

**Mayor:** Cr K Milne

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

# Agenda

## Ordinary Council Meeting Wednesday 17 April 2019

held at  
Harvard Room, Tweed Heads Administration Building, Brett Street, Tweed Heads  
commencing at 5.30pm

# Principles for Local Government

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

## Guiding Principles for Tweed Shire Council

### (1) Exercise of functions generally

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

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

### (2) Decision-making

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

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

### (3) Community participation

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

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## CONFIRMATION OF MINUTES

### 1 [CONMIN-CM] Confirmation of Minutes of the Ordinary and Confidential Council Meeting held Thursday 21 March 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 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 21 March 2019 are attached for information and adoption by Council.

#### RECOMMENDATION:

That:

1. **The Minutes of the Ordinary and Confidential Council Meeting held Thursday 21 March 2019 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 21 March 2019 (ECM 5817459).

(Confidential) Attachment 2

Minutes of the Confidential Council Meeting held Thursday 21 March 2019 (ECM 5817417).

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## 2 [CONMIN-CM] Confirmation of the Minutes of the Ordinary and Confidential Council Meeting held Thursday 4 April 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 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 4 April 2019 are attached for information and adoption by Council.

#### **RECOMMENDATION:**

**That:**

1. **The Minutes of the Ordinary and Confidential Council Meeting held Thursday 4 April 2019 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:**

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Attachment 1 Minutes of the Ordinary Council Meeting held Thursday 4 April 2019 (ECM 5834672).

(Confidential) Attachment 2 Minutes of the Confidential Council Meeting held Thursday 4 April 2019(ECM 5834673).

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## SCHEDULE OF OUTSTANDING RESOLUTIONS

### 3 [SOR-CM] Schedule of Outstanding Resolutions at 17 April 2019

mhm



#### Making decisions with you

*We're in this together*

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

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

ROLE: **Leader**

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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.*

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

A Heritage Application Grant has been submitted on 8 February 2019 to undertake works on the Murwillumbah Railway Station site.

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**1 MARCH 2018**

**REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE**

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

**REASON FOR CONFIDENTIALITY:**

This is subject to current legal investigations.

**Local Government Act**

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

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

**C 9**

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

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

**Current Status:** Following earlier directions hearings for criminal proceedings in the Land and Environment Court (LEC), and a Notice of Motion contending Council's authority to proceed with this action, further legal advice was sought, and a further report was submitted to Council's meeting on 7 February 2019 where it was resolved to reconfirm its decision to support the current prosecution action.

At an LEC hearing to determine the Notice of Motion held on 22 February 2019, the Court made an order pursuant to section 77 of the LEC Act granting leave to the prosecutor (Council) to withdraw the proceedings.

On 1 March 2019 a Justice of the Court granted an order to commence fresh Class 5 criminal proceedings. The first directions hearing is listed on 12 April 2019.

Council resolved at its meeting of 21 March 2019 that Council responds to Hickeys Lawyer's letter dated 20 March 2019 rejecting the proposed settlement offer contained therein, but stating that Council is prepared to negotiate with John Mervyn Fish in relations to items 3.2.3 and 3.2.4 of Council's letter dated 21 February 2019.

Council's solicitors have actioned the above resolution through forwarding correspondence to Mr Fish with no response received as at production of the business paper.

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**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:** These policy investigations will form part of the Tweed DCP housekeeping review. As per the adopted Strategic Planning and Urban Design Work Program this is scheduled to be undertaken after July 2019.

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**19 APRIL 2018**

**REPORTS FROM DIRECTOR ENGINEERING**

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

**173**

**Cr R Byrnes  
Cr K Milne**

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

**Current Status:** Workshop was held on 31 May 2018. Council is in the process of assessing legal advice in relation to the size of the trucks to service the water extraction under the terms of the consent.

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

Consideration of a further workshop to be considered following a compliance report on this matter to the April Council Meeting.

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**17 MAY 2018**

**ORDERS OF THE DAY**

**12 [NOM] Landscaping - South Tweed**

**235**

**Cr K Milne  
Cr C Cherry**

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

**Current Status:** An Inspection tour has been held on 3 July 2018 with agreement on landscaping works to be undertaken, primarily at the northern end of Minjungbal Drive which includes the removal of some of the Cocos Palms and the planting of various other trees to enhance the road amenity.

In terms of the Planning report, these policy investigations will form part of the Tweed DCP housekeeping review. As per the adopted Strategic Planning and Urban Design Work Program this is scheduled to be undertaken after July 2019.

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**15 [NOM] Options for Improved Land Management**

**238**

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that:

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

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

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

At the NRJO meeting of 2 November 2018 it was resolved that a cross-sharing arrangement for proposed work be funded through the JO and the request for quotation be issued accordingly. Copies of the business paper and minutes are available at the website of the Joint Organisation. This work is essential to being able to identify lands suitable as offset sites as any such land needs to provide the correct type of credits for which there is a demand through proposed or potential impacts.

Consultant was engaged in January 2019 through the NRJO to undertake the works. The consultant (Reconeco) has commenced the project, comprising interviews with relevant staff from all councils, collaboration with the regional biodiversity support officer and collation of all GIS data requirements for the biodiversity offset component of the project. The method for identifying the biodiversity credits potentially required across the region and analysis of the potential stewardship sites has also been refined to provide a standard approach for the region.

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## REPORTS FROM DIRECTOR ENGINEERING

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

250

Cr C Cherry  
Cr K Milne

**RESOLVED** that:

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

...

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

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

**Current Status:** Briefings provided by National Heavy Vehicle Regulator at the B-Double Advisory Group Committee Meeting of 24 May 2018.  
Engaged a consultant to provide an assessment of Dulguigan Road for suitability of B-Doubles.

Report submitted to April 2019 Council Meeting detailing the assessment undertaken by the consultant.

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21 JUNE 2018

## REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

295

Cr J Owen  
Cr P Allsop

**RESOLVED** that Council endorse:

1. The Draft Scenic Landscape Strategy be publicly exhibited for a period not less than 60 days during which community and stakeholder engagement is to be conducted to assist staff with the trial and testing of the Strategy;
-

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

**Current Status:** Following Council's resolution of the Strategic Planning and Urban Development Work Program this is now a priority 3 project and public exhibition expected to occur in May/June 2019.

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19 JULY 2018

## REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

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

360

Cr C Cherry  
Cr K Milne

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

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

**Current Status:** Council forwarded a letter to the Department of Industry and Crown Lands in July 2018 and again in March 2019 seeking clarification as per the resolution. A response has now been received and a request for a meeting with Councillors in May has been made. Arrangements have been made to provide suitable dates for the meeting.



The consultation on the Plan of Management has been completed with a workshop held for Councillors to discuss the results on 6 March 2019.

A report will be presented to the April 2019 Council Meeting for Council to further consider tenure issues prior to the draft Plan of Management being presented.

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16 AUGUST 2018

**ORDERS OF THE DAY**

**6 [NOM] Environmental Land Purchases**

422

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that a report be brought forward on the potential for Council to purchase significant environmental areas for the purposes of appropriate rezoning and resale.

**Current Status:** Preliminary analysis and scope to provide meaningful brief to Council being undertaken. A list of suitable consultants to undertake brief being compiled to respond to Expressions of Interest.

At the General Managers' Group meeting of the Northern Rivers Joint Organisation in December 2018, this item was discussed to determine an appetite for other member councils to participate in the project. The consensus was that no other member councils wished to participate as there was a general belief that land zoned for development could not be back zoned for a profit. Therefore Council staff are revising the scope of works for a study of one particular site and are seeking revised quotations for the works noting the original quote was in excess of \$60,000 which is currently unfunded.

A revised scope of works, with the scope now limited to direct relevance to one specific site in Tweed Shire, has been requested from 3 consultants in March 2019. The brief requests a quotation to undertake the development of a business case and options paper to evaluate and report on the economic and environmental viability of council: purchasing land; using rezoning and/or covenants to protect high conservation value areas; re-selling; and the administration and governance of such a program.

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**7 [NOM] Natural Resource Management Budget**

423

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that:

1. A report be brought forward on the impacts of increasing the proportion of funds allocated in the Council budget for Natural Resource Management from 4% to 5% of total rates i.e. a 1% increase in next years' budget, and

2. The Executive Leadership Team determines the most appropriate areas across a range of departments to source the funds from to assist in reversing the decline of threatened species.

**Current Status:** Workshops were held on 8 November 2018 and 10 December 2018. A further Workshop was held on Thursday 14 February 2019.

Feedback from this workshop will now be used for preparation for the 2019/2020 budget.

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

424

Cr C Cherry  
Cr K Milne

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

1. Aligning processes with the ISO20400 Sustainable Procurement Standard 2017.
2. The incorporation of weighting criteria in the Procurement Policy and
3. Steps within the protocol to ensure that staff are making informed sustainable decisions
4. Training of staff to raise awareness of sustainable alternatives in alignment with the ISO standard.

**Current Status:** A workshop was held 11 October 2018 and a report being prepared for a future Council meeting.

A Sustainable Procurement Working Group has been formed comprising of key staff from across the organisation. This working group is working through the Notice of Motion and a report with proposed actions will be brought before Council in April 2019. To date the Working Group is seeing opportunities for: better reporting and promotion of existing Council initiatives; measuring Council's performance against ISO20400 (noting its broader Environmental, Social and Financial focus); educating key staff involved in Council's significant procurement actions; providing sustainable suppliers with opportunities to inform Council's key staff; and better utilisation of existing approaches to sustainability from key industry bodies (e.g. Good Environmental Choice, ECO Labels, Infrastructure Sustainability Council of Australia (ISCA) Framework, Sunshine Coast Council's sustainability benchmark data).

Report prepared for the April 2019 Council meeting.

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## REPORTS FROM DIRECTOR PLANNING AND REGULATION

### 15 [PR-CM] Affordable Housing Context and Options Paper

419

Cr K Milne  
Cr R Cooper

**RESOLVED** that Council:

.....

6. A further report be brought back to Council following the exhibition of the draft policy statement.

**Current Status:** The Strategic Planning and Urban Design work program was determined at the October Planning Committee meeting. Exhibition likely to be undertaken in mid 2019.

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## REPORTS FROM DIRECTOR COMMUNITY AND NATURAL RESOURCES

### 20 [CNR-CM] Review of Dog Areas in Public Open Space - Updated Report

409

Cr K Milne  
Cr C Cherry

**RESOLVED** that this item be deferred for a workshop with staff to provide further information on:

1. Records of people impacted by dog attacks;
2. Records of wildlife impacted;
3. Areas where threatened species occur; and
4. Options for alternative management strategies.

**Current Status:** A Workshop was held on 27 September 2018.

A report was prepared by Bird Life Australia to review draft off-leash dog policy which was presented at the workshop held on 22 November 2018.

Councillors requested that further information be provided on the details of a proposed community education program prior to the advancement of a draft policy for public exhibition.

There will be a public education campaign during January and February to raise awareness of the current rules about dogs on beaches.

Costings are being obtained to adequately sign all dog zones along the Tweed Coast. A memo to be prepared to Councillors to this effect.

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## 20 SEPTEMBER 2018

### REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

#### 11 [PR-CM] Air Traffic Pollution

466

Cr K Milne  
Cr C Cherry

**RESOLVED** that Council:

4. Provides a report on the cost of establishing monitoring if the above agencies advise they cannot provide monitoring in a timely or appropriate fashion.

**Current Status:** Council officers have been liaising with Gold Coast Airport on their current monitoring proposal, as well as investigating the technical feasibility and cost estimates of Council doing its own sampling of noise and air pollution impacts at points in nearby residential areas to the Airport, and an update on all actions taken to date will be reported to the May Council Meeting. As part of their investigations, the officers have identified that there is a new air quality monitoring station at Southport High School which streams live results via the Queensland Government's Department of Environment and Science website (<https://environment.des.qld.gov.au/air/data/search.php>). A request has been submitted to the Department asking for the costs of establishing the monitoring station.

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15 NOVEMBER 2018

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

C1 [PR-CM-CON] Works at Lot 136 DP 755724 Boormans Road, Limpinwood

REASON FOR CONFIDENTIALITY:

**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 87**

That:

1. Council defers this item to seek the following further investigations and provide updated advice including on:
  - a) the North East Forest Alliance Audit report,
  - b) previous complaints to Council from the neighbours in the immediate vicinity,
  - c) further investigation of the recent activities in question and the history of logging on the property including:
    - i) interviews with the neighbouring complainants,
    - ii) more detailed historical aerial imagery if available,
    - iii) other relevant documents that may practically assist in establishing the extent of historical logging on the property, such as tax and transaction records of the parties involved including the transport and receiving parties.
  - iv) other relevant documents that may practically assist in establishing the extent of the recent level of logging activity in question on the property, such as tax and transaction records of the parties involved including the transport and receiving parties.
2. A further report be brought back to Council once these additional investigations and advice have been completed.

**Current Status:** A Council workshop was held with relevant legal advisers on 13 February 2019. Currently compiling additional information and evidence and this matter will be reported to a future Council meeting.

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## REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

### C2 [CNR-CM] Management of Chronic Acid Sulfate Soil Pollution, Christies Creek

#### REASON FOR CONFIDENTIALITY:

##### Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

(a) *personnel matters concerning particular individuals (other than councillors).*

#### C 88

That Council:

1. Supports the General Manager writing to Sunshine Sugar to express Council's concerns about the impact the current drain water quality is having on the environment of Christies and Cudgera Creeks and the amenity of Hastings Point, and request that Sunshine Sugar work cooperatively with Council and other stakeholders to resolve the Acid Sulfate Soil and water quality problem.
2. Supports the General Manager writing to the Minister for Environment and Minister for Primary Industries to seek NSW Government advice and assistance to resolve the Acid Sulfate Soil and water quality problem.
3. Seeks legal advice regarding Council's and NSW Government options to take action under the Protection of the Environment Operations Act and other relevant legislation, in relation to the pumping and discharge of contaminated water into Christies Creek.
4. Engages specialist expertise to report on the consequences of all available remediation options for the subject site including the effects of implementing an alternative land management/use approach.
5. Engages specialist expertise to report on the ecological health of Christies Creek, focusing on investigations that will determine if the creek's biota has been affected by water quality problems in the catchment.

**Current Status:** Points 1 and 2 complete, however no response has been received from Sunshine Sugar or the Minister to date.

Point 3 - Legal advice has been received and Council has written to the landowner to request a meeting to resolve the issue.

