditions on the proposed consent to ensure the Tavern is appropriately managed to minimise potential noise disturbances to surrounding residence.

It is considered to be appropriate to allow the Tavern the opportunity to demonstrate to Council and the community that it is able to appropriately manage any potential noise impacts associated with the proposed extended operating hours noting that there has been no noise complaints registered against the current operators of the Tavern.

The application is recommended for approval subject to a 12 month trial period. Any proposal to permanently amend the hours of operation is to be the subject of a further modification application which will provide Council the opportunity to further assess any impacts of the proposal following the trial period.

**RECOMMENDATION:**

**That Development Application D90/0436.09 for an amendment to Development Consent D90/0436 for the erection of a tavern and nine (9) shops at Lot 171 DP 629328 No. 28-40 Overall Drive, Pottsville be approved subject to the following amended conditions and new additional conditions:**

- 1. Condition No. 10A is to be deleted and replaced with 10B which reads as follows:**

**10B. Hours of operation for a maximum period of 12 months from the date of this amended consent:**

**Sunday to Tuesday – 10.00am to 10.00pm  
Wednesday to Saturday – 10.00am to 11.00pm**

**Variation of the above hours are permitted for a maximum of six (6) times per year with the written approval of the General Manager, or delegate, of Tweed Shire Council within the 12 month period.**

**Following the lapse of the 12 month period the hours of operation shall be restricted to 10.00am to 10.00pm.**

**Any further application for the variation of hours of operation outside of 10.00am to 10.00pm (other than the above permitted six variations) shall be prepared by a suitably qualified person and accompanied by a noise impact assessment in accordance with *AS 1055 Acoustics – Description and measurement of environmental noise*, the *Noise Guide for Local Government*, the *NSW EPA Noise Policy for Industry*, and any other relevant and accepted guideline.**

- 2. Condition No. 20 is to be deleted and replaced with 20A which reads as follows:**

**20A. The development shall be carried out in accordance with the requirements of the acoustic reports prepared by Craig Hill and Warrick Smith, and with the recommendations of the Environmental Noise Impact Report for Modifications to Trading Hours, Pottsville Tavern, 28 – 40 Overall Drive, Pottsville prepared by CRG Acoustics dated 23 February 2018 (crgref: 17146 report rev.1) and Pottsville Tavern Plan of Management, except where varied by conditions of consent.**

- 3. The following new conditions are to be added:**

**27. Amplified and/or live music shall not be played external to the building.**

28. All activities in the 'beer garden' areas shall cease at 10pm.
29. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.
30. A noise assessment compliance report from a suitably qualified acoustic consultant shall be prepared and submitted to Council for the approval of the General Manager or delegate in respect to noise generated by the activities associated with the tavern within a period not exceeding 60 days of the date of extended trading hours of the tavern.

The report shall consider the recommendations of the acoustic reports prepared by Craig Hill and Warrick Smith, and the Environmental Noise Impact Report for Modifications to Trading Hours, Pottsville Tavern, 28 – 40 Overall Drive, Pottsville prepared by CRG Acoustics dated 23 February 2018 (crgref: 17146 report rev.1), and include any recommended noise amelioration measures to be carried out by the applicant.

Upon notification of approval of the noise assessment compliance report, the applicant shall carry out any such recommendations as provided within the noise assessment compliance report to the satisfaction of the General Manager or delegate within 30 days. The General Manager or delegate may extend the time period for the carrying out of any recommended acoustic treatment upon request.



**REPORT:**

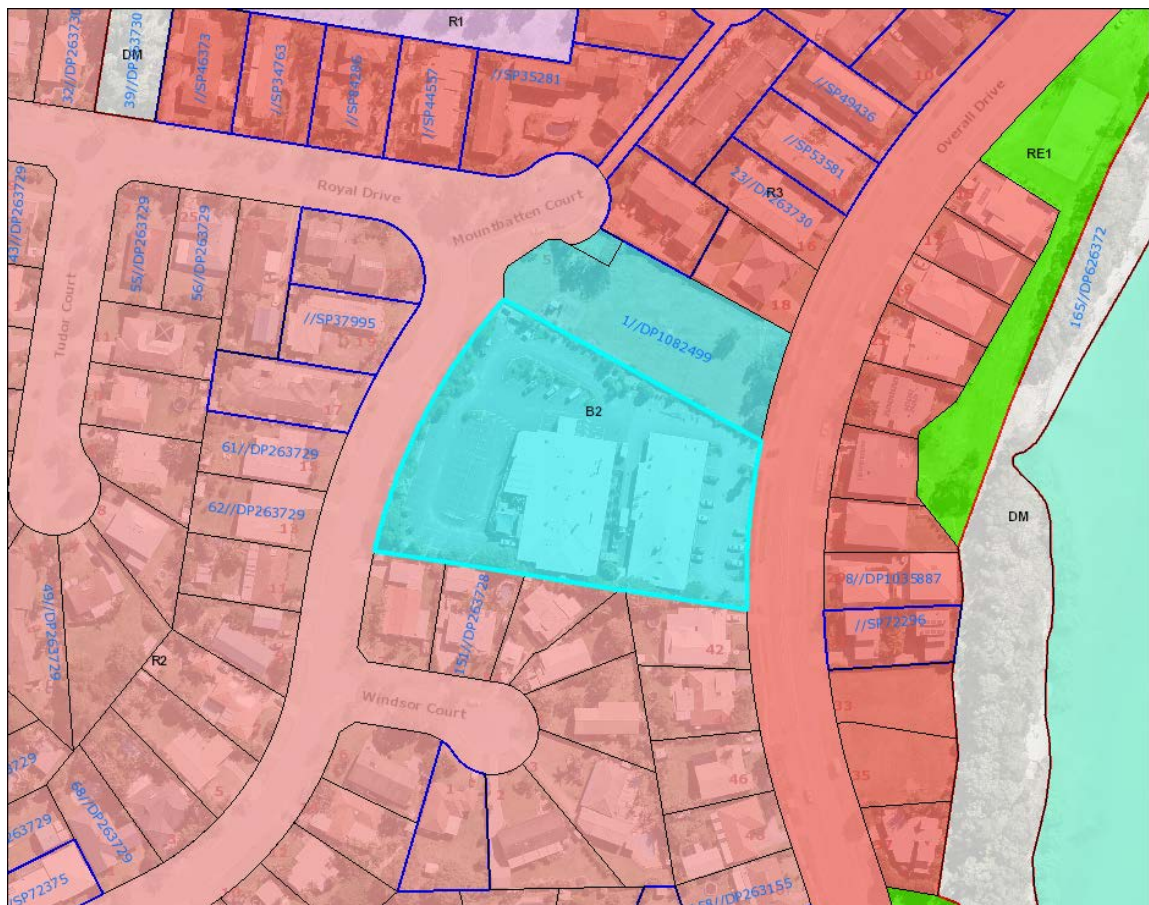
**Applicant:** Almoni Pty Ltd Atf Polglase Family Trust  
**Owner:** Polglase Hotels Pty Ltd  
**Location:** Lot 171 DP 629328 No. 28-40 Overall Drive, Pottsville  
**Zoning:** B2 Local Centre  
**Cost:** Not Applicable

**Background:**

Council is in receipt of a Section 4.55(1A) Application (previously known as Section 96(1A)) to amend the development consent for the Pottsville Tavern. The application proposes to amend the hours of operation of the tavern from the approved hours of 10am - 10pm to allow trading to 11pm Wednesday to Saturday.

The subject site is zoned B2 Local Centre and is surrounded by a mix of low and medium density residential development. Immediately to the north of the site within the B2 zoning is a vacant lot, 5 Mountbatten Court. A mixed use commercial and residential development was approved for 5 Mountbatten Court in 2005 however this approval has since lapsed.

The subject site contains a small shopping complex known as Pottsville Waters Shopping Centre and comprises of a small supermarket and retail shops and a separate tavern approved subject to D90/0436 (as amended) for the erection of a tavern and nine (9) shops originally approved 21 January 1991. Development Approval DA05/1462 for additions to Pottsville Tavern was approved 19 April 2007 and later amended subject to DA05/1462.01 granted 2 November 2007.



The site has a complex history of modifications, specifically with respect to the approved hours of operation for the tavern. D90/0436 as approved on 21 January 1991 specified in Condition 9 that the operating hours of the tavern were restricted to 10am to 10pm. Since then there have been a number of modification applications to amend the approved hours of operation of the tavern as detailed in the below table.

*Amendment applications for D90/0436 relating to tavern*

<b>Application No.</b>	<b>Determination date</b>	<b>Proposed amendments</b>
D90/0436	Approved 21 January 1991	Approved hours of operation as per Condition 9 <ul style="list-style-type: none"> <li>• 10am to 10pm</li> </ul>
D90/0436 (amendment)	Approved 14 February 1991	Amended plans for tavern
D90/0436 (amendment)	Approved 24 May 1991	Amended plans for tavern
D90/0436 (amendment)	Approved 25 January 1994	Changes to staging of development. Hours of operation now specified in Condition 10. No change to approved hours of operation. Included new condition (11) specifying perimeter fencing for southern and western boundaries. Licencing Court document on file also references perimeter fencing.
D90/8436	Refused 7 December 1998	Proposed changes to approved fencing not supported (Condition 11).
0090/2001S96	Refused 5 March 2002	Proposed hours of operation refused <ul style="list-style-type: none"> <li>• Monday to Saturday 10am -11pm</li> <li>• Sunday 10am-10pm</li> <li>• Christmas Day &amp; Good Friday 12pm-10pm</li> </ul> Reasons for refusal: <ul style="list-style-type: none"> <li>• Impacts on local residents re noise;</li> <li>• Not supported by NSW Police.</li> </ul>
D90/0436.04	Refused 19 April 2007	Proposed hours of operation refused: <ul style="list-style-type: none"> <li>• Monday to Thursday 10am-10pm</li> <li>• Friday to Saturday 10am-Midnight</li> <li>• Sunday 10am-10pm</li> <li>• Public Holidays 10am – Midnight</li> </ul> Reasons for refusal: <ul style="list-style-type: none"> <li>• Impacts on local residents from noise and activities of patrons leaving the premises.</li> </ul>

Application No.	Determination date	Proposed amendments
D90/0436.05	Approved 20 May 2010	<p>Proposed hours of operation:</p> <ul style="list-style-type: none"> <li>• Monday to Saturday 10am - Midnight</li> <li>• Sunday 10am-10pm</li> <li>• Public Holidays 10am – Midnight</li> </ul> <p>Approved amended hours of operation subject to a 12 month trial period:</p> <ul style="list-style-type: none"> <li>• Sunday to Thursday 10am – 10pm</li> <li>• Friday &amp; Saturday 10am – 12pm midnight</li> <li>• Approved hours will revert to 10am-10pm at the end of the 12month trial.</li> </ul> <p>Additional conditions amended (9 &amp; 11) relating to noise and fencing. New conditions added (20-26) including reference to a Plan of Management.</p>
D90/0436.06	Withdrawn 10 April 2012	<p>Sought to have previously approved trial hours of operation to be the permanent hours of operation.</p> <p>Trail period not undertaken as per previous amendment and approval for extension of hours not granted by Liquor &amp; Gaming.</p>
D90/0436.07	Refused 25 November 2013	<p>Proposed hours of operation:</p> <ul style="list-style-type: none"> <li>• Sunday to Thursday 10am to 10pm</li> <li>• Friday and Saturday 10am to 12 midnight.</li> </ul> <p>Planning Report recommended extended hours of operation for Friday and Saturday until 12 midnight in a reviewable condition for 12 months under Section 80A of the EP&amp;A Act.</p> <p>Refused at full Council meeting of 21 November 2013. Reasons for refusal:</p> <ul style="list-style-type: none"> <li>• Negative impacts on the amenity of the community;</li> <li>• Not in the public interest due to amenity impacts and not in accordance with the orderly economic development of the locality</li> </ul>

Application No.	Determination date	Proposed amendments
D90/0436.08	Refused 12 June 2014	<p>Proposed hours of operation:</p> <ul style="list-style-type: none"><li>• Sunday to Thursday – 10am to 10pm</li><li>• Friday and Saturday 10am to 12 midnight</li></ul> <p>Refused at the Planning Committee meeting of 5 June 2014. Reasons for refusal:</p> <ul style="list-style-type: none"><li>• Negative impacts on the amenity of the community;</li><li>• Not in the public interest.</li></ul>

Of note is amended consent **D90/0436.05** which approved extended operating hours for Fridays and Saturdays to 12pm midnight subject to the following condition:

*10A. Hours of operation for a maximum period of 12 months from the date of this amended consent:*

*Sunday to Thursday – 10.00am to 10.00pm  
Friday and Saturday – 10.00am to 12.00 Midnight*

*Variation of the above hours are permitted for a maximum of six (6) times per year with the written approval of the General Manager, or delegate, of Tweed Shire Council within the 12 month period.*

*Following the lapse of the 12 month period the hours of operation shall be restricted to 10.00am to 10.00pm.*

*Any further application for the variation of hours of operation outside of 10.00am to 10.00pm shall be prepared by a suitably qualified person and accompanied by a noise impact assessment in accordance with AS 1055 Acoustics – Description and measurement of environmental noise, the Noise Guide for Local Government June 2004 and any other relevant and accepted guideline.*

An allowance of six variations to the approved extension of hours over the 12 month period (subject to written approval from Council) was provided in order to give the Tavern an opportunity to extend their trading hours on special events. This application was approved at a full Council Meeting on 18 May 2010.

However Council records indicate that the trial period in accordance with above condition was not undertaken and an approval from the Casino, Liquor & Gaming Control (as it was known at the time) was not obtained for any extension of trading hours.

A further application to amend D90/0436 was lodged 26 March 2013 (**D90/0436.07**) to again amend the hours of operation as follows:

10A. Hours of operation from the date of this amended consent are to be as follows:

*Sunday to Thursday – 10.00am to 10.00pm  
Friday and Saturday – 10.00am to 12.00 Midnight*

*Variation of the above hours are permitted for a maximum of six (6) times per year with the written approval of the General Manager, or delegate, of Tweed Shire Council.*

This proposed amendment sought to permanently amend the hours of operation without the 12 month trial period as previously approved under D90/0436.05.

The Planning Report for D90/0436.07 indicates that the above permanent amendment to the hours of operation were not supported however an extension of trading hours to 12 midnight for Friday and Saturday was considered acceptable subject to appropriate conditions and mitigation measures, including the provision of a reviewable condition of consent which would be reviewed after 12 months or upon receipt of a valid complaint related to the extended trading hours. As such the proposal was recommend for approval subject to conditions including:

10B. Hours of operation:

*Sunday to Thursday – 10.00am to 10.00pm  
Friday and Saturday – 10.00am to 10pm*

*Variation of the above hours are permitted for a maximum of six times per year with the written approval of the General Manager, or delegate, of Tweed Shire Council.*

*Notwithstanding this condition, please see condition No 29 regarding the reviewable condition.*

*Reviewable Condition*

*This consent is subject to a reviewable condition under Section 80A of the Environmental Planning and Assessment Amendment Act. The reviewable condition relates to a condition that permits extended hours of operation. The purpose of this condition is to enable Council to monitor potential impacts associated with extended hours of operation at this site on the surrounding area and, if appropriate, to revert the development consent to its previously approved hours of operation.*

29. *Extended trading is permitted on Friday and Saturday until 12 Midnight subject to this condition being reviewed by Council after 12 months or upon receipt of a complaint that Council deems to be reasonable from the date the extended trading hours commence.*

*Council is to provide not less than 14 days written notice to the operator of the development that a review is to be carried out under this condition. Where requested by Council, the proponent is to submit a compliance audit against the operational conditions of the development consent, including the plan of management and noise audit report. Council may notify such other persons as it*

*thinks fit of the review, and must take into account any submissions received within 14 days after notice is given.*

*Please note see Condition No 10B.*

Following a Council workshop addressing the proposal, the modification application D90/0436.07 was reported to the Council Meeting of 21 November 2013 and Council resolved to refuse the application for the following reasons:

- (b) The likely negative impacts from the development on the amenity of neighbourhood environment due to existing and ongoing concerns about noise disturbance and anti social behaviour.*
- (c) The unsuitability of this proposal due to the close proximity of residential properties.*
- (e) The proposal is not in accordance with the public interest as it presents unacceptable impacts on the social amenity of the area and is not in accordance with the orderly economic development of the locality.*

A third application, **D90/0436.08**, to amend D90/0436 was lodged 31 March 2014 to again amend the approved hours of operation to 12 midnight on Friday and Saturday. Of relevance to this application is the adjoining vacant lot to the north of the subject site, 5 Mountbatten Court (Lot 1 DP1082499), also zoned B2 Local Centre. The vacant lot had an approval for a mixed use residential development subject to DA04/0008 (as amended) which has since lapsed. Potential amenity impacts to this adjoining approved residential development were a consideration for previous applications to amend to the hours of operation of the tavern. The submitted documentation for D90/0436.08 noted that the vacant lot had been purchased by the owners of the Pottsville Tavern and potential amenity impacts on future residential development on the land had been addressed in the application documentation.

Development Application D90/0436.08 to amend the approved hours to allow operating of the Tavern to 12 midnight on Friday and Saturday was refused at the Planning Committee meeting of 5 June 2014 for the following reasons:

- 1. The proposal would have a negative impact on the residential amenity of surrounding occupants; and*
- 2. The proposal would not be in accordance with the public interest as it presents unacceptable impacts on the social and residential amenity of the area.*

The Council report noted however that although the proposal to vary the hours on a permanent basis was not supported, approval subject to a trial period in the form of a reviewable condition would be supported.

## **PROPOSED DEVELOPMENT**

This Section 4.55(1A) application again seeks to amend the approved operating hours for the Pottsville Tavern. The operation of Pottsville Tavern is subject to D90/0436.05 which specifies operating hours within condition 10A as follows:

10A. Hours of operation for a maximum period of 12 months from the date of this amended consent:

*Sunday to Thursday – 10.00am to 10.00pm  
Friday and Saturday – 10.00am to 12.00 Midnight*

*Variation of the above hours are permitted for a maximum of six (6) times per year with the written approval of the General Manager, or delegate, of Tweed Shire Council within the 12 month period.*

*Following the lapse of the 12 month period the hours of operation shall be restricted to 10.00am to 10.00pm.*

*Any further application for the variation of hours of operation outside of 10.00am to 10.00pm shall be prepared by a suitably qualified person and accompanied by a noise impact assessment in accordance with AS 1055 Acoustics – Description and measurement of environmental noise, the Noise Guide for Local Government June 2004 and any other relevant and accepted guideline.*

The above 12 month trial period has lapsed and therefor the approved hours of operation are restricted to 10am to 10pm.

This application as proposes to amend the hours of operation to read as follows:

- Wednesday to Saturday – 10am to 11pm;
- Sunday to Thursday – 10am to 10pm.

The application is supported by an Environmental Noise Impact Report (prepared by CRG Acoustics and dated 9 October 2017) and a Draft Plan of Management for the Tavern.

A further information request was issued to the applicant seeking clarification of matters in the Environmental Noise Impact Report (NIR) and a subsequent amended Environmental Noise Impact Report dated 23 February 2018 was submitted. The amended report is considered to be adequate for the proposal and concludes that predicted noise impacts associated with the extended operating hours are generally within acceptable levels of the adopted noise criterion (prescribed in the NSW *Noise Policy for Industry*). The NIR includes appropriate management and amelioration measures to manage potential noise impacts associated with the extension of trading hours to 11pm.

Noise impacts are difficult to determine and the management of potential noise impacts of the Tavern are reliant on appropriate management of the facility and the Plan of Management. Consequently, and considering the submissions from residents to the current proposal, the applicant was requested to consider a 12 month trial of proposed hours of operation similar to the trial period previously approved under D90/0436.05.

The applicant provided the following response:

*"A trial period for the extended operating hours would be considered acceptable, although it is respectfully requested that upon cessation of the trial period, that the extended operation hours become permanent. This would be dependent upon the implementation of the Noise Impact Assessment, compliance with DA conditions, and*

*the continued absence of any noise or disturbance complaints, to the satisfaction of Council."*

Prior to any proposed extension of operating hours becoming permanent, Council should be satisfied that the operator is able to manage the facility without creating unacceptable amenity impacts on the surrounding residential development from any extension of operating hours. As such the Condition 10A is proposed to be amended as follows:

- 10A. Hours of operation for a maximum period of 12 months from the date of this amended consent:

Sunday to Tuesday – 10.00am to 10.00pm  
Wednesday to Saturday – 10.00am to 11.00pm

Variation of the above hours are permitted for a maximum of six (6) times per year with the written approval of the General Manager, or delegate, of Tweed Shire Council within the 12 month period.

Following the lapse of the 12 month period the hours of operation shall be restricted to 10.00am to 10.00pm.

Any further application for the variation of hours of operation outside of 10.00am to 10.00pm (other than the above permitted six variations) shall be prepared by a suitably qualified person and accompanied by a noise impact assessment in accordance with AS 1055 Acoustics – Description and measurement of environmental noise, the Noise Guide for Local Government, the NSW EPA Noise Policy for Industry, and any other relevant and accepted guideline.

An allowance of six variations to the approved extension of hours over the 12 month period (subject to written approval from Council) was provided in order to give the Tavern an opportunity to extend their trading hours on special events and is consistent with the approved condition for D90/0436.05.

Condition 20 of D90/0436.05 references a previously submitted acoustic report prepared by Craig Hill and Warrick Smith which included recommendations regarding construction of fences as acoustic attenuation measures, management of car park and external areas and provision of a curtesy bus. Condition 20 requires amendment to include reference to the current Environmental Noise Impact Report dated 23 February 2018 prepared specifically for the current proposed variation to operating hours.

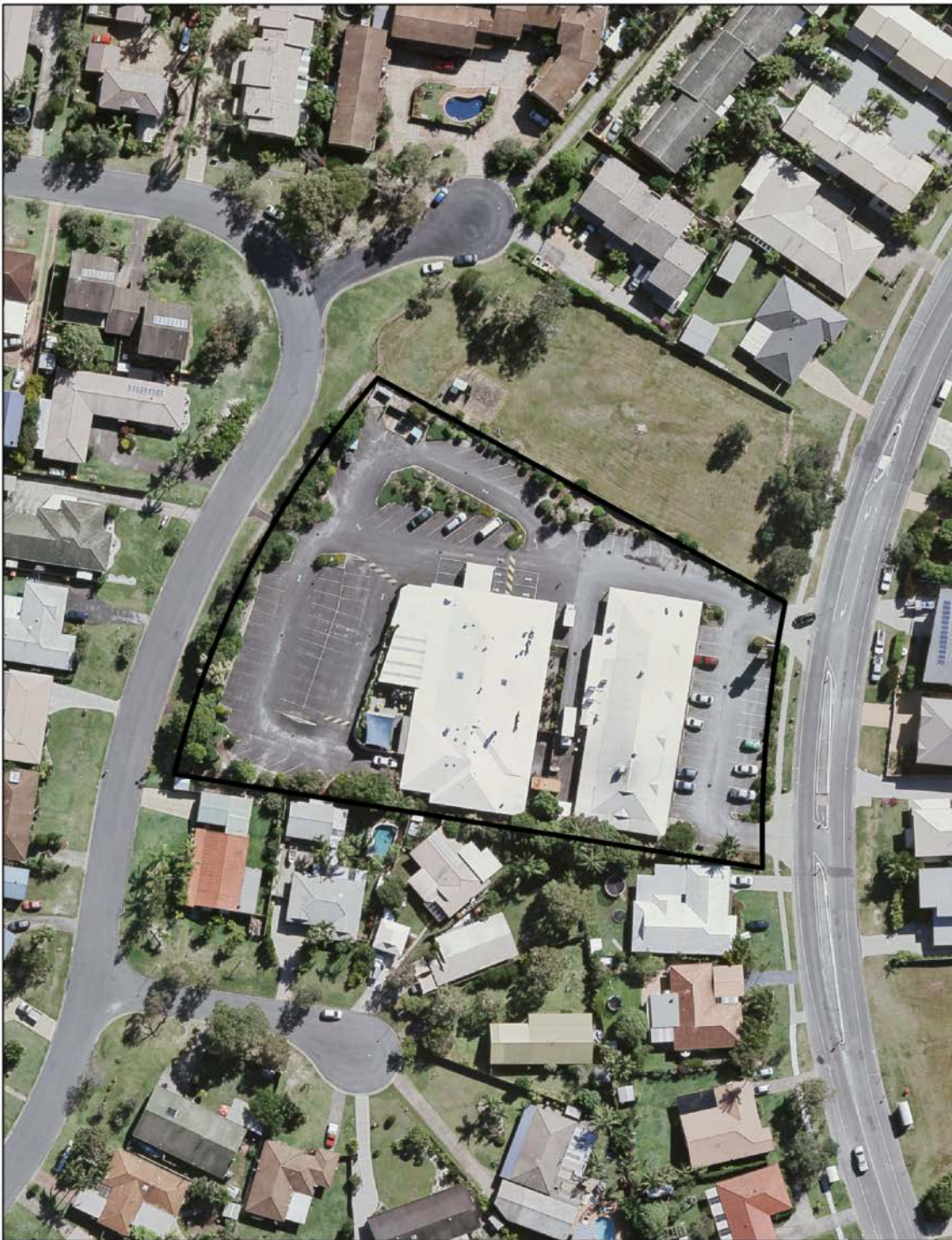
The applicant has indicated that they intend to apply to Liquor & Gaming NSW for an extension of their liquor licence following approval of this application.



**SITE DIAGRAM:**



**AERIAL:**



1:1,000 @ A4 Portrait  
0 10 20 m  
DO NOT SCALE  
COPY ONLY - NOT CERTIFIED  
Map Projection: Universal Transverse Mercator  
National Datum: Geoidetic Datum of Australia 1994  
Grid: Map Grid of Australia, Zone 56

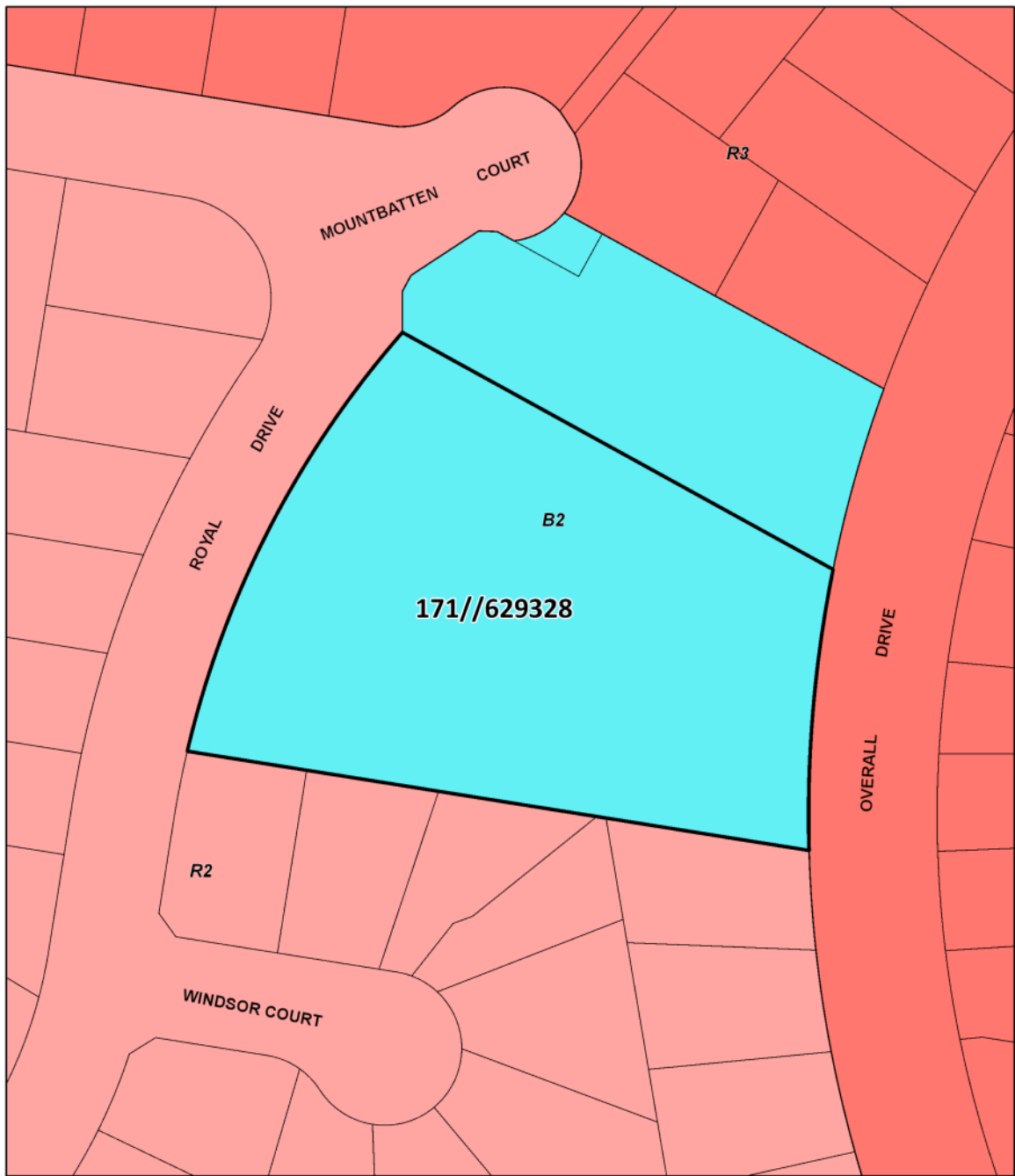
**TWEED**  
SHIRE COUNCIL  
Civic and Cultural Centre  
3 Tambukgan Road  
Murwillumbah NSW 2484  
PO Box 818  
Murwillumbah NSW 2484  
T | (02) 4470 2410 | 1300 292 472  
F | (02) 4470 2429  
W | www.tweed.nsw.gov.au  
E | info@tweed.nsw.gov.au

**Aerial Photography 2015**  
Lot 171 DP 629328  
28-40 Overall Drive, POTTSVILLE

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**ZONING:**

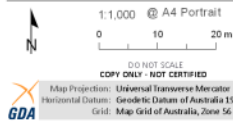


Tweed Local Environmental Plan 2014

Subject Land

Zone

- B2 Local Centre
- R2 Low Density Residential
- R3 Medium Density Residential



**Site Plan - Local Environmental Plan**

Lot 171 DP 629328  
28-40 Overall Drive, POTTSVILLE

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Date Printed: 10 March, 2018



**CONSIDERATIONS UNDER SECTIONS 4.55 & 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (previously Sections 96 and 79C respectively):**

Section 4.55 (1A) of the Act states that in order to grant consent, the consent authority must consider the following:

- (a) *it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) *it has notified the application in accordance with:*
  - (i) *the regulations, if the regulations so require, or*
  - (ii) *a development control plan, if the consent authority is a council that has a made a development control plan that requires the notification or advertising of application for modification of a development consent , and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Furthermore, S4.55 (3) states:

- (3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

**Item (a) - minimal environmental impact**

The proposed modification to extend the trading hours of the Tavern by one hour to 11pm Wednesday to Saturday does not require any physical works to facilitate the proposal (other than repair of existing fencing) and therefore is unlikely to create any significant additional physical impact upon the environment. The EP&A Act provides the following definition of environment:

***environment*** *includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings.*

As such the potential increase of impacts upon surrounding residences, specifically any potential noise and amenity impacts, must be considered under this clause.

The application is supported by an Environmental Noise Impact Report (NIR) which was amended following a request of further information by Council to clarify some aspects of the report. The amended NIR dated 23 February 2018 provides an assessment of noise activities for the site between 10pm and 11pm. The NIR considers the impact from vehicle activity, patron activity and amplified music upon surrounding residential dwellings. The NIR also considered the potential noise impacts for future residential development on the vacant lot to the north of the subject site at 5 Mountbatten Court.

The NIR states that onsite noise activity emissions have been assessed in accordance with the relevant NSW noise criterion (prescribed in the *NSW Noise Policy for Industry*) and concludes:

*Based upon the adopted noise source levels for activities' occurring between 10pm and 11pm and recommended acoustic treatments(i.e. acoustic barriers), noise impacts at the surrounding existing noise sensitive receivers are predicted to be within 1dB of the 10pm to 11pm "Background +" external criterion. As the average person cannot generally detect a 3dB variation in sound pressure level, we submit a 1dB rise is unlikely to be detectable and is considered an acceptable outcome.*

The NIR further notes that activity noise at the outdoor car park will be dependent on patron behaviour and the key to mitigating patron noise is monitoring by staff and enforcement of reasonable behaviour in these areas. Noise mitigation measures are recommended to reduce potential noise emissions from the car park area and include the upgrade of the existing fence along the southern boundary to a solid acoustic barrier and the designation of the adjacent car parks as staff parking to limit traffic movement movements in this area (refer to the image below).

#### ACOUSTIC BARRIER LEGEND

Upgrade and maintain the acoustic barrier along the southern site boundary to be a minimum 1.8m high and to be free of gaps and holes. Typical materials include 19mm lapped timber fence (40% overlap of palings), 6mm FC sheet, masonry, or a combination of the above (a minimum surface mass of 11kg/m<sup>2</sup> is required).



The NIR includes various management and mitigation measures to manage potential noise impacts associated with the extension of trading hours to 11pm which are listed below:

- *Hours of operation be limited to Wednesday to Saturday 10am to 11pm.*
- *Use of the Beer Garden areas are to be limited to 10am to 10pm as per Condition 45 of DA05/1462.01.*
- *The “Plan of Management” (refer to Appendix B) be maintained for the Tavern.*
- *Both the southern site boundary fence and the section of the brick wall at the beer garden are to be upgraded (i.e. overlapping timber paling or replacing sections with a different material to achieve the minimum surface mass of 11 kg/m<sup>2</sup>) for the required alignment and height detailed in Sketch 1 in Appendix A).*
- *The eastern outdoor area acoustic fence should also be reviewed to ensure it achieves the minimum surface mass of 11 kg/m<sup>2</sup>.*
- *The carpark gates along the western boundary (fronting Royal Drive) are to be re-installed and are to be closed at 10pm. This is to assist in reducing patron activity at the western site boundary along Royal Drive after 10pm. The client has advised that the gates can be reinstated.*
- *No alcohol is to be consumed in the carpark area.*
- *Maintain a Neighbourhood Complaints / Incident Register (which has been cited in the “Plan of Management”). An example of the complaints register is provided in Appendix A.*
- *Amplified music and live entertainment be allowed inside the building up to 11pm provided external windows and doors are kept closed. A maximum level of 91 dB(A) measured at 3m from any speaker would allow for a solo or duo act under moderate amplification.*

- *To comply with the adopted background + 5 dB noise criterion (in any Octave Band Centre Frequency 31.5 Hz – 8k Hz inclusive) between 07:00 am and 11pm a sound limiter device be installed for amplified music and live entertainment to the levels presented below. The levels are measured at 3m from any speaker. All musical equipment should be connected to the sound limiter device.*

<i>Amplified entertainment inside building with windows and doors closed</i>	<i>SPL Hz Octave Band Centre Frequencies dB(A)</i>									
	<i>31.5</i>	<i>63</i>	<i>125</i>	<i>250</i>	<i>500</i>	<i>1000</i>	<i>2000</i>	<i>4000</i>	<i>8000</i>	<i>AP</i>
<i>Predicted allowable noise source level until 11pm (measured at 3m)</i>	<i>50</i>	<i>59</i>	<i>69</i>	<i>76</i>	<i>86</i>	<i>88</i>	<i>79</i>	<i>80</i>	<i>74</i>	<i>91</i>

- *Every 12 months the sound limiter device be calibrated to ensure the correct sound levels are being monitored, to ensure compliance with the requirements of the “Plan of Management”.*
- *Speakers for amplified music or live entertainment should be directed towards the north (i.e. towards the Bottle shop drive-through) away from the nearest dwellings to the south. • The south-western car spaces should be designated staff spaces to minimise the number of car movement events from these spaces (refer to Sketch 1 of Appendix A for car space locations).*
- *Appropriate signage should be erected at the main entry/exit doors asking patrons to be considerate of surrounding neighbours.*
- *Staff of the tavern should be diligent in maintaining acceptable activities and noise levels at the outdoor areas of the tavern.*
- *Provide a security person in the carpark after 10pm to maintain acceptable activities in the carpark (i.e. noise boisterous activity or drinking or congregating of patrons).*
- *New mechanical equipment (if required) be designed and installed to comply with the noise criterion presented in Section 4.1. If new mechanical plant is required, it should be positioned as far from the nearest offsite dwellings as possible (i.e. the north-eastern corner of the building).*

A Plan of Management for the Pottsville Tavern has been included with the application (referred to in the above recommendations) and specifically addresses potential noise impacts created by patrons leaving the Tavern and anti-social behaviour. The Plan of Management includes operational items which reflect existing conditions of consent and includes a commitment to maintain an Incidents Register which is to be made available to Council and the Police upon request.

With regard to management and mitigation measures associated with the operation of the Tavern, it is noted that existing approvals over the site, D90/0436.05 for the construction of the Tavern and shops and DA05/1462 for additions to the Tavern, include conditions aimed at management and mitigation of noise impacts from the development and include the following:

<p><b>DA05/1462</b></p>	<p>44. <i>Amplified and/or live music shall not be played external to the building.</i></p> <p>45. <i>All activities in the 'beer garden' areas shall cease at 10pm.</i></p> <p>46. <i>Noise levels shall not exceed background LA90 levels at any receiving premise by more than 5dB(A) between the hours of 10am to 12 midnight and shall not exceed the background LA90 levels between the hours of 12 midnight and 10am. Notwithstanding the above noise from the development shall not be audible within any residential premises between the hours of 12 midnight and 10am.</i></p>
<p><b>D90/0436.05</b></p>	<p>9A. <i>The <math>L_{A10, 15 mins}</math> noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8 kHz inclusive) by more than 5 dB between 7.00am and 10.30pm at the boundary of any affected residence.</i></p> <p><i>The <math>L_{A10, 15 mins}</math> noise level emitted from the licensed premises shall not exceed the background noise level in any Octave band Centre Frequency (31.5 Hz – 8 kHz inclusive) between 10.30pm and 7.00am at the boundary of any affected residence.</i></p> <p><i>Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 10.30pm and 7.00am.</i></p> <p>11A. <i>The existing screen fences along the side and rear boundaries are to be repaired prior to the commencement of extended trading hours and be maintained in good condition at all times, to the satisfaction of Council's General Manager or his delegate.</i></p> <p>17. <i>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, fumes or the like.</i></p> <p>20. <i>With the exception of compliance with the requirements of the Craig Hill or Warrick Smith Acoustic Reports, the Tavern shall operate in accordance the Plan of Management Rev B dated 13 January 2010, except where varied by conditions of consent.</i></p> <p>21. <i>Patrons are not permitted to remain outside the main building within the unenclosed areas after 10.00pm.</i></p> <p>22. <i>The Licensee shall maintain a Register of Incidents to record complaints and incidents and mitigation action taken. A log book shall also be carried on the courtesy bus, with any incidents noted in the log book being transferred to the Register of Incidents. The register shall remain on the premises and made available to any authorised officer of Council upon any reasonable request".</i></p> <p>23. <i>The sale or supply of liquor is restricted for consumption on the premises only, after 10.00pm.</i></p> <p>24. <i>At least one (1) uniformed security officer is to be employed from 10.00pm, on those nights where the premises trades after 10.00pm,</i></p>



	<p><i>until half (1/2) an hour after closing or until the last patron has left the vicinity, whichever is the later. Security is to regularly patrol the car park and vicinity from 10.00pm until closing and to principally patrol those areas after closing. Their duties will include requesting patrons to leave the hotel and vicinity without noise or disturbance so neighbours and nearby residents are not disturbed.</i></p> <p>25. <i>The Licensee is to provide a courtesy bus for patrons wishing to depart the licensed premises, on those evenings where the premises trades past 10.00pm, from at least 10.00pm until the last patron has left the premises. The courtesy bus shall have at least twelve (12) seats, provide a shuttle service free of charge and shall transport patrons to their requested destination, being no more than within the suburb of Pottsville.</i></p> <p>26. <i>The car park rear (western) gates shall be closed at 10.00pm, but not locked.</i></p>
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The operators of the Tavern are required to comply with the above conditions and the current modification application, if approved, will remain consistent with these conditions.

As part of the assessment to assess potential noise impacts associated with the extension of hours, the current operations at the site were reviewed to establish if there are any current noise related issues associated with the Tavern. Council records identified three complaints have been made against the Tavern since 2011; two relating to the state of the gardens and one for rubbish.

Information was requested from NSW Department of Industry - Liquor & Gaming NSW regarding any complaints registered against the Hotel Liquor Licence for the Tavern. Two complaints regarding disturbances were registered in 2011 and a one complaint was registered regarding the sale of liquor after 10pm in 2014.

The application was referred to the NSW Police Tweed/Byron Local Area Command Licencing Unit for comment who raised no objection to the proposed extension of trading hours and further noted that there are no recent complaints regarding noise and there is nothing on the Police system that indicated any noise related issues associated with the Tavern.

The proposal was reviewed internally by the Environmental Health Unit who considered The NIR and recommendations to be adequate for the proposal to manage potential noise impacts associated with the extension of trading hours to 11pm. The Environmental Health Unit provided the following comments:

*The extension of trading hours until 11pm on Wednesdays to Saturdays is not considered to result in any significant environmental impact upon the surrounding area or community in general, providing the conditions of consent and recommended mitigation measures are put in place and applied consistently. A 12 month limit for the extension of hours is been recommended to allow Council to determine if the applicant is capable of managing the issues raised by the local community.*

*At the end of the 12 months, the hours of operation would revert back to the existing trading hours (10.00am to 10.00pm), unless a further S96 application is lodged prior to the trial period lapsing. If a S96 application is lodged to continue the extension of hours, a further assessment of the management of the Tavern would be undertaken.*

It is therefore considered that the proposed one hour extension to trading hours to 11pm Wednesday to Saturday is unlikely to create an unacceptable impact on the environment subject to conditions of consent which include compliance with the Environmental Noise Impact Report and Plan of Management. The imposition of a condition limiting the proposed extension of operating hours for a trial period of 12 months provides Council with the opportunity to review the management of the site and any impacts with respect to any future proposal to permanently amend the hours of operation.

**Item (b) - substantially the same development**

Council must be satisfied that the modified consent is substantially the same development as originally approved. Comments provided in relation to previous cases reviewed by the NSW Land and Environment Court provide clarification with regard to the terms "substantially" and "modify". 'Substantially' was taken to mean "essentially or materially having the same essence" and 'modify' was taken to mean to "alter without radical transformation".

The original application for the tavern and nine shops was lodged 24 July 1990. The amended Statement of Environmental Effects (prepared by Planners North and dated September 1990) submitted for D90/0436 made the following statement in relation to the establishment of a tavern:

*"The intent of the proposal is to provide for a community meeting place"*

The application was considered at the Planning and Development Committee meeting of 16 January 1991 and the Manager/Shire Clerk's Report for the application considered the impact of the proposal upon surrounding residential development and noted that the proposal could be developed without having an unacceptable impact on the environment subject to appropriate conditions relating to hours of operation and noise control measures. Additionally the report noted that the establishment of a tavern is not inconsistent with the zone objectives.

The application was subsequently approved subject to conditions restricting of operating hours to 10am to 10pm and specified noise parameters for amplified music.

The current proposal to vary the hours of operation to allow the Tavern to trade to 11pm Wednesday to Saturdays is consistent with the original intent for the tavern as a meeting place and is proposed to cater for the use of existing patrons. The potential impact of the proposal on surrounding residential development has been considered with respect to the submitted Noise Impact Report (NIR) and current responsible operation of the site (with reference to the absence of complaints for the current Tavern operations). It is considered that, subject to compliance with consent conditions, the recommendations of the Noise Impact Report and the Plan of Management, that the proposed extension to operating hours is unlikely to result in an unacceptable additional noise impact upon surrounding residential development.

The proposed additional hours of operation being an additional one hour per day over four days, if approved, is proposed to be conditioned to limit the extended operating hours to a 12 month trial period after which time any proposal to further continue the extended trading hours is to be the subject of separate application to Council. The trial period allows Council to further assess any actual impacts associated with any extended trading hours.

The proposed extension of trading hours does not represent a *radical transformation* of the tavern and the tavern will continue to operate in a manner consistent with the original intent of the Tavern as a meeting place. Potential impacts resulting from the proposed extended trading hours have been considered and are able to be mitigated by the imposition of appropriate conditions.

It is therefore considered that the consent as modified by this proposal to allow the Tavern to operate to 11pm Wednesday to Saturday is substantially the same development for which the approval was originally granted.

### **Item (c)(i) & (ii) – notification and concurrence or integrated authority consultation**

The Act provides for consultation with state government authorities in the event that conditions to be amended are those imposed by or of interest to such agencies. No referral to external authorities for consultation or concurrence was statutorily required.

The modification application was notified in accordance with Section A11 of the Tweed Development Control Plan 2008. During the submission period six submissions were received in relation to the proposal. These submissions are addressed in the next section of this report.

The application was forwarded to the NSW Police Tweed/Byron Local Area Command Licencing Unit as a courtesy. A response was provided stating that there have been no recent noise complaints against the Tavern and that there is nothing on the Police system that indicates that there is any noise issues associated with the Tavern. NSW Police requested that the condition relating to patrons being cleared from external area of the Tavern are to remain. Condition 21 states:

21. *Patrons are not permitted to remain outside the main building within the unenclosed areas after 10pm.*

No changes are proposed to this condition and it will remain on the modified consent if approved.

### **Item (d) - consideration of submissions**

The application was notified to surrounding properties with a submission period of 14 days from 29 November 2017 to 13 December 2017. During this time six submissions were received in relation to the proposal. The location of five of the submitters is indicated on the map below with an additional submission being made by the Pottsville Community Association.

All the submissions cited potential amenity impacts on the surrounding residential development as the primary reason for objecting to the proposal. Each of the issues raised are summarised in the table below.



Reason	Applicant response	Council response
<p>Amenity impacts on surrounding residences/ not compatible with the residential area/zone</p>	<p>Noise Impact Report (NIR) has been prepared which assessed onsite activity noise emissions which were generally found to be in accordance with relevant NSW noise criterion. The exception was the evening period due to <i>boisterous</i> patrons in which there was an increase of 1dBA above the criterion.</p> <p>The NIR recommends that external areas are to be closed by 10pm and additional management principles for external areas.</p> <p>The application to be assessed on merit and the extended trading hours can be managed appropriately as outlined in</p>	<p>The existing approved Tavern is permissible within the zone and the consent has been appropriately conditioned to safeguard the amenity of the residents.</p> <p>The NIR report suitably considers the impact of the proposal upon the adjacent residential land use and concluded that the predicted noise emissions would generally be in accordance with NSW guidelines. The recommended noise management and mitigation measures are considered to be appropriate and achievable through appropriate management of the Tavern as directed in the Plan of Management.</p> <p>Granting approval for the proposed</p>

Reason	Applicant response	Council response
	<p>updated Plan of Management.</p> <p>Live entertainment currently on site and no noise complaints registered over the last 18 months. Windows and doors are shut to limit noise to surrounds.</p> <p>Acoustic fences have been repaired and can satisfactorily limit noise.</p> <p>Permissible within the B2 zone.</p>	<p>extension of trading hours subject to a trial period provides an opportunity for the operator of the Tavern to demonstrate that the Tavern can be operated without creating an unacceptable impact to the surrounding residents and also provides the opportunity for residents to submit valid complaints to Council/NSW Police/Liquor &amp; Gaming NSW to be considered should a permanent modification of operating hour be applied for in the future.</p>
<p>Noise of vehicles leaving the carpark</p> <p>Noise from patrons leaving the premises</p>	<p>Updated Plan of Management includes strategies to manage car park area to ensure patrons leave in a quiet and orderly manner.</p> <p>Proposal not expected to increase trip generation or patronage to/from the site.</p>	<p>It is noted that noise created by patrons leaving the premises appears to be the primary cause of noise disturbances for residents.</p> <p>The Plan of Management specifically addresses this issue. Compliance with the provisions of the Plan of Management and Development Consent if approved should minimise the risk from additional noise disturbances after 10pm.</p>
<p>Non compliance with existing conditions and Plan of Management especially noting:</p> <ul style="list-style-type: none"> <li>• Fencing not maintained</li> <li>• Gate in western car park</li> <li>• Security in the carpark</li> <li>• Management of outdoor activities</li> </ul>	<p>Previous conditions relating to car park gate and security guards only applicable to extended trading and not applicable to current 10pm closing time.</p> <p>Gate will be reinstated.</p> <p>Fencing has been repaired and will be maintained in accordance with NIR</p>	<p>Issues of non-compliance with the recommendations of development consent and previously approved noise reports have been addressed in the recommendations of the current NIR dated 23 February 2018. The fencing and gate are to be reinstated or repaired to specified requirements as indicated in the NIR.</p> <p>It is noted that Council has not received any complaints with regard to previous non-compliances.</p> <p>The application as assessed on its merits appears to provide sufficient safeguards to protect the amenity of surrounding residents.</p>

Reason	Applicant response	Council response
Distance to police station	<p>Efforts have been made to reduce anti-social behaviour. Staff hold RSA awards and owner has taken reasonable steps to ensure safety of patrons and surrounds.</p> <p>Location and presence of NSW Police outside the scope of this modification application.</p>	<p>Police presence is not a matter for consideration under the EP&amp;A Act.</p> <p>This is matter for NSW Police Force</p>
Contributes to the excessive consumption of alcohol and related anti-social behaviour including current issues of litter and vandalism	<p>All staff have completed RSA training and the bottle shop will be closed by 10pm.</p> <p>The proposed one hour extension to operating hours Wed-Sat is not expected to increase anti-social behaviour.</p> <p>Matters for NSW Police</p>	<p>From a planning perspective, the proposed additional four hours per week of trading of the Tavern are unlikely to create significant additional social impacts in the locality.</p> <p>Anti-social behaviour is a matter for NSW Police who have not registered an objection to the proposal.</p>

The matters relating to potential amenity impacts, specifically noise generated by patrons leaving the Tavern in a disruptive and anti-social manner, are able to be managed by compliance with the Plan of Management and recommendations of the NIR. A condition which limits any proposed extension of trading hours to a 12 month trial period allows the operator of the Tavern to demonstrate to Council and the community that the Tavern is able to appropriately manage patrons leaving the site.

Whilst there is concern regarding a potential increase in anti-social behaviour and the ability of Police to respond appropriately to any incidents due to the distance to the nearest Police station, there is no indication in Council, Police or NSW Liquor & Gaming records that this is currently a significant issue for the site. The NSW Police Tweed/Byron Local Area Command Licencing Unit does not object to the proposal and refusal of the application with respect to any potential social impacts or anti-social behaviour is not considered appropriate.

It is considered that the matters raised by the submitters are adequately addressed by the imposition of conditions requiring compliance with the recommendations of the NIR which are considered to be reasonable and achievable. Furthermore the proposed 12 month trial period provides the opportunity for community to further comment on the application with respect to any proposed continuation of the extended trading hours.

**Section 4.15 of the Environmental Planning & Assessment Act 1979 (previously s79C)**

Section 4.15 (1) (Evaluation)



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

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

- (a) *the provisions of:*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iiia) *any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
  - (v) *any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)),*  
*that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

**Item (a)(i) - Tweed Local Environmental Plan 2014**

**Clause 1.2 – Aims of the Plan**

The particular aims of this Plan are as follows:

- (a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
- (b) *to encourage a sustainable, local economy, small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed Shire,*
- (c) *to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, the built environment, and cultural heritage,*

- (d) to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,
- (e) to promote building design which considers food security, water conservation, energy efficiency and waste reduction,
- (f) to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,
- (g) to conserve or enhance the biological diversity, scenic quality, geological and ecological integrity of the Tweed,
- (h) to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,
- (i) to conserve or enhance areas of defined high ecological value,
- (j) to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.

The development, as amended, remains consistent with the aims of the LEP in that it represents sustainable economic development that is permissible within the zone.

### **Item (a)(iii) - Tweed Development Control Plan**

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

The modification application was advertised in accordance with this section of the Development Control Plan. Submissions have been received and considered in relation to the proposed amendment. These submissions are addressed in this report.

#### **Section B21 – Pottsville Locality Based Development Code**

The subject site is within the Pottsville Waters precinct identified under this plan. The site represents a local commercial/retail node and the future intent of this site is articulated in the following statement:

*The existing commercial node is of a neighbourhood scale, primarily servicing its immediate residents. It is anticipated that the intensity of commercial uses within the precinct will increase over time as surrounding residential uses expand, however the site is anticipated to support the village centre and maintain its current neighbourhood scale.*

The existing Tavern is consistent with the current and desired future land uses of the site. The proposed extension to trading hours is not inconsistent with the provisions of this locality code.

### **Item (b) – Likely impacts of the development**

The likely impacts of the development have been considered in detail in an earlier section of this report. The potential impacts of the proposal relate specifically to any additional noise impacts to surrounding residential development associated with the proposed extension to trading hours. The Noise Impact Report submitted with the application has been reviewed and is considered to be adequate for the proposal. The proposal, subject to compliance with



the recommendations of the report and appropriate conditions, is considered unlikely to result in additional unacceptable noise impacts on surrounding residents.

**Item (d) - Any submissions**

Submissions have been considered in an earlier section of this report. Matters raised in the submissions are able to be managed by the imposition of appropriate conditions and do not warrant refusal of the application.

**Item (e) - Public interest**

The mitigation of any potential noise impacts associated with the proposal is considered to be achievable by responsible management of the operations of the Tavern in accordance with the recommendations of the NIR and existing and additional conditions of consent. The proposed trial period of the extended trading hours provides the opportunity for the community to evaluate any impacts of the proposal prior to any proposal to permanently extend the operating hours.

The proposed modification to D90/0436 is not considered to be in conflict with the public interest as it permits a local business to adjust its operations to remain a competitive operator and to meet the preferences of its patrons.

**OPTIONS:**

1. Approve the S96 Application in accordance with the recommendation.
2. Refuse the S96 Application.

Council officers recommend Option 1.

**CONCLUSION:**

Potential noise impacts resulting from the proposed extended trading hours are the primary matter for consideration in determining this application. The Noise Impact Report submitted by the applicant concludes that the predicted increase in noise generation is generally acceptable with respect to the relevant NSW noise criteria provided the Tavern is operated in accordance with the recommendations of the Noise Impact Report and the Plan of Management. It is noted that the Tavern appears to be operated in a responsible manner as evidenced by the absence of complaints registered in Council, Police and Liquor & Gaming records for the current ownership of the Tavern.

Potential noise impacts are difficult to determine due to the nature of the activity and as such the proposal is recommended for approval subject to a 12 month trial period which provides Council the opportunity to assess any actual impacts of the extended operating hours prior to any further proposal to make the extended operating hours permanent.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable

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

Not Applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

Not Applicable.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**11 [PR-CM] Aboriginal Cultural Heritage Legislation Review: Aboriginal Cultural Heritage Bill 2018 Submission**

**SUBMITTED BY: Strategic Planning and Urban Development**

mhm

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**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: Advocate**

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**SUMMARY OF REPORT:**

The purpose of this report is to seek Council endorsement of a submission prepared in relation to the draft Aboriginal Cultural Heritage Bill 2018 (the Bill) which is on exhibition until the 20 April 2018. This draft Bill proposes a new legislative framework for the management and protection of Aboriginal Cultural Heritage in NSW.

In 2011 the NSW government announced reforms to the way Aboriginal cultural heritage was to be protected and managed, specifically to remove Aboriginal cultural heritage from the *National Parks And Wildlife Act 1974 (NPW Act)* and to create a stand-alone legislation.

The Aboriginal Cultural Heritage Legislative Reform, exhibited between late October 2017 – April 2018, and the Aboriginal Cultural Heritage Bill 2018 (the Bill), creates this stand-alone legislation. The Bill provides a significant step forward for acknowledging Aboriginal people as the custodians of their cultural heritage and provides a long overdue role in the management of Aboriginal cultural heritage.

The landscaped based mapping, assessment processes and broad structure of the legislative framework are closely aligned to the approach used for the draft Tweed ACHMP. As a result Tweed Shire Council will be well placed to transition to the new legislative framework as proposed.

It is noted that further detail on processes and requirements will be developed as part of the Regulations and by the proposed Aboriginal Cultural Heritage Authority. Whilst the details of this further information are important to understand and review, the key strategic directions of the Bill are supported, as outlined in the attached submission.

**RECOMMENDATION:**

**That Council endorses the attached submission to the Aboriginal Cultural Heritage Bill 2018 and forwards same to the Office of Environment and Heritage by the closing date for submissions, being 20 April 2018.**

## REPORT:

### Background

In 2011 the NSW government announced reforms to the way Aboriginal cultural heritage was to be protected and managed, specifically to remove Aboriginal cultural heritage from the *National Parks And Wildlife Act 1974 (NPW Act)* and create a stand-alone legislation.

Consultation occurred in 2013 on a draft model for reform. Council made a submission to the Office of Environment and Heritage (OEH) on the draft reforms at this time.

In the intervening period the Aboriginal Cultural Heritage Bill 2018 (the Bill) has been drafted, with consultation held in late 2017 and early 2018.

Council staff, along with Aboriginal community members attended two consultation sessions at Ballina, on 4 December 2017 (prior to the release of the Bill) and 7 March 2018.

Whilst the legislation reform has been on public exhibition for several months, the release of the Bill was released in early March with the exhibition period concluding on the 20 April 2018.

### Aboriginal Cultural Heritage Bill 2018

The Bill removes Aboriginal cultural heritage from the NPW Act and creates a stand-alone Aboriginal cultural heritage management framework.

In summary the Bill:

1. Uses similar definitions as currently used in the NPW Act and notably introduces a new definition for *intangible cultural heritage*;
2. Adopts a landscaped based approach to the mapping of Aboriginal cultural heritage;
3. Places the consultation with Aboriginal people at the forefront of all development and cultural assessment;
4. Establishes a state Aboriginal Cultural Heritage Authority, tasked with the establishment of the detailed management structures and processes, including the Local Aboriginal Panels as well as being the authority for approving harm or negotiating suitable outcomes with respect of Aboriginal cultural heritage;
5. Sets up conservation objectives, offences, regulatory and compliance frameworks, financial provisions investigation powers, and prosecution frameworks;
6. Carries over many of the current provisions, and penalties of the NPW Act.
7. Importantly also sets up the Aboriginal cultural heritage assessment pathway, being:
  - a) Stage 1 - Map review
  - b) Stage 2 - Assessment (preliminary investigation)
  - c) Stage 3 - Assessment (scoping assessment)
  - d) Stage 4 - Assessment (detailed assessment and final assessment report).

The assessment requirements are very closely aligned with those developed in the Tweed draft ACHMP.

### Relationship to the Tweed Shire Council Aboriginal Cultural Heritage Management Plan 2017 (ACHMP)

Council considered a report to publicly exhibit the Tweed Shire ACHMP at their meeting of 5 October 2017. The OEH legislation reform was release shortly after.

Public exhibition of the Tweed Shire draft ACHMP occurred from 17 October to 16 February 2018. A report on the draft ACHMP and exhibition submission review will be submitted to Council within the next couple months.

The methodology Council used to prepare the mapping and the two layers of mapping data, being known (*Aboriginal Place of Heritage Significance*) and predictive is consistent with the approach of the Bill. In addition the assessment requirements: placing Aboriginal consultation up front in the assessment; assessing the risk of harm; seeking to firstly avoid harm and to follow the NPW Act and Regulation requirements where harm cannot be avoided; used within the draft ACHMP are consistent with the approach of the Bill.

The point of difference is the establishment of a state-wide Aboriginal Authority and Local Aboriginal panels who will oversee all assessments where harm cannot be avoided, rather than the land Council model, used by Tweed.

The legislation reforms are envisaged to be implemented in stages, taking 5-7 years to become fully operational once the Act becomes effective. Tweed Shire Council is very well placed to transfer from our (currently draft) Aboriginal cultural heritage management plan to the new legislative requirements.

As with the NPW Act the new legislation will provide the legislative framework for the management of Aboriginal cultural heritage. The role of the Tweed (current draft) ACHMP will continue to be relevant as the document which steps out the requirements for Council's development assessment process. The mapping is a key component of this and has been undertaken consistent with the direction of the new legislation.

### **Submission overview**

The Bill has been reviewed by Council staff and a submission has been prepared, provided in Attachment 1 to this report. The content of the submission has been reviewed by the Tweed Byron Local Aboriginal Land Council (TBLALC) and Council's Community Development Officer (Aboriginal) seeking additional input and ensuring the comments made are not contrary to the wishes of the Aboriginal community.

In summary the submission:

1. Supports the creation of the stand-alone Aboriginal cultural heritage legislation;
2. Supports the acknowledgment of Aboriginal people as appropriate to manage their cultural heritage and to be consulted up front in the development process;
3. Supports the inclusion of intangible cultural heritage, whilst acknowledging this could be expanded to provide a fuller representation of the Aboriginal community connection with Country;
4. Supports the Aboriginal community having a lead role in the mapping;
5. Supports the landscape based mapping approach;
6. Supports the local Aboriginal panels which have local cultural knowledge and authority to speak for Country; and
7. Broadly supports the assessment pathway steps.

The submission outlines the lessons learnt by Tweed Shire Council in the development of our mapping and ACHMP. The submission provides a range of feedback and seeks clarification to be provided on some aspects of the specifics of the draft legislation.

**OPTIONS:**

1. Council endorse the attached submission to the Aboriginal Cultural Heritage Bill 2018 and forwards this to the OEH by the closing date for submission; or
2. Council provides an amendments to be made to the attached submission to the Aboriginal Cultural Heritage Bill 2018 for forwarding this to the OEH by the closing date for submission; or
3. Council does not endorse the attached submission.

Council officers recommend Option 1 given the closing date for submissions is 20 April 2018.

**CONCLUSION:**

The Aboriginal Cultural Heritage Bill 2018 provides a significant step forward for acknowledging Aboriginal people as the custodians of their cultural heritage and provides them a long overdue role in the management of Aboriginal cultural heritage.

The landscaped based mapping, assessment processes and broad structure of the legislative framework are closely aligned to the approach used for the draft Tweed ACHMP. As a result Tweed Shire Council will be well placed to transition to the new legislative framework as proposed.

As with the NPW Act the new legislation will provide the legislative framework for the management of Aboriginal cultural heritage. The role of the Tweed (current draft) ACHMP will continue to be relevant as the document which steps out the requirements for Council's development assessment process. The mapping is a key component of this and has been undertaken consistent with the direction of the new legislation.

It is noted that further detail on processes and requirements will be developed as part of the Regulations and by the Aboriginal Authority. Whilst the details of this further information are important to understand and review, the key strategic directions of the Bill are supported.

**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.                      Submission to the Aboriginal Cultural Heritage Bill 2018  
(ECM5202206).

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## REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

### 12 [CNR-CM] Progress on Tweed Shire Council's Community Infrastructure Framework

**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

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#### SUMMARY OF REPORT:

The Community Infrastructure Framework (CIF) was completed and adopted by Council in October 2014 as a method of planning and delivering Tweed Shire Council Community and Cultural facilities.

This report summarises the work to date under the framework and the findings of the needs analysis which looks at the following: community engagement; audit and actual demand; demographics and social trends; and standards of service. The next step is to validate the findings of the needs analysis through further stakeholder and community engagement.

Additionally the technical information will provide the basis to review Section 94 Developer contributions for community facilities as one funding stream for future infrastructure provision.

#### RECOMMENDATION:

**That Council:**

1. **Receives and notes the report detailing the progress of the Community Infrastructure Framework.**
2. **Receives and notes the next stage of community consultation and commits to an interactive workshop to validate the findings of the needs analysis.**

3. **Votes that funding of \$40,000 is identified from Section 94 Contribution Plan 11 - Library Facilities and Contribution Plan 15 - Community Facilities to provide external expertise to review and revise Section 94 Contribution Plans 11 and 15 for Community and Cultural facilities.**

**REPORT:**

As identified in the *Community Strategic Plan 2017-2027*, Council has a role to plan and regulate the built environment to balance the social, cultural, economic and environmental needs of the community.

The Community Infrastructure Framework (CIF) was adopted in October 2014 as a method of planning and delivery of Tweed Shire Council Community and Cultural facilities. When considering a new facility – or substantial changes to an existing facility – consideration is given to how the facility is designed, located, financed and managed to meet the needs of our community now and into the future.

Council owned/managed facilities in scope (see inventory, Attachment 1):

**Cultural Facilities**

Libraries x 3  
Auditoria/Performing Arts x 2  
Museum x 3  
Art Gallery x 1

**Community Facilities**

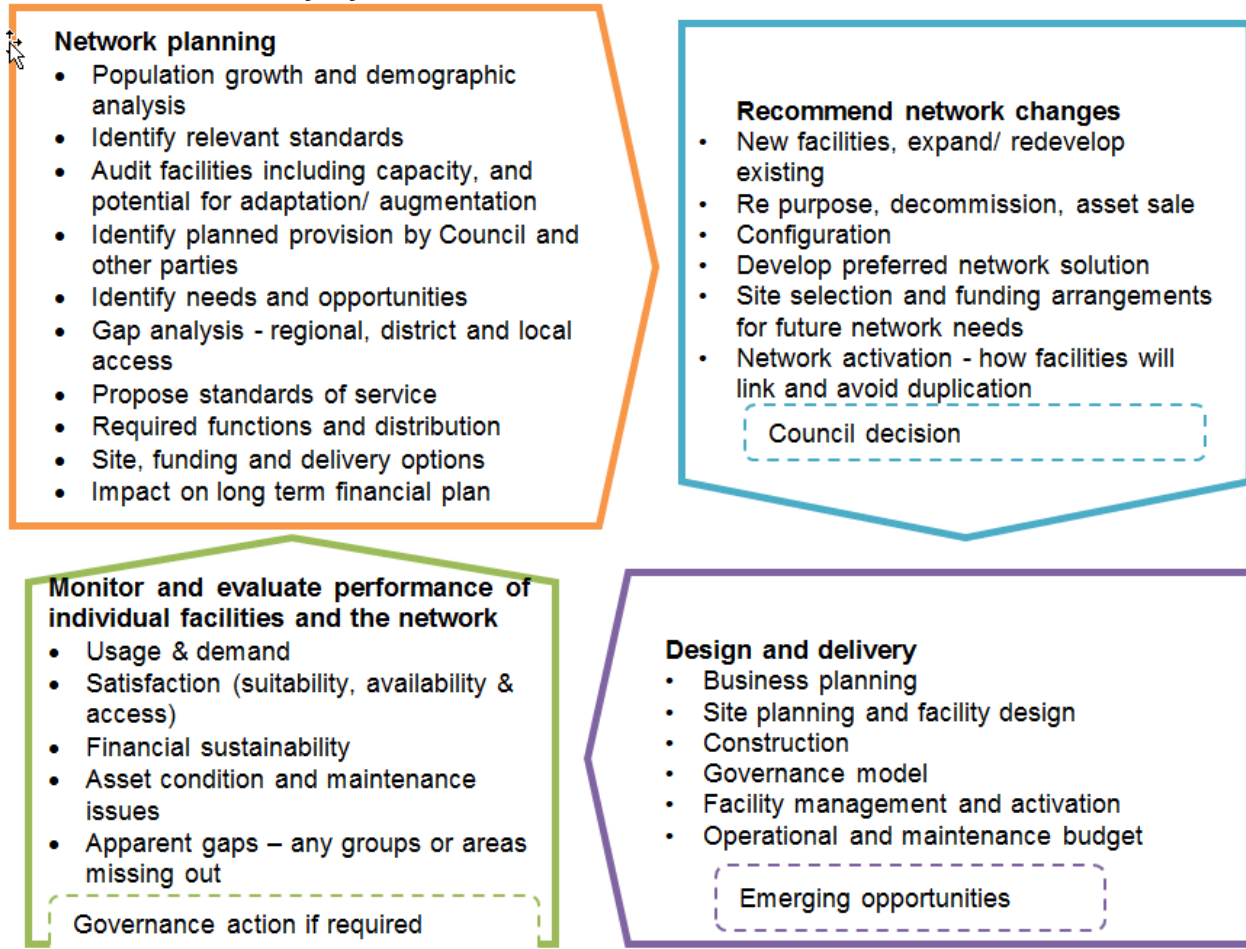
Community Centres x 4  
Community Halls x 12  
Tenanted facilities

- Education and Care Services and Preschools x 10
- Other tenanted facilities x 17

Non Council owned/managed facilities are out of scope however, these will still inform network planning considerations.