Points 4 and 5 - will be progressed pending the outcome of the meeting with the landowner.

---

## 12 DECEMBER 2018

### ORDERS OF THE DAY

#### 7 [NOM-Cr K Milne] Greening the Shire

642

Cr K Milne  
Cr C Cherry

**RESOLVED** that Council:

1. Schedules a Workshop on a program to green our public places and streets with trees that will provide shade and full canopy cover wherever possible.
2. Further investigates amending Development Code A5 to ensure sufficient space is provided for road and street verges to provide for large and significant trees to provide for shade and full canopy cover wherever possible and schedules a Council Workshop.

**Current Status:** In relation to point 1 workshop with the Urban Forester was held with Councillors on 14 March 2019.

In relation to point 2 a workshop is scheduled for 11 April 2019.

---

## 21 FEBRUARY 2019

### REPORTS FROM THE GENERAL MANAGER

#### 10 [GM-CM] Commercial Use of Murwillumbah Airfield - Sky Diving Operations

23

Cr K Milne  
Cr C Cherry

**RESOLVED** that:

1. This item be deferred to obtain a clear written response from Learn to Skydive that addresses the concerns raised in the report submitted to the 21 February 2019 meeting.
  2. Council forwards the response from Learn to Skydive and any submissions received in relation to the air safety of the parachute drop zone located at the Murwillumbah Racecourse to Air Services Australia for comment.
  3. A further report be prepared for a future Council meeting.
-



**Current Status:** In accordance with the resolution of Council 21 February 2019 officers have forwarded the council report and resolution to Learn to Skydive and requested them to respond to each of the concerns and submissions raised within the report. Once comments have been received the report and supporting and response from Skydiving Australia will be provided to Air Services Australia in accordance with the resolution. It should be noted that the aero club has since been in contact with officers to request a time slot at community access.

At the time of compiling this report several attempts have been made to seek a response from Learn to Skydive so this matter can be addressed.

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**21 MARCH 2019**

## **REPORTS FROM THE GENERAL MANAGER**

### **12 [GM-CM] Destination Management Plan**

**89**

**Cr K Milne**  
**Cr C Cherry**

**RESOLVED** that Council refers the proposed amendments to the Destination Management Plan to Destination Tweed and Tweed Experiences Network for feedback and brings back a report to Council for further consideration.

**Current Status:** Council officers have met with the Tweed Tourism Company and advised Council's position. The General Manager of the Tweed Tourism Company has subsequently met with the Mayor and Deputy Mayor to request consideration for a broader review led by them including the above two parties and entities such as Destination North Coast, Northern Rivers Food and National Parks and Wildlife Service. Council's Senior Economic Development Officer is now in a position to action the resolution and a subsequent report will be forthcoming.

---

## REPORTS FROM DIRECTOR PLANNING AND REGULATION

### a4 [MM-CM] Draft Rural Land Strategy Review

76

Cr K Milne

**RESOLVED** that:

1. The development of the draft Strategy be suspended for a period to enable it to be reviewed and represented with plain English and after a more inclusive stakeholder engagement
2. Expressions of Interest are called for a project reference group from a broad section of community stakeholders to review the draft strategy and to also include the Department of Primary Industries, Councillors, and Council staff from relevant areas of planning, Sustainable Agriculture, natural resource management and the communications unit.
3. The process of review should be assisted by an independent facilitator to ensure that the information is presented clearly and concisely in plain English and feedback is captured.
4. The strategy should articulate opportunities for the current community of rural land holders as well as a vision for farming and rural land management into the future.
5. The Department of Primary Industries be requested to provide advice on the short, medium and long term (50+ years) challenges and opportunities for agriculture in the Tweed in regard to Climate Change.

**Current Status:** Council Officers are compiling additional information to assist the Councillors understanding of the impacts of the proposed amendments. This information will be provided prior to further actioning the above resolution in concurrence with the Councillors.

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### 8 [NOM-Cr K Milne] Electric Vehicles

80

Cr K Milne  
Cr C Cherry

**RESOLVED** that:

1. Council writes to Tesla and to shopping centre management in the Shire to encourage the installation of electric charge stations for patrons;
2. Council to consider installing electric outlets for staff use;

3. A report be brought back on the potential for the Planning Policy to require new Development Applications for service stations to include fast charging stations.

**Current Status:** Point 1 letters sent in accordance with the resolution.  
Point 2 feasibility assessment will commence in May.  
Point 3 Report will be brought back to a future Council meeting.

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## REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

### 9 [NOM-Cr K Milne] Return and Earn Scheme

81

**Cr K Milne**  
**Cr R Byrnes**

**RESOLVED** that Council requests a brief report on the "return and earn" deposit stations and operations in the Tweed Shire from the Tomra Cleanaway Company and from the Environmental Protection Authority with regard to any issues / solutions for the current locations, to include noise impacts/ complaints from residents, rubbish left on site, hygiene (regarding the need for hand washing facilities), lack of shade, queuing problems, etc. and discussion on the need for increased locations.

**Current Status:** Letters have been forwarded to Tomra and Return and Earn. Awaiting responses.

---

## MAYORAL MINUTE

### 4 [MM-CM] Mayoral Minute for March 2019

SUBMITTED BY: Cr K Milne, Mayor

mhm



### Making decisions with you

*We're in this together*

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

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

ROLE: **Leader**

---

#### SUMMARY OF REPORT:

The Mayoral Minute report provides information on activities undertaken by the Mayor and Councillors during the month of March 2019.

#### RECOMMENDATION:

That:

1. The Mayoral Minute for the month of March 2019 be received and noted.
2. The attendance of Cr Cooper at the Good Growth Housing Conference – Sydney on 15 April 2019 be ratified.
3. The attendance of Councillors at nominated Conferences be authorised.

## **REPORT:**

### **Councillors**

## **COMMITTEE MEETINGS**

### **Attended by the Mayor**

- 1 March Richmond Tweed Regional Library Committee – Lismore Library, 110 Magellan Street, Lismore.
  - 11 March General Manager's Performance Review – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah. Crs Allsop, Byrnes, Cherry, Cooper and Owen also attended.
  - 19 March Tweed Coast Koala Management – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 

## **INVITATIONS / MAYORAL REPRESENTATION:**

### **Attended by the Mayor**

- 6 March International Women's Day Event – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
  - 6 March Draft Rural Land Strategy Community Conversation – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
  - 8 March North Coast Housing – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
  - 8 March Murwillumbah Business Chamber Rural Land Strategy Forum – Murwillumbah Services Club, 10 Wollumbin Street, Murwillumbah.
  - 12 March International Women's Day Event – Tweed Heads Administration Office, Wharf Street, Tweed Heads.
  - 15 March School Strike for Climate Change – Knox Park, 24 Brisbane Street, Murwillumbah.
  - 16 March Murwillumbah Show Showgirl Competition – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah. Cr Allsop also attended.
  - 19 March Water Strategies Review Project Reference Group – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah. Cr Allsop also attended.
  - 20 March Rail Trail Landowner Meeting – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
  - 29 March Northern Rivers Joint Organisation and Tweed Shire Executive Leadership Team – Tweed Heads Administration Office, Wharf Street, Tweed Heads.
-

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

- 31 March Kingscliff Triathlon – Ed Parker Rotary Park, 47 Sutherland Street, Kingscliff. Cr Owen attended.

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

- 2 March Chinderah Chilli Festival – Cudgen Leagues Club, 3 Wommin Bay Road, Kingscliff. All Councillors invited, none available to attend.
- 9 March International Women’s Day Event – ConXions Church, 19 Prince Street, Murwillumbah. Mayor and Deputy Mayor both unavailable.

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**REQUESTS FOR WORKSHOPS:**

Councillors did not request any additional workshops during March 2019.

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**CONFERENCES:**

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

Councillors did not attend any conferences during March 2019.

**Information on Conferences to be held**

- 15 April Good Growth Housing Conference – Sydney  

The Good Growth Housing Conference will be a full day of discussion, debate and dialogue with ample opportunity for networking on how to plan, build and fund our cities and regional centres for today’s and tomorrow’s communities. Good growth must include planning for the housing everyone needs and planning for housing that is well integrated into other infrastructure – schools, transport, health and green space.

Registration \$485, two flight’s, transfers.  
<https://www.goodgrowth.2019.com/>
- 14-16 August Power to the People Conference – Canberra ACT  

This conference will bring people together who share personal or professional passion for building citizen driven communities. Effective community engagement and active citizenship are the cornerstones for achieving social change. For those of us who believe in the power of community, this is a chance to capitalise on the ultimate political setting. An opportunity to shine a light on the importance of building citizen driven communities for policy makers who create the legislation and political environment that strongly influences the ability of Australian communities to tackle social challenges at the local level.

Two Master Classes are also on offer – Asset Based Community Development or Take Back Your Power.

Registration \$550, Master Class \$ 275, Two flight's, two to three night's accommodation, transfers.

<https://bankofideas.com.au/events/power-to-the-people-conference/>

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#### **SIGNING OF DOCUMENTS BY THE MAYOR:**

- 7 March Road Closure Application – Lakeview Parade, Tweed Heads South.
  - 7 March Variation of Restriction of Use – Lot 10 DP 1231670 - 23 Sea Eagle Court, Casuarina.
  - 7 March Acquisition of Land for Road Realignment – Hindmarsh Road, Kielvale.
  - 8 March Lease Agreement – Kingscliff Amateur Fishing Club and Kingscliff Bluewater Fishing Club.
  - 26 March Road Closure Application – Tumbulgum Road, Tyngah.
  - 28 March Contract for the sale and purchase of land – Clarrie Hall Dam Acquisition – Part 571 Doon Doon Road, Doon Doon.
- 

#### **COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice.

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

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

**c. Legal:**

Not applicable.

**d. Communication/Engagement:**

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

#### **UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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## RECEIPT OF PETITIONS

### 5 [ROP] Receipt of Petitions as at 17 April 2019

SUBMITTED BY: Corporate Governance

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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 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:

**As at compilation of the Business Paper, there were no Petitions received for the period.**



**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 -Cr K Milne] Single Use Plastic

At its meeting held 21 March 2019 Council resolved to defer this item for consideration at the Council Meeting of 17 April 2019. The Notice of Motion is reproduced as follows for the information of Councillors.

#### NOTICE OF MOTION:

**Councillor K Milne moves that Council brings back a report on instigating a program along the lines of Byron Shire Council's "Making the Switch" program.**

#### Councillor's Background Notes

##### Recommended Priority:

Nil.

##### Description of Project:

Excerpt from Byron Shire Council's Website:

##### *"What is Make the Switch?"*

*'Make the Switch' is a community project to reduce Byron's plastic footprint through a source reduction approach. To achieve this, we engage directly with food outlets, events and markets to help them switch from single-use plastics to better alternatives. The project is run by Plastic Free Byron and The Boomerang Alliance in conjunction with Byron Shire Council.*

##### *How it Works*

*The program focusses on six key single-use plastic items which represent the most problematic and prolific sources of the litter stream. These items are; water bottles, foodware (cutlery, cups, plates etc.), straws, coffee cups/lids, takeaway containers and plastic bags.*

*Cafes, restaurants, events and markets join us as a member and we help them remove the six key single-use plastic items and replace them with reusable or 100% compostable alternatives. Our program is hands on and we work directly with every member. We recognise and promote members for their achievements. Those who complete all our identified actions become 'Plastic Free Champions' and receive additional benefits. Individuals can also sign up, support our business members and reduce their own plastic footprint."*

## Management Comments:

### Delivery Program:

mhm



### Leaving a Legacy

Looking out for future generations

## LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.3 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: **Advocate**

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The main positive of the Byron program is the focus on cultural change and education, however the program also has a number of distinct weaknesses.

The program is only focused on plastics with many of the replacement products still look visually the same as plastics (PLA and Starch based plastics). It does not focus on other containers and only looks at avoidance and not recycling and processing. The plant based products will not be able to be identified and will be pulled out of organics collection services and are not suitable for placement in recyclables. They will need to go into a composting system but not a tunnel system as they are unlikely to break down within the time material is required to be processed in the tunnel.

It is considered relatively expensive at \$36,000 for a small number of commercial outlets where Council will not have the ability to control their activities.

The new program in Byron is very specific in that it focuses on businesses that supply food and drinks with plastic cups, bottles and food ware, as well as single use plastic bags. It is only focused on avoiding plastic and not on other recyclable or recoverable items including plastic.

Whilst avoidance should be a focus, there is also a need to pursue other options such as recovery and diversion. Recovery has a role and should be included in the program, as there are not always other options. There is a risk that we may alienate shops and restaurants that are actively recycling and recovering materials. The program is also focussed on plastics but doesn't address glass or metal drink containers which are increasingly being preferred at nightclubs and venues.

The funding for the program was provided equally by Byron Shire and the Boomerang Alliance.

Typically Local government has focused on recovery, with the state and federal government driving programs for avoidance and Extended Producer Responsibility.

### **Additional information provided for 18 April Council Meeting**

Tweed Shire Council is currently working on a program of initiatives to reduce the use of single use plastics and to encourage waste diversion within the shire. These include the following programs and actions which should produce the desired results.

#### **Avoiding single use plastics in events and local businesses**

1. Getting facilities in place to replace single use plastic items
2. Communicating Council's aspiration and providing information to involve and assist relevant stakeholders

#### **Actions to date – Council offices**

- Council civic centres' facilities, meetings and events
- Reception drinking fountains: single use plastic cups replaced with reusable cups, signage at all drinking water fountains within Civic Centres.
- Meeting rooms: 'Internal use' (not publicly bookable) meeting rooms at Civic Centres have reusable serving and glassware available in cabinets. Banora Point and Kingscliff Hall have reusable serving ware.
- Events kit: over 1,000 single use plastic packaging items avoided when the Waste Unit purchased 200 tumblers, 100 wine glasses, as well as 450 knives and forks for the 2018 staff Christmas party.
- Meeting catering: all individually wrapped tea, coffee and sugar have been replaced with items in reusable containers and food is in reusable trays with lids.
- Boomerang Mugs: Council promotes the Boomerang Mugs initiative to staff, and the return mug program to local café.
- Scrunchy plastics trial: NRM and Cleaning team members trialling a new scrunchy plastic waste collection bin

#### **Community Events & Business:**

- Draft Waste Management Guide for Businesses/Events/Markets: The Toolkit includes: Waste Information, Checklist for Events, Management Plan template for large events.
- Waste Workshops: Council's Waste Education Officer has delivered event workshops and has additional scheduled Waste Workshops for events, Administration, Cleaners, Communication Unit and Environmental Health Unit to assist with avoiding single use plastics, to reduce waste and contamination, and to highlight products marketed as 'eco/green' that can only go in red bin.
- The Waste Warriors Business Waste Reduction Project is a free service funded by Council which is delivered by North East Waste to support businesses to reduce their waste and use of single use products. This is supported by fact sheets, website, Facebook branding and online support/promotion. There could be scope to include reduce single use certification to recognise achievement.