This approach provides options for configuring facilities as a network and how the network as a whole can operate to meet need. Activation of facilities, accessibility and universal access and design are key considerations. Complementary functions between local, district and regional facilities across the Shire can be achieved through network planning.

**Figure 1: Tweed Shire Council community and cultural facilities network planning and delivery cycle.**



## STATUS REPORT

The Community Infrastructure Framework guides the planning and proactive management of community and cultural facilities. Since adoption in 2014, the CIF has guided the following decisions and initiatives:

### Network Planning:

- In May 2016 Council received a report identifying that Council's provision of Cultural facilities meet the CIF adopted standards of service and population projections now and to 2036.
- In May 2016 Council received a report mapping the CIF adopted standards of service and population projections against Council's provision of Community and Cultural facilities (eg, community halls, community centres and cultural facilities) now and to 2036.
- In May 2016 Councillors engaged in a workshop regarding findings of audit and analysis of information pertaining to community halls.
- In June 2017 Councillors engaged in a workshop providing a background to the CIF for the new Council, and progress to date.
- Initial site visits and detailed audits have been undertaken for all of these facilities throughout 2016/2017.

**Recommend network changes:**

- In June 2016 Council approved the reclassification of land from Community to Operational for Reserve Creek Hall, a disused facility.
- In December 2017 the extension of Tweed Heads Library was completed to provide additional space towards meeting NSW Library standards.

**Design and delivery:**

- In May 2016 Council approved the establishment of the Community Halls Advisory Committee to support insurance, risk management and governance of facilities. Quarterly Community Hall Advisory Committee Meetings are being convened.
- In March 2017 Council adopted guiding principles for the governance and management of Community Centres following an extensive audit and analysis of these facilities.
- In November 2017 a Deed of Agreement for libraries was signed.
- In January 2017 a Community Assets Maintenance Officer position for improved proactive maintenance of community and cultural facilities was established.

**Monitor and evaluate performance of individual facilities and the network:**

- In April 2016 an online booking and information collection system was introduced to monitor user groups and demand. Under the new Community Strategic Plan 2017-2027 key performance indicators were introduced to monitor Community Hall user groups and demand.
- In 2017 work commenced on streamlining licence and lease agreements.
- In 2017 work commenced on asset management system improvements.

**NEEDS ANALYSIS**

The CIF provides a structure for infrastructure planning that is driven by community needs and sound evidence. The needs analysis summarises four areas to support the planning, delivery and management of community and cultural infrastructure.

**Table 1: A framework for understanding need – needs analysis**

Need area	Information sources	Findings
Community engagement - what people say they need	Engagement with / feedback from community members and other stakeholders.	Summary of engagement to date throughout the development of the CIF (see Attachment 2)
Audit and actual demand	Measured through usage data, service requests and wait lists.	Condition, capacity and functionality assessment. Currently being converted into information sheets and information graphs for community engagement.
Demographics and social trends	Analysis of demographic change, expected population growth, research, public policy and social trends.	Demographics and social trends. Currently being converted into information sheets and information graphs for community engagement.
Tweed Shire Council adopted Standards of Service for Community and Cultural facilities	Comparison against established standards and common rates of supply in other similar communities.	Adopted CIF standards of service. Measure of how Tweed Shire is performing against these adopted standards of service, at present and in 10 year planning cycles.

## NEXT STEPS

It is essential all findings of the needs analysis are looked at collectively to inform the provision, managing and delivery of future facilities now and into the future by service types and by geographical catchment service areas eg. local, district and regional.

Validation of the findings of the needs analysis with stakeholders and community is fundamental. It will include those that have contributed to the initial discussions and key partners. This consultation will assist with developing recommended network changes as identified in the CIF planning and delivery cycle (Figure 1).

The adopted CIF included an engagement plan which is a critical component of community infrastructure planning. The complex nature of the needs analysis information will be developed into reader friendly engagement tools and activities. These engagement tools will aid further network planning and also assist with the Community Development Strategy consultation. As buildings are a key resource for Community Development it is advantageous to align the broader community needs with those of infrastructure.

The outcomes of this stage of consultation will set clear direction for the delivery and management of facilities by Council and consider the priority areas for infrastructure planning and community development service delivery. It will support Council and other community infrastructure providers to cooperate on and coordinate delivery of complementary facilities, planning for new facilities, attract investment, make the best use of limited Council resources and strengthen Tweed Shire's ability to manage and maintain its facilities at a good standard.

**OPTIONS:**

That Council:

1. Receives and notes the report detailing the progress in accordance with the Community Infrastructure Framework network planning.

and

2. Receives and notes the next stage of community engagement and commits to an interactive workshop to validate the findings of the needs analysis.

and

3. Resolves that funding of \$40,000 is identified from Section 94 Contribution Plans 11 - Library Facilities and Contribution Plan 15 - Community Facilities to provide external expertise to review and revise Section 94 Contribution Plans 11 and 15 where they relate to Community and Cultural facilities.

or

4. Council requests additional information regarding the Community Infrastructure Framework and associated works.

**CONCLUSION:**

When the CIF was adopted by Council in October 2014 there was limited information regarding Council's network of Community and Cultural facilities. To date the framework has provided a systematic approach to auditing and analysing facilities and understanding communities' infrastructure needs.

The data collection and analysis has progressed well, with Council's knowledge and ability to interrogate the data improving. This information has already contributed to the better management of facilities notably: the formation of the Community Halls Committee; understanding Cultural facility needs; the creation of Community Centre guiding principles; and decisions to rationalise facilities such as the Reserve Creek Hall.

To continue this systematic and evidence based approach the next steps are to validate the findings of the needs analysis. This will involve stakeholders who have contributed so far and will enable Council to validate findings with the wider community including current and future user groups. It is advantageous to complete this consultation in conjunction with the Community Development Strategy engagement to provide a consolidated and holistic approach to the community. This community engagement will assist to identify recommended network changes and inform work plans into the future.

Another key step is to review and update Section 94 Developer Contributions Plan 15 which is a key funding source for new infrastructure.

## **COUNCIL IMPLICATIONS:**

### **a. Policy:**

The Community Infrastructure Framework was approved by Council in October 2014 and the following Council policies are particularly relevant:

- Integrated Planning and Reporting Framework
- Access and Inclusion
- Asset Management
- Cultural Plan
- Community Halls Policy
- Events Strategy
- Facility Hire and Use
- Volunteers
- Youth
- Rural Villages Strategy
- Land Use planning

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

The progress of infrastructure network planning informs spend in the maintenance and renewal budget, and informs long term financial planning.

\$40,000 is requested to be identified from Section 94 Contribution Plan 15 to find an external expert following this next stage of consultation to revise Section 94 Contribution Plan 11 - Library facilities and Contribution Plan 15 - Community Facilities where it relates to Community and Cultural facilities.

As identified in the Community Strategic Plan and Delivery Plan, Community and Cultural Development will partner with our community to maintain suitable buildings and facilities. This work informs the required Resourcing Strategy in allocation of roles and responsibilities and sufficient resources to support this delivery.

### **c. Legal:**

Legal implications and responsibilities relate to leases and service level agreement arrangements, the rezoning of land, and the acquisition or divestment of facilities and any decision making will be presented to Council in a separate process.

### **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.

The design of future engagement will be informed by the adopted Community Infrastructure Framework Engagement Plan and guided by Tweed Shire Council Community Engagement Strategy.



**UNDER SEPARATE COVER/FURTHER INFORMATION:**

- Attachment 1.                      Inventory Council CCS Infrastructure (ECM 5125491)
- Attachment 2.                      Community Engagement Feedback (ECM 5125626)
-

**13 [CNR-CM] Lease to Tweed Heads Community Men's Shed Inc - Recreation Street, Tweed Heads**

**SUBMITTED BY: Design**

mhm



People, places and moving around

*Who we are and how we live*

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

- 3 People, places and moving around
- 3.1 People
- 3.1.3 Community Services - To build stronger, more inclusive communities by assisting people to participate in social and economic life.

**ROLE: Leader**

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**SUMMARY OF REPORT:**

Council has received a request to renew the lease for the Tweed Heads Community Men's Shed Inc. over part Lot 10 in DP 1082082 for a further five (5) year period. The current lease expired on 21 March 2018 and they are currently in a 'holding over' lease term.

A review of all community leases is being conducted by Community and Cultural Services and a further report will be submitted to the July Council meeting to implement a new master lease.

As such, the Manager Community and Cultural Services has requested that a new lease be issued to the Tweed Heads Community Men's Shed Inc. for a period of one year only at this time. A further five (5) year lease will then be considered at the end of that term utilising the new master lease.

**RECOMMENDATION:**

**That:**

- 1. Council approves entering into a lease with the Tweed Heads Men's Shed group at Recreation Park, Recreation Street, Tweed Heads being part of Lot 10 in DP 1082082 for a term of one (1) year.**
- 2. All documentation be executed under the Common Seal of Council.**

**REPORT:**

Council has received a request to renew the lease for the Tweed Heads Community Men's Shed Inc. over part Lot 10 in DP 1082082 at Recreation Park, Recreation Street, Tweed Heads, for a further five (5) year period. The current lease expired on 21 March 2018 and the group are currently in a holding over lease term.

The Men's Shed is a group of local men who create a meeting place and workshop for men in the local community to pass on skills and information relating to health and well-being.

Men's Shed Australia is incorporated as a not for profit Australian Public Company established to assist in the creation of and support for Men's Shed groups in local communities.

Men's Shed groups provide a '*unique and practical way of addressing men's health issues and it is a way of capturing existing skills in a community; a way of supporting projects that might be marginal, or outside the normal scope of other community groups, or businesses, or that lack practical skills*'.

The plan below shows the area being leased outlined, it is fenced off from other occupants of the Park, including day care and pre-school operators, and does not interfere with their activities at the Park.



A review of all community leases is currently being conducted by Community and Cultural Services and a further report will be submitted to the July Council meeting to implement a new master lease.

As such the Manager Community and Cultural Services has requested that a new lease be issued to the Tweed Heads Community Men's Shed Inc. for a period of one (1) year only at this time. A further five (5) year lease will then be considered at the end of that term utilising the approved new master lease.

**OPTIONS:**

1. To approve the renewal of the lease to the Tweed Heads Men's Shed Group for a period of one (1) year.
2. To not approve the renewal of the lease to the Tweed Heads Men's Shed Group.

**CONCLUSION:**

It is recommended that Council approve the renewal of the lease at Recreation Park for a term of one (1) year to the Men's Shed group at the premises.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable.

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

The current proposed one year lease is a peppercorn rental return. A report to Council in July 2018 will provide information for the review of all leases and licences with consideration to be given to the fixed costs for all buildings such as rates, insurance, electricity and a basis for establishing the value of properties. Council will then be in a position to decide on the extent of the rebate for each lease or licence and to report it to the community as a contribution. Once Council has considered the July report, the approved standard lease and conditions will apply to the subsequent renewal of this lease.

**c. Legal:**

Entering into a formal lease for one (1) year that is binding on both parties.

**d. Communication/Engagement:**

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

The area to be leased is a part of Lot 10 in DP 1082082, which is community land. The *Local Government Act 1993* provides at Section 46 that a Council must not grant a lease for a period exceeding five (5) years unless it has given public notice of its intention to do so. As the lease will only be for a period of one (1) year it is not necessary for Council to advertise its intention to lease.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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## 14 [CNR-CM] Proposed 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
1.1.1	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
2.2.1	Animal Management - To provide effective and responsible care, management and public education for companion animals such as pet dogs and cats.

**ROLE:** **Leader**

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### 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 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.

Three Wildlife Protection Areas are proposed in accordance with the Wildlife Protection Areas Policy, identified as Koala Beach, Pottsville Environment Park and Pottsville Wetland (south).

All proposed Wildlife Protection Areas are being declared as Category 1 lands under the CA Act, meaning cats and dogs will be prohibited.

Proposed declaration of these public reserves as Wildlife Protection Areas is justified due to:

- Consistency with the current dog and/or cat prohibited status and general usage of these areas, meaning nil or negligible additional restrictions on domestic animal ownership or activity.
- Their very high conservation significance determined by presence of numerous

threatened species, Endangered Ecological Communities, proximity and connectivity to conservation reserves (ie. NPWS Estate), and as a consequence of being part of the few remaining intact natural areas on the Tweed Coast.

- Their management for conservation outcomes, with significant ongoing investment in ecological restoration, revegetation, vertebrate pest control and threatened species management.

The proposed declarations will have no additional impact on any of Council's operational activities and management of Council infrastructure. The term Wildlife Protection Area will only be applied as defined by the CA Act, meaning this declaration only relates to prohibition of dogs and cats.

In accordance with the Wildlife Protection Areas Policy, an assessment has been made demonstrating proposed Wildlife Protection Areas adequately meet criteria as defined in the Policy, specifically:

- Presence of, or habitat for, fauna species susceptible to the impacts of domestic dogs or cats;
- Evidence of the occurrence of domestic dogs or cats in the proposed Wildlife Protection Area; and
- The ability to identify and signpost the declaration area in accordance with the CA Act.

It is anticipated that the declaration and identification of these Wildlife Protection Areas will provide certainty for Council's Compliance staff and the community who value and use these public reserves. Declarations will also ensure these public bushland reserves with high conservation significance are appropriately protected from the impacts of domestic cats and dogs.

**RECOMMENDATION:**

**That Council endorses the proposed Wildlife Protection Areas, identified as Koala Beach, Pottsville Environment Park and Pottsville Wetland (south), made under the Wildlife Protection Areas Policy and places them on public exhibition for a minimum of 28 days.**

## 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 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 Wildlife Protection Areas 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.

Areas of public land that are suitable for consideration as a Wildlife Protection Area will be proposed in accordance with this Policy through a combined consideration of priority for wildlife protection and resources available to prepare and implement the proposal.

Criteria for the identification of candidate areas include:

- Detail of how the proposed declaration areas address the policy criteria;
- A map identifying the proposed declaration areas;
- Type of declaration proposed (Category 1 or Category 2); and
- A cost estimate for the implementation of the proposed declaration.

Upon endorsement by Council, proposals will be publicly exhibited for a minimum of 28 days.

### **Proposed declaration of Wildlife Protection Areas under the Wildlife Protection Areas Policy**

Three Wildlife Protection Areas are proposed. This report provides the supporting information referred to in the Wildlife Protection Areas Policy and addresses how each of these areas meets the above-mentioned criteria.

### **Supporting information as per the Wildlife Protection Areas Policy**

Proposed Wildlife Protection Areas are identified as:

- Koala Beach;
- Pottsville Environment Park; and
- Pottsville Wetland (south).

Proposed Wildlife Protection Areas are shown in Figure One.



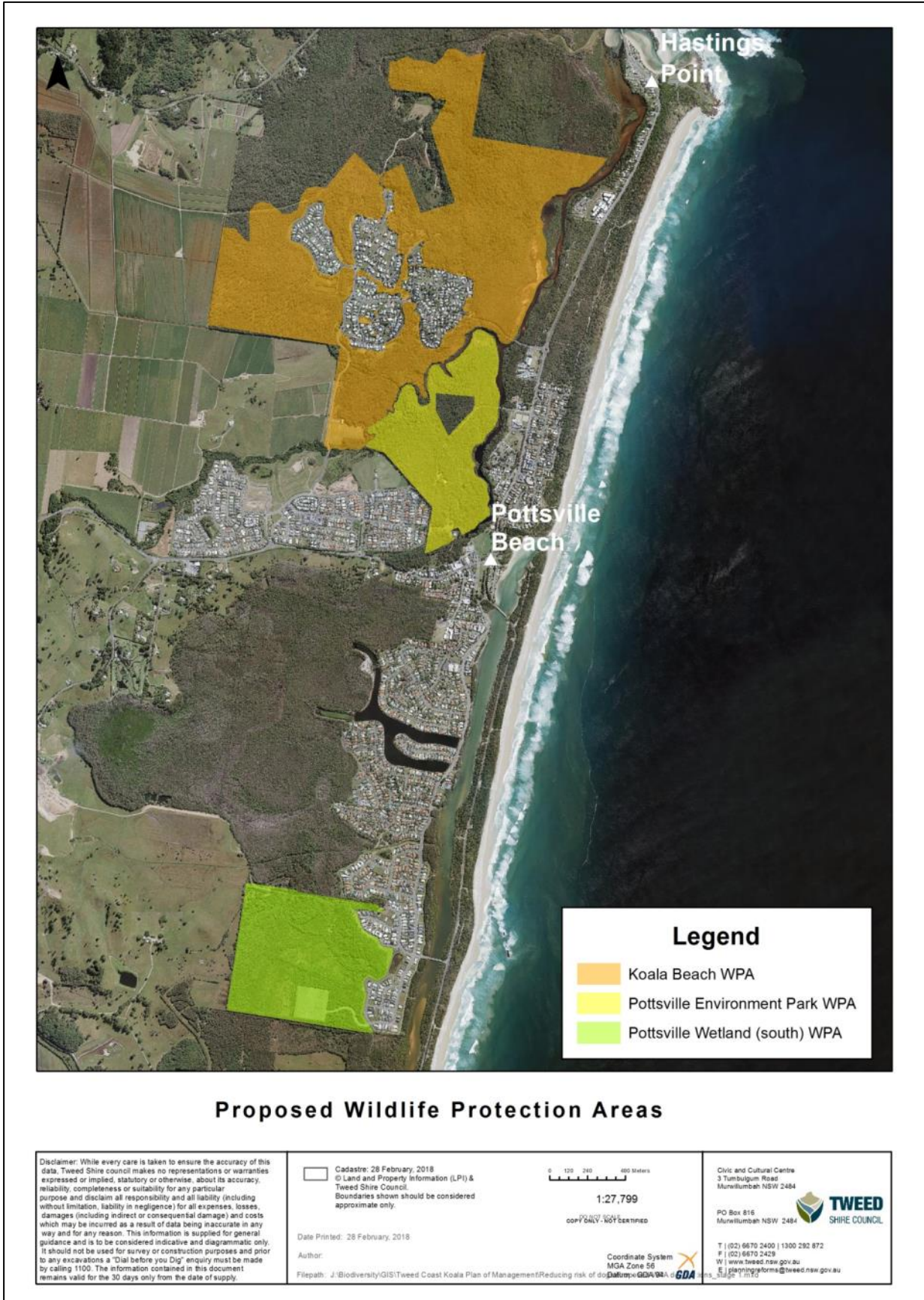


Figure One: Proposed Category 1 Wildlife Protection Areas (WPA)

Proposed declaration of these public reserves as Wildlife Protection Areas and their Category 1 status is justified for the reasons outlined below:

- All proposed Wildlife Protection Areas have very high conservation values as determined by presence of numerous threatened species, Endangered Ecological Communities, proximity and connectivity to conservation reserves (ie. NPWS Estate), and by virtue of being part of the remaining intact natural areas on the Tweed Coast.
- All proposed Wildlife Protection Areas are currently managed for conservation outcomes, with significant ongoing investment in ecological restoration, revegetation, vertebrate pest control and threatened species management.
- The proposed declaration and category 1 status is consistent with the current status and general usage of these areas, meaning nil or negligible additional restrictions on domestic animal ownership or activity.
- Studies into the impacts of on-leash dog walking have found that even on-lead dogs can cause behavioural changes in native animals, specifically displacement of native fauna. Such studies recommended that dog walkers should not be permitted in sensitive conservation areas. All of the proposed declaration areas are considered sensitive conservation areas.

The proposed declarations will have no additional impact on any of Council's operational activities and management of Council infrastructure. The term Wildlife Protection Area will only be applied as defined by the CA Act, meaning this declaration only relates to prohibition of dogs and cats.

Costs involved with implementation of the proposed declaration include promotion, design and installation of signage and compliance. It is anticipated that promotion of Wildlife Protection Areas and design and installation of signage at the three proposed Wildlife Protection Area will cost between \$3000 and \$5000 (dependent on the final number and size of signs installed). This cost will be covered through existing Natural Resource Management operational budgets for these areas. The costs associated with compliance and enforcement of dog and cat prohibition in proposed Wildlife Protection Areas will also occur within existing Compliance operational budgets.

#### **Assessment of proposed Wildlife Protection Areas against criteria**

An assessment is provided below on how each of the proposed Wildlife Protection Areas meets the criteria as outlined in the Policy.

#### **Criteria One – known records of relevant species (susceptible to the impacts of domestic dogs or cats) or their habitat**

Native fauna are impacted by cats due to mortality, injury or disease spread as a result of cat hunting during the day and at night. As cats can climb, susceptible species are not restricted to ground dwelling fauna. Hunting behaviours of cats can also impact on fauna by causing disturbance to breeding, foraging and roosting. For example, a cat that is hunting may result in a pair of breeding birds abandoning a nest site. Susceptible fauna groups include; small to medium sized birds, particularly ground-nesting birds; small to medium sized arboreal mammals (gliders, possums); bats (insectivorous and blossom/fruit bats); small to medium sized ground dwelling mammals (planigales, bandicoots) and frogs, lizards, snakes and insects.

Native fauna are impacted from dogs due to mortality, injury or disease spread resulting from dog attack. Dogs can also cause disturbance to and induce stress in fauna, can crush or eat the eggs of ground nesting birds, and similarly to cats, can impact on fauna by causing disturbance to breeding, foraging and roosting. For example, an unmanaged dog in a wetland area may chase resting waterbirds that then have to expend valuable energy to find an alternative undisturbed roost site. Susceptible fauna groups include; ground dwelling, roosting and nesting birds; arboreal mammals that come to the ground to move between habitat areas (koalas, possums); ground dwelling mammals (bandicoots, echidnas, wallabies) and snakes and lizards.

**Table One** details conservation significant fauna species that are known to occur or potentially occur (as a result of the presence of suitable habitat) in each proposed Wildlife Protection Area and are susceptible to the impacts of domestic dogs or cats.

As shown in Table One, Koala Beach provides important habitat for seventeen threatened fauna species that are susceptible to predation and disturbance by cats and/or dogs. Of these, ten species have been definitively recorded at Koala Beach.

Pottsville Environment Park provides important habitat for fourteen threatened fauna species that are susceptible to predation and disturbance by cats and/or dogs. Of these, seven species have been definitively recorded at Pottsville Environment Park.

Pottsville Wetland provides important habitat for fifteen threatened fauna species that are susceptible to predation and disturbance by cats and/or dogs. Of these, seven species have been definitely recorded at Pottsville Wetland.

The above assessment has not been based on a comprehensive field survey of each area, so it is possible that additional significant species occur in these areas. The assessment was based on analysis of NSW Bionet Atlas records (October 2017) and any threatened species records retrieved from past known fauna surveys.

The above assessment does not take into account the impact of cats and dogs on species that are not listed as threatened under the NSW *Biodiversity Conservation Act 2016* or Federal *Environment Protection Biodiversity Conservation Act 1999*. There are numerous additional fauna species known from proposed Wildlife Protection Areas that are susceptible to the impact of cats and dogs. Examples include; Swamp Wallaby; Common, Small-eared and Ringtail Possums; Sugar and Feather-tail Gliders; Carpet Pythons; Blue and Pink Tongue Lizards; Lace Monitors; Echidnas; Brown and Long-nosed Bandicoots; Melomys and a wide variety of birds; frogs; lizards; snakes and insects.



**Table One:** Conservation significant fauna species and their occurrence in proposed Wildlife Protection Areas

Species	Status under NSW BC Act	Koala Beach	Pottsville Environment Park	Pottsville Wetland (south Kellehers Road)	Susceptible to impacts of dog and/or cat
Koala	Endangered Population	Known	Known	Known	dog
Common Blossom Bat	Vulnerable	Known	Potential	Known	dog & cat
Common Planigale	Vulnerable	Known	Known	Potential	dog & cat
Grey-headed Flying Fox	Vulnerable	Known	Known	Known	dog & cat
Southern Myotis	Vulnerable	Potential	Known	Potential	cat
Little Bentwing Bat	Vulnerable	Known	Known	Potential	cat
Eastern Bentwing Bat	Vulnerable	Known	Potential	Potential	cat
Eastern Long-eared Bat	Vulnerable	Potential	Potential	Potential	cat
Yellow-bellied Sheath-tail Bat	Vulnerable	Potential	Potential	Potential	cat
Long-nosed Potoroo	Vulnerable	Potential	-	-	dog & cat
Squirrel Glider	Vulnerable	Potential	-	-	cat
Bush-stone Curlew	Endangered	Known	Known	Known	dog & cat
Glossy-black Cockatoo	Vulnerable	Known	Known	Known	dog & cat
Pale-vented Bush Hen	Vulnerable	Known	Potential	Potential	dog & cat
Black Bittern	Vulnerable	Known	Potential	Potential	dog & cat
Comb-crested Jacana	Vulnerable	Potential	-	Known	dog & cat
Mangrove Honeyeater	Vulnerable	Potential	Potential	Known	cat

*Known = species has been recorded and therefore known to occur; Potential = habitat for species is present and therefore could potentially occur*

**Endangered Population – Koala between the Tweed and Brunswick Rivers and east of the Pacific Highway**

Of particular significance is that resident koalas from the above-mentioned Endangered Population (as per the NSW *Biodiversity Conservation Act 2016*) utilise large areas of all proposed Wildlife Protection Areas. This population was listed as an Endangered Population in 2016 in acknowledgement of the very high risk of extinction it faces in the near future.

One of the likely threats to this koala population is mortality due to dog attack (NSW Scientific Committee 2015). Several koalas in and around proposed Wildlife Protection Areas have been attacked and directly killed by dogs or died from secondary causes such as infection (as listed in the Friends of the Koala admission records). However there is sparse data regarding the extent of this impact on the Tweed-Brunswick koala population. Dog attack causing mortality on other koala populations occurring in similar urban areas is well documented. For example, the Queensland Department of Environment and Heritage Protection report that around 100 koalas each year are taken to Moggill Koala Hospital, Currumbin Wildlife Hospital and Australian Wildlife Hospital due to dog attack. Approximately 75 per cent of dog attacks on koalas are fatal. Many dog attacks are not reported, so the actual figures are likely to be higher. This makes dog attack the third most common cause of death for koalas after disease and vehicle strike in this region of the east coast.

In acknowledgement of this threat, the Tweed Coast Comprehensive Koala Plan of Management (Tweed Shire Council 2015) has a range of actions to reduce the risk of dog attack, including *“Council will prohibit dogs from all public parks, reserves and recreational areas that are located within high-risk areas...”*

This proposal is therefore consistent with the Tweed Coast Comprehensive Koala Plan of Management and supports the conservation of this endangered koala population.

## **Criteria Two – Evidence of the occurrence of domestic dogs or cats**

### **Koala Beach**

Dogs and cats are already prohibited from Koala Beach Estate (on private and public land), through legislative mechanisms which were enacted as a consequence of the development approval of Koala Beach Estate. All private land parcels within the Koala Beach Estate are burdened with a restriction on the use of land (as per Section 88B of the *Conveyancing Act 1919*) in relation to the keeping of cats or dogs. Specifically, “no cat or dog shall be kept either permanently or temporarily on each lot burdened or at the Koala Beach Estate”. These restrictions were made in acknowledgement of the potential impacts cats and dogs could have on numerous threatened fauna recorded at Koala Beach.

The recorded occurrence of domestic dogs and cats at Koala Beach Estate is relatively uncommon. Over the years, tradespersons have been known to bring dogs into the Estate whilst undertaking work. Following the opening of the Koala Beach sports fields there were also occurrences of domestic dogs being brought into the Estate. Promotion of the prohibition of domestic dogs by sporting clubs resulted in this practice largely ceasing. On occasions, Koala Beach residents have reported to Council (either formally or informally) the presence of dogs and/or cats being kept temporarily or permanently in neighbouring properties. A small number of Koala Beach residents have also borrowed cage traps from Council to capture roaming cats frequenting their area. All captured cats are taken to the Council Pound.

Infrared camera monitoring has been undertaken in bushland areas of Koala Beach over the past five years, with the objective being to monitor vertebrate pest species (ie. foxes, wild dogs and cats). Camera monitoring has infrequently recorded the presence of domestic dogs, off-leash and accompanied by a person(s), or unaccompanied. Domestic dogs have been recorded on camera during the day and also at night when susceptible fauna groups are active (koala, possum).

### **Pottsville Environment Park**

Dogs and cats are prohibited from the Pottsville Environment Park and have been since its establishment in 1988 as part of the Australian Bicentennial celebrations. Previously known as the Tweed Bicentennial Leisure Gardens and then the Tweed Bicentennial Environment Park, the management philosophy for the park was "To maintain and embellish a major nature reserve/leisure gardens of native flora and fauna for the Tweed Shire community and the numerous visitors and tourists who frequent the far north coast area" (Tweed Shire Council 1988). It is assumed the prohibition of dogs and cats was made to protect fauna of this area to ensure consistency with this philosophy.

Whilst Council signage at entry points into the Park state that dogs and cats are prohibited, these prohibitions are currently limited in their enforceability. Penalty infringements relating to presence of a cat or on-leash dog are limited to a 'failure to comply with notice' as per Section 632 of the LG Act. Penalty infringements relating to presence of an off-leash dog is limited to a failure to have a dog in a public place under effective control as per Section 13 of the CA Act.

Records from Council staff and local residents/members of the community indicate that dogs do roam alone or accompanied by their owners (both on and off leash) in the Park, although no fines have been issued. Walking tracks through the Park and Bicentennial Drive offer convenient routes between the residential Seabreeze Estate and Pottsville. Seabreeze Estate adjoins the Pottsville Environment Park to the southwest. As a requirement of the development consent for the Seabreeze Estate, a fauna fence was constructed along the entire length of the development where it adjoins the Park. This fence prevents fauna, including koalas entering the development. It also prevents dogs roaming into the Park, with the fence including self-closing gates to prevent dogs inadvertently entering the Park.

Infrared camera monitoring has been undertaken in bushland areas of Pottsville Environment Park intermittently over the past five years, with the objective being to monitor vertebrate pest species. During these monitoring periods, roaming domestic cats (collared and uncollared) have been regularly recorded in the Park. The source of cats is likely from the surrounding residential areas of Pottsville Beach and Seabreeze Estate.

All lots within the Seabreeze Estate are burdened with a restriction on the use of land (as per Section 88B of the *Conveyancing Act 1919*) in relation to the keeping of cats. Specifically, "No person occupying any lot shall have more than one cat upon any lot, such cat being de-sexed and any such cat must be restrained within the building on the subject lot or within a secure night cage between the hours of 6:00 pm and 6:00 am daily". In essence this is referred to as a "cat curfew". This restriction was made as a consequence of the development approval of Seabreeze Estate, acknowledging the proximity of the development to the Park and the potential impact that cats could impose on native fauna in the Park.

Over the years, there have been reports made to Council from Seabreeze residents, informing of cats roaming within the Seabreeze Estate during the day and night. Seabreeze residents have also borrowed cage traps from Council to capture roaming cats frequenting their area.

### **Pottsville Wetland (south)**

Cats are already prohibited from the majority of the Pottsville Wetland (south) Wildlife Protection Area. Cats are also prohibited from all private residential allotments in the adjoining Black Rocks Estate. Dogs are permitted in the above-mentioned areas but with restrictions. As per the situation at Koala Beach, these restrictions have been made through legislative mechanisms which were enacted as a consequence of the development approval of the Black Rocks Estate, with land parcels burdened with a restriction on the use of land (Section 88B restrictions). These restrictions acknowledged the potential impact cats and dogs could have on threatened fauna in the adjoining Pottsville Wetland. However unlike Koala Beach which is relatively self-regulated by the community (likely due in part to a higher level of awareness of Section 88B restrictions), adherence to Section 88B restrictions by the Black Rocks community appears to be lower.

In relation to the occurrence of domestic dogs and cats at Pottsville Wetland (south), occurrence is considered to be relatively common.

Infrared camera monitoring has been undertaken in the southern extent of the Pottsville Wetland over the past five years, with the objective being to monitor vertebrate pest species. Camera monitoring regularly records the presence of domestic dogs (on-leash, off-leash accompanied by a person(s), or unaccompanied) and domestic cats. Domestic dogs have been recorded primarily during the day but also at dusk and dawn when susceptible native fauna are known to be active. For example, cameras installed on the unsealed section of Kellehers Road bisecting the Wetland frequently record koalas moving on the ground between habitat areas. These cameras also regularly record people walking their dogs off and on-leash. Domestic cats (identified predominantly by presence of a collar) have often been recorded but only at night and have on occasions been observed carrying native fauna (possums and gliders).

As with the Pottsville Environment Park, there have been numerous informal and formal reports made to Council from Black Rocks residents, of cats roaming within the Black Rocks Estate and Pottsville Wetland during the day and night. Black Rocks residents have also borrowed cage traps from Council to capture roaming cats frequenting their area.

Since 2007 three infringements have been issued under the CA Act at Koala Beach (2x dog in prohibited area and 1 x dog not under effective control in public place). No infringements have been issued for Pottsville Wetland or Pottsville Environment Park.

### **Criteria Three – Ability to identify and signpost the declaration area in accordance with legislative provisions**

According to the CA Act, provisions relating to identifying and signposting Wildlife Protection Areas include; providing notices conspicuously exhibited at reasonable intervals on or near the boundaries of the Wildlife Protection Area detailing that cats and/or dogs are prohibited. Additionally, the Wildlife Protection Areas Policy states that “Signs must identify the place as a Wildlife Protection Area and include the relevant restrictions, name of the Act, cost of fines and where possible, a map of the declared area.”

An assessment has been made of each proposed Wildlife Protection Area regarding provision of signage to satisfy the Companion Animals Act and Wildlife Protection Areas Policy.

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 Wildlife Protection Areas where deemed necessary. Signage will define the areas as a Wildlife Protection Area and its operation under the Companion Animals Act.

**OPTIONS:**

1. That Council endorses the proposed Wildlife Protection Areas, identified as Koala Beach, Pottsville Environment Park and Pottsville Wetland (south), made under the Wildlife Protection Areas Policy and places them on public exhibition for a minimum of 28 days.
2. That Council does not endorse the proposed Wildlife Protection Areas.

**CONCLUSION:**

Three Wildlife Protection Areas are proposed under Council's Wildlife Protection Areas Policy, identified as Koala Beach, Pottsville Environment Park and Pottsville Wetland (south). As detailed in this report, proposed areas adequately meet the assessment criteria outlined in the Policy. Their declaration is further justified as a consequence of their high conservation value, current management for conservation outcomes and consistency with their current status and usage. It is anticipated that the declaration and identification of these Wildlife Protection Areas will provide certainty for Council's Compliance staff and the community who value and use these public reserves. Declarations will also ensure these public bushland reserves with high conservation significance are suitably protected from the impacts of domestic cats and dogs.

**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 Wildlife Protection Areas 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:**

Wildlife Protection Areas 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:**

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



Upon endorsement by Council of Wildlife Protection Areas, proposed areas will be publicly exhibited for a minimum of 28 days. During this period, a presentation will be made to relevant organisations such as Pottsville Residents Association. Following completion of the public exhibition, submissions will be assessed and a recommendation made to Council to proceed with declarations or otherwise. Following formal adoption by Council, Wildlife Protection Areas will not come into effect for 30 days from the date of adoption.

Declared Wildlife Protection Areas 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, Council's Facebook page and to relevant community and user groups.

During the development of the Wildlife Protection Areas Policy and this proposal for three Wildlife Protection Area declarations, consultation has been undertaken with the following internal stakeholders; Compliance Unit, Recreation Services Unit and Communications and Customer Services Unit.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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15 [CNR-CM] RFO2018020 Plant & Equipment Hire for Stotts Creek Landfill

SUBMITTED BY: Waste Management

mhm



Making decisions with you  
*We're in this together*

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

- 1 Leaving a Legacy
- 1.3 Utility Services
- 1.3.1 Rubbish and Recycling Services - To collect, recycle and dispose of residential and commercial waste, manage landfill sites and deliver community education so as to divert rubbish from landfill.

**ROLE:** **Provider**

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**SUMMARY OF REPORT:**

Request for Offer RFO2018020 Plant and Equipment Hire for Stotts Creek Landfill Operations was called to engage suitably qualified and experienced organisation(s) to Provide Plant and Equipment to be used for the operation of the Stotts Creek Waste Management Facility for the period 1 June 2018 to 31 May 2020.

This Request for Offer is per the Action Item from the 1 March 2018 Council meeting.

At the time of closing fifteen (15) Offers were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. The recommendations are based on the evaluation.

**RECOMMENDATION:**

**That in respect to Contract RFO2018020 Plant and Equipment Hire for Stotts Creek Landfill Operations:**

1. **Council accepts the formation of a Panel of Providers for a Service Agreement of 24 months (and that Council gives no Guarantee to any amount of works under this Contract). Panel Members are:**

<b>Bidder</b>	<b>ABN</b>
<b>A &amp; N EARTHWORX</b>	<b>49 774 194 492</b>
<b>AE Group Civil &amp; Mining</b>	<b>98 100 496 937</b>
<b>AJ Bulk Haulage Pty Ltd</b>	<b>93 128 534 207</b>
<b>Andrew Johnston Haulage Pty Ltd</b>	<b>79 119 332 544</b>
<b>Baden Civil Contracting Pty Ltd</b>	<b>34 126 619 118</b>
<b>Clark Equipment Sales</b>	<b>40 070 507 130</b>
<b>GCM Enviro.com.au</b>	<b>12 109 538 123</b>
<b>Hazell Bros Group Pty Ltd</b>	<b>22 148 075 101</b>
<b>Kennards Hire</b>	<b>69 001 740 727</b>
<b>Rayner Xcavations</b>	<b>78 481 639 038</b>
<b>Sherrin Rentals</b>	<b>52 074 173 756</b>
<b>Skeen constructions</b>	<b>42 122 970 978</b>
<b>Solo Resource Recovery</b>	<b>62 398 515 816</b>
<b>Tutt Bryant Hire</b>	<b>25 002 894 439</b>

2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at mid contract and finalisation of the contract.
3. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because 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.

### **Offer Background**

This Request for Offer was called to engage suitably qualified and experienced organisation(s) to Provide Plant and Equipment to be used for the operation of the Stotts Creek Waste Management Facility for the period 1 June 2018 to 31 May 2020.

This is in accordance with the Council Action Item from the 1 March 2018 meeting where it was resolved that:

1. Council rescinds parts two and three of minute number 254 of 15 June 2017 meeting being:  
  
*'12. [CNR-CM] RFO2016129 for the Management of the Stotts Creek Resource Recovery Centre:*  
  
...
  2. *Council undertakes a new procurement process for the management of the Stotts Creek Resource Recovery Centre with an amended specification that makes specific provision to deal with the likelihood of legislative change.*
  3. *Council receives a further report for Council's consideration on the subsequent procurement process."*
2. Council notifies Solo Resource Recovery that Council is terminating the current contract EC2013139 effective 31 May 2018, and will not be proceeding with a further procurement process at this stage as the proposed legislative changes have still not proceeded.
3. Council takes over the management of the Stotts Creek Resource Recovery Centre site until the Masterplan and associated capital works program have been delivered.
4. A further report be brought back to Council following delivery of the capital works program, on the best options for the long term management of the Stotts Creek Resource Recovery Centre site.
5. Council maintains a watching brief and report to Council any significant decisions made by the State Government or regulators that will impact Council's short and longer term options for management of the site.

Council will from time to time request various aspects of work from the most suitably assessed Contractor for that aspect of work in the first instance. If by reason of unavailability or inability to meet Councils time frame, test or investigation requirements, Council will then approach the next suitably assessed Contractor and so on until all requirements are achieved. Work will be requested on a needs basis by the Waste Unit Operations Team. Council gives no Guarantee to any amount of works under this Contract.

### **Offer Advertising/Distribution**

The Offer was invited in accordance with the provisions of the Local Government Act 1993, the NSW Local Government (General) Regulation 2005 and the Tendering Guidelines for NSW Local Government.

The Offer was officially advertised in The Sydney Morning Herald on Tuesday 13 March 2018 and also in the TweedLink on 12 March 2018.

**Offer Addendums**

Notice to Bidders No.001 was issued to advise Bidders that on each of the Schedule of Rates pages there are two blank columns for bidders pricing. Column 1 calls for Rate incl GST for each item but the second column is unlabelled. TSC requested that where possible, the second column is used to show a Monthly hire rate (28 days or 4 weeks) for "A" and "C" rates of the equipment being offered.

**Offer Submissions**

Offer submissions closed at 4:00pm (local time) on 4 April 2018 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

The Tender Box was opened by Councils delegated Officers after 4:00pm (local time) and the following Schedule of Rates Offers were recorded:

<b>Bidder</b>	<b>ABN</b>
A & N EARTHWORX	49 774 194 492
ace rental	Not Supplied
AE Group Civil & Mining	98 100 496 937
AJ Bulk Haulage Pty Ltd	93 128 534 207
Andrew Johnston Haulage Pty Ltd	79 119 332 544
Baden Civil Contracting Pty Ltd	34 126 619 118
Clark Equipment Sales	40 070 507 130
GCM Enviro.com.au	12 109 538 123
Hazell Bros Group Pty Ltd	22 148 075 101
Kennards Hire	69 001 740 727
Rayner Xcavations	78 481 639 038
Sherrin Rentals	52 074 173 756
Skeen constructions	42 122 970 978
Solo Resource Recovery	62 398 515 816
Tutt Bryant Hire	25 002 894 439

**Late and/or Non-Conforming Offers**

The offer from Ace Rental did not provide rates for the required equipment to manage Councils Waste Management facility. The offer was more of a sales catalogue and was therefore deemed non-conforming and not considered further.

**Offer Evaluation Panel**

Council's Offer Evaluation Panel was made up as follows:

<b>Position</b>
Project Manager
Waste Operations Officer
Supervisor Landfill Operations

**Evaluation Criteria**

A full list of offer evaluation criteria does not apply for this offer to form a Panel of Providers.

A ranking system has not been employed and Councils Waste management Officers will utilise equipment from the list on an as needed basis.

However, when Officers are deciding on hiring of equipment from the panel they will need to consider Value for Money, Suitability of Plant Offered, Validity of Insurances and Registration, Sustainable Procurement Value Adds, Local Content, Maintenance and Running costs, Council's Contract Administration Costs.

The details of the price and non-price evaluation are shown on the Offer Evaluation Report and Offer Evaluation Scoring Sheet. A copy of the Offer Evaluation Report and Offer Evaluation Scoring Sheet are included as ATTACHMENTS 1 and 2 which are CONFIDENTIAL in accordance with Section 10A(2):

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

The information identifies the Bidder in relation to the Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of the Bidder in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Offer.

### **Evaluation Discussion**

Offers include Schedule of Rates pricing and proposed Equipment details. Rates submitted will remain fixed for the duration of the agreement period of 24 months. Offers have been recorded by type and size of equipment.

The determination of the daily engagement of hire of plant and equipment will be made by Council's Waste Operations Coordinator (TSC) or Council's Team Leader Waste Operations with due reference to the specific requirements of works being undertaken and availability of each Contractor.

Hire decisions will be made based on the most economical option for Council. The Council Officer responsible for doing so will be responsible for recording reasons why.

The expected annual spend under this contract will be in the vicinity of \$1Mil per annum. This estimate is based on the current costs of approx. \$90,000 per month incurred by the Contractor operating the facility.

### **Recommendation**

It is recommended that the Offers from all Conforming bidders be accepted to the Panel of Providers for a Service Agreement of 24 months (and that Council gives no Guarantee to any amount of works under this Contract). Panel Members proposed are:

<b>Bidder</b>	<b>ABN</b>
A & N EARTHWORX	49 774 194 492
AE Group Civil & Mining	98 100 496 937
AJ Bulk Haulage Pty Ltd	93 128 534 207
Andrew Johnston Haulage Pty Ltd	79 119 332 544
Baden Civil Contracting Pty Ltd	34 126 619 118
Clark Equipment Sales	40 070 507 130

GCM Enviro.com.au	12 109 538 123
Hazell Bros Group Pty Ltd	22 148 075 101
Kennards Hire	69 001 740 727
Rayner Xcavations	78 481 639 038
Sherrin Rentals	52 074 173 756
Skeen constructions	42 122 970 978
Solo Resource Recovery	62 398 515 816
Tutt Bryant Hire	25 002 894 439

**OPTIONS:**

That Council:

1. Accepts the formation of a Panel of Providers for a Service Agreement of 24 months (and that Council gives no Guarantee to any amount of works under this Contract). Panel Members are:

<b>Bidder</b>	<b>ABN</b>
A & N EARTHWORX	49 774 194 492
AE Group Civil & Mining	98 100 496 937
AJ Bulk Haulage Pty Ltd	93 128 534 207
Andrew Johnston Haulage Pty Ltd	79 119 332 544
Baden Civil Contracting Pty Ltd	34 126 619 118
Clark Equipment Sales	40 070 507 130
GCM Enviro.com.au	12 109 538 123
Hazell Bros Group Pty Ltd	22 148 075 101
Kennards Hire	69 001 740 727
Rayner Xcavations	78 481 639 038
Sherrin Rentals	52 074 173 756
Skeen constructions	42 122 970 978
Solo Resource Recovery	62 398 515 816
Tutt Bryant Hire	25 002 894 439

2. Awards the Contract to a different Bidder/s, including reasons for this course of action.
3. Declines to accept any Offer/s, including reasons for this course of action.

**CONCLUSION:**

Request for Offer RFO2018020 Plant and Equipment Hire for Stotts Creek Landfill Operations was called to engage suitably qualified and experienced organisation(s) to Provide Plant and Equipment to be used for the operation of the Stotts Creek Waste Management Facility for the period 1 June 2018 to 31 May 2020.

It is recommended that the Offers from all Conforming bidders be accepted to the Panel of Providers for a Service Agreement of 24 months (and that Council gives no Guarantee to any amount of works under this Contract). Panel Members are:

**COUNCIL IMPLICATIONS:**

**a. Policy:**

The Offer invitation and evaluation have been conducted in accordance with the provisions of:

- The Local Government Act 1993
- NSW Local Government (General) Regulation 2005
- Council's Procurement Policy v1.6

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

Provision for the RFO2018020 Plant and Equipment Hire for Stotts Creek Landfill Operations is included in the 2017/2018, 2018/2019 and 2019/2020 Financial Year Budgets.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*(Confidential)* Attachment 1. RFO2018020 - Offer Evaluation Report (ECM 5196832).

*(Confidential)* Attachment 2. RFO2018020 - Offer Worksheet (ECM 5196899).

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## REPORTS FROM THE DIRECTOR ENGINEERING

### 16 [E-CM] RFO2018008 2017/2018 Asphalt Pavement Program

SUBMITTED BY: Roads and Stormwater

Valid

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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**

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#### SUMMARY OF REPORT:

Request for Offer RFO2018008 was called to engage a suitably qualified and experienced organisation(s) to supply and place asphalt to various sites in the Tweed Shire as part of the 2017-2018 Asphalt Pavement Program managed by Roads & Stormwater Unit.

At the time of closing three (3) Offers were received.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. The recommendations are based on the evaluation.

#### RECOMMENDATION:

That in respect to Contract RFO2018008 2017-2018 Asphalt Pavement Program:

1. Council awards the offer to Boral Resources ABN 46 009 671 809 for the amount of \$1,411,180.95 (exclusive of GST).
2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council six monthly and at finalisation of the contract.

3. **ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
- (d) **commercial information of a confidential nature that would, if disclosed:**
    - (i) **prejudice the commercial position of the person who supplied it, or**
    - (ii) **confer a commercial advantage on a competitor of the council, or**
    - (iii) **reveal a trade secret.**

**REPORT:****Offer Background**

This Request for Offer was called to engage a suitably qualified and experienced organisation(s) to supply and place asphalt to various sites in the Tweed Shire as part of the 2017-2018 Asphalt Pavement Program managed by Works Unit.

**Offer Advertising/Distribution**

The Offer was invited in accordance with the provisions of the Local Government Act 1993, the NSW Local Government (General) Regulation 2005 and the Tendering Guidelines for NSW Local Government. The Offer was officially advertised in The Sydney Morning Herald on Tuesday 20 Feb 2018 and also in Brisbane Courier Mail on 17 Feb 2018.

**Offer Submissions**

Offer submissions closed at 4:00pm (local time) on 14 March 2018 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

The Tender Box was opened by Councils delegated Officers after 4:00pm (local time) and the following Offers were recorded:

<b>Bidder</b>	<b>ABN</b>
Boral Resources	46 009 671 809
East Coast Asphalt & Concrete Edging Pty Ltd	51 755 877 285
Fulton Hogan	54 000 538 689

**Offer Evaluation**

An Offer Evaluation Plan was developed based on the premise that competitive Offers were to be received and scored against specific evaluation criteria in order to select the best value Offer.

**Offer Evaluation Panel**

Council's Offer Evaluation Panel was made up as follows:

<b>Position</b>
Project Manager - Contracts
Engineer -Construction
Engineer – Assets and Maintenance

**Evaluation Criteria**

Offers were evaluated based on the criteria noted in the table below which were also listed in the Conditions of Offering.

<b>Criterion</b>	<b>Document Reference</b>	<b>Weighting (%)</b>
Value for Money (Normalised Offer Price) (Mandatory but Chairperson sets weighting)	Schedule 2 & 3	60
Price Compared with TSC Estimate	Schedule 2 & 3	Yes/No Item
Financial Details and Capacity	Schedule 4	Yes/No Item
Previous and Current Works (Experience)	Schedule 4	5
Project Management (Key Personnel)	Schedule 5	5

Criterion	Document Reference	Weighting (%)
Methodology and Work Program (Time)	Schedule 6	5
WHS and Risk Management	Schedule 7	5
Environmental Management	Schedule 7	5
Quality Management	Schedule 7	5
Company Insurances	Schedule 9	Yes/No Item
Sustainable Procurement	Schedule 10	Yes/No Item
Local Content (Development of Local Business/Industry) (Mandatory 10% assessment as per Policy)	Schedule 11	10
Innovation	All Schedules	
Life of Proposed materials and equipment	All Schedules	Yes/No Item
Council's Contract Administration Costs	Schedule 6	Yes/No Item
	Total	100

### Evaluation Discussion

The offer from East Coast Asphalt & Concrete Edging Pty Ltd was non-conforming as it was not complete and a lump sum offer could not be determined at the time the offer closed.

Both remaining submissions were considered equal in all non-price criteria except for the Methodology and works program. Boral were given a lower score due to their basic program but both bidders have offered to complete the works within 12weeks of contract acceptance.

The details of the price and non-price evaluation are shown on the Offer Evaluation Report and Offer Evaluation Scoring Sheet. A copy of the Offer Evaluation Report and Offer Evaluation Scoring Sheet are included as ATTACHMENTS 1 and 2 which are CONFIDENTIAL in accordance with Section 10A(2):

- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret

The information identifies the Bidder in relation to the Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of the Bidder in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

### Evaluation Summary

Boral Resources achieved the highest overall assessment score and is therefore deemed as the most advantageous option for Council.

### Recommendation

It is recommended that the Offer from Boral Resources ABN 46 009 671 809 be accepted to the value of \$1,411,180.95 (exclusive of GST).

### OPTIONS:

That Council:

1. Awards the offer to Boral Resources ABN 46 009 671 809 for the amount of \$1,411,180.95 (exclusive of GST).
2. Awards the Contract to a different Bidder, including reasons for this course of action.
3. Declines to accept any of the Offers, including reasons for this course of action.

**CONCLUSION:**

Boral Resources achieved the highest overall assessment score and is therefore deemed as the most advantageous option for Council.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

The Offer invitation and evaluation have been conducted in accordance with provisions of:

- The Local Government Act 1993
- The NSW Local Government (General) Regulation 2005
- Council's Procurement Policy v1.6

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

Provision for RFO2018008 2017-2018 Asphalt Pavement Program is included in the 2017/2018 Roads Maintenance Budget.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*(Confidential)* Attachment 1. RFO2018008 - Offer Evaluation Report - ECM5168839.

*(Confidential)* Attachment 2. RFO2018008 - Offer Evaluation Score Sheet  
ECM5168947.

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17 [E-CM] RFO2017170 Expressions of Interest for the Provision of Road Stabilisation Services

SUBMITTED BY: Roads and Stormwater

Valid



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

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

- 3 People, places and moving around
- 3.3 Moving around
- 3.3.4 Roads, Traffic, Footpaths and Cycleways - To provide and maintain a network of roads and bridges, footpaths and cycleways that is safe, efficient and accessible.

**ROLE:** Provider

**SUMMARY OF REPORT:**

Request for Offer RFO2017170 Expressions of Interest for the Provision of Road Stabilisation Services was called to engage a panel of providers for road stabilisation services for a period of 12 months with a possible 2 x 12 month extension option.

At the time of closing eight (8) Offers were received including three (3) from one organisation.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. The recommendations are based on the evaluation.

**RECOMMENDATION:**

**That in respect to Contract RFO2017170 Expressions of Interest for the Provision of Road Stabilisation Services:**

1. Council awards the offer to the following organisations according to their Offered rates:

Bidder	ABN	ACN
Ark Construction Group Pty Ltd	80 112 094 372	112 094 372
Downer EDI Works Pty Ltd	66 008 709 608	008 709 608
Ellis Stabilising Pty Ltd	96 144 885 334	144 885 334
Hiway Stabilizers Aust Pty Ltd	40 150 650 150	150 650 150
Stabilcorp Pty Ltd	25 162 342 001	162 342 001
Stabilised Pavements of Australia Pty Ltd*	90 002 900 736	002 900 736

\*Stabilised Pavements of Australia submitted three (3) Offers.

2. **The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at finalisation of the contract.**
3. **The General Manager be granted delegated authority to extend the contract up to 2 x 12 month terms.**
4. **ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because they contain:-**
  - (d) **commercial information of a confidential nature that would, if disclosed:**
    - (i) **prejudice the commercial position of the person who supplied it, or**
    - (ii) **confer a commercial advantage on a competitor of the council, or**
    - (iii) **reveal a trade secret.**

## REPORT:

### Offer Background

Offer RFO2017170 Expressions of Interest for the Provision of Road Stabilisation Services was called to engage a panel of providers for road stabilisation services for a period of 12 months with a possible 2 x 12 month extension option.

The works to be performed are the services of suitably experienced Contractors to establish a Panel of Providers to provide a Road Stabilisation Service to Council incorporating the following functions:

Supply and in-situ incorporation of road stabilisation additives as required:

- Hydrated Lime
- GB Cement Fly Ash Blend (75:25)

### Request for Offer Advertising

Offers were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. The Request for Offers was advertised from Tuesday 26 December 2017 in The Sydney Morning Herald. The Offer was also advertised in the Brisbane Courier Mail on 22 December 2017 and on Council's website.

Offer submissions closed at 4.00pm (local time) on 31 January 2018 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

### Offer Addendums

There were two (2) Notice to Bidders issued before close of Offer.

Notice to Bidders No.1 was issued to advise Bidders that an updated word version of the Offer Schedules had been uploaded to Council's Tender Page.

Notice to Bidders No. 2 was issued to advise Bidders that the closing date for Offers had been extended to 31 January 2018.

### Offer Submissions

At the closing time for Offer Submissions, the Tender Box was opened and eight (8) Offers were recorded from six (6) organisations as below:

Bidder	ABN
Ark Construction Group Pty Ltd	80 112 094 372
Downer EDI Works Pty Ltd	66 008 709 608
Ellis Stabilising Pty Ltd	96 144 885 334
Hiway Stabilizers Aust Pty Ltd	40 150 650 150
Stabilcorp Pty Ltd	25 162 342 001
Stabilised Pavements of Australia Pty Ltd*	90 002 900 736

\*Stabilised Pavements of Australia submitted three (3) Offers.

### Offer Evaluation

An Offer Evaluation Plan was developed based on the premise that competitive Offers were to be received and scored against specific evaluation criteria in order to select the best



value Offer. Bidders were evaluated for conformance and acceptability where all that scored  $\geq 60\%$  for the criteria 1.1 Relevant Experience and Capability and 1.2 Management Systems (WH&S, Quality and Environmental) were considered acceptable and were to be offered a position on the Panel of Providers for RFO2017170. In this case all Offers were assessed as conforming and acceptable.

Council's Offer Evaluation Panel was made up as follows:

<b>Position</b>
Engineer- Assets and Maintenance
Engineer- Construction
Project Manager- Contracts

Offers shall be evaluated and ranked during the course of the contract based on the criteria noted in the table below which were also broadly listed in the Conditions of Offering.

Criterion	Document Reference	Weighting (%)
Assessed Offer Price (as adjusted)	Schedule 3	75
Relevant Experience and Capability	Schedules 5 & 6	10
Management Systems (WH&S, Quality and Environmental)	Schedule 7	5
Local Content (for work lots $\geq \$50k$ GST Incl)	Schedule 12	10
	Total	100

The details of the evaluation are shown on the Offer Evaluation Report. A copy of the Offer Evaluation Report and Bidders Offered Rates are included as ATTACHMENTS 1 and 2 which are CONFIDENTIAL in accordance with Section 10A(2):

- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret

The information identifies the Bidder in relation to the Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of the Bidder in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Offer.

**OPTIONS:**

That Council:

1. Awards the offer to the following organisations according to their Offered rates:

Bidder	ABN	ACN
Ark Construction Group Pty Ltd	80 112 094 372	112 094 372
Downer EDI Works Pty Ltd	66 008 709 608	008 709 608

Ellis Stabilising Pty Ltd	96 144 885 334	144 885 334
Hiway Stabilizers Aust Pty Ltd	40 150 650 150	150 650 150
Stabilcorp Pty Ltd	25 162 342 001	162 342 001
Stabilised Pavements of Australia Pty Ltd*	90 002 900 736	002 900 736

\*Stabilised Pavements of Australia submitted three (3) Offers.

2. Declines to accept any of the Offers, including reasons for this course of action.

### CONCLUSION:

Council awards the Contract RFO2017170 to the following Panel Members according to their Offered rates:

Bidder	ABN	ACN
Ark Construction Group Pty Ltd	80 112 094 372	112 094 372
Downer EDI Works Pty Ltd	66 008 709 608	008 709 608
Ellis Stabilising Pty Ltd	96 144 885 334	144 885 334
Hiway Stabilizers Aust Pty Ltd	40 150 650 150	150 650 150
Stabilcorp Pty Ltd	25 162 342 001	162 342 001
Stabilised Pavements of Australia Pty Ltd*	90 002 900 736	002 900 736

\*Stabilised Pavements of Australia submitted three (3) Offers.

In order to achieve value for money each work lot will be assessed individually for both price and non-price criteria for the purpose of ranking and the highest ranked will be engaged depending on availability.

### COUNCIL IMPLICATIONS:

#### a. Policy:

The Offer invitation and evaluation have been conducted in accordance with the provisions of:

- The Local Government Act 1993 and the NSW Local Government (General) Regulation 2005
- Council's Procurement Policy

In accordance with Local Government (General) Regulations 2005.

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

Provision for the RFO2017170 Expressions of Interest for the Provision of Road Stabilisation Services is included in the 2018/2019 Budget. It is estimated the cost of these services will be approximately \$200,000 (GST Excl) for the initial 12mth contract term and similar for each 12mth term thereafter.

#### c. Legal:

Not Applicable.

#### d. Communication/Engagement:

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*(Confidential)* Attachment 1. RFO2017170 - Offer Evaluation Report (ECM 5186479).

*(Confidential)* Attachment 2. RFO2017170 - Bidders Offered Rates (ECM 5186597).

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**18 [E-CM] EC2014-184 Biosolid Removal from Wastewater Treatment Plants for use Outside TSC Boundary**

**SUBMITTED BY: Water and Wastewater**

Valid

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**Leaving a Legacy**  
*Looking out for future generations*

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

1	Leaving a Legacy
1.3	Utility Services
1.3.2	Sewerage Services - To provide high quality and reliable sewerage collection and treatment services that meet health and environmental requirements.

**ROLE: Provider**

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**SUMMARY OF REPORT:**

Contract EC2014-184 Biosolid Removal from Wastewater Treatment Plants for use Outside TSC Boundary was approved at Council's Meeting held 16 April 2015. The contract had an original two (2) year contract period expiring 20 April 2017 and has since been extended by Council for an additional one (1) year period and will now expire on 20 April 2018.

Contract documents for EC2014-184 included a clause stating the contract was valid for a period of two (2) years with an option, subject to an agreement of both parties, to extend the Contract up to 2 x 1 year additional terms.

This Report identifies that the work under contract has been completed satisfactorily to date and seeks Council endorsement to allow officers to extend the contract for an additional 1 year term until 20 April 2019. A CPI adjustment to the rates has been calculated.

**RECOMMENDATION:**

**That:**

- 1. Council grants a one (1) year extension to the contract to Arkwood (Gloucester) Pty Ltd (T/A Arkwood Organic Recycling) ABN 70 055 370 486, ACN 055 370 486 for the CPI adjusted contract rates included in the Confidential Attachment 3.**
- 2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council six monthly and at finalisation of the contract.**

3. **ATTACHMENTS 1, 2 and 3 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:**

### **Background**

This Offer was called to engage a suitably qualified and experienced organisation to collect, transport and beneficially use Biosolids produced from the Tweed Shire Council's Wastewater Treatment Plants in an Environmentally Sustainable manner that complies with the requirements of the relevant State Environment Protection Authority.

Contract EC2014-184 Biosolid Removal from Wastewater Treatment Plants for use Outside TSC Boundary was approved at Council's Meeting held 16 April 2015. The contract had an original two (2) year contract period expiring 20 April 2017 and has since been extended by Council for an additional one (1) year period and will now expire on 20 April 2018.

Contract documents for EC2014-184 included a clause stating the contract was valid for a period of two (2) years with an option, subject to an agreement of both parties, to extend the Contract up to 2 x 1 year additional terms.

At the time of the original Council resolution to enter into the contract, delegation to extend the contract was not delegated to the General Manager. Therefore this report requests Council to accept the contractual one year extension.

### **Evaluation of Performance**

Arkwood have provided a reliable and quality service and meet all the requirements of the contract and therefore should be offered a further 12mth extension to the contract.

## **OPTIONS:**

That Council:

1. Grants a 1 year extension to contract EC2014-184 awarded to Arkwood (Gloucester) Pty Ltd (T/A Arkwood Organic Recycling) ABN 70 055 370 486, ACN 055 370 486 for the CPI adjusted contract rates included in the Confidential Attachment 3.
2. Declines to accept any contract extension, including reasons for this course of action.

## **CONCLUSION:**

It is recommended that in respect to Contract EC2014-184 Biosolid Removal from Wastewater Treatment Plants for use Outside TSC Boundary, Council grants a one (1) year extension to contract EC2014-184 awarded to Arkwood (Gloucester) Pty Ltd (T/A Arkwood Organic Recycling) ABN 70 055 370 486, ACN 055 370 486 for the CPI adjusted contract rates included in the Confidential Attachment 3.

## **COUNCIL IMPLICATIONS:**

### **a. Policy:**

The Offer invitation and evaluation were conducted in accordance with the provisions of:

- The Local Government Act 1993
- The NSW Local Government (General) Regulation 2005
- Council's Procurement Policy v1.6

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

Provision for the EC2014-184 Biosolid Removal from Wastewater Treatment Plants for use Outside TSC Boundary is included in the 2018/2019 Budget.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. Action Item from Council meeting held 16 April 2015 (ECM 5193223).

Attachment 2. Action Item from Council meeting held 20 April 2017 (ECM 5193263).

*(Confidential)* Attachment 3. CPI adjusted Rates Calculations for 12mth Contract Extension Period to 20 April 2019 (ECM 5199279).

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## 19 [E-CM] Adani Mine Resolution and Tender Processes

**SUBMITTED BY:** Contracts

mhm



**Leaving a Legacy**  
*Looking out for future generations*



**Behind the scenes**  
*Providing support to make it happen*

### 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.
4	Behind the scenes
4.2	Support Services
4.2.4	Procurement Services - To support Council to purchase goods, services and assets that are fit for purpose, sustainable and provide best value.

**ROLE:** **Leader**

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### SUMMARY OF REPORT:

Officers have sought external legal advice regarding Council's 26 October 2017 Resolution to limit engaging entities that have business dealings with the Adani Carmichael mine.

The legal advice concluded that while Council is able to include restrictions in tender documentation disadvantaging entities associated with the mine, Council is not able to include restrictions within the contracts that eventuate from those tenders.

While the legal advice suggests there are ways for Council to implement an anti-Adani policy, several potentially significant ramifications are identified and need to be considered before confirming a position such as:

- The resulting reduction in market competition may affect the ability of Council to achieve value for money and meet its obligations under the Local Government Act.
- The tender condition may cause or give the perception Council has not met its fiduciary duties for impartially.
- There is no way of enforcing the policy position once a contract is formed meaning companies could simply opt not to disclose any connection with the mine knowing there are no contractual repercussions.
- There would be reputational and probity risks because Council's procurement process is not seen as reliable, verifiable, impartial or enforceable.