- Bin Trim Program is a free service funded by the EPA to deliver waste assessments. This program is similar to Waste Warriors, involving an assessment undertaken by waste experts. It may be possible for businesses to apply for a grant for small scale recycling equipment (\$1,000 - \$50,000 for up to 50% of purchase price)

#### Ongoing program development

#### Council Events & Meetings:

- Prepare and install signage to support the various programs
- Review and replenish reusable serving ware in remaining training rooms and Auditorium, Canvas/Kettle
- Final Design of Waste Information Sheets
- Communication to stakeholders
- Council meeting rooms and facilities available for public bookings:
- Review and purchase additional reusable serving ware stocks
- Include serving ware facilities in booking system
- Communicate to booking system users about how to host single use-free events and meetings
- Pilot a refillable water station for events at Knox Park Oct/Nov 2019

#### Community Events & Businesses:

- Prepare the Waste Toolkit for Businesses/Events/Markets: to be finalised and distributed.
- Reduce Single Use Series: Council and NE Waste are currently collaborating to produce 4 Social Media Clips to educate businesses and community members on reducing single use plastic and addressing packaging options. Draft of clips have been written, with end of May to have finished products ready to share for Plastic Free July.
- A to Z Guide – Website Resource and Mobile App: The initial extensive list of items is complete, further categorisation and special instructions are required as a part of the requirement for the design.
- Further promotion of existing programs: Terracycle, Responsible Cafes, Green Canteen (Reusable Cups), Trashless Take Away

#### Reduce Single Use - Program

North East Waste Warrior's Business Project Coordinator is at the development stage of creating a program called Reduce Single Use (<http://www.reducesingleuse.com.au/>) which will be trialled in May alongside 30 registered businesses in Ballina to avoid and reduce single use plastics in a fun and engaging way. Businesses choose one single-use plastic items to focus on to reduce at a time. Once this program has been trialled, the program may be replicated in Tweed however would need to be resourced.

#### Budget/Long Term Financial Plan:

Refer to Management Comments.

#### Legal Implications:

Nil.

Policy Implications:

Nil.

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## REPORTS THROUGH THE GENERAL MANAGER

### REPORTS FROM THE GENERAL MANAGER

#### 7 [GM-CM] The Tweed Tourism Company - Quarterly Report - January to March 2019

**SUBMITTED BY:** Economic Development

mhm

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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:** **Provider**

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#### SUMMARY OF REPORT:

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

This report provides The Tweed Tourism's quarterly reports for the January to March 2019 quarter and recommends payment of their quarterly contract instalment.

**RECOMMENDATION:**

**That Council:**

- 1. Receives and notes The Tweed Tourism Company's quarterly report for the January to March 2019 quarter.**
- 2. Endorses payment of the quarterly contract instalment in accordance with contract ED RFT 01-2017 Marketing, Promotion & Destination Management of Tourism Services contract.**
- 3. ATTACHMENT 2 and 3 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.**



## **REPORT:**

As required by the current funding and performance agreement with The Tweed Tourism Company, a quarterly performance report and summary financial statement are to be provided for Council's review. This report provides The Tweed Tourism Company's quarterly report for the January to March 2019 quarter which is an attachment to this Council report.

## **OPTIONS:**

This report to Council presents The Tweed Tourism Company's quarterly report for the January to March 2019 quarter, which is required as part of their contract. The options available are:

1. Council receives and notes this quarterly report – In receiving The Tweed Tourism Company's quarterly report Council acknowledges the work performed by and agree to process payment of the contract instalment in accordance with The Tweed Tourism Company in accordance with ED-RFT 01-2017 Contract For Marketing, Promotion and Destination Management Services contract; or
2. Council does not receive and note this quarterly report - If Council is not satisfied with the progress The Tweed Tourism Company has made in achieving the milestones identified in their funding contract and the agreed Destination Management Plan then it would be prudent to postpone the endorsement and commence discussions with The Tweed Tourism Company regarding their performance.

## **CONCLUSION:**

It is recommended that Council receives and notes the January to March 2019 quarterly report from The Tweed Tourism Company.

## **COUNCIL IMPLICATIONS:**

### **a. Policy:**

Corporate Policy Not Applicable

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

The attached quarterly report has been submitted by the Tweed Tourism Company 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. The Tweed Tourism Company Quarterly Report to Council January to March 2019 (ECM 5832780)
- (Confidential)* Attachment 2. Confidential Attachment - The Tweed Tourism Company Quarterly Financial Report January to March 2019 (ECM 5832781)
- (Confidential)* Attachment 3. Confidential Attachment - Tweed Visitor Information Services Quarterly Financial Report January to March 2019 (ECM 5832782)
-

## 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.

**8 [PR-CM] Development Application DA18/0323 for Temporary Use of Land For Private Functions/Events at Lot 3 DP 814299; No. 142 Carool Road Bilambil; Lot 3 DP 877662; No. 144 Carool Road Bilambil**

**SUBMITTED BY: Development Assessment and Compliance**

mhm



**Making decisions with you**

*We're in this together*

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

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

**ROLE: Provider**

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**SUMMARY OF REPORT:**

A development application was received by Council on 19 April 2019 seeking development approval for the temporary use of part of the site at Lot 3 DP 814299; No. 142 Carool Road and Lot 3 DP 877662; No. 144 Carool Road BILAMBIL for private functions and events in accordance with Clause 2.8A of the Tweed Local Environmental Plan (TLEP) 2014.

The proposed temporary use of the land can be defined as a function centre:

*“a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.”*

The site is zoned RU2 (Rural Landscape) where a function centre is prohibited. As such the applicant is seeking approval in accordance with Clause 2.8A of TLEP 2014 which allows for the temporary use of land for a prohibited use where the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.

The clause limits the temporary use to a maximum period of 52 days (whether or not consecutive days) in any period of 12 months, though the overall period of a consent under this clause can extend beyond 12 months.

The applicant is seeking approval for the temporary use of the site for wedding and private functions for a maximum of 52 events within any 12 month period, though it is submitted in the Traffic Impact Assessment Report and the applicant's response to the submissions that

the site is “*expected to host 1-2 events per month with an average attendance of 80 -100 guest.*”

The development site does not accommodate any existing structures which are to be used in association with the proposed use nor does the application seek approval for temporary structures. The applicant is seeking to rely on the exemptions in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* to erect tents or marquees on the site for private functions for up to a maximum of 30 days in any calendar year. Allowing for one day to erect the tent/marquee in advance of an event and one day to dismantle and remove the temporary structure(s) following the event, the applicant has indicated that a maximum of 10 events in any 12 months will be hosted in association with tents/marquees. The maximum attendance for a ‘marquee/tent event’ is identified as 150 guests. With approval sought to allow for a maximum of up to 52 events per annum, the remainder of the events would rely on umbrellas/pergolas for shade/shelter (if required), with the applicant indicating that such events would have a lower attendance.

Subclause 2.8A(3)(b) of TLEP 2014 states that “*development consent must not be granted unless the consent authority is satisfied that the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood.*”

The Clause 2.8A test posed is in absolute terms and differs from that which would be conventionally applicable to an ordinary development application (where a use would be permitted with consent). In considering impacts associated with the proposal, the test is not ‘whether there is an unacceptable impact on any adjoining land or the amenity of the neighbourhood and how any such impact might be ameliorated to be made acceptable’; but ‘requiring that there is no adverse impact on any adjoining land or the amenity of the neighbourhood’.

As such to approve this application, Council must be satisfied that the future operation of the site as a function centre on a temporary basis will have no adverse impacts. This does not preclude the applicant from undertaking works in advance of the operation of the function centre (access widening and warning sign erection in this instance) to arrive at the juncture where there is no adverse impacts.

The application has been accompanied by a Noise Impact Assessment Report prepared by CRG Acoustics Pty Ltd (December 2018) which advises that while there are no clear definitions of what constitutes ‘adverse impact’ from noise, the assessment considers all relevant noise criteria that could be applied to the proposal and that by applying the most conservative criteria, that adverse impacts would be avoided.

The application has also been accompanied by a Traffic Impact Assessment prepared by Rytenschild Traffic Engineering (October 2018) which advised that the proposal can be supported subject to the widening of the existing access from Carool Road. It is submitted that Carool Road has adequate capacity to cater for the proposed development, the proposal will not result in queuing on Carool Road and that adequate sightlines can be provided.

The application was referred to Council’s Environmental Health Section, Traffic Engineering Unit, Natural Resource Management Unit and Development Engineering Unit. The Environmental Health Section initially raised concerns in relation to noise impacts and potential contamination with the Traffic Engineering Unit raising concerns in relation to potential traffic impacts.

Following the receipt of the amended Noise Impact Assessment and the Traffic Impact Assessment, these concerns were allayed. Nevertheless, the Traffic Engineering Unit have recommended that any consent issued for a temporary use be time limited to ensure that the assumptions of the Traffic Impact Report are reasonable and are being implemented (in terms of guest mode of transport and associated traffic volumes).

The applicant has not specified a time period for the duration of the consent, and as such it may be interpreted that the applicant is seeking an open-ended temporary use period. However Council has discretion to nominate a limited period for the consent. In consideration of the high hurdle imposed by subclause 2.8A(3)(b) of TLEP 2014 that the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, it is recommended that a nominated limiting period is appropriate for any consent issue. The applicant will then have an opportunity to demonstrate to Council whether another development consent for the use of the site as a function centre should be granted at the end of the nominated limiting period of this consent. For this reason, and in consideration of the typical lead times for wedding receptions (18 - 24 months), it is recommended that any consent issued be limited to 36 months.

The application was advertised from Monday 7 May 2018 to Monday 21 May 2018. During this period a total of four (4) submissions were received. Three (3) of these submissions were in support of the proposal, with one (1) submission opposed to the proposal.

The objection has raised concerns as to whether the proposal can meet the requirements of Clause 2.8A(b) in terms of no adverse impact, potential noise impacts and traffic impacts, the creation of a traffic hazard and the undesirable precedent that would be established by an approval. Following receipt of the Further Information, the objector was notified and a second submission was received, raising further concerns in relation to whether the proposal could meet the high threshold set for assessing a development under Clause 2.8A, questioning assumptions in the Traffic Impact Assessment in terms of trip generation and requesting that the assessment of the application be subjected to the provisions applied by Byron Shire Council for similar developments in their Shire. The objector also requested that any approval issued be subjected to development contributions.

These matters are addressed in more detail in the report. In summary:

- It is considered that the proposal can operate without resulting in any adverse impacts on the amenity of the area or adjoining properties;
- The assumptions and conclusions of the Traffic Impact Assessment report are accepted as reasonable and it is considered that the development can operate without creating a traffic hazard. Nevertheless, any consent issued should be restricted to a period of no more than 36 months to allow for Council to monitor the operations and to ensure that the trip generation associated with the proposal is in line with the Traffic Impact Assessment report;
- In the assessment of the application, Council must consider any detrimental economic, social, amenity or environmental effects on the land and any adverse impact on any adjoining land or the amenity of the neighbourhood as required by Clause 2.8A. However, the application cannot be subjected to assessment under the LEP or Draft LEP provisions of a different local authority; and
- It is recommended that development contributions be levied on a pro-rata basis having regard to the temporary nature of the use (maximum 52 events per 12 months).

**RECOMMENDATION:**

**That Development Application DA18/0323 for a temporary use of land for private functions/events at Lot 3 DP 814299; No. 142 Carool Road Bilambil; Lot 3 DP 877662; No. 144 Carool Road Bilambil be approved subject to the following conditions:**

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Planit Consulting and dated April 2018 and Plan Nos A101 - Sheet 2 (Site Location Plan) and A101 - sheet 3 (Temporary Land Use Area Plan) prepared by Planit Consulting and dated 15 January 2018, except where varied by the conditions of this consent.

[GEN0005]
2. Prior to commencement of use a drinking water quality assurance program prepared in accordance with the Private Water Supply Guidelines (NSW Health, 2015) and the Public Health Regulation 2012 shall be prepared and maintained on site and submitted to NSW Health for review. All activities shall comply with the adopted assurance program and the program shall be made available to Council's Authorised Officer upon request.

[GENNS01]
3. Prior to the commencement of use the applicant or business operator is to be registered in Council's Private Water Supply Register and pay the appropriate fee under Council's schedule of fees and charges.

[GENNS02]
4. The driveway access to the site from Carool Road is to be widened to Council's requirements subject to the submission and approval of an application under Section 138 Roads Act 1993 prior to the first use of the site.
5. An advisory sign (Turning Traffic w5-25) is to be installed as per AS1742 and maintained on Carool Road on the eastern approach to the site access subject to submission and approval of an application under Section 13 of the Roads Act 1993.

[GENNS03]
6. The temporary use of the site for a function centre is for a period of 36 months only from the date of the granting of this consent. The site is only to be used as a function centre for a maximum of 52 days in each 12 month period.
7. The maximum number of guest bookings is limited to 150 persons at any event.
8. Section 7.11 Contributions  
Payment of the following contributions pursuant to Section 7.11 of the Act and the relevant Contribution Plan.  
  
The use of the site shall not commence unless all Section 7.11 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.  
  
**A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.**



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

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

- (a) **Tweed Road Contribution Plan:**  
2.7287 Trips @ \$3307 per Trips **\$9,024**  
  
(\$2,928 base rate + \$379 indexation)  
CP Plan No. 4  
Sector12a\_4

9. At the end of any consent issued for the proposed temporary use of land, the land will, as far as practicable, be restored to the condition in which it was before the commencement of the subject temporary use. However this does not include any upgrading of the access approved under a Section 138 application.