**RECOMMENDATION:**

**That:**

- 1. Council notes the contents of this report and retains the Procurement Policy in its current state.**
- 2. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because they contain:-**
  - (e) information that would, if disclosed, prejudice the maintenance of law.**

## REPORT:

### Background:

Council resolved at its 26 October 2017 meeting to undertake the following:

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

On 17 November 2017, Council officers facilitated a workshop with Council to demonstrate the possible changes to tender protocols. At this workshop Council confirmed that the proposed restriction was intended to only apply to civil construction tenders and would not apply to other contracts for supply of materials or general services (such as power, telecommunications, software, steel, concrete, water fittings, consultants, etc.).

Following the workshop, Council officers requested legal advice regarding the feasibility of a restriction for entities who have business dealings with the Adani Carmichael mine.

### Legal Advice

The Contracts Section received external legal advice regarding Council's Resolution.

The legality of restricting associations with such companies was considered in regards to the *Competition and Consumer Act 2010*, the *Anti-Discrimination Act (NSW) 1997* and the *Fair Trading Act (NSW) 1987*.

The findings were as follows:

#### *Competition and Consumer Act 2010*

Council is exempt from Part IV of the Competition and Consumer Act which prevents exclusionary provisions or clauses which lessen competition. However there is an argument that the relevant common law still applies. Any clause in a contract which restrains trade must be reasonable and in the interest of a) the parties and b) the public. What interests are worthy of protection and considered reasonable is open to interpretation, therefore it would need to be tested by the courts.

As it would be difficult to argue that the restriction on companies who have connections with Adani protects a 'legitimate business interest' of Council, it would likely be considered illegal for Council to insert a restriction clause in its contracts.

Common law however, does not prevent such a restriction being included in the calling and evaluation of tenders as long as Council made it clear to prospective tenderers that association with Adani or the Carmichael mine may work against them.

The Anti-Discrimination Act (NSW) 1997

The Anti-Discrimination Act does not restrain discrimination on the grounds of commercial affiliation or business relationships.

Fair Trading Act (NSW) 1987

The Fair trading Act contains no provisions that should concern Council in relation to a restriction on contracts.

Summary

The legal advice indicates that while Council would be within its rights to enact a disclosure step into the Tender process and select contractors accordingly, it would likely be considered illegal for Council to insert reference to such restrictions in the resulting contracts.

Council would therefore have no avenue to terminate a contract or pursue a contractor who falsified their disclosure regarding associations with Adani or the Carmichael Mine nor would Council be able to respond if a contractor went on to form such an association.

**Procurement Implications**

In resolving a policy position and enacting a disclosure step, Council would also have to accept potentially significant ramifications:

Not meeting Value-for-money nor Local Government Act requirements

Whenever additional restrictions are placed in tenders, a reduction in market competition occurs. Reducing the pool of tenderers bidding on a project is likely to affect Council's ability to achieve value for money for the community. This, in turn, could impact on Council's ability to meet its obligations under the Guiding Principles for Councils and the Principles of Sound Financial Management as per Section 8A and 8B of the Local Government Act.

Fiduciary Duty of Council officers

Council officers are required to act with impartiality in performing their duties. Inclusion of such a restriction could be considered extraneous to the objectives of the tender and may cause or give the perception Council officers have not met their fiduciary duties for impartially. This may in turn impact on Council's commercial reputation and profile in the public sector marketplace.

Clauses not enforceable

As Council would not have the ability to insert a restriction clause in its contracts, Council may find itself bound to an Adani associated contractor despite its policy position. This not only defeats the purpose of the restriction but also:

- Impacts on companies that do not have dealings with Adani and who otherwise would have won work with Council

- Penalises companies that answered honestly in their tender
- Sends a message to the business community that Council will tolerate dishonest conduct in its dealings
- Calls into question the legitimacy of the restriction given it could be argued that it was not relevant in Council protecting its interests.
- Creates discontent within the market and is likely to result in reduced numbers of tenders for future works

Probity and impartiality concerns

Council's ability to meet its probity obligations may be called into question because the submitted declarations cannot be verified. This results in similar impacts as described above, because it unfairly disadvantages honest tenderers and creates unclear expectations. Significantly, this would damage Council's reputation as a fair and impartial procurer of works with potential follow-on affects being a reduction in the number of tenders received from reputable organisations and possibly an increase from those prepared to win tenders based on incorrect information.

Reputational risk

Council has a high standing reputation for professionalism and probity in the community and when dealing with businesses, there would be significant reputational risks because Council's procurement process is not seen as reliable, verifiable, impartial or enforceable.

**OPTIONS:**

Council can:

**Option 1:**

Note the contents of this report and retain the Procurement Policy in its current state.

OR

**Option 2:**

Amend the Procurement Policy to reflect its position on the development of the Carmichael Mine in the Galilee basin, by including a requirement for all tenderers to disclose any direct contractual agreement to construct or operate the mine. Amendments to the Procurement Policy 1.7 would be as follows:

Objectives

Addition of: To ensure that Council does not support the development of the Carmichael Mine

Definitions

Addition of:  
Carmichael Mine The proposed coal mine in the Galilee Basin, Central Queensland

Direct contractual agreement A contract between the Tenderer and the owner/s of the Carmichael Mine

Policy

Addition of:

**3.7 Business Associations Disclosure**

Council does not support the development of the Carmichael Mine in the Galilee basin. All tenderers are required to answer a compulsory question stating whether they have entered into any direct contractual agreement for the construction or operation of the Carmichael Mine. A yes response will result in the tenderer being ineligible for further consideration. A no response will result in the tenderer being eligible to proceed to the next step of evaluation.

**CONCLUSION:**

While the legal advice suggests there are ways for Council to implement an anti-Adani policy, several potentially significant ramifications are identified to procurement processes, day-to-day operations, the reputation of Council and the ability for Council to meet its legislative responsibilities. These need to be carefully considered before confirming a policy position that cannot be enforced.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Procurement Policy v1.6.

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

Not Applicable.

**c. Legal:**

Yes, legal advice has been received.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*(Confidential)* Attachment 1. Prevention Partners Legal Advice (ECM 5134426).

*(Confidential)* Attachment 2. Internal Memo - Procurement Advice (ECM 5093580).

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**20 [E-CM] Sponsorship of the 2018 Northern Rivers Science and Engineering Challenge**

**SUBMITTED BY: Director**

Validms



## Supporting Community Life

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
- 2.1.1 Work closely with government and community organisations to improve services to children and families, youth, elderly, Indigenous people, disadvantaged and minority groups and to build stronger and more cohesive communities

**ROLE: Leader**

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### SUMMARY OF REPORT:

Tweed Shire Council has been approached by Southern Cross University to become a sponsor of the 2018 Northern Rivers Science and Engineering Challenge from 20 to 27 June 2018 with the Discovery Days for Primary Schools on Monday 25 to Wednesday 27 June at Lismore Campus, Southern Cross University. Council has sponsored this Challenge for several years. 2018 is the 12<sup>th</sup> year that this event is being held at Southern Cross University in Lismore.

This report recommends that Council become a Bronze Sponsor of the 2018 Northern Rivers Science and Engineering Challenge hosted by Southern Cross University, Lismore.

### RECOMMENDATION:

**That Council becomes a Bronze Sponsor of the 2018 Northern Rivers Science and Engineering Challenge hosted by Southern Cross University, Lismore, with the Bronze contribution being \$500, excluding GST.**

## REPORT:

Tweed Shire Council has been approached by Southern Cross University to become a sponsor of the 2018 Northern Rivers Science and Engineering Challenge from 20 to 27 June 2018 with the Discovery Days for Primary Schools on Monday 25 to Wednesday 27 June at Lismore Campus, Southern Cross University. Council has sponsored the Challenge for several years.

The Challenge involves up to 768 students, usually Years 9 and 10 taking part in a series of fun yet challenging and competitive activities that are designed to demonstrate the varied and practical elements of science and engineering.

Each day the students participate in a range of exciting hands-on activities that are designed to demonstrate the varied and practical elements of a career in the disciplines of science and engineering. Winning schools will subsequently compete against each other for a place in the state and - perhaps - the national competition.

In the past the following sponsorships have been provided:

- 2012 Bronze level with a contribution of \$500
- 2013 Silver level with a contribution of \$1,000
- 2014 Bronze level with a contribution of \$500
- 2015 Bronze level with a contribution of \$500
- 2016 Bronze level with a contribution of \$500
- 2017 Bronze level with a contribution of \$500

Southern Cross University has indicated that sponsorship from regional businesses is required to enable the event to operate successfully. The following sponsorship levels are available:

- Platinum \$2,000 plus GST
- Gold \$1,500 plus GST
- Silver \$750 plus GST
- Bronze \$500 plus GST

Bronze sponsorship is proposed, which gives Council the opportunity to:

- Display Council banner at activity/event
- Be acknowledged as a sponsor in regional and national media releases
- Display logos on Student/Teacher Feedback Surveys and business brochure
- Be acknowledged in social media that may be used

The Challenge is designed to inspire student science and engineering at a senior level and is a practical day of fun, teamwork and discovery.

A copy of the Sponsorship Proposal from Southern Cross University forms an attachment to this report.

## OPTIONS:

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The options available to Council are to:

1. Support the 2018 Northern Rivers Science and Engineering Challenge 2018 by becoming a Bronze Sponsor at \$500 excluding GST.
2. Support the 2018 Northern Rivers Science and Engineering Challenge 2018 by becoming a Silver Sponsor at \$750 excluding GST.
3. Support the 2018 Northern Rivers Science and Engineering Challenge 2018 by becoming a Gold Sponsor at \$1,500 excluding GST.
4. Support the 2018 Northern Rivers Science and Engineering Challenge 2018 by becoming a Platinum Sponsor at \$2,000 excluding GST.
5. Not proceed with any sponsorship of the 2018 Northern Rivers Science and Engineering Challenge.

**CONCLUSION:**

By sponsoring the 2018 Northern Rivers Science and Engineering Challenge and Discovery Days; Council is showing its support for young people and being involved in inspiring students to study science and engineering at a senior level. This report recommends that Council becomes a Bronze Sponsor of the Challenge and Discovery Days at \$500 excluding GST.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable.

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

This report recommends the expenditure of \$500 (plus GST) be provided from the Engineering Division Program.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1.

Sponsorship Proposal from Southern Cross University for the 2018 Northern Rivers Science and Engineering Challenge (ECM 5149666).

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## 21 [E-CM] Review of Car Parking Requirements for Small Business

**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** **Advocate**

### SUMMARY OF REPORT:

In response to a Notice of Motion, in July 2015 Council resolved that a report be brought forward on Council's requirements for parking for small business approvals. This included discussion and justification of Council's current requirements, the potential for these requirements to act as a disincentive for small businesses, comparison with other Councils, and options to address or alleviate concerns. This report is tabled in response to this outstanding resolution.

During the intervening period, Council has introduced a number of incentives for small businesses that involve parking concessions, including the Business Investment Policy, and a Parking Contribution Waiver for Murwillumbah CBD and South Murwillumbah. This report will provide an update to Council on the relative success of these incentives.

Current parking requirements place the cost to properly service a new business with the developer. This is usually seen as being the most equitable in addressing increased parking demand. There appears to be little evidence that the current parking requirements of Council do present a significant disincentive to small businesses.

In areas where there is generally adequate public parking, specifically central business district main streets, some relaxation of parking requirements for small business should be able to be absorbed without major cost to Council or the community. This is an option for Council to consider. Alternate schemes that shift the cost to the end user (the customer) in the form of paid parking, or redistribute parking costs across a broader group of business owners are unlikely to be politically acceptable. Strategies to reduce parking demands, such as increased public transportation or carpooling/ride sharing schemes would be beneficial on many levels but require significant investment and planning before any changes to current parking policies should be seriously considered.

**RECOMMENDATION:**

**That Council notes the review of car parking requirements for small business, and retains the existing parking policy framework.**

## REPORT:

In July 2015 Council resolved the following in response to a Notice of Motion:

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

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

This report responds to this outstanding resolution.

This report excludes consideration of residential parking, including residential components of mixed-use developments, and tourist accommodation.

### **a) Council's Current Car Parking Requirements for Small Businesses**

Council's current process for dealing with applications for small business uses with regard to car parking provision is outlined in Figure 1. This addresses applications for new small businesses, whether they are in new premises, change of use of an existing premises, or an intensification of an existing small business.

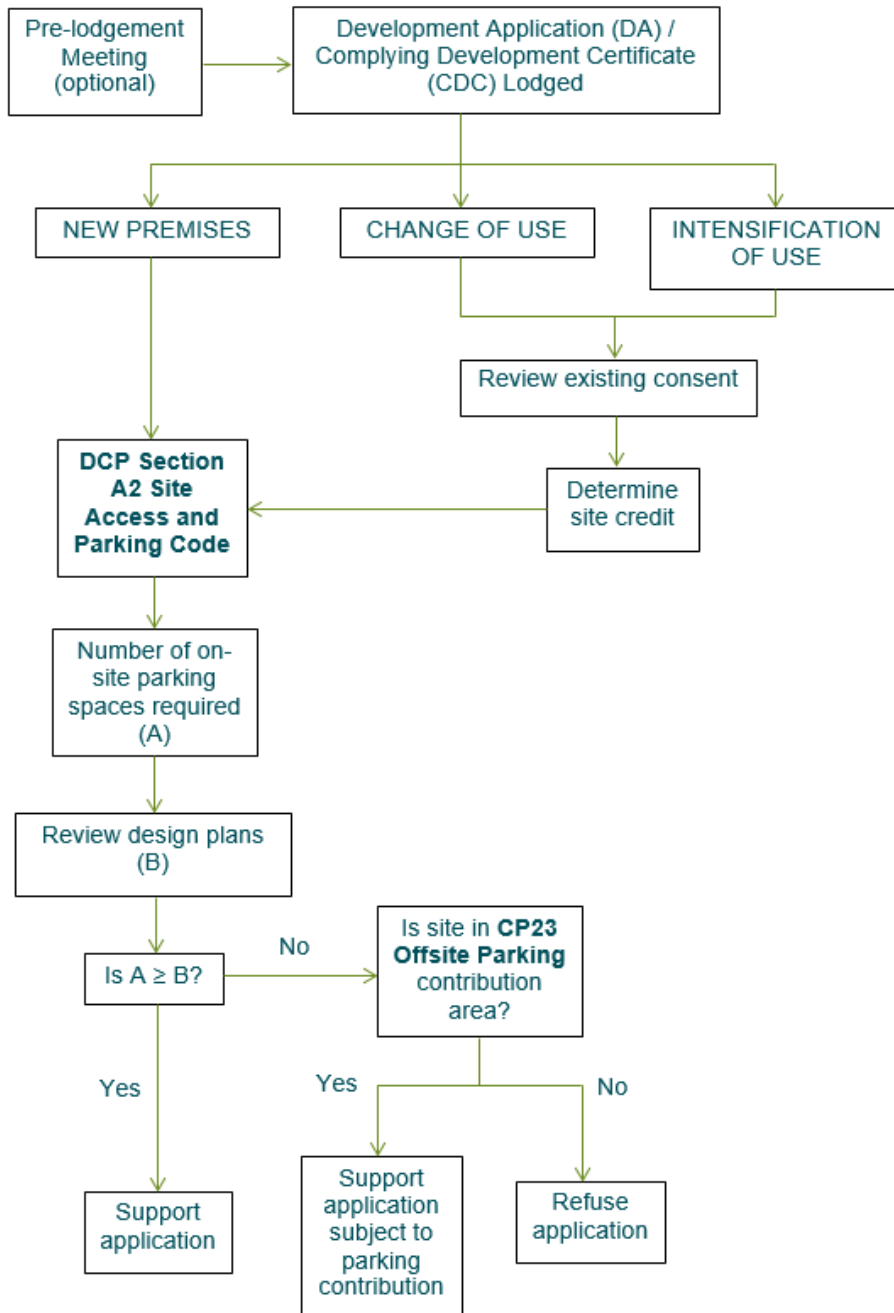
Within the application process are two key Council documents which set out Council's requirements for car parking:

#### **Tweed Development Control Plan Section A2 – Site Access and Parking Code (DCP-A2)**

DCP-A2 aims to provide integrated, high quality off-street parking facilities in new development, to satisfy the demand created by residents, visitors, staff, customers, servicing, and deliveries. DCP-A2 includes requirements to cater for safe, legible, convenient and equitable access to developed land not just for vehicle users, but also pedestrians, cyclists and public transport users. The document aims to minimise the impacts of parking and access facilities on local amenity, traffic and stormwater runoff.

The provision of off-street parking is important, as it limits the need to set aside public land to cater for greater demand for parking spaces and delivery and service areas created by new development. Without off-street parking requirements, demand for on-street parking

would escalate rapidly, requiring Council investment in new sites for centralised car parking facilities, and/or alternate measures to control parking demand, such as paid parking.



**Figure 1 – Car Parking Requirements and Assessment**

Section A2.3 of DCP-A2 provides a detailed table containing an “Access & Parking Demand Schedule”. This table takes each land use from the Standard Instrument Tweed Local Environment Plan 2014 (plus some additional development types) and specifies the rates at which parking for residents, visitors, staff, customers, deliveries and service vehicles (as applicable) shall be provided on site. These rates are typically a measure of gross floor area (GFA) for the development, but can also be dependent on factors such as number of staff employed, areas provided for dining, number of work bays, or number of consulting rooms in a development. Table 2 of DCP-A2 is provided as an attachment to this report.

It is important to note for this report that DCP-A2 makes no specific distinctions for “small business”. However given “small business” will usually be in premises with limited floor area, and employ few staff, parking requirements using the standard rates will remain relatively low. Other factors that might identify a “small business” such as annual turnover are not factored into DCP-A2.

DCP-A2 applies to all land in Tweed Shire. However in the case of inconsistency, locality specific parking controls in Section B of the DCP prevail. For example, locality based DCP controls for Tweed City Centre and Pottsville provide alternate lower rates for many business uses.

### **Concessions**

DCP-A2 applies a number of concessions that can result in reduced or deferred off-street parking requirements for businesses. These include:

#### 1) Alternative Solutions

A development application can propose an alternative solution through provision of an Access, Traffic and Parking Impact Study to reduce the parking rates prescribed in Table 2. This may involve details of actual operations (e.g. number of employees, operating hours, delivery arrangements), or surveys of comparable facilities to justify variations.

#### 2) Local Area Specific Customer Car Parking

Customer car parking for commercial and health facilities may be reduced by 10% in Tweed Heads, Murwillumbah and Kingscliff Central Business Districts (CBDs, as mapped in the DCP), and by 50% in RU5 zoned village areas, subject to considerations such as potential nuisance to adjoining properties.

#### 3) Site Credits

Parking credits are available for businesses when there is a proposed change of use or redevelopment of a site. The credit is deemed to be consistent with that approved and provided under the previous approvals for that site. Older sites that may not have a development consent history in relation to parking provision are deemed to have parking credits based on the expected parking that would have been provided for that land use in Table 2. To promote business activity, change of land use or redevelopment in the CBD areas are entitled to parking credits based on either existing parking approvals or reassessment of the current land use under the rates in Table 2, whichever is the higher. Site credit concessions are discretionary subject to demonstrated consistency with the aims and principles of DCP-A2.

#### 4) Parking Offsets

Where the required number of customer car parking spaces cannot be met Council may consider accepting a cash contribution in lieu of the unsupplied facilities or spaces, under Contribution Plan No. 23 - Offsite Parking. Contributions eligibility as an alternate to on-site parking provision will not be granted as a right and will be based on the merits of each application, in accordance with the objectives of DCP-A2.

### **Contribution Plan No 23 – Offsite Parking (CP23)**

As mentioned above, where development projects are unable to provide the required number of car parking spaces on site under DCP-A2, CP23 provides the alternative of

contributing towards the cost of an equivalent number of public car parking spaces in the locality. As this can only realistically occur in CBD areas, CP23 applies only to land in core areas of Tweed Heads, Murwillumbah, Kingscliff, Cabarita/Bogangar, Pottsville and Fingal Head, as mapped in the plan. It does not apply to residential development, or the residential component of mixed use development.

The cost of providing an equivalent space on public land is suburb specific, and considers the availability of existing land or the cost of purchasing new land for a centralised parking facility, plus construction costs, which vary depending on the configuration of the proposed parking facility (at grade, basement or multi-storey). Current contribution rates per unsupplied on-site car parking space are as follows, and are indexed annually:

	Base rate	Indexed Version 2.4.5* July 2017 Inc 5% admin
Tweed Heads	\$24,570	\$27,957
Murwillumbah	\$15,907	\$16,988
Kingscliff	\$27,657	\$29,535
Bogangar	\$27,657	\$29,535
Pottsville	\$19,750	\$24,436
Fingal Head	\$2,898	\$3,095

### **Concessions**

1) Deferred / periodic payments

CP23 permits deferred or periodic payments in accordance with the Business Investment Policy (BIP). Refer to Section (d) and (e) of this report for further discussion on the BIP and this concession.

### **Summary**

In summary, when assessing a development application for any business use, regardless of size, car parking demand is determined for the site, and with consideration of any applicable site credits, sets the number of parking spaces to be provided within the development site. In many cases, there will be no parking requirement, particularly with like for like changes of use applications. However, often the DA process requires that additional parking spaces be provided on site to adequately service the development, and to avoid excessive demand being transferred onto public parking facilities. Where it is not physically possible to accommodate all spaces on site, there are options for developer contributions if in a nominated CBD area. Otherwise the application is generally not supported, and the applicant must either reduce the scale of development to reduce parking demands, incorporate additional land for parking areas, or face a refusal of their application.

### **b) Potential Disincentives for New or Expanding Small Businesses**

Where new businesses are proposed on new or redeveloped sites, it is a fair expectation that the site design will need to accommodate adequate onsite car parking spaces. The cost of doing so should already be factored into the cost of development for the site.

In the case of small business, the majority would be entering into lease arrangements in existing buildings. This may or may not include access to onsite parking for staff and customers. Where this is a change of use with equivalent car parking requirements under DCP-A2, there is no requirement for the business owner to provide additional parking facilities or pay contributions. In this case Council's requirements pose no disincentive. Indeed, many changes of use are Exempt Development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 ("the Codes SEPP"). For example, anything defined as a "shop" can change use to another "shop" with no parking requirements. Other uses can attract lesser parking rates – for example a hypothetical application for a change of use from a "food and drink premises" (3.5 customer spaces per 100m<sup>2</sup> GFA + 1 space per staff) to a "hairdresser / beauty salon" (2.8 customer spaces per 100m<sup>2</sup> GFA + 0.5 staff space per 100m<sup>2</sup> GFA) would not attract parking requirements.

There are however cases where the change of use involves higher parking generating development moving into premises with inadequate parking, and if in a CBD location, attracting considerable parking contributions. Real examples have included change of use proposals such as:

- From a "bulky goods premises" (1.4 customer spaces / 100m<sup>2</sup> GFA + 0.25 staff spaces / 100m<sup>2</sup> GFA) to an "indoor recreational facility" (gym, 5 customer spaces / 100m<sup>2</sup> GFA + 0.5 / staff)
- From a "shop" (3.5 customer spaces / 100m<sup>2</sup> GFA) to a "medical centre" (dentist, 1.6 customer spaces / consulting room + 1.6 staff spaces / consulting room)

In these cases, parking requirements were demonstrably a disincentive to undertake the development. However these were also arguably inadequate sites for the developments to take place. In both cases, a suitable alternate site was found where parking was not an impediment. In the case of the dentist, the vacant shop has since been filled by a travel agent, another small business, with no parking contributions necessary.

A development proponent could argue that any number of Council imposed regulations are impediments to business, such as water and waste water headworks charges, road contributions, acoustic reports, accessibility provisions or flood impact assessments. Council's role is to ensure that new developments are adequately serviced, do not impose unsatisfactory impacts on the locality, and do not impose additional future costs on the community. In the 2017 calendar year, 40 Complying Development Certificates (CDCs) were issued for change of use of premises or shop fitouts, with no parking impediments.

As has been presented to Council in various workshops, many development requirements are a fine balance between developer and community expectations – ultimately who pays? Should it be the developer who generates the demand in the first place, or the end consumer? Are further concessions to businesses with inadequate parking provision justified? Will an under-supply of parking in our CBD areas be a disincentive for people to shop locally?

### **c) Comparison of Council's Car Parking Requirements**

DCP-A2 was last reviewed in 2014. This included a review of parking rates against other authorities in New South Wales (Roads and Maritime Services), Victoria (VicRoads) and Queensland (City of Gold Coast). It is considered that all rates in the document are now consistent with one or more of these sources. The 2014 review included a 20% reduction in

car parking rates to promote ecologically sustainable development (ESD), a 50% concession on parking rates in rural villages, and addressed rate inconsistencies raised by Council's town planners.

As requested by the Council resolution, a table comparing Council's parking requirements with those of neighbouring Councils and other growth areas is included as an attachment to this report. This table includes a number of typical "small business" uses for Tweed Shire. This table suggests that our car parking requirements are reasonable, but also that it is difficult to make direct comparisons between the requirements of other Councils, as they use different definitions, rates and measures. The data does not take into account particular local circumstances in formulating these rates, or compare any incentives that may further reduce the baseline rates (as is the case for DCP-A2).

#### **d) & e) Options**

Finally, this section of the report considers what options may be available to reduce the impost of parking requirements on small business owners, as well as the implications of these options on Council and the community.

Since the Council resolution in 2015, a number of measures have already been implemented, specifically:

#### **Business Investment Policy (BIP)**

Adopted in August 2016, this Policy offers a range of incentives to "encourage new business and the expansion of existing businesses". The BIP provides "a range of solutions to deal with developer charges and contributions arising from the development process.

With respect to parking, the BIP offers deferred payments to business premises that attract CP23 contributions in excess of \$25,000. Deferred payment plans are offered over 2 years for contributions up to \$50,000, 4 years up to \$100,000, and 6 years for contributions exceeding \$100,000. There have been no applications for deferred car parking contributions since adoption of the BIP.

#### **Parking Contribution Waiver – Murwillumbah CBD / South Murwillumbah**

Introduced by way of a Notice of Motion, Council has implemented for the 12 month period up to 30 June 2018 an amnesty / waiver for a maximum of 3 parking spaces against DCP-A2 requirements or equivalent contributions under CP23, as applicable. This waiver applies to any business in the Murwillumbah CBD or Prospero Street South Murwillumbah areas, regardless of size. Since the waiver was announced, Council has received one development application which may receive the concession. A further 10 enquiries regarding the parking concession have been made. The limited uptake would indicate that existing parking requirements are not a significant disincentive for small businesses in these particular areas.

#### **Other Options for Consideration**

As discussed above, none of Council's parking requirements relate specifically to "small business". In order to consider specific small business concessions, first it is important to properly define what constitutes a small business.

Small business is most commonly defined in Australia by annual turnover, the number of employees, or a combination of the two. There is no single definition of a small business that will suit all the needs of government or the private sector (Commonwealth Department of



Innovation, Industry, Science and Research, “Key Statistics, Australian Small Business” 2011).

The Australian Bureau of Statistics (ABS) defines a small business as an actively trading business with fewer than 20 employees. The Australian Taxation Office (ATO) defines small business as one that has annual revenue turnover of less than \$2 million (ex GST). Fair Work Australia defines small business as one that has less than 15 employees. Under any of these measures, the majority of main street Tweed businesses would fall under the “small business” category, with the exception of large retailers such as supermarkets, Kmart / Big W / Target, and bulky goods franchises, who tend to be anchors in shopping centres, where there is generally a generous allocation of on-site parking. Some CBDs also contain large registered clubs and pubs which would be outside of the small business definition.

It is acknowledged that CBD / Main Street areas are the hardest to provide on-site parking facilities, due to small, constrained lot sizes. This “fine grained” lot pattern is favoured by town planning strategies for street activation and architectural character, and in areas such as Murwillumbah includes heritage classification. It was in dealing with this situation that the contribution plan was created to facilitate centralised CBD public car parking.

As in the DCP-A2 examples in (b) above, changes of use for small businesses in CBD areas can generate additional car parking demand, but there are also cases where the new use generates less parking demand than a previous land use. The 2016 CBD car parking study confirmed that in general there was adequate parking across the CBDs in Murwillumbah, Kingscliff and Tweed Heads. Therefore an argument emerges that changes of use for small businesses in CBD areas, regardless of their land use and theoretical parking generation can be accommodated by the combination of on and off street parking within a reasonable walking distance. It is also recognised that people often visit multiple businesses when they park in a CBD location, and customers often use public rather than private parking to do so. This could form an alternate parking policy that would free the few remaining cases of small businesses from the need to pay any parking contributions. Provided residential development and “large” businesses continue to provide onsite parking facilities, there should be minimal cumulative impacts of this policy change from a traffic management sense.

The larger risk is the reduced amenity for some customers, particularly those with limited accessibility, due to any relaxation of onsite parking requirements. A recent case study before Council was for redevelopment of a site in Marine Parade, which was to accommodate a medical centre and chemist. No onsite facilities were proposed in the site design, rather the proponent offered to pay 100% of their parking liabilities into CP23. This was opposed by Council officers on the grounds that the customers and staff of such a sensitive land use would not readily accept the arrangement of relying on remote parking and walking to the site. Council supported this view and refused the contribution proposal.

In order to reduce this risk, the above parking concession for small businesses in CBD areas should be restricted to defined small businesses in existing premises only (as of the date that the policy is enacted), excluding applications that involve new buildings, increase the number of business tenancies, or increase the GFA of the tenancy. Such applications would still require assessment under DCP-A2 and payment of CP23 liabilities if applicable.

As previously stated the main consideration in formulating and assessing options for parking requirements is who pays the cost of meeting increased demand. The current model for

parking provision and contributions is based on the generator of the increased demand paying the cost. The alternative is to subsidise the demand generator by redistributing the costs to either the rest of the business community (for example a modest but mandatory monetary contribution for all business applications in the parking catchment area based on GFA towards the provision of greater public parking facilities, or a new business rate or charge) or the customers (for example paid parking systems).

Other options could focus on reducing demand for parking (e.g. carpooling, park and ride facilities, increased active and public transport mode share) or increasing supply by better turnover of existing spaces (e.g. increased enforcement of short term car parking spaces, adoption of parking technology). However there is currently no framework in place or investment to deliver such options, and significant changes in parking policy should be discouraged until this is the case.

All of the indicators discussed in this report suggest that parking is not a significant enough disincentive to the majority of Tweed small businesses to warrant major shifts in parking policy.

### **OPTIONS:**

As outlined above, the options are:

Option 1 - No change to existing car parking requirements for small business.

Option 2 - Implement a policy of no additional car parking requirements for the following case:

- a. Small business use (less than 20 employees), and
- b. Change of use in an existing premises (as of date of enactment), and
- c. Located within central business district area (as mapped in CP23), and
- d. Any existing on-site car parking facilities are maintained for that use, and
- e. There is no change in the number of tenancies or gross floor area of the premises.

All other cases, including all residential development and residential components of mixed use development, would remain subject to the current parking requirements under DCP-A2 and CP23.

Option 3 - Investigate alternative contribution schemes for the provision of additional centralised public parking infrastructure based on subsidies from all benefitting businesses, and/or paid parking for customers.

Option 1 is the preference of Council officers, as there does not appear to be a strong case warranting changes to current policy.

However in the case that Council wishes to implement changes to current parking policy, Option 2 would provide the best balance between potential impediments to new small businesses and impacts on Council and the community.

### **CONCLUSION:**

New small businesses are faced with many impediments, both real and perceived, when starting out. While there have been cases where hardship due to parking requirements has been demonstrated, on the evidence this is the minority of cases. Council's current policy settings appear reasonable and equitable compared with other jurisdictions, and place the costs of providing parking with the developer who generates the demand.

While alternate schemes could be developed, there is not a strong case to do so. Some minor changes to small business requirements in CBD areas could be adopted with limited risk. However this report recommends retaining the current parking requirements in DCP-A2 and CP23.

### **COUNCIL IMPLICATIONS:**

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

Corporate Policy Not Applicable.

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

The table below shows the previous 5 years' income to CP23, as well as the Plan balances for each sector. Based on current rates of income for CP23, it will be some time before the plan is adequately funded to acquire new land for centralised public parking facilities and/or afford to construct new parking spaces in each sector. A review of CP23 is overdue, particularly in Kingscliff, where the plan has not been updated since a proposed underground carparking station was removed from the Kingscliff Foreshore Revitalisation plans several years ago.

The loss of incremental payments from small businesses under the options in this report would further reduce this income.

<b>CP23 5 Year Income to 2017/18</b>				<b>Plan Balance Feb 18</b>
Sector	0	No Sector		162,310
Sector	1	Tweed Heads	75,738.00	349,639
Sector	2	Murwillumbah	65,070.00	305,977
Sector	3	Kingscliff	0.00	80,225
Sector	4	Cabarita	0.00	609,911
Sector	5	Pottsville	213,947.00	208,956
Sector	6	Fingal	8,949.00	9,865
			<b>\$363,704.00</b>	<b>\$1,726,912</b>

#### **c. Legal:**

Not Applicable.

#### **d. Communication/Engagement:**

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

Any change to car parking provisions to benefit small business will need to be communicated to the business community as an additional incentive and economic driver from Council. The objectives of this policy change will need to be maintained in the face of future submissions to Council about a perceived lack of on-street parking during peak periods in the Tweed's CBD areas.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

- Attachment 1. Tweed Development Control Plan Section A2 – Site Access and Parking Code, Table 2 “Access & Parking Demand Schedule” (ECM 5187509).
- Attachment 2. Car Parking Rates Comparison Table (ECM 5187441).
-

**22 [E-CM] Responses to the Recommendations of the Independent Review of the New South Wales State Emergency Service Operational Response, Northern Rivers Floods, March 2017**

**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: Advocate**

**SUMMARY OF REPORT:**

Following the March / April 2017 flooding in the Northern Rivers, an independent review of the NSW State Emergency Service's (SES) response and management of flooding was conducted by former NSW Police Deputy Commissioner Dave Owens. The report, which was publicly released in August 2017, contains 36 recommendations. The SES also released a document detailing its response to these recommendations.

The Owens' Report was tabled at the 1 September 2017 meeting of the Floodplain Management Committee. The Committee made the following recommendation, which was subsequently adopted by Council at 13 December 2017 meeting:

*"That Council officers prepare a report to the Floodplain Management Committee and Council with responses to the recommendations of the Independent Review of the NSW State Emergency Service Operational Response Northern Rivers Floods March 2017 as they pertain to Tweed Shire."*

This report has been prepared in response to the resolution. A draft report was considered by the Floodplain Management Committee on 16 February 2018. Refer to report within this meeting agenda.

**RECOMMENDATION:**

**That Council accepts, as the basis for a submission to the New South Wales State Emergency Service, the recommended responses to the *Independent Review of the NSW State Emergency Service Operational Response, Northern Rivers Floods March 2017* (the Owens' Report) as detailed in the report attachment, and including the amendments of the Floodplain Management Committee.**

**REPORT:**

Following the March / April 2017 flooding in the Northern Rivers, an independent review of the NSW State Emergency Service's (SES) response and management of flooding was conducted by former NSW Police Deputy Commissioner Dave Owens. The report, entitled "*Independent Review of the NSW State Emergency Service Operational Response, Northern Rivers Floods March 2017*" (the Owens' Report) was publicly released in August 2017, containing 36 recommendations. The SES also released a document detailing its response to these recommendations.

The Owens' Report was tabled at the 1 September 2017 meeting of the Floodplain Management Committee. The Committee made the following recommendation (by majority vote), which was subsequently adopted by Council at 13 December 2017 meeting:

*"That Council officers prepare a report to the Floodplain Management Committee and Council with responses to the recommendations of the Independent Review of the NSW State Emergency Service Operational Response Northern Rivers Floods March 2017 as they pertain to Tweed Shire."*

In response to this resolution, the Table Attachment summarises the Owens' Report recommendations, the SES responses, and recommended Tweed Shire Council responses for those recommendations that pertain to our communities.

A draft of this report was tabled to the Floodplain Management Committee meeting of 16 February 2018. The Committee resolved to make several amendments to the report and attachment. Refer to the subcommittee meeting minutes for detail of the Committee discussions regarding this report which is a separate report to this meeting.

Of the 36 recommendations, 14 were considered relevant to Council, with the others being operational matters for SES consideration.

Of those recommendations, all but one is supported (refer to attachment for rationale):

<b>No.</b>	<b>Owens' Recommendation</b>	<b>Recommended Response</b>	<b>Council</b>
2	That the NSW SES, in concert with the Tweed Shire Council locates suitable premises for the NSW SES Murwillumbah Unit	Recommendation supported.	
12	That the Bureau of Meteorology uses a specified time for levee overtopping or flood peak in the release of the Flood Warnings as per the NSW Flood Plan.	Recommendation supported.	
13	That the BoM include notification of faulty gauges on all subsequent Flood Warning Notices, rather than simply removing the gauge reading from the Flood Warning Notices.	Recommendation supported.	
14	That the NSW SES considers a review of the design of the Flood Bulletins to have levee overtopping information clearly identified at the top of the bulletin.	Recommendation supported.	

No.	Owens' Recommendation	Recommended Council Response
15	That the NSW SES reinforces with staff the importance of having the issued time on the Flood Bulletin, as opposed to the prepared time.	Recommendation supported.
16	That the NSW SES reinforces with staff the importance of ensuring data on Flood Bulletins is accurate.	Recommendation supported.
17	That the NSW SES reviews the format of the current Flood Bulletins, through the Warnings Working Group.	Recommendation supported.
22	That the NSW SES considers reinforcing the need amongst staff to ensure that when an EOC is established, that an appropriate liaison officer is provided.	Recommendation supported.
29	That the Tweed Shire Flood Emergency Sub Plan 2014 is revised to include a definition of Incident Controller.	Recommendation supported.
30	That the Tweed Shire Flood Emergency Sub Plan 2014, Volume 2, annexures and maps are updated as they currently reflect the Tweed Shire Local Flood Plan 2008.	Recommendation supported.
31	That the NSW SES liaises with the appropriate NSW Government Agencies to ensure stronger linkages are forged at a local level between emergency responders, local councils and community development professionals.	Recommendation supported.
32	That the NSW SES supports the additional funding for an additional community engagement staff member for the Richmond Tweed Region.	Recommendation supported.
33	That NSW SES ensures that media 'blackouts' do not occur during major events, rather the media is harnessed to ensure the timely delivery of messaging.	Recommendation supported.
36	That the NSW SES becomes a recognised authority for land use planning purposes, having greater involvement in floodplain development with Local Councils and that their input is mandatory before any consent by council is given in flood planning areas.	Recommendation not supported.

**Recommendation 2** regarding SES Accommodation in Murwillumbah will be the subject of a future report to Council, once current investigations and negotiations for a site, including requests for State assistance, are suitably progressed.

With regard to Recommendation 2, the Floodplain Management Committee resolved:

*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.*

**Recommendation 36** regarding the SES's role in land use planning was the subject to significant debate in the Floodplain Management Committee. Some members strongly supported a mandatory referral role as recommended by the Owens' Report, in order to prevent incompatible floodplain development occurring in the floodplain, as had occurred in the past. However other committee members, including Council officers, were cautious about supporting this recommendation, given that most of these problems are legacy issues of old developments and land use zones, and felt that Council has a suite of rigorous controls that if applied consistently, should meet this aim without the need for mandatory referral to SES. There were also concerns that the SES organisation as it is currently structured and resourced is not capable of performing the proposed statutory referral role.

In NSW Councils are generally the entities responsible for floodplain management. This is closely linked with each Council's role under the Environmental Planning and Assessment Act as consent authority for land use planning matters. It also recognises that each floodplain community is different, with varying flood risk exposures and policies, which need to be developed and implemented locally, rather than centrally.

Council policies concerning floodplain management, including flood studies and floodplain risk management plans are required under the NSW Floodplain Development Manual to go through a specific process with oversight by the Floodplain Management Committee. SES is a member of the committee. SES are also provided the opportunity to comment on land use planning strategies and other exhibited plans such as LEP amendments, rezonings and Development Control Plans (DCPs). This is considered to be the appropriate point for the SES to provide input on land use planning on the floodplain, under the current legislative framework and resource capabilities of the agency.

It is considered beyond the capability of SES as they are currently constituted to adequately perform the mandatory referral authority role for each application for flood prone development. As such, Recommendation 36 should not be supported.

In order for the SES to perform such a role, a number of significant changes would be required:

- 1) as foreshadowed in the SES response to the Owens' Report, the State Emergency Service Act would need to be amended to expand the role of the SES. Amendment to the Environmental Planning and Assessment Act would also be necessary, to recognise the SES as a referral agency. The legislation would have to determine who prevails in matters where the SES, Council as the local planning authority and/or the NSW Flood Prone Land Policy disagree or are inconsistent.
- 2) to perform the role, the SES would need to be adequately staffed with expertise in land use planning, hydraulic engineering, floodplain risk management and building codes and specifications.
- 3) the scope of their regulatory role would need to be specified, such that the SES would only advise on matters directly relating to suitability of a specific proposal with regard to emergency management and evacuation capability up to the probable maximum flood event (for example).



- 4) the SES would need to be suitably resourced for ongoing regulation and compliance, in order to follow up on controls it imposes on development.

While the Owens' Report references the referral role of the NSW Rural Fire Service (RFS), the RFS does not deal with every application on bush fire prone development, and their role is limited in applying a standard code (Planning for Bushfire Prevention) and recommending standard conditions. It took the RFS many years to adjust to performing this referral role in the land use planning system. It is considered that there are too many differences and complexities between bushfire and flood risk for such a referral model to be directly translatable between these agencies. There are too many localised differences between flood risks, development impacts and policies across the State.

With regard to Recommendation 36, the Floodplain Management Committee resolved:

*That Tweed Shire Council adopts a policy that requires its planners to confer and consult with the Local Tweed Shire SES Controllers in all cases involving residential development of all types that are proposed to be built on land below the Probable Maximum Flood.*

This was subsequently amended by Council's Executive Leadership Team at their 14 March 2018 meeting to request SES consultation:

*That Council requests the SES to provide feedback on the Floodplain Management Committee recommendation that:*

*Tweed Shire Council adopts a policy that requires its planners to confer and consult with the Local Tweed Shire SES Controllers in all cases involving residential development of all types that are proposed to be built on land below the Probable Maximum Flood.*

The Floodplain Management Committee also discussed the relevance of a submission made by the Lismore Citizens Group (LCG, "Recommendations to the Bureau of Meteorology", 31/1/2018) to Tweed communities and resolved to incorporate the 6 LCG recommendations into Council's response to items 12, 14 and 31.

For more information on any of the recommendations, the full version of the Owens' Report is available on the SES website <https://www.ses.nsw.gov.au/about-us/access-to-information/>

#### **OPTIONS:**

1. Accept the Tweed Shire Council responses as recommended in the report attachment, including Floodplain Management Committee amendments, as the basis for a submission to the SES.
2. Amend the Tweed Shire Council responses as recommended in the report attachment, as the basis for a submission to the SES.
3. Note the Owens' Report with no subsequent submission to the SES.

Option 1 is the recommendation of this report.

**CONCLUSION:**

The Owens' Report was produced to provide an independent assessment of the NSW State Emergency Services' response and management of the March and April 2017 flooding including the Tweed Shire. At the request of the Floodplain Management Committee, this report is provided to summarise and respond to each of the 36 recommendations of the report as they pertain to the Tweed. Based on these responses, Council may choose to provide a formal response to the SES, or simply acknowledge the report.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable.

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

Recommendation 2 regarding accommodation for the SES in Murwillumbah has significant financial implications for Council. Some funding is available as works carried forward from previous years' budgets. However further financial assistance will need to be requested from State Government Agencies in order to fully fund a new site and/or building. This will be subject to a separate report in the future when negotiations are suitably progressed with the State.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. Owens' Report Recommendations and Responses Table (ECM 5180512).

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

**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 National Heavy Vehicle Regulator manages the permits required under the Heavy Vehicle National Law.

Council can approve a route or an individual operator's use of Class 1, 2 or 3 heavy vehicles.

The majority of applications for overmass/oversize vehicles (Class 1) are assessed and approved by the roads' manager for the Local Government Authority (LGA) and for Tweed Shire Council. This function has been undertaken by the Manager Roads and Stormwater.

Historically, B-double applications (Class 2) were discussed during the Local Traffic Committee meeting (LTC) as a separate item as the members represent affected stakeholders, being police, RMS, state representatives and council.

Whilst the LTC does not have an approval role for approval of B-Double routes, it was resolved at the Council Meeting held on 13 December 2017 that:

- "2. *Establishment of the B-Double Routes Agency Advisory Group as proposed in this report to provide advice to Council and officers regarding B-Double route applications, with the inclusion of all Councillors as members and a quorum to remain as per requirements of the Local Traffic Committee.*"

The B-Double Routes Agency Advisory Group Minutes from meeting held 22 March 2018 are shown in the body of this report for resolution by Council. Two applications have been received by separate transport companies servicing the same development operating at 2574 Kyogle Road.

**RECOMMENDATION:**

**That Council supports the following applications:**

- 1. 19m B Double (50-55t) 2574 Kyogle Road to Tweed Valley Way, South Murwillumbah. NHVR Road Manager Consent Request No. 119533**

**Application from Black Mount Pty Ltd to extend the existing 19 metre B-Double route for a 12 month period. Route starts from 2574 Kyogle Road, Kunghur through Kyogle Road, Terragon, Kyogle Road, Uki, Kyogle Road Dum Dum, Kyogle Road, Byangum, Kyogle Road Murwillumbah Wollumbin Street, Murwillumbah and South Murwillumbah, Alma Street, South Murwillumbah, Tweed Valley Way, South Murwillumbah subject to completion of driveway works at the property in accordance with DA 16/0579.**

- 2. 19m B Double (50t-55t) 2574 Kyogle Road to Tweed Valley Way, South Murwillumbah. NHVR Permit No. 197920V1**

**Application from Ray Cavanough Transport Pty Ltd to extend the existing 19 metre B-Double route for a 12 month period. Route starts from 2574 Kyogle Road, Kunghur through Kyogle Road, Terragon, Kyogle Road, Uki, Kyogle Road Dum Dum, Kyogle Road, Byangum, Kyogle Road Murwillumbah Wollumbin Street, Murwillumbah and South Murwillumbah, Alma Street, South Murwillumbah, Tweed Valley Way, South Murwillumbah subject to completion of driveway works at the property in accordance with DA 16/0579.**

**REPORT:**

The Minutes of the B-Double Routes Agency Advisory Group meeting held 22 March 2018 are reproduced in the body of this report.

Nineteen metre B-Double truck combinations do not require specific route approval from the road authority unless a request is received to exceed the general Gross Combination Mass (GCM) of 50t.

Approval with or without conditions can be given for the GCM to be increased to 55t and that approval can be granted for the road generally or apply specifically to an operator.

Nineteen metre B-Double truck combinations can travel on roads that are gazetted for 26m B-Doubles, such as the section of Tweed Valley Way connecting to the Pacific Highway (north) to Buchanan Street, Murwillumbah.

It is important to note that the two applications considered in the minutes are from trucking companies, and not the operator of the development at No 2574 Kyogle Road (Mount Warning Spring Water). Approval of the applications to extend the 19m B-Double Route to Kunghur applies only to the applicant companies and their specific vehicles, and does not change the consent conditions or license provisions for the development it is servicing.

# Minutes



**Minutes of the B-Doubles Agency Advisory Group Meeting held Thursday 22 March 2018**

**Venue: The Board Room, Tweed Heads Civic & Cultural Centre, Corner Brett and Wharf Street, Tweed Heads**

**Time: 9:30am**

**Present:**

**Committee Members:**

Snr Constable Luke Blissett, (NSW Police), Mr Geoff Provest MP, (Member for Tweed), Mr Col Brooks, on behalf of Mr Thomas George MP, (Member for Lismore), Mr Peter Stevens, (Roads and Maritime Services of NSW Representative).

**Informal:**

Mr Danny Rose (Chairperson), Mr Scott Greenow (Roads and Maritime Services of NSW), Ms Judith Finch (Minutes).

**Apologies:**

Mr Ray Clark, Alana Brooks, Snr Constable David Brigg (NSW Police), Cr Katie Milne, Cr James Owen, Cr Pryce Allsop, Mr Thomas George MP Member for Lismore, Mr Nick Tzannes. Cr Reece Byrnes, Cr Ron Cooper, Cr Warren Polglase, Cr Chris Cherry.

**Minutes of Previous Meeting:**

**RESOLVED** that the Minutes of the B-Doubles Agency Advisory Group meeting held Thursday 22 February 2018 be accepted as a true and accurate record of the proceedings of that meeting.

**Moved: Col Brooks on behalf of Mr Thomas George, MP Member for Lismore**

**Seconded: Peter Stevens, Roads & Maritime Services of NSW**

**Business Arising:**

- 1. Road Manager Request No. 119533, 2538 Kyogle Road (meeting 28 November 2017) (ECM 4932248)**

The B-Double Routes Agency Advisory Group at its 28 November 2017 meeting recommended to Council:

*"That the B- Double Routes Consultative Group supports the application from Black Mount Pty Ltd to extend the existing 19 metre B-Double route for a 12 month period. Route starts from 2538 Kyogle Road, Kunghur through Kyogle Road, Terragon, Kyogle Road, Uki, Kyogle Road Dum Dum, Kyogle Road, Byangum, Kyogle Road Murwillumbah Wollumbin Street, Murwillumbah and South Murwillumbah, Alma Street, South Murwillumbah, Tweed Valley Way, South Murwillumbah."*



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At its meeting held 13 December 2017 Council:

**"RESOLVED** that:

1. Council requests further information be made available to further assess the application from Black Mount Pty Ltd as it relates to:
  - implications on wear and tear on roads of the proposed increased weights;
  - estimation of the typical weights of trucks currently utilising this route; and
  - any information that shows that 55 tonne B-Double vehicles create less damage than those trucks currently using this route.
2. Establishment of the B-Double Routes Agency Advisory Group as proposed in this report to provide advice to Council and officers regarding B-Double route applications, with the inclusion of all Councillors as members and a quorum to remain as per requirements of the Local Traffic Committee."

Subsequent to the Council recommendation the applicant has provided a Technical Advisory Procedure and Truck Impact Chart developed by the Australian Trucking Association. (Attached) ECM 5152982.

Whilst this document does not directly address the Council resolution, the following information may assist the B Double Agency Advisory Group in its comments back to Council on the application and the application in General Business, which is essentially the same request by a different applicant.

The site described by the applicant as 2538 Kyogle Road should be 2574 Kyogle Road as per DA16/0579.

When assessing the implications of Heavy Vehicles using Council managed roads three criteria can be assessed, amenity, safety and road maintenance implications.

## **Amenity**

The site currently has approval for semi-trailers to cart water from the site and these trucks can potentially be up to 19m in length and have a GCM up to 42.5t. There is no evidence that the proposed 19m B Double would have a decrease in resident amenity arising from noise or visual impacts.

## **Safety**

The proposed 19m B Double is able to track and manoeuvre on the road as well as or even better than a single articulated six axle truck. However, there is no guarantee that the 19m B Double would be newer and therefore a safer vehicle.

## **Road Maintenance**

The implications of increased road maintenance resources as a result of allowing higher mass vehicles on Kyogle Road needs to be determined in context with the percentage of heavy vehicles currently using Kyogle Road. The most recent data indicates that nearly 9% of the 2,700 vehicles using the road are classified as heavy vehicles. Whilst the higher

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mass 19m B Double will increase the Equivalent Standard Axles from 4.96 to 7.71 when converting this to the potential decrease in resultant pavement life, this is not significant due the existing high percentage and actual volume of heavy vehicles using Kyogle Road. The relevant DA16/0579 allows 6 water extractions per week day and 4 water extractions on the weekends and public holidays.

The Chairman advised the group of a petition received from Tweed Water Alliance in relation to the cartage of water on roads. The document was viewed on the screen and noted.

**BA1. Road Manager Request No. 119533, 2538 Kyogle Road (meeting 28 November 2017)**

It was noted that a review has been performed on the site access and in addition to the recommendation from meeting held 28 November 2017, that the following be added: *"subject to completion of driveway works at the property in accordance with DA 16/0579."*

**RECOMMENDATION TO COUNCIL:**

**That the B- Double Routes Consultative Group supports the application from Black Mount Pty Ltd to extend the existing 19 metre B-Double route for a 12 month period. Route starts from 2538 Kyogle Road, Kunghur through Kyogle Road, Terragon, Kyogle Road, Uki, Kyogle Road Dum Dum, Kyogle Road, Byangum, Kyogle Road Murwillumbah Wollumbin Street, Murwillumbah and South Murwillumbah, Alma Street, South Murwillumbah, Tweed Valley Way, South Murwillumbah subject to completion of driveway works at the property in accordance with DA 16/0579.**

**FOR VOTE - Unanimous**

**Agenda Items:**

**1. 19m B Double (50t-55t) 2574 Kyogle Rd to Tweed Valley Way, South Murwillumbah. NHVR Permit no.197920V1**

The meeting noted that this item relates to the same property as the item at Business Arising.

The Chairman advised the group of a petition received from Tweed Water Alliance in relation to the cartage of water on roads. The document was viewed on the screen and noted.

**RECOMMENDATION TO COUNCIL:**

**That the B- Double Routes Consultative Group supports the application from Ray Cavanaugh Transport Pty Ltd to extend the existing 19 metre B-Double route for a 12 month period. Route starts from 2574 Kyogle Road, Kunghur through Kyogle Road, Terragon, Kyogle Road, Uki, Kyogle Road Dum Dum, Kyogle Road, Byangum, Kyogle Road Murwillumbah Wollumbin Street, Murwillumbah and South**



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Murwillumbah, Alma Street, South Murwillumbah, Tweed Valley Way, South Murwillumbah subject to completion of driveway works at the property in accordance with DA 16/0579.

***FOR VOTE - Unanimous***

**General Business:**

Nil.

**Next Meeting:**

The next meeting of the B-Doubles Advisory Group Meeting will be held as and when required.

The meeting closed at 10:09am .

**EXECUTIVE LEADERSHIP TEAM'S COMMENTS:**

**EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:**

**OPTIONS:**

**That:**

1. **Council approves the proposed B-Double route.**
2. **Council requests further information be made available to further assess the application.**

**CONCLUSION:**

Not Applicable.

**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.

The Applicant was requested to be on standby for a telephone conference if the meeting had any further queries regarding the application.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**24 [E-CM] Classification of Land as Operational - Lot 4 DP 591604 Quarry Road, South Murwillumbah**

**SUBMITTED BY: Design**

mhm



**Leaving a Legacy**  
*Looking out for future generations*

**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**

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**SUMMARY OF REPORT:**

Council, at its meeting of 5 October 2017, resolved to purchase Lot 4 in DP 591604 at Quarry Road, South Murwillumbah for the purpose of flood mitigation works.

Settlement of the purchase occurred on 29 November 2017 and pursuant to Section 31 of the Local Government Act 1993, Council is required to classify all land held by it.

Prior to resolving to classify the land, Council was required to publish a notice of its intention to classify the land. Such a notice was published in the Tweed Link on 20 February 2018, with a submission period of 28 days, which expired on 20 March 2018 and no submissions were received.

It is recommended that Council approve the classification of the subject land as Operational in pursuance of its obligations under the Local Government Act, 1993.

**RECOMMENDATION:**

**That Council, in accordance with Section 31 of the Local Government Act, 1993, classifies Lot 4 in DP 591604 at Quarry Road, South Murwillumbah as "Operational Land".**

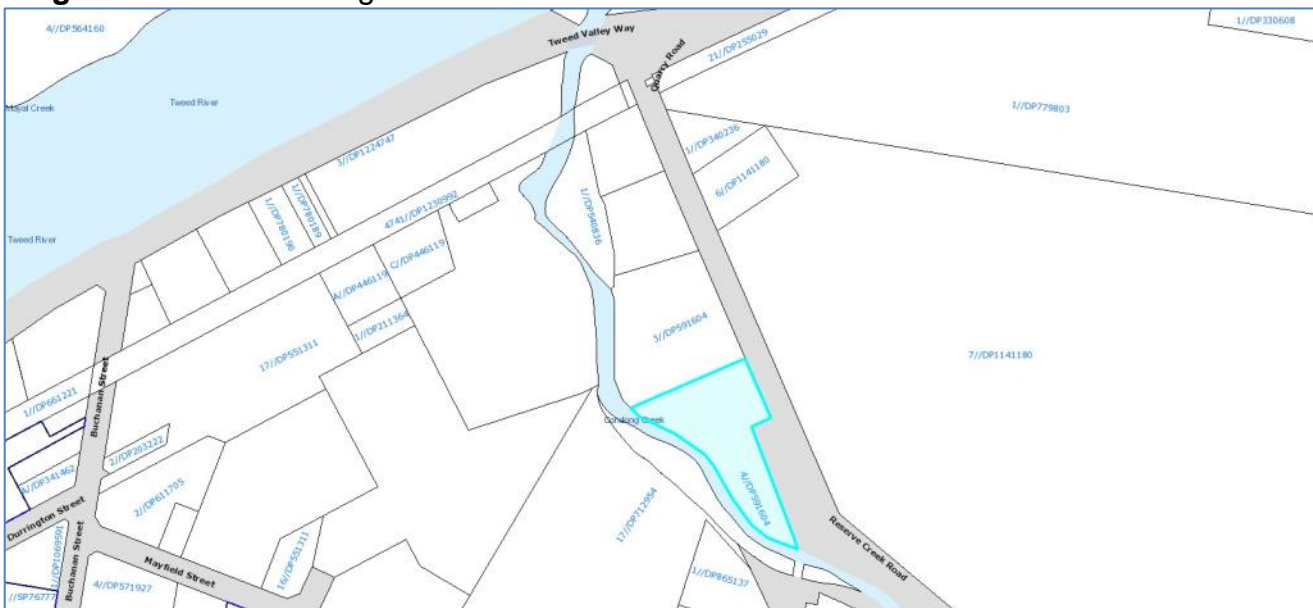
**REPORT:**

Council at its meeting of 5 October 2017 resolved to purchase Lot 4 in DP 591604 at Quarry Road, South Murwillumbah.

The property was purchased after being identified for acquisition in the Tweed Valley Floodplain Risk Management Study & Plan in 2014, to improve the flow path and reduce flood levels in South Murwillumbah.

Settlement of the purchase occurred on 29 November 2017 and pursuant to Section 31 of the Local Government Act 1993, Council is required to classify all land held by it within 3 months of the date of transfer to Council.

**Diagram 1 - Plan showing location of land.**



It is intended to classify the land as Operational to reflect the operational nature of the land and its improvements.

Prior to resolving to classify the land, Council was required to publish a notice of its intention to classify the land. Such a notice was published in the Tweed Link on 20 February 2018, with a submission period of 28 days, which expired on 20 March 2018 and no submissions were received.

It is recommended that Council approve the classification of the subject land as Operational in pursuance of its obligations under the Local Government Act, 1993.

**OPTIONS:**

As the classification of Council land is a statutory obligation, there are no alternative options available regarding this matter.

**CONCLUSION:**

Council is required to classify all land held by it and the purpose of this report is to fulfil that statutory obligation. It is recommended that Council approve the classification of the subject land as Operational land in pursuance of Section 31 of the Local Government Act 1993.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable.  
Section 31 of the Local Government Act 1993.

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

No future budget implications.

**c. Legal:**

In accordance with the classification of land acquired after July 1993, being Section 31 of the Local Government Act 1993.

**d. Communication/Engagement:**

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

Advertised in the Tweed Link on 31 January 2017 seeking written submissions from the public.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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25 [E-CM] Clarrie Hall Dam Raising - McCabe's Bridge Replacement

SUBMITTED BY: Water and Wastewater

mhm



Leaving a Legacy  
*Looking out for future generations*

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

- 1 Leaving a Legacy
- 1.3 Utility Services
- 1.3.4 Water Supply -- To provide secure, high quality and reliable drinking water which meets health and environmental requirements.

**ROLE:** Provider

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**SUMMARY OF REPORT:**

There is a requirement to maintain access to residents east of McCabe's Bridge when Clarrie Hall Dam is raised.

Two options reports have been completed and presented to Stakeholders.

Stakeholders have indicated their preference for future access as the replacement of McCabe's Bridge on a roughly parallel alignment at an estimated cost of \$6 million.

**RECOMMENDATION:**

**That when the Clarrie Hall Dam is raised, access for residents east of McCabe's Bridge be provided by a new bridge on a roughly parallel alignment to the existing bridge.**

## REPORT:

The raising of Clarrie Hall Dam will cause the present McCabe's Bridge to be inundated. This inundation would cut access to the residents east of McCabe's Bridge and on Commissioners Creek Road. There will be a requirement to maintain access for the residents east of McCabe's Bridge and along Commissioners Creek Road when Clarrie Hall Dam is raised.

The Design Unit of Tweed Shire Council prepared an options report on how access can be provided to the 39 residential properties, east of McCabe's Bridge, when Clarrie Hall Dam is raised. The options report considered 5 options including the "do nothing" option. The options report was presented to a meeting of stakeholders at Crams Farm on 21 June 2017.

At the meeting of stakeholders Council was requested to investigate to a greater level of detail two options, being the replacement of McCabe's Bridge and a new access road, and prepare a report for further community consideration. During the investigations each of these two options were broken into two sub-options. The options considered were:

1. Replace McCabe's Bridge:
  - (a) on a parallel alignment
  - (b) on the existing alignment
2. Construct a new access road through property:
  - (a) acquired by Council and one portion of privately owned land
  - (b) acquired by Council

The options report was promulgated to all known stakeholders in the last week in February 2018. A copy of the report is attached.

A further stakeholder meeting was held at Doon Doon Hall on 20 March 2108. At that meeting, through a show of hands, the stakeholders present indicated preference to replace McCabe's Bridge with a new bridge roughly parallel to the alignment of the existing bridge.

## OPTIONS:

1. Replace McCabe's Bridge:
  - (a) on a parallel alignment
  - (b) on the existing alignment
2. Construct a new access road through property:
  - (a) acquired by Council and one portion of privately owned land
  - (b) acquired by Council

Option 1(a) is the preferred option of the stakeholders present at the stakeholder meeting held on 20 March 2018. The bridge options have the least environmental and social impacts. Option 1(a) is also the least expensive option.

## CONCLUSION:

There is a requirement to maintain access to residents east of McCabe's Bridge when Clarrie Hall Dam is raised.

Two options reports have been completed and presented to Stakeholders

Stakeholders have indicated their preference being the replacement of McCabe's Bridge on a roughly parallel alignment.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy not applicable.

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

The estimated cost of the bridge replacement is \$6m. The work will be undertaken as part of the project to raise Clarrie Hall Dam.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. Options Report. Replacement of McCabe's Bridge, Doon Doon (ECM 5163881)

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## REPORTS FROM THE EXECUTIVE MANAGER FINANCE, REVENUE AND INFORMATION TECHNOLOGY

26 [FRIT-CM] Monthly Investment Report for period ending 31 March 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**

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### SUMMARY OF REPORT:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested. The Manager Financial Services, being the Responsible Accounting Officer, certifies that investments have been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies. Council had had **\$310,262,311** invested as at **31 March, 2018** and the accrued net return on these funds was **\$815,169** or **3.15%** annualised for the month.

### RECOMMENDATION:

**That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at period e ending 31 March, 2018 totalling \$310,262,311 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 Financial Services, being the Responsible Accounting Officer, certifies that investments have been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies. Council had **\$310,262,311** invested as at **31 March, 2018** and the accrued net return on these funds was **\$815,169** or **3.15%** annualised for the month.

### 1. Ethical Investments

■ Ethical Financial Institutions  
\$155,158,369 which represents 50.01% of the total portfolio

*Source: Australian Ethical*

### 2. Economic Commentary

#### Australian and World Economy and Cash Rate

At its 3 April 2018 meeting, the Reserve Bank Board decided to leave the cash rate unchanged at 1.50 per cent.

The global economy has strengthened over the past year. A number of advanced economies are growing at an above-trend rate and unemployment rates are low. The Chinese economy continues to grow solidly, with the authorities paying increased attention to the risks in the financial sector and the sustainability of growth. Globally, inflation remains low, although it has increased in some economies and further increases are expected given the tight labour markets. As conditions have improved in the global economy, a number of central banks have withdrawn some monetary stimulus and further steps in this direction are expected.

Long-term bond yields have risen over the past six months, but are still low. Equity market volatility has increased from the very low levels of last year, partly because of concerns about the direction of international trade policy in the United States. Credit spreads have also widened a little, but remain low. Financial conditions generally remain expansionary. There has, however, been some tightening of conditions in US dollar short-term money markets, with US dollar short-term interest rates increasing for reasons other than the increase in the Federal Funds Rate. This has flowed through to higher short-term interest rates in a few other countries, including Australia.

The prices of a number of Australia's commodity exports have fallen recently, but remain within the ranges seen over the past year or so. Australia's terms of trade are expected to decline over the next few years, but remain at a relatively high level.

The Australian economy grew by 2.4 per cent over 2017. The Bank's central forecast remains for faster growth in 2018. Business conditions are positive and non-mining business investment is increasing. Higher levels of public infrastructure investment are also supporting the economy. Stronger growth in exports is expected after temporary weakness at the end of 2017. One continuing source of uncertainty is the outlook for household consumption, although consumption growth picked up in late 2017. Household income has been growing slowly and debt levels are high.

Employment has grown strongly over the past year, with employment rising in all states. The strong growth in employment has been accompanied by a significant rise in labour force participation, particularly by women and older Australians. The unemployment rate has declined over the past year, but has been steady at around 5½ per cent over the past six months. The various forward-looking indicators continue to point to solid growth in employment in the period ahead, with a further gradual reduction in the unemployment rate expected. Notwithstanding the improving labour market, wages growth remains low. This is likely to continue for a while yet, although the stronger 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 reports that some employers are finding it more difficult to hire workers with the necessary skills.

Inflation remains low, with both CPI and underlying inflation running a little below 2 per cent. Inflation is likely to remain low for some time, reflecting low growth in labour costs and strong competition in retailing. A gradual pick-up in inflation is, however, expected as the economy strengthens. The central forecast is for CPI inflation to be a bit above 2 per cent in 2018.

On a trade-weighted basis, the Australian dollar remains within the range that it has been in over the past two years. An appreciating exchange rate would be expected to result in a slower pick-up in economic activity and inflation than currently forecast.

The housing markets in Sydney and Melbourne have slowed. Nationwide measures of housing prices are little changed over the past six months, with prices having recorded falls in some areas. In the eastern capital cities, a considerable additional supply of apartments is scheduled to come on stream over the next couple of years. APRA's supervisory measures and tighter credit standards have been helpful in containing the build-up of risk in household balance sheets, although the level of household debt remains high.

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.

### **Council's Investment Portfolio**

Council's investment portfolio is conservatively structured in accordance with NSW Office of Local Government guidelines with approximately 77.03% of the portfolio held in cash and term deposits. Term deposits and bonds are paying average margins over the 90 day bank bill rate.