[GENNS04]

## USE

10. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.
- [USE0125]
11. The  $L_{Aeq, 15 \text{ min}}$  noise level emitted from the premises shall not exceed the background noise level ( $L_{A90}$ ) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 10pm, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 10pm and 7am weekdays and 10pm and 8am weekends.
- [USE0165]
12. Hours of operation of the business are restricted to the following hours:
- \* 10.00am to 10.00pm - Mondays to Sundays
  - \* All events must finish by 9.30pm with all service providers and guests to be off the site by 10.00pm.
- [USE0185]
13. All deliveries to the premises are to occur only within the hours of 7.00am to 9.30pm Monday to Sundays, unless otherwise approved by Councils General Manager or his delegate. Urgent or medical related deliveries exempted.
- [USE0195]
14. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

[USE0225]

15. The servicing of waste facilities shall be limited to between the hours of 7.00am to 6.00pm Monday to Saturday and 8.00am to 6.00pm Sunday and Public Holidays. [USE0285]
16. The development shall be carried out in accordance with the provisions of the Environmental Noise Impact Report for Proposed Private Function Facility, 142-144 Carool Road, Carool prepared by CRG Acoustics dated 7 December 2018 (crgref: 17171 report REV 1) and the Operational Management Plan for Temporary Function Centre 142-144 Carool Road, Bilambil prepared by Planit Consulting dated December 2018 ( as updated to the satisfaction of Council's General Manager or delegate as required by the conditions of this consent). [USE0305]
17. All activities shall be carried out in accordance with the requirements of Liquor and Gaming NSW and NSW Police. [USE1085]
18. In the event that untreated or untested water is supplied to the temporary use area, a warning sign shall be displayed at all fixtures. Such signs shall state the source of raw water and method of treatment, if any. [USE1475]
19. The use of fireworks, helicopters and/or other comparable activities known to cause disturbance to livestock and/or farming activities is prohibited. [USENS01]
20. The preparation and sale of food shall comply with the Food Act 2003 and the NSW Food Authority's Guidelines for Mobile Food Vending Vehicles and Guidelines for Food Businesses at Temporary Events. All food business operators shall maintain current notification to Council and be subject to Council's inspection program with adopted applicable fees.
21. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. [USENS02]
22. Residents at the following neighbouring properties will be notified a minimum of seven (7) days in advance of any event on the site: 182 Carool Road, 112 Carool Road, 140 Carool Road, 146 Urliup Road and 389 Cobaki Road.
23. A minimum of two (2) portable WC for females, and one (1) WC and one (1) urinal for males (or the equivalent number of unisex facilities) are to be installed in the temporary use area and made available for use by guests for the duration of an event. All portable toilets installed in the temporary use area shall be removed from the site within 24 hours of the event. [USENS03]
24. Prior to the commencement of any use of the land for the purposes of a temporary function centre, the applicant is to submit an updated Operational Plan of Management for the written approval of the General Manager or his delegate.

**The updated Operational Plan of Management shall include the following:**

- (a) Details of a complaints handling and management system to be implemented;**
- (b) Maintenance of a register of events, to be kept on the applicant's premises at all times and available for inspection by the Council recording the following information:**
  - Identifying days used for events and days allocated to the preparation of or clean-up for all events;**
  - Details of number of number of invited guests;**
  - Confirmation as to whether a marquee or tent has been be erected for an event; and**
  - Details of traffic generation associated with any event including recording the bus companies providing transport to and from the event.**
- (c) Provision of the Plan to all staff responsible for holding or running events and certification that all such persons are aware of the requirements of the conditions of consent and the Operational Plan of Management;**
- (d) The terms and conditions for the hire of the venue for events are to be updated to reflect any conditions of consent and to meet the recommendations of the Environmental Noise Impact Report (CRG Acoustic, December 2018) and Draft Operational Management Plan (Planit Consulting, December 2018);**
- (e) Provide for the written notification of nearby residents prior to each event, including contact details for the appropriate management person who must be on-site and contactable during each event; and**
- (f) A copy of this Development Consent.**

[USENS04]

**REPORT:**

**Applicant:** Mr D Flannery  
**Owner:** Mr Paul A Flannery & Mrs Sandra J Flannery  
**Location:** Lot 3 DP 814299; No. 142 Carool Road and Lot 3 DP 877662; No. 144 Carool Road Bilambil  
**Zoning:** RU2 - Rural Landscape (TLEP 2014)  
7(d) Environmental Protection (Scenic/Escarpment) (TLEP 2000)  
**Cost:** \$5,000

**Background:**

Application details

A development application was received by Council on 19 April 2018 seeking development approval for the temporary use of part of the site at Lot 3 DP 814299; No. 142 Carool Road and Lot 3 DP 877662; No. 144 Carool Road Bilambil for private functions and events in accordance with Clause 2.8A of the Tweed Local Environmental Plan (TLEP) 2014.

The proposed temporary use of the land can be defined as a function centre:

*“a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.”*

The site is zoned RU2 (Rural Landscape) where a function centre is prohibited. As such, the applicant is seeking approval for the temporary use of the land for the purposes of function centre in accordance with Clause 2.8A of the TLEP. Clause 2.8A allows for the temporary use of land for a use that is otherwise prohibited if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.

The clause limits the temporary use to a maximum period of 52 days (whether or not consecutive days) in any period of 12 months, though the overall period of a consent under this clause can extend beyond 12 months.

The applicant is seeking approval for the temporary use of the site for wedding and private functions for a maximum of 52 events within any 12 month period, though it is submitted in the Traffic Impact Assessment Report and the applicant's response to objections that the site is *“expected to host 1 - 2 events per months with an average attendance of 80 -100 guests.”*

The development site does not accommodate any existing structures to be used in association with the proposed use nor does the application does not include approval for temporary structures. The applicant is seeking to rely on the exemptions in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* to erect tents or marquees for private functions on the site for up to a maximum of 30 days in any calendar year. Allowing for one day to erect the tent/marquee in advance of an event and one day to dismantle and remove the temporary structure(s) following the event, the applicant has indicated that a maximum of 10 events in any 12 months will be hosted in tents and/or marquees. The maximum attendance for a 'marquee/tent event' is identified as 150 guests. Nevertheless, the approval as sought is to allow for up to 52 events per annum, with the remainder of events relying on umbrellas/pergolas/etc. for shelter (if required).

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### Proposed Operation

An Operational Management Plan for Temporary Function Centre 142-144 Carool Road, Bilambil prepared by Planit Consulting dated December 2018 (Issue C) has been submitted in response to a Request for Further Information (Refer to Attachment 1).

In summary, the following is noted:

- Marquee/tent events with a maximum capacity of 150 guests to be limited to ten (10) events per 12 months;
- Additional events (possibly up to 42 but anticipated to be more of the order of 14 events) will be of a smaller scale with typically 80 – 100 guests and shorter duration (ie wedding ceremony only) with any shelter required to take the form of umbrellas or small gazebos;
- Proposed hours of operation are Monday to Sunday 10.00am to 10.00pm;
- All events will finish by 9.30pm with all service providers and guests to be off the site by 10pm; and
- Traffic movements are anticipated to be of the order of 2 - 6 mini buses (26 seater) for transporting guests and 4 - 6 small to medium rigid vehicles for servicing (marquees, waste removal, toilets etc).

The applicant has proposed the following noise avoidance measures:

- Limit PA speakers to an average maximum source level of 88dB(a), measured at 3m;
- No live percussion instruments to be used, with all music to cease at 9:30pm;
- Include a noise management component in site induction trainings to ensure events are conducted in accordance with the recommendations of CRG's acoustic report;
- Ensure staff monitor noise levels at events in accordance with the recommendations of CRG acoustic report;
- Demonstrate equipment will not cause excessive noise generation;
- The use of air horns will not be permitted on site;
- Limit medium rigid vehicles movements to 7.00am – 6.00pm Monday to Sunday;
- Limit use of private vehicles for guest access and staff access to greatest extent practical;
- No overflow parking of staff or visitors outside the designated parking areas;
- Onsite drivers entering and exiting the site shall be instructed to operate vehicles in a manner that does not generate unnecessary noise, through avoiding excessive revving of motors and avoidance of impact with solid objects;
- Internal speeds on the site will be limited to 20km/hr;
- All dwellings within 1.5km of the temporary use area to be provided with a telephone number of the onsite manager and/or event coordinator in the event a noise complaint is to be made; and
- Consideration and management of dust, litter, noise, traffic, parking and staff movements, site maintenance and visual amenity, light spill, and dangerous goods.

The applicant's consultant has advised that the Operational Management Plan contains environmental management measures to prevent, mitigate or rectify any potential impacts to amenity and these requirements do not place an unreasonable obligation on the operators of the temporary function centre.

### Site details

The subject site is legally described as Lot 3 DP 814299 and Lot 3 DP 877662 and is more commonly known as No. 142 and 144 Carool Road Bilambil. The site has a total area of 116.48ha and is currently used for agriculture and rural residential use. The site is improved by a dwelling (occupied by the applicant) and several farm buildings and sheds used for the existing agricultural business which includes a small scale intensive plant agriculture facility growing grass plant stocks for wholesale landscaping supply.

The site is irregular in shape with a frontage of approximately 330m to Carool Road with a secondary frontage to Cobaki Road of approximately 230m.

The proposed temporary use area is approximately 5,900sqm, and is located in the southern half of the site, approximately 370m from Carool Road and 885m from Cobaki Road (as the crow flies). The temporary use area is located at the top of a hill with expansive views to the coast. The area is accessed by an internal road, approximately 1km in length with a single lane carriageway with the provision of passing bays at regular intervals. The majority of the road is sealed with a midsection unsealed.

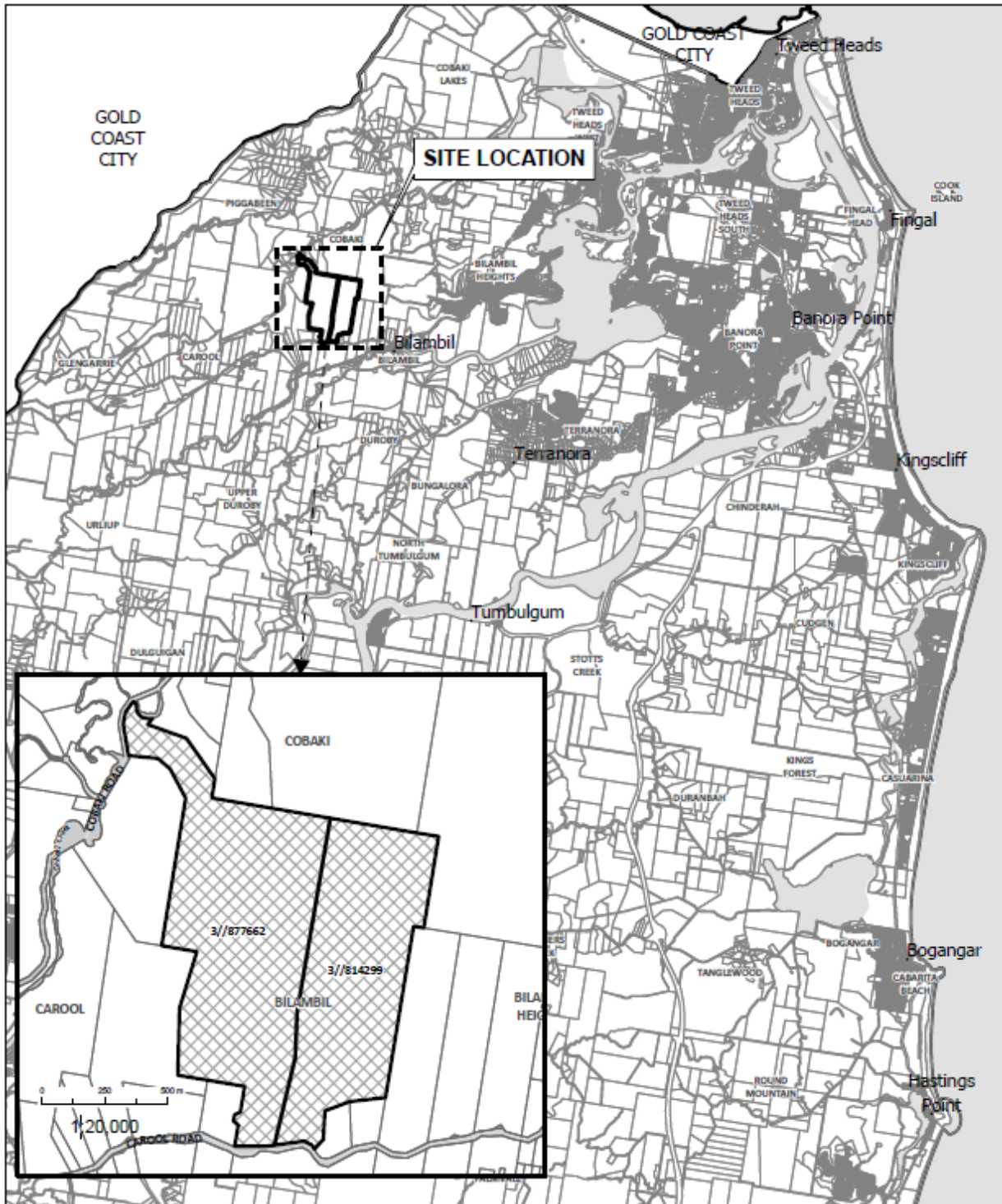
### Surrounding Area

The subject site is surrounded by rural residential land with a number of dwellings along the Carool Road and Cobaki Road frontages and larger lots to the west and east in agricultural use. Refer to the aerial photograph over.

### Planning history

- DA05/0987      Development consent for the removal of surface bushrock issued 27 February 2006. The approval was modified on 21 February 2007.
- DA07/0732      Development consent for the construction of a 20m monopole and equipment shelter telecommunications facility positioned on Lot 3 DP 877662 issued on 23 October 2007.
- PTV14/0030      Part V application for the for the removal of two culvert causeways and constriction of two single space two lane bridges and associated road works.
- DA18/0326      Development consent issued for the construction of two (2) greenhouses (plant nursery) and a dam as an addition to an existing intensive plant agricultural business at the subject site on 17 August 2018. The consent was modified on 11 December 2018 to reduce the number of greenhouses to one, to increase the number of dams to two and to relocate the greenhouse to minimise the extent of excavation required.