Bank demand for term deposit funds continue to wane as investors seek alternatives with higher returns due to an uncertain interest rate outlook. The imposition of mortgage lending restrictions is also crimping bank demand for depositors' funds. Banks are also using debt issuance (bonds) as a less expensive source of funds than term deposits and offshore wholesale funding.

Conversely, new Australian Prudential Regulation Authority regulations increasing the amount of capital required to be held by banks is marginally increasing bank demand for depositors' funds.

Many "cash at call" rates remain at levels below the RBA cash rate. The historic low cash rate is still translating to lower total investment yields. This continues to present difficulties obtaining reasonable investment income without risking capital.

All investment categories except Cash at Call out-performed the UBS 90 day bank bill benchmark this month. The investment portfolio again benefited this month from some longer-dated, higher yielding bonds and term deposits purchased before interest rate margins began contracting, however these securities are maturing. As these longer-dated bonds and term deposits mature and are replaced with lower yielding investments the total portfolio return will decrease. Overall, the investment portfolio has returned a **weighted average 1.09% pa** above the 90 day UBS bank bill index for the last month.

*Source: RBA Monetary Policy Decision*

### 3. Investment Summary

#### GENERAL FUND

CORPORATE FIXED RATE BONDS	8,125,220.00	
FLOATING RATE NOTES	63,137,092.00	
ASSET BACKED SECURITIES	0.00	
FUND MANAGERS	0.00	
TERM DEPOSITS	78,999,999.00	
CALL ACCOUNT	9,000,000.00	<b>159,262,311.00</b>

#### WATER FUND

TERM DEPOSITS	63,000,000.00	
FUND MANAGERS	0.00	<b>63,000,000.00</b>

#### SEWERAGE FUND

TERM DEPOSITS	88,000,000.00	
FUND MANAGERS	0.00	<b>88,000,000.00</b>

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<b>TOTAL INVESTMENTS</b>		<b>310,262,311</b>
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It should be noted that the General Fund investments of **\$159 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 and 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 Park - 1 March to 31 March 2018  
(ECM5194578).

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## REPORTS FROM THE EXECUTIVE MANAGER PEOPLE, COMMUNICATION AND GOVERNANCE

### 27 [PCG-CM] Community Engagement Strategy

**SUBMITTED BY:** Communication and Customer Experience

mhm



Making decisions with you  
*We're in this together*

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

2	Making decisions with you
2.2	Engagement
2.2.2	Communications - To inform, educate and engage the public about Council and community activities.

**ROLE:** **Leader**

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#### SUMMARY OF REPORT:

The Draft Community Engagement Strategy was On Exhibition from 4 December 2017 – 9 February 2018 (2 months). During this period there was a range of notifications, editorial coverage, social media activity and direct mail/letters inviting comment on the draft strategy.

By the close of the exhibition period, Council received:

- three formal submissions
- 470+ votes on various Quick Polls (social media and customers)
- 3 comments on the Your Say Tweed Project Page Guestbook

A follow up Councillor Workshop was held on March 8 2018 which provided a summary of the outcomes, general sentiment and considered potential amendments to the final Strategy. Amendments and next steps are addressed in this report.

The result is the Community Engagement Strategy attached to this report, recommended for Council's adoption.

#### RECOMMENDATION:

**That Council adopts the Community Engagement Strategy 2018 – 2022, and replaces the current Community Engagement Strategy.**

## REPORT:

The Community Engagement Strategy 2018-2022 draws on the enthusiasm of both the elected Council and its Executive Leadership Team, who have identified improving community engagement as one of their priorities. This is reinforced by the adopted Community Strategic Plan 2017-2027 which identifies '*Making Decisions With You – were in this together*' as one of the key themes.

The key messages from Councillors while reviewing this strategy have been:

- The Tweed community is the stakeholder – everyone's views matter.
- Engagement methods and techniques need to be a blend of options across traditional/face-to-face, online and social – the strategy should not focus entirely on growth in one area but needs to balance resources to meet community expectations.
- The organisation can improve its focus on culture and skills capability in the community engagement space.
- The organisation can improve its use of engagement techniques that involve, collaborate and feature deliberative democracy options more often and encourage a 'bottom up' engagement approach early in a project/process.

The Community Engagement Strategy 2018-2022 is a framework and guiding document that will be implemented over the next four years and formally reviewed at the end of this period. At any point during these next four years it can be updated as required.

The objectives of the Community Engagement Strategy have been amended in light of feedback received to read as follows:

- Continue to strengthen relationships with the community so that engagement activities are ongoing conversations rather than isolated events.
- Give Tweed's diverse communities and stakeholders a voice in Council's decision-making, within practical limits of time and resources.
- Ensure that people receive timely information that is free of bias, easy to access and understand, and helps them to make meaningful contributions on the issues that matter.
- Explain why, how and when Council will engage.

## Summary of On Exhibition

By the close of the exhibition period, Council received:

- three formal submissions – whilst few in number, these made a number of telling points that have led to significant improvements in the final text
- 470+ votes on various Quick Polls (social media and customers)
- 3 comments on the Your Say Tweed Guestbook

A general summary of key sentiments, polls and comments received include:

- The need to strike the right balance between an emerging preference amongst many people to be engaged using enhanced social media and online options, and the importance of human interaction to provide customer service and at information sessions or round tables when required. *"I appreciate the online opportunities...but I*



*also appreciate the ability to discuss issues face to face that are specific to my circumstances.”*

- Confusion over the plethora of Council strategies and how they are all linked/achieved and committed to. *“I find myself needing a road map to understand all the linkages. A lot of planning documents and strategies to traverse.”*
- The draft Strategy tends to highlight ‘top-down’ engagement (ie engagement that is led by Council on Council’s terms). There is room for improvement by having processes for Community stakeholders to initiate issues of concern with Council – and with each other.
- Clear improvements/internal procedures can be made to minimise ‘gaps’ in our Customer Service Standards and the way staff ‘close the loop’ on our engagement projects. This is reflected in the way Council responds to customer enquiries/on exhibition items/complaint handling processes and there is room for improvement on the way Council provides information / ‘closes the loop’ on projects in an open and transparent manner.

*“Complaints handling and customer follow up is poor, hence people take to facebook for the public – open forum requires accountability.”*

*“Simple automated responses would go along way and acknowledge submission feedback. Such would significantly improve the transparency and accountability of Council.”*

- More broadly, there is a need to ‘close the loop’ by providing feedback to people who have made contributions to the decision-making process by attending meetings, making submissions, offering advice etc. Such contributions need to be clearly acknowledged and explanations provided for decisions on contentious matters.
- Resident, ratepayer and business groups are not always seen to be representative: there is a need to ensure mechanisms are available to incorporate broader views of community members who may not be a member of the group. *“Council takes notice of these groups at the expense of individuals.”*
- Several comments in regards to the need for Councillors to be seen to represent all people/areas not political parties.

### **Amendments to Draft Community Engagement Strategy**

Overall the Community Engagement Strategy changes can be summarised as follows:

- General updates to images and text to improve clarity of wording and presentation.
- Updated language/terminology for planning legislation.
- Clarification/expansion and greater explanation on points/techniques and how they will be used and the purpose of the Engagement Toolkit. For example, the Stakeholder Forums are designed to involve formal stakeholder groups and provide that ‘bottom up’ and formal way for these groups to raise concerns with Council.

Essentially, some of the elements we had in the first draft that was asked to be cut back have been cut back too far, causing some confusion and we need to clarify.

- Clearer Action Plan page and examples.

However, the fundamentals of the Strategy and the commitments made by Council remain unchanged. The revised document is attached, with substantive changes highlighted.

### Next Steps

The Strategy is a 4 year strategy to implement a number of actions. Some of these are already underway and being progressed.

1. Host first Stakeholder Forum – aiming 13 April 2017, second one in October.
2. Recruit Communication and Engagement Team resources, currently underway.
3. Enhance and significantly improve [Your Say Tweed](#) – there are 12 identified actions as part of the improvements to the site and enhanced functionality. Set up of the Tweed Panel already happened.
4. Host first round of ‘Community Conversations’ in three localities in 2018 – Tweed Heads and surrounds, Tweed Coast, Murwillumbah and surrounds.
5. **External Tools and Resources:** Deliver a detailed Community Engagement Toolkit on Council’s website. This toolkit will provide further guidance on how the principles and techniques outlined in the Strategy should be implemented.
6. **Internal Tools and Resources:** Review and deliver enhanced Community Engagement tools and resources, streamline processes and support staff and Council to deliver improved feedback and closing the loop on projects.

### Contents of Engagement Toolkit

It is clear from submissions and comments received that considerably more work needs to be done to flesh-out the Strategy and make clear how it will be implemented. This was always the intended role of the Toolkit. Key issues for the Toolkit to cover include:

- A more detailed description of the different techniques of engagement: how they will work and when and how they will be used – especially the new Community Conversations and Stakeholder Forum.
- As well, more detail on the Tweed Panel – encouraging people to join, how they can become involved in various engagement activities etc.
- The process and criteria for selecting people/organisations to sit on the Stakeholder Forum and Advisory Committees.
- The future role and membership of the Community Engagement Network.
- The scope for Council to facilitate stronger community networks and ongoing collaboration amongst like-minded individuals and organisations (e.g. using Your Say

Tweed and the Tweed Panel to follow-up issues raised at Community Conversations).

- Further steps needed to acknowledge submissions and contributions to discussions, provide feedback, and ensure a transparent, accountable process.
- The respective roles of different Council units in determining the need and scope for engagement, and designing and undertaking engagement activities.
- Specific measures to improve knowledge, skills and organisational culture.

### **Project Background**

Council is required to have a Community Engagement Strategy as part of the Integrated Planning and Reporting Framework (IPRF) to inform the development of the related documentation including the Community Strategic Plan, Delivery Plan and Operational Program along with a Resourcing Management Strategy. In the near future, the requirement for a Community Engagement Strategy is to be broadened to cover all the council's plans, policies and programs. The attached Community Engagement Strategy meets that new requirement.

The review of the Community Engagement Strategy project commenced in February 2017. Since this time there has been extensive engagement with Councillors to determine their preferences and direction for Council's community engagement responsibilities.

The past 14 months developing this Strategy have included two external engagement consultants and industry experts Prof Graham Sansom – Adjunct Professor and Amanda Newberry from Articulous Communications / International Association of Public Participation.

Council adopted its first Community Engagement Strategy in 2010, which was updated in 2012. It was time to review and update the Engagement Strategy to include new methods and techniques.

The review of the Community Engagement Strategy project commenced in February 2017. Since this time there has been extensive engagement with Councillors to determine their preferences and direction for Council's community engagement responsibilities. This has included:

- **4 February 2017 – Councillor Workshop** - Full Day Community Engagement for Councillors and staff. IAP2 Engagement Essentials training tailored to Tweed Shire Council to begin the framework and way forward for reviewing the Community Engagement Strategy. Facilitated by Amanda Newberry from Articulous Communications.
- **March – Council Report** – Since the Feb workshop, a number of Councillors expressed differing viewpoints of how to proceed. The report aimed to determine the way forward to enable the review of the Community Engagement Strategy to progress. This item was deferred at the March Council meeting and again at the April Council meeting. In the interim, staff commenced preparation of the First Draft Community Engagement Strategy in an effort to put a basic framework together.

- **April/May 2017 – Councillor Engagement Training IAP2** – Councillor Cooper and a staff member attended an IAP2 Engagement Course at the University of Technology Sydney through the Local Government Centre for Excellence.
- **6 June – Community Engagement Network** – meeting to present the First Draft of the Community Engagement Strategy and provide the CEN the opportunity to review and provide feedback on the First Draft prior to presenting to Councillors.
- **21 June – Corporate Management Team** – presentation for internal engagement with the Corporate Management Team to review and provide feedback on First Draft Community Engagement Strategy.
- **30 June – Councillor Workshop** – Councillors were presented with the First Draft Community Engagement Strategy in a 1hour workshop to discuss and provide feedback. Some Councillors expressed a number of concerns which were taken on board for staff to review and incorporate to then provide an updated Draft Strategy for Councillors consideration.
- **July** – Appointment of External Consultant Prof Graham Sansom to coordinate Councillor responses and feedback to the First Draft Strategy and prepare a Revised Draft Community Engagement Strategy.
- **August – Councillors and staff meetings** with Professor Graham Sansom regarding community engagement. Each Councillor had a private meeting of 45mins to discuss community engagement with Prof Sansom and provide feedback on the First Draft Community Engagement Strategy and other views on engagement. Prof Sansom also met with a number of staff and key engagement practitioners across the organisation.
- **16 October 2017 – Councillor Workshop (2hrs)** – follow up workshop presented by Prof Graham Sansom summarising his findings from individual discussions with Councillors and staff and incorporated them into a Revised Draft Community Engagement Strategy. This workshop resulted in a number of additional enhancements from Councillors, Prof Sansom and staff resulting in the Revised Draft Community Engagement Strategy attached to this report.
- **24 October 2017 - Community Engagement Network** internal engagement meeting to provide an update and opportunity for feedback on the Revised Draft Community Engagement Strategy. This also included a number of other key staff who lead engagement activities.
- **22 November – Council Meeting** – Presentation of the Final Draft Community Engagement Strategy for Council to place On Exhibition.
- **4 December 2017 – 9 February 2018** – Draft Community Engagement Strategy On Exhibition.
- **8 March 2018 – Councillor Workshop** – presentation of Draft Community Engagement Strategy On Exhibition results.

- **16 March 2018** – A follow up meeting with Prof Graham Sansom and Councillor Cooper to address and clarify some concerns ahead of the Strategy being finalised to present to Council at the April Council meeting.

### **OPTIONS:**

That Council:

1. Proceeds with adopting the Community Engagement Strategy 2018-2022 and implementing the actions identified.
2. Does not proceed with adopting the Community Engagement Strategy 2018-2022, with the current community engagement strategy to remain in place, noting this would not meet the requirements of the new Local Government Act.

### **CONCLUSION:**

The Community Engagement Strategy provides a balanced blend of traditional, social and online improvements. Any alternative major actions or amendments to the Strategy will have resource impacts. Overwhelmingly the desire is to meet the growing expectations of our community for open and transparent engagement and to improve organisational capacity in this space.

Ideally Council would adopt this Community Engagement Strategy 2018-2022, recognising it is the overall framework and guiding principles, to enable the organisation and our limited resources to move onto delivering the toolkits, actions and next steps highlighted to achieve the objectives of the Strategy. Noting that the Community Engagement Strategy can be updated at any time.

### **COUNCIL IMPLICATIONS:**

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

Once adopted, the Community Engagement Strategy 2018-2022 will replace the current Community Engagement Strategy and be used as Council's model for all engagement across the Integrated Planning and Reporting Framework and other Council programs, policies and services.

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

The total costs over the past 12 months to prepare the Community Engagement Strategy has been approximately \$30,000 to date. This does not include staff time on the project.

#### **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. Community Engagement Strategy 2018 – 2022 (clean)  
(ECM 5199660).

Attachment 2. Community Engagement Strategy 2018-2022 (marked up to  
highlight all substantive changes) (ECM 5199671).

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28 [PCG-CM] RFO2018004 Provision of Legal Services (Panel of Providers)

SUBMITTED BY: Governance

Valid



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:**

Request for Offer RFO2018004 Provision of Legal Services (Panel of Providers) was called to establish a suitably qualified and experienced panel of providers to deliver legal services relating to four (4) categories of the law that affect a local government authority:

- Category One: Planning and Environmental Law (litigation and advice)
- Category Two: Local Government Law (litigation and advice)
- Category Three: Commercial/Property Law
- Category Four: District and Local Court

At the close of offers on 21 February 2018, twenty (20) Offers were received.

The submission of each bidder has been evaluated by a group of three Council officers, against the assessment criteria that was contained in the approved Evaluation Plan.

The evaluation of the offers against the Selection Criteria is contained in the Offer Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1, 2, 3, 4 and 5**. The recommendations are based on the evaluation.

**RECOMMENDATION:**

That in respect to Contract RFO2018004 Provision of Legal Services (Panel of Providers):

1. Council appoints a panel of legal service providers as follows for a period of 3 years with an option of a 2 year extension:

**Category One: Planning and Environmental Law (litigation and advice)**

Lindsay Taylor Lawyers  
Maddocks  
Hall & Wilcox  
Marsdens Law Group  
HWL Ebsworth Lawyers  
Sparke Helmore Lawyers  
Wilshire Webb Staunton Beattie  
Bartier Perry

**Category Two: Local Government Law (litigation and advice)**

Marsdens Law Group  
Prevention Partners  
Maddocks  
Swaab Attorneys  
Hall & Wilcox

**Category Three: Commercial/Property Law**

HWL Ebsworth Lawyers  
Maddocks  
Lindsay Taylor Lawyers  
Hall & Wilcox  
Bartier Perry

**Category Four: District and Local Court**

MinterEllison Gold Coast

2. ATTACHMENTS 1, 2 3, 4, and 5 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because they contain:-
- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret.



**REPORT:**

**Offer Background**

Council's current contract for the provision of legal services is due to expire. A Request for Offer was called to establish a new panel of suitably qualified and experienced panel of providers to deliver legal services relating to four (4) categories of the law that affect a local government authority:

- Category One: Planning and Environmental Law (litigation and advice)
- Category Two: Local Government Law (litigation and advice)
- Category Three: Commercial/Property Law
- Category Four: District and Local Court

At the close of offers on 21 February 2018, twenty (20) offers were received.

The submission of each tenderer has been evaluated by a group of three Council officers, against the assessment criteria that was contained in the evaluation plan. The Offer Evaluation Report has been included as a confidential attachment to this report.

The Evaluation Plan noted that for the purpose of the assessment of the offers received, Council would apply the following weightings:

<b>Criterion</b>	<b>Weighting (%)</b>
Value for Money (Normalised Offer Price) (Mandatory but Chairperson sets weighting)	30
Experience and Qualifications	40
Appropriate resources	20
Local Content (Development of Local Business/Industry) (Mandatory 10% assessment as per Policy)	10
	100

**Value for Money**

In order to appraise price, the assessment process considered the range of hourly rates for the specified partners. An evaluation quantity was applied, based on the average annual number of hours that Council has individually engaged firms in the last three years (nominal 45 hours).

**Experience and Qualifications**

The assessment process examined the experience of the practitioner who will be responsible for overseeing and managing Council's legal work, the lawyers and support staff who would be dealing with, and responsible for, the Council matters.

**Appropriate Resources**

The assessment process for this criterion examined the tenderer's ability to service Council's needs with regards to the size of the team, the office location, the range of services provided, their capacity to provide ad-hoc advice and the provision of training and legal updates.

### Local Content

Preferential weighting for Local Content was given to those firms who met the criteria in line with Council's Procurement Policy v1.6.

It is recommended that the Offers from the following firms be accepted in order to create a panel of providers to supply Legal Services to Council over the next three years:

Recommended Bidder	Category	ABN
Bartier Perry	One & Three	30 124 690 053
Hall & Wilcox	One, Two & Three	58041376985
HWL Ebsworth Lawyers	One & Three	37246549189
Lindsay Taylor Lawyers	One & Three	29682671304
Maddocks	One, Two & Three	63478951337
Marsdens Law Group	One & Two	59874202316
Swaab Attorneys	Two	71028846652
MinterEllison Gold Coast	Four	69399090230
Prevention Partners NSW	Two	59038820166
Sparke Helmore Lawyers	One	78848387938
Wilshire Webb Staunton Beattie	One	61849174739

The details of the price and non-price evaluation are shown on the Offer Evaluation Reports and Offer Evaluation Scoring Sheets. A copy of the Offer Evaluation Reports and Offer Evaluation Scoring Sheets are included as ATTACHMENTS 1, 2, 3, 4 and 5 which are CONFIDENTIAL in accordance with Section 10A(2):

- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret

The information identifies the Bidder in relation to the Offer price and the evaluation of the products offered by the Bidder. If disclosed, the information would be likely to prejudice the commercial position of the Bidder in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

### OPTIONS:

That Council:

1. Appoints the service providers to a panel for the four (4) categories as approved and described in the recommendation.
2. Does not appoint the service providers to a panel for the four (4) categories as approved and described in the recommendation and makes any appropriate additions or deletions.

**CONCLUSION:**

The procurement process for the offer has been conducted in accordance with Council's Procurement Policy and Protocol. The assessment of the offers received has resulted in a proposal to appoint eleven (11) providers across four (4) categories.

It is recommended that Council appoint the panel as proposed.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

The Offer invitation and evaluation have been conducted in accordance with the provisions of:

- The Local Government Act 1993 and the NSW Local Government (General) Regulation 2005.
- Council's Procurement Policy v1.6.

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

No financial or budgetary implications arise from this report, excepting those arising from the engagement of the legal service providers as they occur, with appropriate expenditures allocated for legal expenses within the budget.

**c. Legal:**

The Legal Services Contract provides a basis of engagement in accordance with the offers received from the successful bidders.

**d. Communication/Engagement:**

Not Applicable.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

- (Confidential) Attachment 1. RFO2018004 - Offer Evaluation Report (ECM 5182753).
- (Confidential) Attachment 2. RFO2018004 - Offer Evaluation Scoring Sheet - Category 1 (ECM 5182927).
- (Confidential) Attachment 3. RFO2018004 - Offer Evaluation Scoring Sheet - Category 2 (ECM 5182924).
- (Confidential) Attachment 4. RFO2018004 - Offer Evaluation Scoring Sheet - Category 3 (ECM 5182925).
- (Confidential) Attachment 5. RFO2018004 - Offer Evaluation Scoring Sheet - Category 4 (ECM 5182926).
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**29 [PCG-CM] Lease to Surf Life Saving Far North Coast - Ed Parker Rotary Park, Kingscliff**

**SUBMITTED BY: Design**

mhm



People, places and moving around

*Who we are and how we live*

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

- 3 People, places and moving around
- 3.1 People
- 3.1.8 Lifeguard Services - To reduce the human risk to beach users on the Tweed Coast through surf lifeguard services and education.

**ROLE: Provider**

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**SUMMARY OF REPORT:**

At its meeting held on 15 February 2018, Council resolved to approve the publication of a notice of intention of entering into a lease with the Surf Life Saving Far North Coast over Council community land at Ed Parker Rotary Park, Kingscliff.

A notice was published in the Tweed Link on 27 February 2018 and notices were placed at the Murwillumbah and Tweed Civic Centres. The notice invited submissions within 28 days from the date of the publication of the notice.

At the time of preparing this report, no submissions have been received. It is recommended that Council resolve to enter into a lease with the Surf Life Saving Far North Coast.

**RECOMMENDATION:**

**That :**

- 1. Council approves entering into a lease with Surf Life Saving Far North Coast branch over part of the building within Lot 287 DP 542598 for a term of five years and three further options of five years each at a nominal rental reflecting the maintenance and repair obligations of the lease; and**
- 2. All documentation be executed under the Common Seal of Council.**

## **REPORT:**

At its meeting held on 15 February 2018, Council resolved to approve the publication of a notice of intention of entering into a lease with the Surf Life Saving Far North Coast over Council community land at Ed Parker Rotary Park within Lot 287 DP 542598.

A copy of the report and resolution are attached to this report.

A notice was published in the Tweed Link on 27 February 2018 and notices were placed at the Murwillumbah and Tweed Civic Centres. The notice invited submissions within 28 days from the date of the publication of the notice.

At the time of preparing this report, no submissions have been received. It is recommended that Council resolve to enter into a lease with Surf Life Saving Far North Coast.

A lease has been drafted which provides for a nominal rental to allow the lessee to cover costs of maintenance and repair of the leased building and to utilise its resources to provide ongoing surf life saving support services to the community.

## **OPTIONS:**

1. To approve a lease for the training and storage rooms in the building located at Ed Parker Rotary Park in Kingscliff to Surf Life Saving Far North Coast.
2. To not approve a lease for the training and storage rooms in the building located at Ed Parker Rotary Park in Kingscliff to Surf Life Saving Far North Coast.

## **CONCLUSION:**

Surf Life Saving Far North Coast have engaged with Council to reach mutually beneficial terms for the leasing of the building, and will provide a community service from the leased building. It is recommended that as there were no objections to the proposal to lease to this community body, that Council approves entering into the lease at Ed Parker Rotary Park.

## **COUNCIL IMPLICATIONS:**

### **a. Policy:**

Corporate Policy Not Applicable.

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

Nominal rental will be obtained as the lessee shall be maintaining the building.

### **c. Legal:**

The lease has been drafted following negotiations over a substantial period and reflects the intentions of both parties and will be legally binding.

### **d. Communication/Engagement:**

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

Public engagement for this proposal occurred with no objections having been received.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. Council Report and Resolution dated 15 February 2018  
(ECM 5089872).

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## 30 [PCG-CM] Meeting Dates for Planning Committee and Council - 1 July 2018 to 30 June 2019

**SUBMITTED BY:** Corporate Governance

mhm



Making decisions with you  
*We're in this together*

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

**ROLE:** **Leader**

### SUMMARY OF REPORT:

At its meeting of Thursday 26 October 2017 Council resolved the dates and venues for the Planning Committee and Council meetings for the first six months of 2018.

The purpose of this report is to determine the dates of the Planning Committee and Council Meetings, incorporating appropriate Community Access sessions up until 30 June 2019. With the development of a corporate calendar based on a financial year, adoption of meeting dates to 30 June 2019 is required to be determined.

### RECOMMENDATION:

That Council adopts the following Meeting Dates and venues for the period 1 July 2018 to 30 June 2019:

PLANNING COMMITTEE		COUNCIL MEETING	
Date	Venue	Date	Venue
<b>5 July 2018</b>	<b>Tweed Heads</b>	<b>19 July 2018</b>	<b>Tweed Heads</b>
2 August 2018	Murwillumbah	16 August 2018	Murwillumbah
<b>6 September 2018</b>	<b>Tweed Heads</b>	<b>20 September 2018</b> %	<b>Tweed Heads</b>
4 October 2018	Murwillumbah	25 October 2018 ^	Murwillumbah
<b>1 November 2018</b>	<b>Tweed Heads</b>	<b>15 November 2018</b>	<b>Tweed Heads</b>
6 December 2018	Murwillumbah	13 December 2018 #	Murwillumbah

PLANNING COMMITTEE		COUNCIL MEETING	
Date	Venue	Date	Venue
<b>7 February 2019</b>	<b>Tweed Heads</b>	<b>21 February 2019</b>	<b>Tweed Heads</b>
7 March 2019	Murwillumbah	21 March 2019	Murwillumbah
<b>4 April 2019</b>	<b>Tweed Heads</b>	<b>17 April 2019</b> *	<b>Tweed Heads</b>
2 May 2019	Murwillumbah	16 May 2019	Murwillumbah
<b>6 June 2019</b>	<b>Tweed Heads</b>	<b>20 June 2019</b>	<b>Tweed Heads</b>

NOTE: % 20 September 2018 will include an Extraordinary Meeting for the election of the Mayor and Deputy Mayor.

^ 25 October 2018 to allow consideration of the Annual Financial Statements.

# 13 December 2018 given proximity to Christmas Period may even be changed to Wednesday 12 December 2018.

\* Wednesday 17 April 2019 due to Easter Public Holidays being 19-22 April 2019 and Anzac Day falling on Thursday 25 April 2019.



## REPORT:

The purpose of this report is to determine the dates of the Planning Committee and Council Meetings, incorporating appropriate Community Access sessions until 30 June 2019. With the development of a corporate calendar based on a financial year, the dates of meetings until 30 June 2019 are required to be determined to enable that calendar to be finalised.

Section 365 of the Local Government Act 1993, prescribes that "*the council is required to meet at least 10 times each year, each time in a different month.*" Council in determining the dates of meetings for the first six months of 2018 decided to not conduct any meetings during the month of January.

Council's Code of Meeting Practice in relation to the convening of Council Meetings states:

*"1.1.2 Where are council meetings held?"*

*Council meetings are normally held in the Council Chambers Civic and Cultural Centre, Tumbulgum Road, Murwillumbah. It is up to the council to decide when and where to have the meeting.*

*These meetings are open to the public. Confidential items are considered in closed session, which excludes press and public.*

*Council will meet in the following format:*

- a) *A Planning Committee meeting (comprising all seven councillors) to only discuss planning related matters on the first Thursday of the month. The Planning Committee will include Community Access on the items on the Planning Agenda, with a Council Meeting to follow, to specifically adopt the recommendations of the Planning Committee; and*
- b) *A Council Meeting on the third Thursday of the month, where all other items are considered, including any planning matters that may have been deferred from the Planning Committee Meeting. This Council Meeting will include consideration of Notices of Motion, Questions on Notice, Mayoral Minute and all other reports. A Community Access session will be held at the commencement of the Council Meeting for members of the public to discuss pertinent matters other than planning matters.*

*(Adopted by Council 20 February 2014)*

*Dates of proposed meetings are available on Council's Internet site."*

Also in determining the meeting dates for the period July 2018 to June 2019, it should be noted that Council resolved to conduct the meetings on an alternate basis at either the Council Chambers in Murwillumbah or in the Harvard Room at the Tweed Heads Administration Centre. It is further noted that the Community Access sessions commence at 4.30pm and the Planning Committee or Council Meetings commence at 5.30pm.

The following Meeting Dates and venues are proposed for the period 1 July 2018 to 30 June 2019:

PLANNING COMMITTEE		COUNCIL MEETING	
Date	Venue	Date	Venue
5 July 2018	Tweed Heads	19 July 2018	Tweed Heads
2 August 2018	Murwillumbah	16 August 2018	Murwillumbah
6 September 2018	Tweed Heads	20 September 2018 %	Tweed Heads
4 October 2018	Murwillumbah	25 October 2018 ^	Murwillumbah
1 November 2018	Tweed Heads	15 November 2018	Tweed Heads
6 December 2018	Murwillumbah	13 December 2018 #	Murwillumbah
7 February 2019	Tweed Heads	21 February 2019	Tweed Heads
7 March 2019	Murwillumbah	21 March 2019	Murwillumbah
4 April 2019	Tweed Heads	17 April 2019 *	Tweed Heads
2 May 2019	Murwillumbah	16 May 2019	Murwillumbah
6 June 2019	Tweed Heads	20 June 2019	Tweed Heads

NOTE: % 20 September 2018 will include an Extraordinary Meeting for the election of the Mayor and Deputy Mayor.  
 ^ 25 October 2018 to allow consideration of the Annual Financial Statements.  
 # 13 December 2018 given proximity to Christmas Period may even be changed to Wednesday 12 December 2018.  
 \* Wednesday 17 April 2019 due to Easter Public Holidays being 19-22 April 2019 and Anzac Day falling on Thursday 25 April 2019.

Reserve Trust Meetings will be conducted as required at the conclusion of the Planning Committee/Council meetings held on the first Thursday of the month.

Pending the outcome of the finalisation of the Model Code of Meeting Practice by the Office of Local Government, the format of the Community Access Sessions may need to change with the proposed Model Code specifying:

**"4.3** *To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by [date and time to be specified by the council] before the date on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item."*

Currently Council permits speakers to discuss a wide range of topics that are not necessarily on the Council Meeting Agenda.

Consideration will also need to be given to the proposed "Pre-Meeting Briefing Sessions":

**"Pre-meeting briefing sessions**

3.34 *Prior to each ordinary meeting of the council, the general manager will arrange a pre-meeting briefing session to brief councillors on*

*the items of business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.*

- 3.35 *Pre-meeting briefing sessions are to be held in the absence of the public.*
- 3.36 *The general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.*
- 3.37 *Councillors (including the mayor) are to make all reasonable efforts to attend pre-meeting briefing sessions.*
- 3.38 *Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.*
- 3.39 *Councillors (including the mayor) must disclose and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do at a council or committee meeting."*

**OPTIONS:**

- 1. That the proposed Planning Committee and Council Meeting dates and venues for the period July 2018 to June 2019 be adopted.
- 2. That Council determines a different meeting schedule.

**CONCLUSION:**

That the proposed meeting schedule and venue for the period July 2018 to June 2019 is adopted and appropriately advertised.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice v2.6

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

Due allowance is provided in the estimates for the conducting of Planning Committee and Council Meetings.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

The meeting dates once adopted will be uploaded to the Council Internet site as well as advertised in the Tweed Link.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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## REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

### 31 [SUB-TCKM] Minutes of the Tweed Coast Koala Management Committee Meeting held Tuesday 13 February 2018

**SUBMITTED BY:** Natural Resource Management

mhm

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**Leaving a Legacy**  
*Looking out for future generations*

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

- 1 Leaving a Legacy
- 1.1 Natural Resource Management
- 1.1.1 Biodiversity Management - To protect and manage the environment and natural beauty of the Tweed for current and future generations.

**ROLE:** **Leader**

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#### SUMMARY OF REPORT:

The Minutes of the Tweed Coast Koala Management Committee Meeting held Tuesday 13 February 2018 are reproduced in the body of this report for the information of Councillors.

#### RECOMMENDATION:

**That the Minutes of the Tweed Coast Koala Management Committee Meeting held Tuesday 13 February 2018 be received and noted.**

**REPORT:**

The Minutes of the Tweed Coast Koala Management Committee Meeting held Tuesday 13 February 2018 are reproduced as follows for the information of Councillors.

Venue:

Canvas and Kettle Meeting Room, Murwillumbah Civic Centre

Time:

2:00 pm

Present:

Lorraine Vass, Jenny Hayes, Rhonda James, David Norris, Marama Hopkins, Scott Hetherington, Clive McAlpine (part).

Apologies:

Cr Katie Milne, Bill Hoskins, Mark Kingston, Tracey Stinson, Tanya Fountain.

Minutes of Previous Meeting:

Moved: Rhonda James

Seconded: Jenny Hayes

RESOLVED that the Minutes of the Tweed Coast Koala Management Committee meeting held Tuesday 12 December 2017 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

1. Scott to distribute link to NSW Planning & Environment webpage where the response to submission is published - complete.
2. Scott to request to meet with the proposed event planning sub-committee and establish a collaborative approach to the event planning, including to ensure consistency with the operational plan - update at agenda item #3.
3. Scott to circulate a proposed schedule of meetings for 2018 and seek any feedback from the committee - complete.

Agenda Items:

1. *Briefing on ARC Linkage project - Conserving and recovering the koala populations on the NSW far north coast (Clive McAlpine)*
  - Clive explained background to project, and described the project team.
  - Aim of the project is to bring together social and ecological components of koala recovery, from a landscape perspective. Previous work has emphasised the importance of landscape context for koala presence and habitat.
  - Ecological survey work underway. Koala activity assessed across the landscape, stratified by land use and habitat configuration. Surveys to be completed in May/June.

- Early results suggest land use change may have had an influence on koala presence.
  - Probability mapping for koala presence across the region will be a key outcome.
2. *Update on RMS meeting re Pottsville overpass management and maintenance*
- Teleconference was arranged by RMS in response to letter. Scott Hetherington, Marama Hopkins & Tanya Fountain attended.
  - Concerns discussed as detailed in letter in relation to vegetation management, fence maintenance, vertebrate pest monitoring and control and additional fencing requirements.
  - RMS to provide a single point of contact for defect reports to facilitate improved maintenance response.
  - Scott to provide additional detail to RMS on fencing requirements between Kaness Rd and Round Mountain Rd.
  - RMS contact identified for vertebrate pest monitoring and control issues.
  - Agreement to hold periodic meetings to maintain contact and issues management.
3. *Update on proposed sports event at Black Rocks*
- Meeting held with Pottsville Community Association President in January (General Manager, Coordinator Recreation Services, and A/Director Community and Natural Resources).
  - Modification to initial sports event proposal proposed to consist of a sign on day event to be held at Seabreeze sports field and a possible invitation-only event to be held later in the year for local sporting club executives at Black Rocks sports field.
4. *KPOM implementation actions - review summary table and discuss issues by exception or as requested.*
- Reassessment of Tweed Coast koala activity planned for winter/spring 2018. Permanent monitoring sites will be reassessed, and additional sites added in more advanced planting areas where possible.
  - Depot Rd fire - approximately 200 ha of grass/mowed heath burned and some small areas of preferred koala habitat in central northern portion of Kings Forest site. Marama and Scott inspected after permission from RFS and landholder.
  - Koala Watch (joint regional project being run by Friends of the Koala) first workshop to be held at Murwillumbah 17 March 2018. Committee members to assist with publicity.

General business:

1. *Community education - West Kingscliff (tabled by Jenny Hayes)*
- Concern that the community is not adequately informed about future planning in West Kingscliff area.
  - Scott and Marama will keep the committee informed of any relevant updates.
2. *Kings Forest update (tabled by David Norris)*
- Covered at previous item (Item 4).

3. *Parklands Festival site - recent application (tabled by David Norris)*
  - David requested an explanation of Council's involvement in the project.
  - Scott explained that Council was consulted, and is preparing a submission.
  - A KPoM was submitted with the application, recent 2016 work recorded increased koala activity over the last 10 years.
  
4. *Dunloe Park Holcim Quarry - major project Mod 2 (tabled by David Norris)*
  - NSW Planning & Environment (DP&E) is currently assessing a Modification application to increase daily truck movements (from 80 to 240).
  - Input from Council traffic section and NSW RMS resulted in requirement to improve sight distances at intersection with Pottsville-Mooball Rd, which will require vegetation removal.
  - Council have contacted DP&E and requested that koala habitat, road mortality and planning issues are addressed through current further information request.
  - DP&E have requested that further environmental assessment work is completed for the revised proposal.
  
5. *KMC representative for Dunloe Park community consultative committee (tabled by David Norris)*
  - David offered to assist KMC where it may be appropriate, as a representative of that committee. Scott advised that this is not part of the community representative's role on the KMC.
  
6. *Proposal to mitigate impacts of sports field maintenance at Black Rocks (tabled by David Norris)*
  - Identified areas where maintenance could be more efficient, with less potential impact on koalas including frequency and timing of mowing and slashing.
  - Advised to compile suggestions and forward to Coordinator Recreation Services.
  
7. *Proposed croquet courts at Black Rocks (tabled by David Norris)*
  - Recreation Services have advised that there is proposal to mark out a croquet field on existing grass surface.

ACTION: Marama to request progress report on koala food tree plantings as required by the Men's Shed development consent conditions.

Next Meeting:  
2:00pm Tuesday 10 April 2018.

The meeting closed at 4:30pm

**EXECUTIVE MANAGEMENT TEAM'S COMMENTS:**

**Nil.**

**EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:**

**Nil.**



**COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice.

Terms of Reference – adopted 17 November 2017 (ECM4316512)

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

Not applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**32 [SUB-FMC] Minutes of the Floodplain Management Committee Meeting held 16 February 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 16 February 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 16 February 2018 be received and noted; and**
- 2. The Executive Leadership Team's recommendations be adopted as follows:**
  - 2. Report on Recommendations from Independent Review of SES Operations, North Coast Floods 2017**

***Amendment 3:***

***That Council requests the SES to provide feedback on the Floodplain Management Committee recommendation that:***

***"Tweed Shire Council adopts a policy that requires its planners to confer and consult with the Local Tweed Shire SES Controllers in all cases involving residential development of all types that are proposed to be built on land below the Probable Maximum Flood."***

**3. Murwillumbah CBD Flood Study Update**

***That the draft Murwillumbah CBD Flood Study Report and attachments be publicly exhibited.***

**REPORT:**

The Minutes of the Floodplain Management Committee Meeting held 16 February 2018 are reproduced as follows for the information of Councillors:

Venue:

Canvas and Kettle Meeting Room, Murwillumbah Civic Centre.

Time:

9.00am

Present:

Cr Chris Cherry, Danny Rose, Leon McLean, Stuart Russell, Doreen Harwood (Tweed Shire Council), Martin Rose, Caroline Ortel (Office of Environment and Heritage), Wayne Pettit, Peter Mair (New South Wales State Emergency Service), Felicia Cecil, Robert Quirk, Max Boyd, Samuel Dawson, Dion Andrews, Mike Allen, Steven Smith.

Guest for Agenda Item 3: David Tetley (Catchment Simulation Solutions).

Apologies:

Cr James Owen, David Oxenham.

Minutes of Previous Meeting:

Moved: M Boyd

Seconded: R Quirk

RESOLVED that the Minutes of the Floodplain Management Committee meeting held Friday 1 September 2017 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Item 4 (1/9/17) – Request for Floodplain Committee Membership – Tumbulgum Community Association

Following Council endorsement of the Committee's recommendation to accept the nomination from the Tumbulgum Community Association, the Committee welcomed Steve Smith to the meeting.

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Agenda Items:

1. Discussions with ABC North Coast regarding Flood Coverage

At the time of producing the agenda, a meeting was scheduled between Council staff, SES officers, and management from ABC North Coast for 8 February 2018. Unfortunately this meeting was subsequently postponed by the ABC and will now be held at the SES Headquarters at Goonellabah on 8 March. Max Boyd requested that Committee members be able to attend the meeting.

Discussion items raised by the Committee members for this meeting included the need for locally based communications, as had been available in years gone by with radio 2MW, the need for more regular updates of flood warnings at specified times, and consideration of ABC Gold Coast for Lower Tweed communities.

COMMITTEE ACTIONS:

That:

1. Any Committee member wishing to attend the meeting with ABC North Coast and SES on 8 March email Linda Cooper as soon as possible so that this can be confirmed with the meeting organisers.
2. Committee members wanting to table issues for discussion at the meeting email these to Linda Cooper as soon as possible for submission to the meeting organisers for inclusion on the agenda.

- 
2. Report on Recommendations from Independent Review of SES Operations, North Coast Floods 2017

At the last meeting a report into the Independent Review (the Owens Report) was requested by the Committee and Council, with responses to the recommendations as they apply to Tweed Shire.

Danny Rose tabled the draft report. Of the 36 Owens recommendations, 14 were considered relevant to Council. The draft report supported all but one of these recommendations (being No.36). The meeting then discussed a number of the recommendations in detail.

Recommendation 2 relates to finding permanent alternate accommodation for Murwillumbah SES. The Committee was advised that several alternate sites had been reviewed, but had to date been unsuccessful, and Council was in discussions with the State Government for funding assistance. The negotiations to date are commercial in confidence.

Max Boyd requested that Council approach the Murwillumbah Showground Trust, as they have high land adjacent to Banner Street and had recently supported a range of other organisations looking for sites. Doreen Harwood advised that this site had been discussed with the Trust previously but had not progressed.

Moved: Max Boyd

Seconded: Robert Quirk

AMENDMENT 1:

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.

*FOR VOTE: Unanimous*

Mike Allen tabled a list of recommendations from the Lismore Citizens Group, and a letter from the SES Commissioner, presumably in response to their submission (copy attached to minutes). Mike considered these recommendations to be reflective of the Tweed Community following the March 2017 flood, and moved that they be incorporated into Council's submission.

Moved: Mike Allen  
Seconded: Felicia Cecil

**AMENDMENT 2:**

That the recommended Council responses to items 12, 14 and 31 of the Owens Report be amended to incorporate the "Recommendations to the Bureau of Meteorology from Lismore Citizens Group 31/1/2018".

*FOR VOTE: Unanimous*

Recommendation 36 relates to the SES's role in land use planning.

Danny Rose explained the position in the draft report, that the SES as currently constituted and resourced is unable to perform the proposed function as a mandatory referral agency. The SES currently provides input into strategic plans and policies through this Committee and other opportunities to "influence and advise". Danny concluded that until such time as the SES's role was legislated under the relevant Acts, the scope of their role in land use planning clearly defined, and the SES organisation resourced by suitably qualified staff to undertake detailed town planning and engineering assessments, as well as regulating any controls they impose, Recommendation 36 should not be supported.

SES officers in attendance agreed and said they were not in a position to perform this role, and that this was not consistent with their organisation direction at this time, despite the formal SES response to the Owen's Report being in the affirmative for Recommendation 36.

Max Boyd moved an amendment requesting local SES input into the planning system, through adoption of a local policy. Max spoke passionately about the important role that local SES plays in protecting lives and property from flooding, and risking their own lives when doing so. He considered it essential that these people therefore have a say in future development.

Danny Rose spoke against the amendment, highlighting that the number of applications covered by such a policy would likely amount to over 1000 per year and that the SES could not perform this role. While there are many high flood risk areas in Tweed Shire, these are a product of legacy planning issues and decisions, and cannot be repeated due to much more comprehensive planning controls that have been developed in part through this Committee and with SES input. These points were agreed by SES representatives.

Moved: Max Boyd  
Seconded: Robert Quirk

AMENDMENT 3:

That Tweed Shire Council adopts a policy that requires its planners to confer and consult with the Local Tweed Shire SES Controllers in all cases involving residential development of all types that are proposed to be built on land below the Probable Maximum Flood.

*FOR VOTE: 6  
AGAINST VOTE: 2*

Moved: Robert Quirk

Seconded: Dion Andrews

RECOMMENDATION that the amended Council report be forwarded to Council.

*FOR VOTE: Unanimous*

A copy of the revised Council report, with Committee additions highlighted in **yellow** is attached to these minutes.

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3. Murwillumbah CBD Flood Study Update

Consultant David Tetley from Catchment Simulation Solutions presented the final stage of the Murwillumbah CBD Flood Study, specifically the results of options testing to reduce flood risk. Many of the proposed options were expensive, or did not result in significant improvements, so did not attract Benefit Cost Ratios (BCRs) that were likely to be supported by grant programs.

One option that the Committee asked for further clarification was the perceived benefits of modifying the floodgates in the Commercial Road levee to aid in draining the town should an overtopping event occur. Committee members also suggested that Council officers contact John Henley for input given his involvement in the existing levee.

A copy of David's presentation is attached to the minutes.

Moved: Robert Quirk

Seconded: Max Boyd

RECOMMENDATION that the draft Murwillumbah CBD Flood Study Report and attachments be publicly exhibited.

*VOTE FOR: Unanimous*

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4. OEH Flood Grant Projects 2017/18

Leon McLean summarised the successful grant projects under the NSW Office of Environment and Heritage Floodplain Management Program 2017/18, being:

1. South Murwillumbah Flood Study (\$150,000)
  2. Rain and stream gauges, Burringbar, Mooball, Crabbes Creek (\$77,333)
  3. Incorporate Tumbulgum Gauge into BoM warnings (\$46,000)
-

Council also submitted four applications for new schemes for Voluntary House Purchase (VHP) and Voluntary House Raising (VHR) in South Murwillumbah, Bray Park, Burringbar, Mooball and Crabbes Creek. These areas were identified by the Tweed Valley and Coastal Creeks Floodplain Risk Management Studies. Council was advised last December that these schemes are eligible to access the funding pool for VHP/VHR, subject to developing 3 year work programs for OEH approval. There is a great deal of work involved in prioritising and consulting the many properties at risk in these areas, so will take some time to roll out.

Council recently considered a report into these grant schemes and endorsed their progress.

Given the current workload to deliver the above grants, 2018/19 applications to OEH would likely be limited to erecting flood signage and markers for the March 2017 flood, as per the previous recommendation of the Committee.

Steve Smith asked whether homes at Tumbulgum would be eligible under the schemes. As they were not identified in the preferred schemes in the Risk Management Studies, they are not included as priorities at this stage.

Sam Dawson asked when Council is likely to pursue flood modelling for the hinterland villages, as there are many at-risk properties there. A review of the Tweed Valley Flood Study is due in 2019/2020, being 10 years since the last update. This would be a good opportunity to expand the coverage of the flood model, and recalibrate against the recent record flood.

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#### 5. South Murwillumbah Land Swap Proposal

Danny Rose gave the Committee a brief explanation of a land swap proposal that Council has been working on since the March 2017 flood, to relocate large high value businesses from the worst effected parts of the South Murwillumbah industrial estate to the flood free Industry Central.

Such a project requires government support, which is currently being negotiated. We are hopeful of an announcement soon.

The Committee voiced strong support for this initiative.

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#### 6. Meeting Schedule 2018

It is proposed to continue to meet quarterly in February, May, August and November 2018. Given no objections were raised by Committee members, Linda Cooper will circulate dates for these future meetings soon.

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General Business:

7. Flood Commemoration

Danny Rose explained that due to the ongoing sensitivity of large parts of the community following the March 2017 flood, there will only be low key events planned. Council will arrange to run an edited version of the Flood Liftout publication that was published just prior to Christmas, but did not appear to attract much attention.

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8. Sea Level Rise

Robert Quirk asked for some confirmation of sea level rise assumptions in Council's work. Danny Rose confirmed that a 0.91m sea level rise prediction for 2100 was included in flood studies to date. This was government advice circa 2007, but has since been withdrawn. Martin Rose said that some other Councils have adopted an interim sea level rise of 0.55m for a mid-range (2050) estimate.

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9. Flood Insurance

Dion Andrews asked about Flood Insurance and whether Council could promote information through the Tweed Link or public workshops on the matter of under-insurance for flooding. It has been the experience of his family and many others' that the cost of rebuilding is far in excess of real estate prices with Council fees and other overheads not normally considered.

COMMITTEE ACTION:

Council officers will investigate whether the Insurance Council of Australia has information available on under-insurance.

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10. Preserving Flood Data

Max Boyd asked whether damage information has been collated on the March 2017 flood, as the Historical Society is interested in archiving this information. Doreen Harwood and Caroline Ortel confirmed that NSW Fire and Rescue undertook Rapid Damage Assessments of all flood impacted areas and held this in various forms. Council and OEH has to date only gained access to some of this data, and much of it is likely to be confidential as it relates to private addresses. Robert Quirk suggested that there may be data available on agricultural losses.

COMMITTEE ACTIONS:

That:

1. Doreen Harwood contacts NSW Fire and Rescue to ascertain the availability of residential /commercial/industrial flood damage data for the March 2017 event and whether or not this can be made available publicly.
  2. Robert Quirk contacts Department of Primary Industries to ascertain the availability of agricultural flood damage data for the March 2017 event and whether or not this can be made available publicly.
- 

11. Flood Records

Prior to the meeting, Felicia Cecil requested a summary of flood records for Chinderah, ranked in intensity with estimates of recurrence interval:

Historical Chinderah Flood Levels

BOM Barney's Point Flood Level Classifications:

Minor: 1.30,

Moderate: 1.70,

Major: 2.00

Ranking	Year	Level (m AHD)	Approx ARI (years)
1	1954	2.9	100
2	2017	2.3	30
3	1974	2.2	>20
4	1989	2	<20
5	2013	1.9	<20
6	2016	1.8	15
7	2012	1.6	10

The Committee considered that this kind of data was very useful, and requested that a consolidated list of flood records be provided at key locations. Martin Rose suggested that there was a similar table already in our flood studies.

COMMITTEE ACTION:

That Council officers seek to produce in table form historic flood data at key locations for circulation to the Committee.

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## 12. Shelter in Place

Max Boyd asked what Council's and the SES's position is on shelter in place (SIP) for new development.

Danny Rose explained that through the risk management process, it had been determined that in certain locations and circumstances SIP was a reasonable approach to managing flood risk. He gave an example in Tweed Heads east of Wharf Street where multi-storey residential buildings provided SIP for short durations where flood depths and velocities were relatively benign. He also gave the example of mixed use development that at one stage was proposed in Prospero Street, South Murwillumbah which was strongly opposed for SIP due to the high hazard flood behaviour and risk to life for those tasked with resupply or rescue. SIP provides a back-up plan for those who cannot or choose not to evacuate, which remains the preferred emergency response approach.

Wayne Pettit stated that generally the SES had opposed shelter in place, including in submissions in the past to Tweed Shire Council. SES would not support new development on the basis of SIP, but may in some circumstances consider it for existing development to reduce flood risk, especially if there is a lack of warning time.

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## 13. Banora Point SES Accommodation

Felicia Cecil asked whether alternate accommodation had been sought for Banora SES, given its tenure at Pioneer Parade. Danny Rose confirmed that this was also being considered, but that a suitable site had not yet been found.

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Next Meeting:

The next meeting of the Floodplain Management Committee will be held in May 2018. Date to be confirmed.

The meeting closed at 12:15.

## **EXECUTIVE LEADERSHIP TEAM'S COMMENTS:**

### **2. *Report on Recommendations from Independent Review of SES Operations, North Coast Floods 2017***

**Amendment 3 of the Committee would be a unilateral decision of Council without consultation with SES. The recommendations have been amended to reflect this requirement to consult.**

### **3. *Murwillumbah CBD Flood Study Update***

***Nil.***

**EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:**

**2. *Report on Recommendations from Independent Review of SES Operations, North Coast Floods 2017***

***That the amended Council report be forwarded to Council with the amendment to the Committee's Recommendation as below:***

***Amendment 3:***

***That Council requests the SES to provide feedback on the Floodplain Management Committee recommendation that:***

***Tweed Shire Council adopts a policy that requires its planners to confer and consult with the Local Tweed Shire SES Controllers in all cases involving residential development of all types that are proposed to be built on land below the Probable Maximum Flood.***

**3. *Murwillumbah CBD Flood Study Update***

***That the draft Murwillumbah CBD Flood Study Report and attachments be publicly exhibited.***

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice.

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:**

Attachment 1. Murwillumbah CBD Levee and Drainage Study to Floodplain Management Committee Meeting 16 February 2018 (ECM 5128587).

Attachment 2. Proposed Owens SES Council Report to Council meeting held 22 March 2018 (ECM 5129079).

Attachment 3. Table – Owens Report Recommendations and Responses (ECM 5129006).

Attachment 4. Recommendations to the Bureau of Meteorology from Lismore Citizens Group 31 January 2018 (ECM 5129212).

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**33 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 22 March 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

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**SUMMARY OF REPORT:**

The Minutes of the Local Traffic Committee Meeting held Thursday 22 March 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 22 March 2018 be received and noted; and
2. The Executive Leadership Team's recommendations be adopted as follows:

**A1 [LTC] Pottsville Beach Public School Upgrade**

***That the plans for Pottsville Beach Public School upgrade be modified by the applicant in consultation with Council's Traffic Engineer as follows:***

1. ***The extension of the bus zone is not necessary from an operational viewpoint as it takes away access when picking up students in the afternoon.***
2. ***Regulatory signage within the eastern drop off zone be reviewed to comply with school zone hours.***
3. ***The proposed 'No Stopping' line marking in the northern drop off pick up area be deleted and replaced with 'No Parking' zones.***

4. ***Additional 'No Stopping' line marking be placed in Cudgera Avenue continuing in to Tweed Coast Road (the south western leg of the roundabout) to complement existing 'No Stopping' signage.***

**A2 [LTC-SOR] Schedule of Outstanding Resolutions 22 March 2018**

**A4 [LTC] Berkleys Lane, Pottsville**

***That:***

1. ***The installation of two accessible car spaces in the Berkleys Lane carpark, adjacent to the newsagency is supported, subject to funding.***
2. ***The existing accessible car space in the Berkleys Lane carpark adjacent to Coronation Avenue be removed with two additional general access spaces constructed adjacent.***

**REPORT:**

The Minutes of the Local Traffic Committee Meeting held Thursday 22 March 2018 are reproduced as follows for the information of Councillors.

**VENUE:**

Mt Warning Meeting Room

**TIME:**

Commencing at 10.15am

**PRESENT:**

Committee Members: Mr Peter Stevens, Roads and Maritime Services of NSW, Snr Constable Luke Blissett, NSW Police, Mr Col Brooks on behalf of Mr Thomas George MP, Member for Lismore, Mr Geoff Provest MP, Member for Tweed.

Informal: Mr Danny Rose (Chairman), Ms Judith Finch (Minutes).

**APOLOGIES:**

Cr James Owen, Mr Thomas George, Mr Ray Clark, Alana Brooks Cr Chris Cherry, Mr Nick Tzannes.

**CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

MIN1 [LTC-MIN] Confirmation of Previous Minutes Meeting held 22 February 2018

**ORIGIN:**

Roads & Stormwater

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 22 February 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 22 March 2018

The chairperson requested that this Item be moved from Outstanding Resolutions to Item A2 - Delegations for Regulatory Devices - Tweed Heads

**BUSINESS ARISING**

Nil.

**A. FORMAL ITEMS SECTION**

**DELEGATIONS FOR REGULATORY DEVICES - MURWILLUMBAH**

Nil.



## DELEGATIONS FOR REGULATORY DEVICES - TWEED HEADS

A1 [LTC] Pottsville Beach Public School Upgrade

ORIGIN:  
Roads & Stormwater

FILE NO: ECM 5143122; Traffic - Committee; Schools - Pottsville Beach Primary; School Zones; Bus Services - Stops; Car Parks - Other Places; Tweed Coast Road; DA17/0377

### SUMMARY OF REPORT:

Pottsville Beach Public School is undertaking car parking amendments as per DA17/0377. The applicant has provided plans for a modified parent drop off and pick up area and an extension to the existing bus zone off Tweed Coast Road.

Advice has been received that the existing 29 car parks in the southern car park are to remain as existing and confirmed that the School currently has parking facilities for over 100 bicycles.

The plans have been provided for review by the Committee as per their condition of consent. Further advice has been sought from the applicant on the extension of the bus zone and the implications for parent drop off and pick up. Initial comments on the submitted plans are that a clear and continuous path of travel is not available from the accessible parking space to the footpath.

### COMMITTEE ADVICE:

That the Committee review the submitted plans and provide feedback to the Department of Education.

### RECOMMENDATION TO COUNCIL:

That the plans for Pottsville Beach Public School upgrade be modified by the applicant in consultation with Council's Traffic Engineer as follows:

1. The extension of the bus zone is not necessary from an operational viewpoint as it takes away access when picking up students in the afternoon.
2. Regulatory signage within the eastern drop off zone be reviewed to comply with school zone hours.
3. The proposed 'No Stopping' line marking in the northern drop off pick up area be deleted and replaced with 'No Parking' zones.
4. Additional 'No Stopping' line marking be placed in Cudgera Avenue continuing in to Tweed Coast Road (the south western leg of the roundabout) to complement existing 'No Stopping' signage.

*FOR VOTE - Mr Peter Stevens, Roads & Maritime Services, Mr Geoff Provest, MP, Member for Tweed, Snr Constable Luke Blissett*

A2 [LTC-SOR] Schedule of Outstanding Resolutions 22 March 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.

The Chairperson requested that this item be removed from the Schedule of Outstanding Resolutions and that the item be moved to the A section of the Minutes.

The Committee concurred with the plan as tabled.

#### RECOMMENDATION TO COUNCIL:

That:

1. The installation of two accessible car spaces in the Berkleys Lane carpark, adjacent to the newsagency is supported, subject to funding.
2. The existing accessible car space in the Berkleys Lane carpark adjacent to Coronation Avenue be removed with two additional general access spaces constructed adjacent.

*FOR VOTE - Mr Peter Stevens, Roads & Maritime Services, Mr Geoff Provest, MP, Member for Tweed, Snr Constable Luke Blissett*

Current Status: *That Item Berkleys Lane, Pottsville - Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 22 February 2018 remain on the list of Outstanding Resolutions.*

*(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 20 July 2017 (Item A4).*

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B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE - MURWILLUMBAH

B1 [LTC] ANZAC Day Service - Murwillumbah - 25 April 2018

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5068457; Traffic - Committee; Ceremonies - ANZAC Day; Murwillumbah Street; Wharf Street; Tumbulgum Road

SUMMARY OF REPORT:

Request received for temporary road closures and street march for the ANZAC Day Dawn and Main Service on Wednesday 25 April 2018.

The Dawn Service will be at the Cenotaph at 5.30am and Main Service at 10.40am. with associated temporary road closures for Murwillumbah Street, Wharf Street and Tumbulgum Road for the march.

The Police have endorsed this event.

COMMITTEE ADVICE:

That the ANZAC Day March and Assembly in Murwillumbah on 25 April 2018 be supported subject to Police control of the event.

B2 [LTC] Kyogle Road, Uki

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5065061; Traffic - Committee; Speed Zones; Uki Sports Ground; Tweed Distributor Road Network; Kyogle Road, Uki

SUMMARY OF REPORT:

Request received to re-establish the 60km/hr speed zone on Kyogle Road, Uki directly at the front of the Vic Bianchetti Sports Field with Gerald Parker Park rest area on the opposite side of the road.

It is reported that the speed zone was previously 60km/h however was increased to 80km/h in recent years. To extend the 50km/h beyond the existing sign would have little compliance and it is noted that there is no adjacent residential development, no kerb and guttering and no street lighting in this vicinity.

COMMITTEE ADVICE:

That:

1. A "50km/h ahead" sign be installed on Kyogle Road 200m south of the existing 50km/h speed limit sign.
2. The recent speed surveys taken on Kyogle Road, Uki be provided to Police.

B3 [LTC] ANZAC Day Service - Pottsville - 25 April 2018

ORIGIN:

Roads & Stormwater

FILE NO: ECM5116727; Traffic - Committee; Ceremonies - ANZAC Day; Road Closures - Temporary; Berkleys Lane; Coronation Avenue; Tweed Coast Road; Parks - ANZAC Park

SUMMARY OF REPORT:

Request received for the RSL Pottsville and District Sub Branch annual ANZAC Day March and Assembly in Pottsville.

March details are:

Assemble at 7.30am outside the chemist on the corner of Berkleys Lane and Coronation Avenue, Pottsville.

March departs at 7.45am East along Coronation Avenue and then proceeds North along Tweed Coast Road to The Pottsville Beach Cenotaph at ANZAC Park.

The ANZAC Day Service commences at 8:00am at the Cenotaph.

The Police have endorsed this event.

COMMITTEE ADVICE:

That the ANZAC Day March and Assembly in Pottsville on 25 April 2018 be supported subject to Police control of the event.

GENERAL TRAFFIC ADVICE - TWEED HEADS

B4 [LTC] Oyster Point Road, Banora Point

ORIGIN:

Roads & Stormwater

FILE NO: ECM 4995426; Traffic - Committee; Parking Zones; Safety; Oyster Point Road, Banora Point, Pty 12650

SUMMARY OF REPORT:

Request received in relation to multiple cars parking and blocking a lane of traffic immediately to the west of the Banora Point Convenience Store up to and in the vicinity of the bus stop (100 - 150m away from the store) inbound side (north) of the road.

It is reported that there can be 8 - 10 vehicles parked on both sides of the road. At certain times of the day during peak hour this road gets reduced to one lane of traffic, where one lane has to stop to give way to the other.

The 85<sup>th</sup> percentile speed is 53km/h and there is no crash history at this location. A similar request was considered by the Committee in 2015 where the installation of prohibitive parking signage and additional linemarking was not supported. Surfside Buslines have been contacted to ascertain if they have experienced any issues at this location.

COMMITTEE ADVICE:

That prohibitive parking signage on Oyster Point Road is not supported.

B5 [LTC] Cudgen Road, Cudgen

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5124033; Traffic – Committee; Speed Zones; Cudgen Road, Cudgen;

SUMMARY OF REPORT:

Due to several accidents reported by the resident and a recent fatal crash in this vicinity there is a request for a review of the speed limit on Cudgen Road. It is currently signposted at 80km/h and has been for a significant period of time. A review of crash data will be provided to the Committee for its consideration.

COMMITTEE ADVICE:

That the existing 80km/h speed limit on Cudgen Road is appropriate and signage and delineation be reviewed as soon as practicable.

B6 [LTC] Minjungbal Drive and Shallow Bay Drive Tweed Heads South

ORIGIN:

Roads & Stormwater

FILE NO: ECM5131570; Traffic - Committee; Pedestrian Crossings; Safety; Minjungbal Drive; Shallow Bay Drive; Traffic - Lights

SUMMARY OF REPORT:

Request received regarding pedestrians and vehicles at the corner of Minjungbal Drive and Shallow Bay Drive, Tweed Heads South. It has been reported that there *“have been several near misses with cars and pedestrians”* at this location. Vehicles heading south along

Minjungbal Drive and turning left into Shallow Bay Drive are not aware pedestrians are crossing and it is suggested by pedestrians that a left turning arrow could be installed to make it safer to cross.

The Chairperson requested that this item be moved to Outstanding Resolutions pending RMS advice.

**COMMITTEE ADVICE:**

That the intersection of Minjungbal Drive and Shallow Bay Drive be forwarded to RMS for potential signal upgrade.

**NEXT MEETING:**

The next meeting of the Local Traffic Committee will be held Thursday 19 April 2018 in the Mt Warning Meeting Room commencing at 9.30am.

There being no further business the Meeting terminated at 11.47am.

**SECTION A - FORMAL ITEMS SECTION - DELEGATIONS FOR REGULATORY DEVICES FOR ENDORSEMENT BY COUNCIL:**

**EXECUTIVE LEADERSHIP TEAM COMMENTS:**

**A1 [LTC] Pottsville Beach Public School Upgrade**

Nil.

**A2 [LTC-SOR] Schedule of Outstanding Resolutions 22 March 2018**

**A4 [LTC] Berkleys Lane, Pottsville**

**A2 [LTC-SOR] Schedule of Outstanding Resolutions 22 March 2018**

**A4 [LTC] Berkleys Lane, Pottsville**

**That:**

- 1. The installation of two accessible car spaces in the Berkleys Lane carpark, adjacent to the newsagency is supported, subject to funding.**
- 2. The existing accessible car space in the Berkleys Lane carpark adjacent to Coronation Avenue be removed with two additional general access spaces constructed adjacent.**

**EXECUTIVE LEADERSHIP TEAM RECOMMENDATIONS:**

**A1 [LTC] Pottsville Beach Public School Upgrade**

**That the plans for Pottsville Beach Public School upgrade be modified by the applicant in consultation with Council's Traffic Engineer as follows:**

1. The extension of the bus zone is not necessary from an operational viewpoint as it takes away access when picking up students in the afternoon.
2. Regulatory signage within the eastern drop off zone be reviewed to comply with school zone hours.
3. The proposed 'No Stopping' line marking in the northern drop off pick up area be deleted and replaced with 'No Parking' zones.
4. Additional 'No Stopping' line marking be placed in Cudgera Avenue continuing in to Tweed Coast Road (the south western leg of the roundabout) to complement existing 'No Stopping' signage.

**A2 [LTC-SOR] Schedule of Outstanding Resolutions 22 March 2018**

**A4 [LTC] Berkleys Lane, Pottsville**

**That:**

1. The installation of two accessible car spaces in the Berkleys Lane carpark, adjacent to the newsagency is supported, subject to funding.
2. The existing accessible car space in the Berkleys Lane carpark adjacent to Coronation Avenue be removed with two additional general access spaces constructed adjacent.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice.

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

Not applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**CONFIDENTIAL ITEMS FOR CONSIDERATION**

**REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE**

**REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE**

- C1 [PR-CM] 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**

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.

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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**

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**REPORTS FROM THE 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**

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**Leaving a Legacy**  
*Looking out for future generations*

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

- 1 Leaving a Legacy
- 1.1 Natural Resource Management
- 1.1.6 Waterways (Catchment) Management - Maintain, protect and enhance Tweed Shire's waterways and catchments.

**ROLE:** **Provider**

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