**SITE DIAGRAM:**



**Site Plan**

DA18/0323 – Temporary use of Land for function centre  
142 and 144 Carol Road, Bilambil

0 1 2 Km  
1:100,000

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Coordinate System – MGA Zone 56  
Datum – GDA 94

Cadastral: 18/07/2018  
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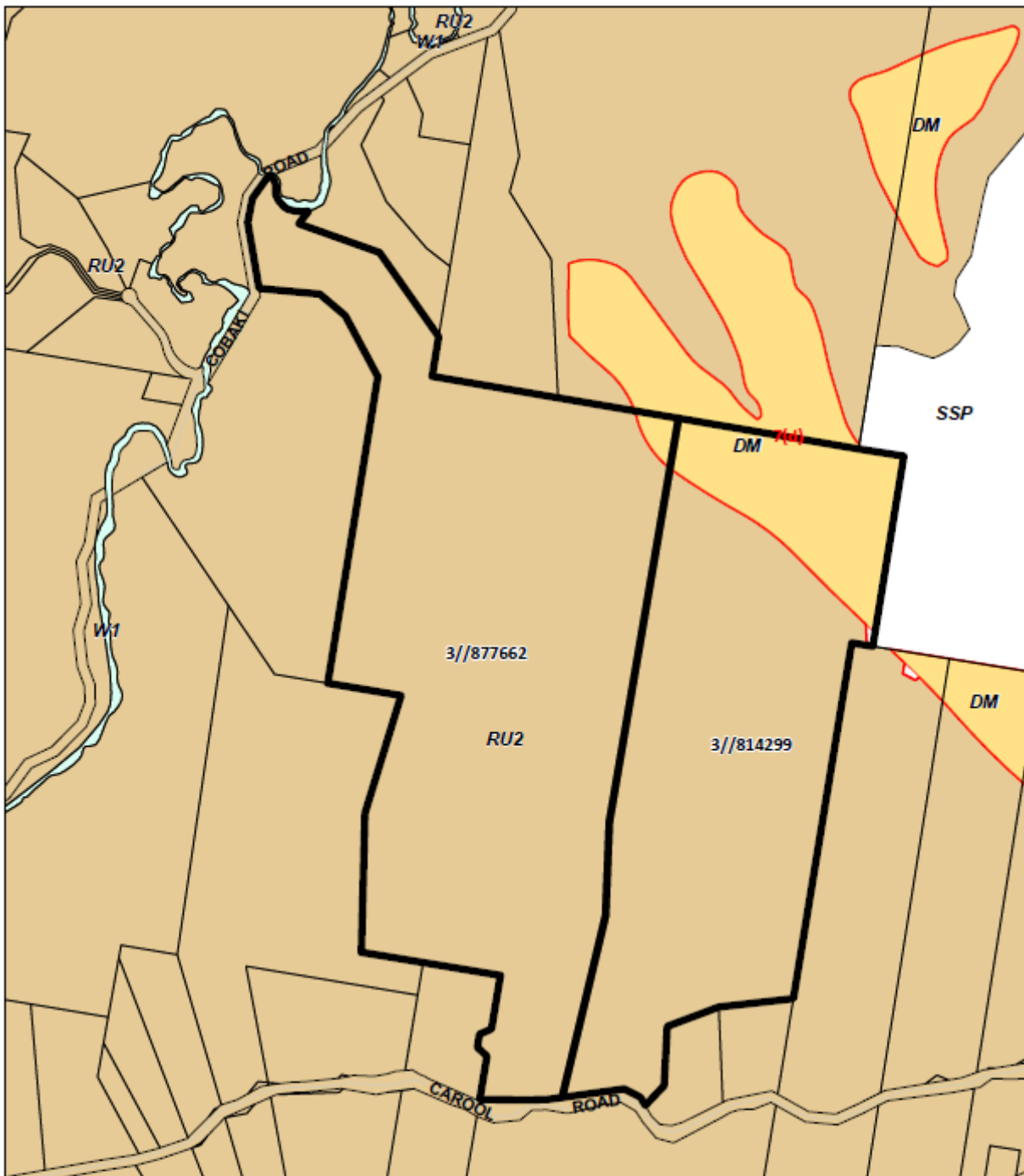
Civic and Cultural Centre  
3 Tumbulgam Road  
Murrumbidgee NSW 2484  
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Murrumbidgee NSW 2484

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E: planning@tweed.nsw.gov.au



Date Printed: 11 March, 2019

**ZONING PLAN:**



**Subject Land**

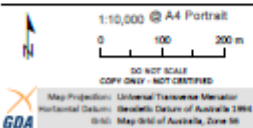
Subject Land

**Tweed Local Environmental Plan 2014**

- RU2 Rural Landscape
- W1 Natural Waterways
- DM, Deferred Matter

**LEP 2000 (as at 2014)**

7(d) Environmental Protection (Scenic / Escarpment)



**Site Plan - Local Environmental Plan**

DA18/0323 – Temporary use of Land for function centre  
 142 and 144 Carol Road, Bilambil

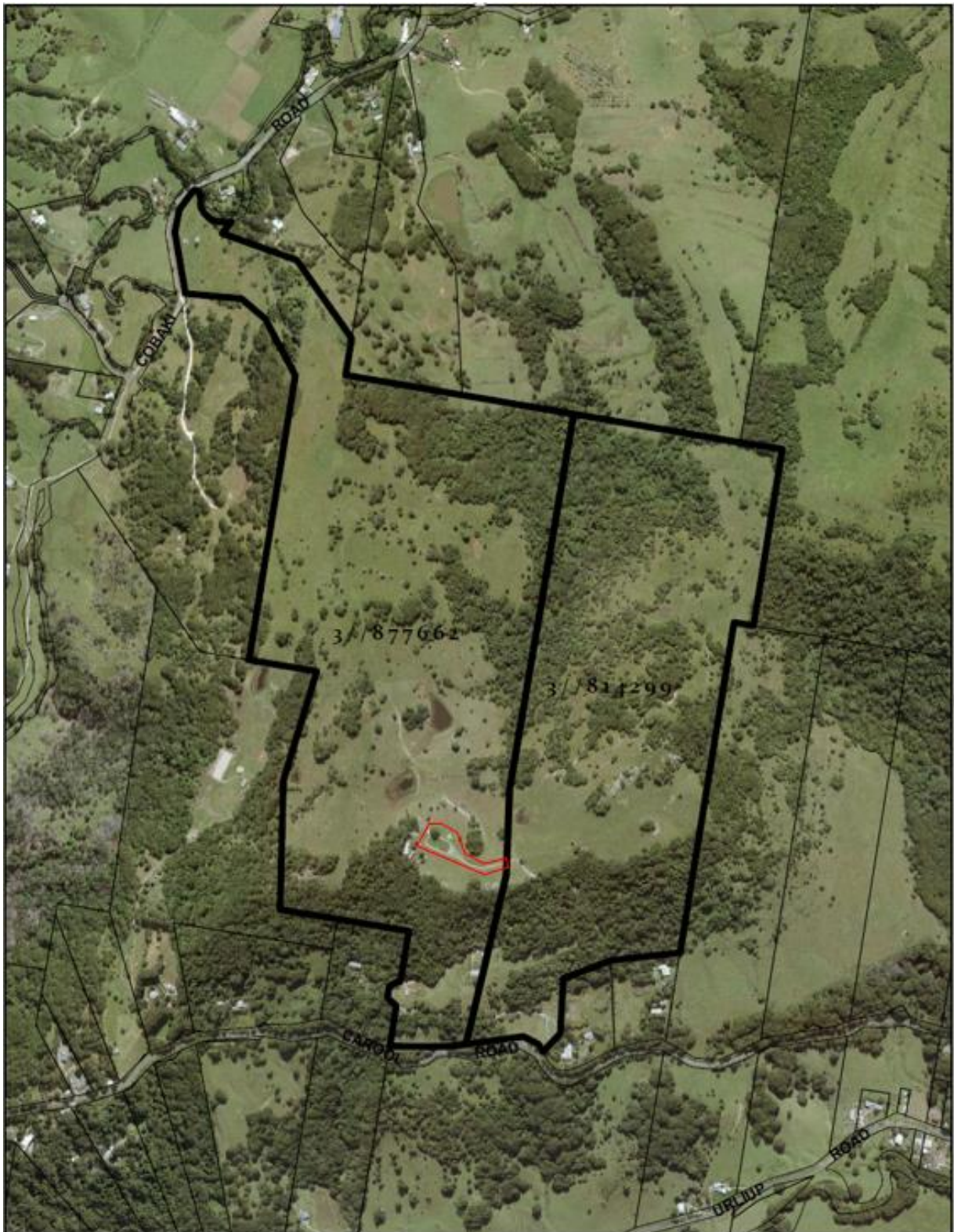
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 Date Printed: 11 March, 2019



**AERIAL PHOTOGRAPH:**



<p>1:10,000 A4 Portrait 0 100 200 m DO NOT SCALE COPY ONLY - NOT CERTIFIED Map Projection: Universal Transverse Mercator Horizontal Datum: Geoid66 Datum of Australia 2006 1010 Map 5014 of Australia, Zone 56</p>	<p>Chiefs and Cultural Centre 3 Tambourine Road Murumbidgee NSW 2484 PO Box 816 Murumbidgee NSW 2484</p> <p><b>TWEED</b> SHIRE COUNCIL</p> <p>T: (02) 6671 2400   F: (02) 6671 2428 P: (02) 6671 2428 W: www.tweed.nsw.gov.au E: planning@tweed.nsw.gov.au</p>	<p><b>Aerial Photography April 2018</b></p> <p>DA18/0323 – Temporary use of Land for function centre 142 and 144 Carol Road, Bilambil</p>	<p>© 2018 Imagery - Tweed Shire Council © Cadastre - Tweed Shire Council Boundaries shown should be considered approximate only.</p>
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Date Printed: 11 March 2018

**DEVELOPMENT/ELEVATION PLANS:**



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

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

**Tweed Local Environmental Plan 2000**

The subject site is predominately zoned RU2 (Rural Landscape) under the Tweed Local Environmental Plan (TLEP) 2014, though a portion of the overall site to the northeast is a deferred matter being zoned 7(d) Environmental Protection (Scenic / Escarpment) under the TLEP 2000.

The proposed temporary use area is wholly contained within the RU2 zoning (under TLEP 2014) with a separation distance of more than 720m from the 7(d) zoning. The TLEP 2000 does not contain any provisions which relate to development on land adjacent to Zone 7(d) and as such an assessment of the proposal against the provisions of the TLEP 2000 is considered unwarranted.

**Tweed Local Environmental Plan 2014**

**Clause 1.2 – Aims of the Plan**

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

- (1) This Plan aims to make local environmental planning provisions for land in Tweed in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
  - (a) to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera;
  - (b) to encourage a sustainable, local economy, small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed Shire;
  - (c) to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, the built environment, and cultural heritage;
  - (d) to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change;
  - (e) to promote building design which considers food security, water conservation, energy efficiency and waste reduction;
  - (f) to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy;
  - (g) to conserve or enhance the biological diversity, scenic quality, geological and ecological integrity of the Tweed;

- (h) to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land;
- (i) to conserve or enhance areas of defined high ecological value; and
- (j) to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.

The proposal is considered to be generally consistent with the aims of the plan in that allowing the landowner to use the land as a function centre on a temporary basis, would promote the local economy and local businesses whilst minimising impacts on the environment.

### Clause 2.3 – Zone objectives and Land use table

A function centre is prohibited in Zone RU2 and as such the application is relying on Clause 2.8A which allows for the temporary use of land in any zone for a purpose which would otherwise be prohibited under this clause.

Subclause 2.3(1) of the TLEP draws attention to the prescription of objectives for each land use zone, and subclause 2.3(2) requires the consent authority to “*have regard to*” such objectives, but subclause 2.3(4) makes the clause “*subject to the other provisions*” of the Plan.

A significant proportion of the subject site, including the location of the temporary use area, is zoned RU2 - Rural Landscape. The objectives of this zone are as follows:

- *“To encourage sustainable primary industry production by maintaining and enhancing the natural resource base;*
- *To maintain the rural landscape character of the land;*
- *To provide for a range of compatible land uses, including extensive agriculture;*  
and
- *To provide for a range of tourist and visitor accommodation-based land uses, including agri-tourism, eco-tourism and any other like tourism that is linked to an environmental, agricultural or rural industry use of the land.”*

However as set out in subclause 2.3(4), there is no requirement for the applicant to demonstrate that the proposal is consistent with the objectives of the RU2 zone as the applicant is relying on Clause 2.8A. Nevertheless it is noted that the proposal, being a temporary use of the site as a function centre with no permanent structures, is not inconsistent with the objectives.

### 2.8A Use of land for temporary periods

As set out in subclause 2.8A(1), the objective of this clause is:

*“to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.”*

Subclause 2.8A (2) states that:

*“despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.”*

Subclause 2.8A (3) states that:

*“Development consent must not be granted unless the consent authority is satisfied that:*

- (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*
- (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*
- (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*
- (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.”*

There is significant Land and Environment Court case law published in relation to the interpretation of Clause 2.8 of the Standard LEP. It should be noted that Clause 2.8A of TLEP 2014 differs only from the standard Clause 2.8 in that subclause (4) of Clause 2.8A of TLEP 2014 has been amended to allow for filming on land in a rural zone to exceed the 52 day threshold set out in subclause (2). As such any interpretation of Clause 2.8 as set out in case law can equally be applied to the interpretation of Clause 2.8A of the TLEP 2014.

Before, assessing the current proposal against this clause, it is beneficial to refer to relevant case law to establish what time limits (if any) apply to a ‘temporary use’ consent, whether ancillary activities are to be considered in expending the specified number of days, and most significantly, to highlight the absolute nature of the Clause 2.8 test to which a proposal must be subjected, before Council can grant a consent.

#### Temporal limitation of Clause 2.8A

As set out in *Allman Associates Pty Ltd v Wingecarribee Shire Council [2016] NSWLEC 1126*, the question as to whether the provisions of Clause 2.8 limits the granting of development consent to a maximum period of just 12 months (or whether this period can be open-ended) was considered.

With respect to the ‘temporal limitation’ of this clause, O’Neill C held that the ordinary, obvious reading of the provision does not impose a second limitation in addition to the specified number of days in any period of 12 months imposed by in the clause and so a consent may be granted pursuant to Clause 2.8 for any nominated limiting period or be open-ended.

The development to which the judgement above related (*Allman Associates Pty Ltd v Wingecarribee Shire Council [2016] NSWLEC 1126*) was for the temporary use of two (2) barns as function centres and in addition to considering whether a consent issued under Clause 2.8 can extend beyond 12 months, the question as to the appropriate period for a temporary use of land as a function centre was also considered:

*“25. I accept the applicant’s submission that as wedding reception activities have typical lead times in excess of 18 to 24 months, limiting the consent to 12 months is impractical. However, in cautious consideration of the high hurdle imposed by cl 2.8(3)(b) of LEP 2010 that the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, I am of the view that a nominated limiting period is appropriate for the consent. The applicant will then have an opportunity to demonstrate to the Council that another development consent for the use of the barn for wedding receptions should be granted at the end of the nominated limiting period of this consent. For this reason, and in consideration of the lead times for wedding receptions nominated by the applicant, the use of the barn for wedding receptions is for a period of 36 months only from the date of the granting of the consent.”*

This rationale is reiterated in the judgment issued in *EMRR Pty Ltd v Murray Shire Council [2016] NSWLEC 144* which allowed for the temporary use of an existing concrete slab as a function centre for a period of three (3) years, on the basis that a function centre is oriented towards events, such as weddings, which often need to be planned and booked well in advance of 12 months beforehand.

*Consideration of ancillary activities in the maximum period of 52 days*

*EMRR Pty Ltd v Murray Shire Council [2016] NSWLEC 144* also addressed the question of whether or not activities ancillary to the events that characterise the temporary use, should be included within the maximum period of 52 days. For a function centre, such ancillary activities may include, but are not limited to, construction and deconstruction of the marquee structure; inspections, bookings, and deliveries.

It was agreed in this judgement that the definition of “function centre” in the LEP anticipates the use of land for the purpose of events, rather than any preparatory or subsequent work associated with such events. It was considered that it would be an impractical construction of the term “temporary use” if the land were able to be used only for the purpose of functions and associated preparatory work for a total of 52 days in a 12 month period.

*The nature of the Clause 2.8 test*

In *Marshall Rural Pty Limited v Hawkesbury City Council and Ors [2015] NSWLEC 197*, his Honour Moore AJ considered it appropriate to make some brief observations concerning the nature of the test contained in Clause 2.8.

- “113 The nature of the activities that are capable of being permitted by an application invoking cl 2.8 are, I remind myself, activities that are otherwise prohibited in a zone.*
- 114 That any application that is sought to be approved for such a prohibited use seeks a significant indulgence for such a substantial departure from the planning controls applicable to a zone is reflected in two aspects of the clause.*
- 115 The first arises with respect to the temporal limitation mandated by the clause if such an otherwise prohibited use is to be permitted. This aspect of the clause was the subject of Marshall Rural’s first complaint, a complaint dealt with and dismissed in my rejection of Ground 1.*
- 116 The second element engaged by these proceedings is the requirement that the proposal will “not adversely impact” in the fashion specified in cl 2.8(3)(b). This test, cast in absolute terms reflecting the seriousness with which an application of this nature is required to be assessed, puts a very high hurdle in the path of any such application. The placing of such a hurdle requires that the Council must approach the consideration and determination of any such application with a marked degree of precision and caution.”*

In this court case, Hawkesbury City Council approved the temporary use of two (2) barns as function centres, with the decision subsequently overturned by the Court, on the basis that in granting the development consents, Hawkesbury City Council failed to consider, properly, preconditions to the exercise of the power under sub-clause 2.8(3) of the LEP, specifically the issue of whether or not there was any adverse impact on adjoining land or the amenity of the neighbourhood.

The judgement highlighted the need for a cautionary warning to Council that the Clause 2.8 test posed is in absolute terms and that the Clause 2.8 test posed differs from that which would be conventionally applicable to an ordinary development application (where a use would be permitted with consent).

In considering acoustic impacts in this referenced case, the test was not ‘whether there was an unacceptable acoustic impact on nearby properties and how any impact might be ameliorated to be made acceptable’; but ‘requiring that there be no adverse impact on any adjoining land or the amenity of the neighbourhood’.

It was established that the technical assessment must be based on a criteria that there will be no adverse impact, rather with a more evaluative process, that where there is an impact; and the question is ‘is that impact acceptable or not within the regulatory criteria applied to the assessment.’

However this is not to imply that the threshold for sub-clause 2.8(3) is so high that all prohibited uses will, by their nature, fail the test (otherwise Clause 2.8 would be defunct). In both *EMRR Pty Ltd v Murray Shire Council [2016] NSWLEC 144* and *Allman Associates Pty Ltd v Wingecarribee Shire Council [2016] NSWLEC 1126* referenced above, the court approved the temporary use of land for a function centre.

## **Assessment of proposal against Clause 2.8A**

An assessment of the current proposal against clause 2.8A of TLEP 2014 is set out under.

### **Subclause 2.8A(1)**

The objective of the clause is to allow for a temporary use *'if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.'*

The land is currently in agricultural use with the applicant operating an intensive plant agricultural business adjacent to the dwelling to the south of the landholding. The applicant advised that the remainder of the holding is predominantly naturally vegetated with some areas historically cleared for agistment/grazing purposes.

The site is mapped on Council GIS as being either 'Land suitable for grazing but not cultivation' or 'Land not suitable for agriculture' with the temporary use area identified as the former.

A small portion of the holding, to the north of the site is mapped as 'Regional Significant Farmland'; an area of approximately 0.108ha, or 0.09% of the holding. This designated area is located approximately 1.2km from the proposed temporary use area.



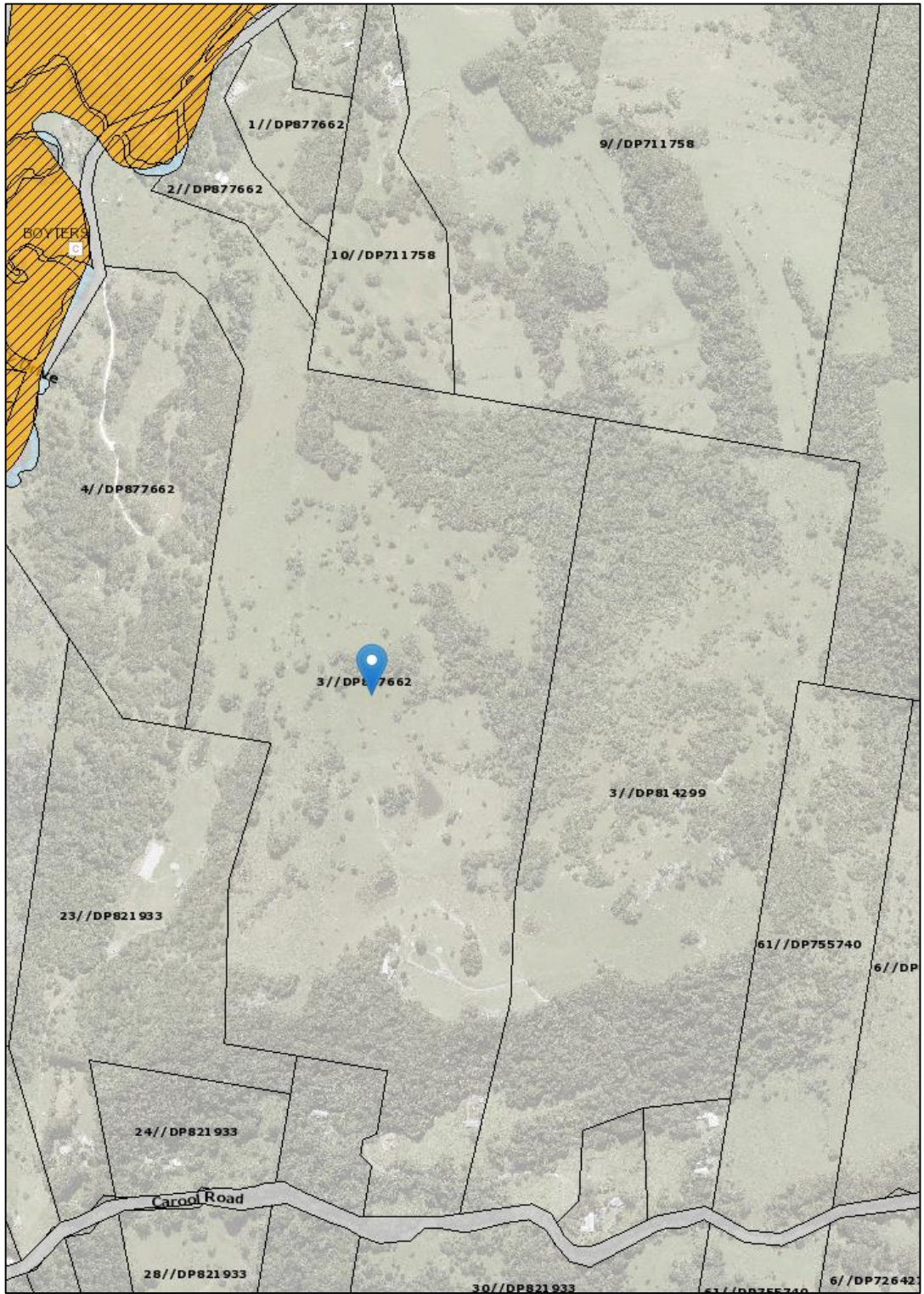


Figure 1: Regionally significant farmland mapping – Council’s GIS

The applicant has fenced off the temporary use area which comprises approximately 5,900sqm (or 0.5% of the total site).

The applicant is not seeking to erect any permanent structures on the site to accommodate the temporary use, relying instead on the erection of marquees and/or tents as temporary structures (exempt development).

The applicant is proposing to widen the existing access from the site to Carol Road (which is to be managed by way of a Section 138 application in the event that the proposal is supported). However in addition to improving access to the site to support the temporary use, the proposed access upgrading would also benefit the existing intensive plant agriculture business operating on the site.

The applicant has indicated that fireworks or air horns will not be permitted and that guests will be contained within the fenced off area. As such it is considered that the proposal would impact on the agricultural use of the remainder of the holding.

It is not considered that the proposed use would compromise with the current or future development of the site or have detrimental economic, social, amenity or environmental effects on the land.

### **Subclause 2.8A(2)**

Subclause (2) allows for the issue of a development consent for the use of the site for a maximum period of 52 days in any period of 12 months.

The applicant has indicated that it is likely that events will be hosted 1 - 2 times per month, with ten (10) such events being hosted with a marquee or tent, and the remaining events hosted without on temporary structures.

The limiting factor in the applicant's proposal to restrict the number of marquee/tent events to ten (10) is the development standard in *State Environmental Planning policy (Exempt and Complying Development Codes) 2008* which specifies that a marquee/tent must be erected for a period of no more than 30 days in any calendar year.

Allowing for one day to erect the marquee and one day to dismantle and remove it after use, the number of days on which the marquee will be available for events will be limited to 10 days. It is acknowledged that the applicant may not dismantle the marquee between events held on consecutive days or alternate days (though this period cannot exceed a continuous period of seven (7) days). Any such 'non-event' days when the marquee is erected (but not used) will deplete the 30 days marquee use period, though not the maximum number of events. As set out earlier, preparatory and set-up activities are not considered in the expenditure of the use days.

The applicant may also lodge a future development application for the erection of a marquee or tent on the site, to extend the period within which a marquee or tent could be erected on the site.

Though the applicant has indicated that the likely use would be for up to 24 days in a 12 month period, the application does not actually seek to limit the use to this number, with this provision of the clause allowing for the up to a maximum use of up to 52 days.

The applicant has also not specified a time period for the duration of the consent, and as such it may be interpreted that the applicant is seeking an open-ended temporary use period.

As set out earlier, while a consent can be open-ended under this provision, similar cases previously determined by the NSW Land and Environment Court have restricted consent for function centres under this provision to a nominated limiting period. In this instance, and having regard to both the high hurdle imposed by Clause 2.8.A(3)(b) and the typical lead times associated with wedding reception activities, restricting the use of the site as a function centre for a period of 36 months only from the date of granting the consent is considered reasonable.

This will allow the applicant an opportunity to demonstrate to Council that another development consent for the temporary use of the site as a function centre should be granted at the end of the nominated limiting period of this consent.

**Subclause 2.8A(3)**

- (3) *Development consent must not be granted unless the consent authority is satisfied that:*
- (a) *the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*

As set out above in relation to subclause 2.8A(1), the temporary use of the land for a function centre will not impact on the future use of either this portion of the landholding, or the remainder of the landholding for any use with would be permitted with or without consent on the land, or which could be undertaken as exempt development.

- (b) *the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*

As set out earlier, to approve a development application under Clause 2.8A, Council must be satisfied that there will be an absence of adverse impacts rather than an acceptable level of impacts and in this regard the test differs significantly from that which would be conventionally applicable to an ordinary development application.

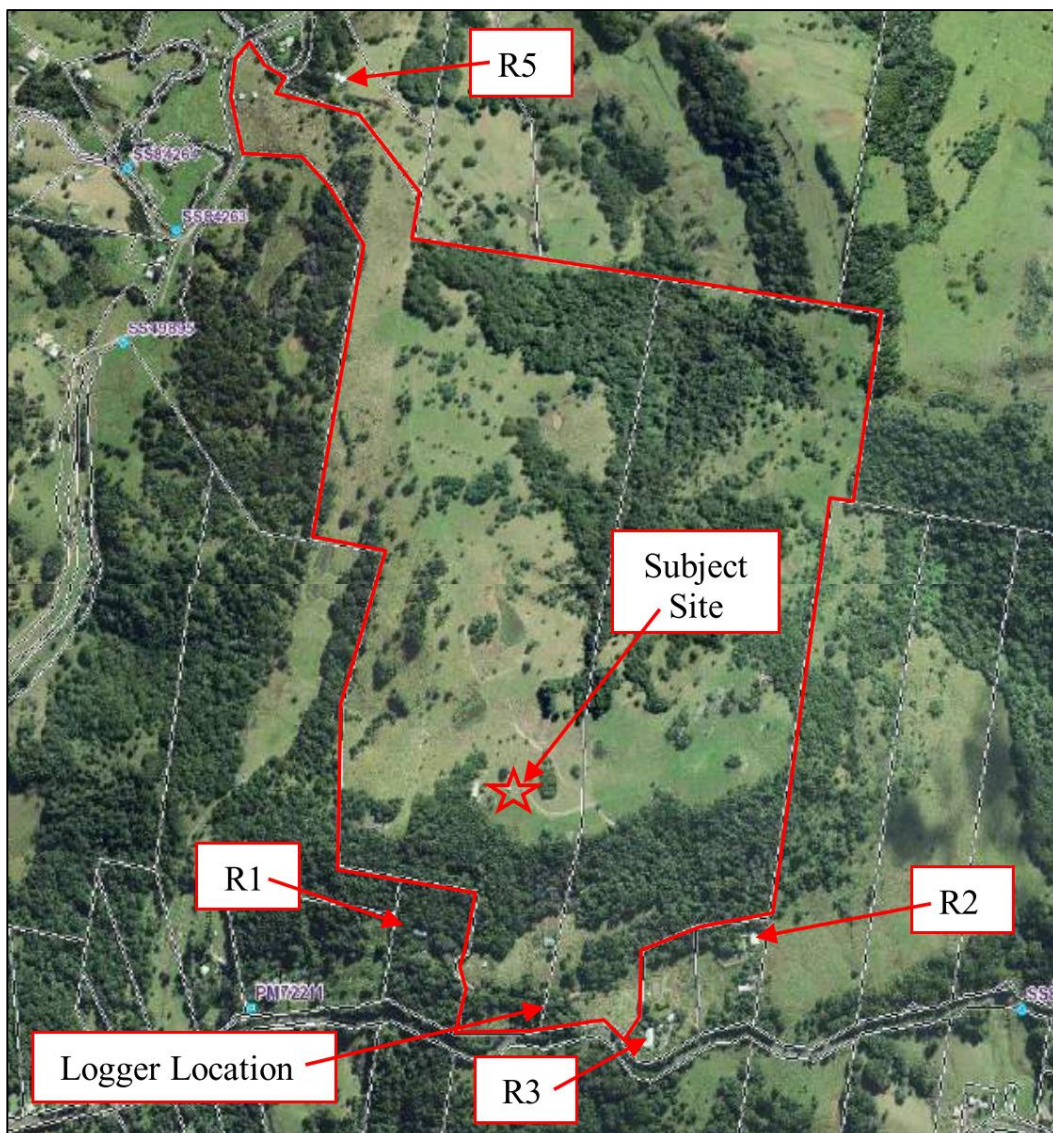
In terms of whether or not there would be an adverse impact on adjoining land or the amenity of the neighbourhood, consideration must be given to potential noise impacts, potential impacts on the road network and traffic safety, potential visual impacts and potential impacts on the environment.

**Noise Impacts**

The applicant has been accompanied by an Environmental Noise Impact Report for Proposed Private Function Facility, 142-144 Carool Road, Carool prepared by CRG Acoustics dated 7 December 2018 (crgref: 17171 report REV 1).

The following is of relevance:

- The venue will cater for a maximum of up to 150 guests who would be mainly transported to site via buses with pickup and drop off to occur in Coolangatta or Tweed Heads, and access to site via Carol Road;
- Amplified music will be provided, either in the form of soloist or duo live acts, or pre-recorded music;
- Onsite activity noise from the proposed development have been assessed in accordance with the *NSW Noise Policy for Industry*;
- Background noise levels have been set as 35dB(A) day and 30 dB(A) night as per minimum requirements of the policy;
- Other activities associated with the function venue are below the amplified music source level;
- In the absence of criteria to ensure no adverse impact on amenity of adjoining properties, the consultant has considered the *Noise Policy for Industry*, AS 2107, the requirements of Liquor and Gaming NSW including the Liquor Act and Regulation;
- The dwelling at 182 Carol Road (identified as R1 below) is the limiting factor for activities on the site for amplified music levels;
- The dwelling at 140 Carol Road (identified as R3 below) is the limiting factor for bus movements;



*Figure 2: Location of sensitive receptors (Extracted from Noise Impact Assessment Report)*

- Recommended acoustic treatments include:
  - PA speakers are limited to a maximum source level of 88 dB(A) measured at 3m;
  - The sound limits for music is be included in the client contract, and the operator of the sound system be made aware of the limit during setup;
  - A staff member be trained in the use of a sound level meter, and the levels of noise from the speakers be checked prior to commencement to ensure that the level of 88 dB above is met;
  - Any speakers be elevated a maximum of 1.8m above ground level;
  - No live percussion instruments be used;
  - Hours of operation be limited to 10.00am to 10.00pm.
  - Music to cease at 9.30pm, with buses all offsite by 9.55pm;
  - Occupants of all dwellings within 1,500m of the site be provided with a telephone number of the onsite manager that is in attendance during functions should there be a noise complaint; and
  - A Noise Complaint Register be maintained to assist in managing noise issues.

The acoustic consultant has considered the intention of Clause 2.8A of the Tweed LEP 2014 and confirmed all relevant noise criteria has been considered with the most conservative criteria applied to avoid adverse impacts.

The consultant has confirmed that by applying the most conservative criteria, adverse impacts from noise will be prevented:

*“The revisions (to the original NIA Report) are needed to address a Council requirement to ensure that the proposal will not adversely impact on any adjoining land or the amenity of the neighbourhood as specified in Clause 2.8A of the Tweed Local Environmental Plan 2014.*

*As there are no clear definitions of what constitutes adverse impact from noise, we have considered all relevant noise criteria that could be applied to the proposal. We submit that by applying the most conservative criteria, that adverse impacts would be avoided. ....*

*...Based on the recommended acoustic treatments, noise emissions associated with the operation of the venue are predicted to impact the nearest offsite noise sensitive receivers at or below the criterion stated in “Noise Policy for Industry”, Australian Standard AS/NZ 2107:2016 “Acoustics – Recommended design sound levels and reverberation times for building interiors”, and the requirements of Liquor and Gaming NS, being the Liquor Act 2007 and the Liquor Regulation 2008. By applying the most conservative criteria, we submit that adverse impacts from noise will be prevented.”*

The predicted bus movement noise impact level is based on two (2) bus movements in a 15 minute period. With an anticipated 6 mini-buses accessing the site per hour in advance of a larger event and after the event (as set out in the

Traffic Impact Assessment accompanying the application), it is anticipated that there would be an average of 1.5 buses accessing the site for larger events (maximum 150 persons) in any 15 minute period delivering guests to the event and taking guests from the event afterwards.

It is noted that the acoustic report looks only at bus traffic accessing the site, with no reference to private vehicles. However in this regard, it is noted that noise impact associated with a private vehicle would not be anticipated to be any greater than that associated with a bus. Further, the noise impact assessment needs to be read in conjunction with the Operational Plan of Management which states that the operator will ensure that the majority of guests arrive via minibus and to limit the number of private vehicles to the greatest extent practical.

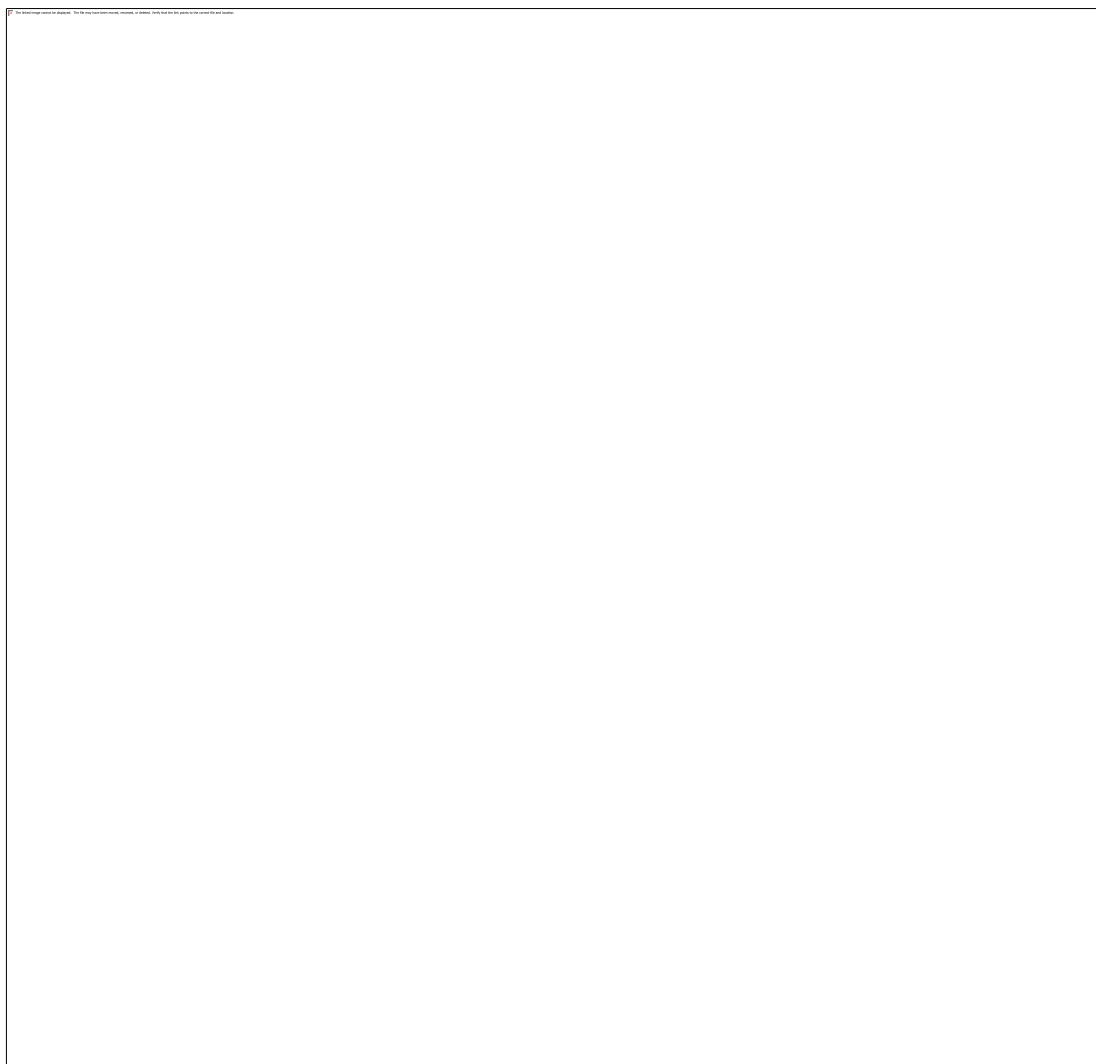
Council's Environmental Health section have reviewed the Noise Impact Assessment Report and advised that Clause 2.8A with respect to noise has been adequately addressed and that the application can be supported subject to the imposition of appropriate conditions.

#### Impacts on the road network and traffic hazard

The application as originally submitted did not include a Traffic Impact Assessment (TIA). However following queries from the Traffic Engineering Unit in relation site access, adequate provision of sightlines, the potential for traffic to queue on Carol Road, and gradients of the existing internal road network, the applicant submitted a TIA Report prepared by Rytenskild Traffic Engineering dated 5 October 2018 (Ref 18212 Version 1).

The existing access to the site is a single lane with a width of approximately 3.5m. The TIA report acknowledges that the access driveway needs to be upgraded to cater for the proposed use (to a minimum width of 6.5m) and that appropriate conditions can be applied to require this. The report submits that the proposed widening will also benefit the existing use of the site for farming and agricultural purposes which generates occasional MRV and HRV movements.

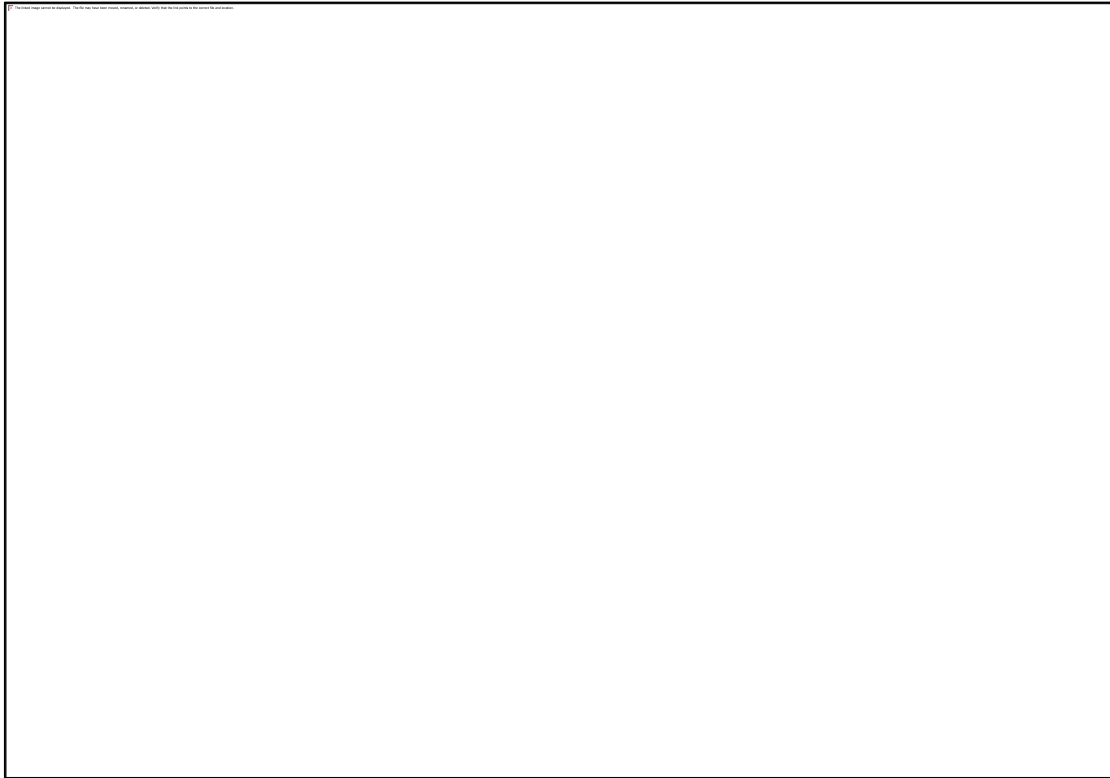
The applicant has not submitted any details of the proposed access upgrading, indicating that these could be submitted prior to the issue of a Construction Certificate. Such the application be supported, this can be managed by way of a condition of any consent issued requiring the approval of a Section 138 application to widen the access.



*Figure 3: Extract from TIA Report identifying proposed driveway widening*

The potential to impose such a condition was considered by Council's Natural Resource Management Unit (in the context of potential vegetation removal) and it was advised that it is unlikely tree removal would be required to widen the new driveway crossover as depicted in the submitted TIA Report (Figure 3 above).

As shown in Figure 4 over, imagery from Google Maps (accessed on 19/03/2019) of the current entry point confirming the area is generally clear of native vegetation.



*Figure 4: Existing access to site as per Google streetview*

Any deviation to the proposal that may necessitate tree removal could be assessed on its merits as part of a subsequent Section 138 application.

Speed and volumes surveys were conducted at the site to determine the Average Daily Traffic (ADT) volumes (which was found to be 677 vehicles on weekdays, 700 on Saturday, and 547 on Sunday) and 85th percentile speeds which were 53km/h eastbound and 50km/h westbound. These results have been accepted by Council's Traffic Engineer as a reasonable assessment.

The maximum patronage is to be at the marquee/tent events (150 persons) with the applicant advising of a maximum of ten (10) marquee/tent events in any calendar year. The applicant has advised that the majority of guests will arrive by mini buses which would reduce the volume of traffic accessing the site. It is submitted in the TIA report that private car access would be limited to the elderly and persons with a disability and that staff access would be via a car pool arrangement.

Based on these assumptions, the TIA has estimated that the number of vehicles accessing the site for a 150 person event (worst case scenario) would be:

Day before event:	3 - 4 entry movements per day 3 - 4 exit movements per day
Arriving to the event	6 mini-buses per hour
Leaving after the event	6 mini-buses per hour
Day after event:	1 - 2 entry movements per day 1 - 2 exit movements per day



The potential length of queues on Carol Rd (with the upgraded access) was assessed and the report advises that traffic would rarely form a queue and therefore not impede through-traffic. With the assessment only estimating 6 mini buses per hour accessing the site on the day of an event, there are no proposals to upgrade Carol Rd to form a passing bay.

The sightline distance required under AS2890.1:2004 for the surveyed 85<sup>th</sup> percentile speeds is as follows:

Viewing to the east: 50km/hr – 45m minimum, 69 m desirable; and

Viewing to the west – 53km.hr – 55 m minimum, 73m desirable.

Figure 5 below (extracted from the Rytenskild Traffic Engineering TIA report), shows a minimum sightline of 55m to the east and 66m to the west is available.



Figure 5: Extract from TIA Report identifying sightlines

Council's Traffic Engineer has advised that there is adequate capacity within Carol Road to cater for the development traffic.

The Traffic Engineer has expressed some concerns that the proposed development could generate higher volumes of traffic than that estimated in the SEE and in the traffic report, if the guests were to rely on private vehicles to access the site. The risk from this is that queues would form on Carol Road and become a hazard for approaching through-traffic.

However, this is mitigated by the low volume of traffic approaching the site from the west (max. 43 vehicles/peak hour with peak period identified as 7am-9am) and by the proposed upgrading the driveway to allow for westbound traffic to turn right into the site.

The information submitted indicated that there will not be an adverse impact on the carrying capacity of the road network. However given that the volumes of traffic accessing the site is open to considerable under-estimation, the Traffic Engineer advises that it would not be unreasonable to issue a time limited consent which enables Council to monitor the operation of the development and to require further upgrades to the access and/or the adjacent road should they be required.

It is acknowledged that the minimum Safe Stopping Distance is met and it is accepted that the traffic exiting the site would most likely turn left therefore the potential conflict with vehicles heading west on Carool Road is very limited.

Council's Traffic Engineer has advised that the location of the access is close to a bend which limits sight distance for drivers approaching the driveway. The submitted TIA report assesses the sight distance as meeting the Austroads Approach Sight Distance which is required for a driver approaching the site access to view a vehicle propped to turn right into the property. This is based on the assertion that "*vehicles turning right into the site would rarely form a queue*".

To reduce the potential conflict it is recommended by the Traffic Engineering Unit that warning signs be placed on the eastern approach to the access advising of the potential for conflict.

With the applicant's proposal to widen the existing access to Carool Road to two lanes and the erection of a warning sign on the eastern approach to the access, it is considered that the proposed development would not have an adverse impact in terms of road safety.

As set out earlier, the 2.8A test which must be satisfied is not 'whether there is unacceptable impact on nearby properties and how any impact might be ameliorated to be made acceptable'; but 'requiring that there be no adverse impact on any adjoining land or the amenity of the neighbourhood'.

The key distinction here is that the first test allows for an adverse impact which is within what is deemed to be an acceptable range (ie an acceptable adverse impact) and the second test (which is pertinent in this case) requires that there be no adverse impacts. However it does not preclude the undertaking of works (such as the widening of the access or the erection of a sign on Carool Road) to void what could be an adverse impact (traffic safety). Council must be satisfied that the future operation of the site as a function centre will have no adverse impacts. This does not prevent the applicant from undertaking works in advance of the operation of the function centre (access widening and sign erection) to arrive at the juncture where there is no adverse impacts.

Therefore in answering the relevant test question, ie 'requiring that there be no adverse impact on any adjoining land or the amenity of the neighbourhood', it is submitted that the proposal can operate with no adverse impacts.

### Visual Impacts

The proposed use area is located approximately 300m from the nearest neighbouring dwelling, with no concerns raised in relation to overlooking or loss of privacy.

In terms of visual impact in the landscape, the proposal is for a temporary use only, with the applicant relying on exempted development provisions for the erection of a marquee/tent.

The proposal will require lighting the site at night, but having regard to the scale of the development and the separation distance to neighbouring dwellings, this will not be an issue in terms of light pollution or light spill.

### Residential Amenity

An Operational Management Plan (OPM) for Temporary Function Centre 142-144 Carool Road, Bilambil prepared by Planit Consulting dated December 2018 (Issue C) has been submitted with the aim of ensuring that there will be no adverse impact on the surrounding community from operations of the proposed temporary function centre.

The OPM incorporates recommendations from the Noise Impact Assessment report in terms of operating hours, noise avoidance measures and noise mitigation measures, and measures for the management of dust, litter, noise, traffic, parking and staff movements, site maintenance and visual amenity, light spill, and dangerous goods. The OPM contains environmental management measures to prevent, mitigate or rectify any potential impacts to amenity.

The OPM includes terms and conditions for the hire of the premises (Bramblewood Farm) which are comprehensive however these will require updating to reflect the any conditions of consent and to meet the recommendations of the Environmental Noise Impact Report (CRG Acoustic, December 2018) and Operational Management Plan (Planit Consulting, December 2018) in the event that the application is approved.

The OPM has been reviewed by Council's Environmental Health Section, who have advised that the plan addresses Clause 2.8A and that the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood.

*(c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land,*

Though vegetated portions of the landholding are identified as being of high and very high ecological status, the temporary use area is not classified (being cleared land). The temporary use area does not contain any environmental attributes or features of significance and is to be accessed by way of an existing internal road. It is not considered that the proposed use will adversely impact on environmental attributes or features of the land.

The site is identified as bushfire prone land with large areas of the vegetation on the site classified as bushfire vegetation, though the temporary land use area is located outside of this mapped area.

The applicant has advised in the OMP that there will be a prohibition on the use of fireworks and this is to be reinforced by a condition in any consent issued. From the OMP, it appears that a firepit is to be made available for use at events, though this will only be accessible to approved event coordinator's staff. Being located within the temporary use area, and being a structure which is normally exempt from development consent, it is not considered that the use of a firepit (operated in accordance with any standard fire bans from the Rural Fire Service) would not increase the risk of a bushfire.

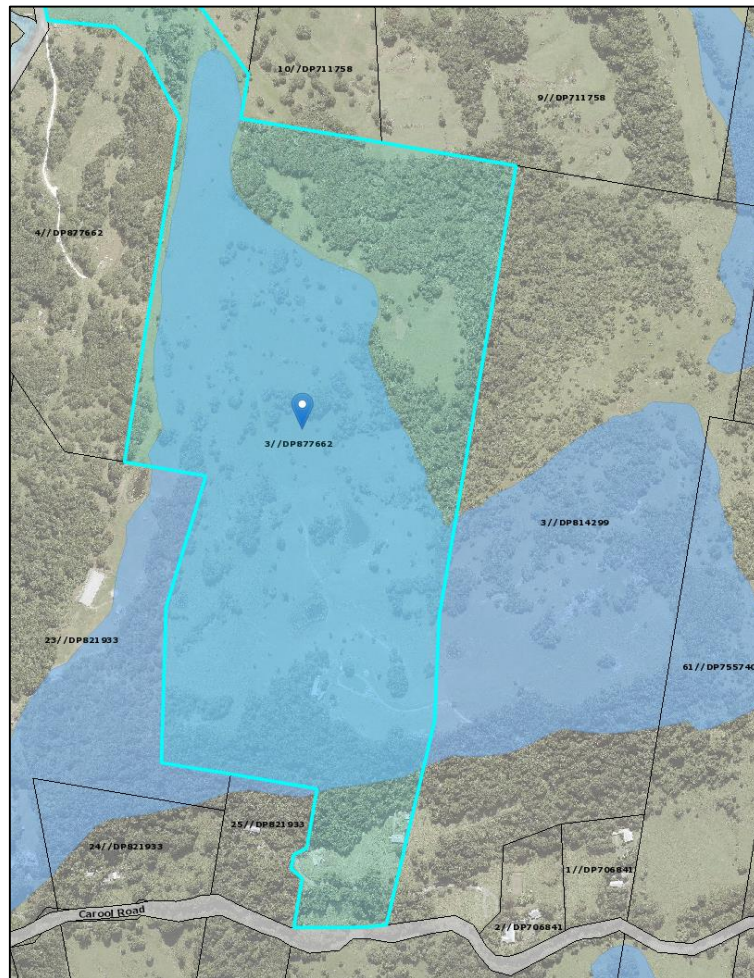
*(d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.*

As there are no proposed alterations to the temporary use area, its condition should be substantially as it was before the commencement of the use – there may potentially be a need for returfing or other minor works.

Though it would be possible to revert the access from the site onto Carool Road back to a single lane access at the end of the temporary use period, this would not be desirable. The access currently services the applicant's dwelling and his intensive plant business and it is considered that the access upgrading will be beneficial in terms of traffic safety.

#### Clause 5.10 - Heritage Conservation

The subject site is partially mapped as a predictive place of Aboriginal Cultural Heritage in the Tweed Aboriginal Cultural Heritage Management Plan 2018. The proposed temporary use area is located within this predictive area, though the existing access to be widened is outside of this area.



*Figure 6: Aboriginal Cultural Heritage Mapping – Predictive Cultural Heritage Area*

The Management Plan was in draft form when the application was lodged in April 2018, nevertheless the applicant assessed the proposal against the plan. The applicant undertook an Aboriginal Heritage Information Management System (AHIMS) database search on 16 November 2017 for Lot 3 DP814299 (lot containing Carool Road access) with a 50m buffer. The search identified no registered Aboriginal sites or declared Aboriginal Places within the search area.

The applicant also undertook an Aboriginal Cultural Heritage Due Diligence to assess whether the development proposal could destructively impact on known and/or concealed Aboriginal heritage sites or the broader Aboriginal cultural landscape. However it is noted that there are some errors in the Due Diligence assessment in that the applicant referred to physical works involved in the excavation of a dam and erection of greenhouses which formed part of a separate development application (DA18/0326).

The Tweed Aboriginal Cultural Heritage Management Plan 2018 (as adopted) includes a Development Risk Matrix for use with land mapped as Predictive Aboriginal cultural heritage (Refer below).

Existing land use categories	Risk of disturbance				
	Negligible disturbance	Minimal disturbance	Moderate disturbance	Significant disturbance	Major disturbance
<b>Built Environment</b> ie existing urban and developed environments, towns, villages	Low	Low	Low	Medium / High	Medium / High
<b>Significantly altered environment</b> ie Agricultural, cultivated and cleared farmland	Low	Low	Medium / High	Medium / High	Medium / High
<b>Moderately altered environments</b> ie partially cleared land, revegetated landscapes	Low	Low	Medium / High	Medium / High	Medium / High
<b>Minimally altered environments</b> ie urban bushland, greenfield sites, regrowth areas	Low	Medium / High	Medium / High	Medium / High	Medium / High
<b>Unaltered environments</b> ie protected areas, environmental areas, pristine environments	Low	Medium / High	Medium / High	Medium / High	Medium / High

The temporary use area could be classified as moderately altered environment with negligible disturbance proposed (no physical works) and as such the risk of disturbance would be low.

The existing access driveway from Carol Road is located outside of the Predictive area.

#### Clause 7.8 – Airspace operations

The objectives of this clause are as follows:

- (a) to provide for the effective and ongoing operation of the Gold Coast Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport; and
- (b) to protect the community from undue risk from that operation.

If a development application is received and the consent authority is satisfied that the proposed development will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application. The consent authority may grant development consent for the development if the relevant Commonwealth body advises that:

- (a) the development will penetrate the Limitation or Operations Surface but it has no objection to its construction; or
- (b) the development will not penetrate the Limitation or Operations Surface.

The subject site is located within the outer horizontal surface area where the OLS contour is 149.5m AHD. The level of the temporary use area is between RL 230m AHD and 240m AHD. The application was referred to Gold Coast Airport who advised that application was reviewed at GCAPL, and it has been decided that there will be no requirement in respect of any temporary structures for the function centre and that no consent condition relating to airspace will be required for the development application.

#### Clause 7.10 - Essential Services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

The site is not serviced by reticulated water or sewerage with the proposal relying on the importation of potable water and the temporary provision of portable toilets on the site for sewage disposal. Given the temporary nature of the use, this is considered to be an acceptable solution.

The applicant has advised in the Operational Plan of Management that temporary ablution facilities will be arranged by the event coordinator as needed by the event patronage. As set out in the Temporary Structures Standard 2015, a similar development for up to 150 guests would require the provision of the following amenities:

Male patrons - 1 WC and 1 Urinal

Female patrons – 2 WCs.

The applicant has advised that there is an electricity connection to the site, with the demand for power limited to lighting, sound systems and refrigeration.

As there will be no permanent structures and the site is located in a rural area, there is no requirements for upgraded stormwater drainage.

Access to the site from Carool Road is addressed earlier in this report. As assessment of the internal access road is set out later in this report, and it is considered that there is suitable vehicular access to the site

#### **State Environmental Planning Policies**

##### SEPP No. 55 - Remediation of Land

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

SEPP No. 55 requires a consent authority to consider whether land is contaminated and if contaminated, that it would be satisfied that the land is suitable, in its contaminated state (or will be suitable after remediation). Further, it advises that if the land is contaminated and requires remediation, that the consent authority is satisfied that the land will be remediated before the land is used for that purpose. The applicant was requested to confirm details regarding the use of the sheds and equipment previously located within the proposed function area including activities undertaken.

The applicant has advised that the designated temporary use area was previously used as a cow paddock for grazing. The existing shed was solely used to shade the applicant's mobile saw mill. The only by-product of the mobile saw mill was saw dust. The shed does not have any walls, just a roof and thus is an open structure. The applicant confirmed that the existing shed was not used for the storage, mixing, decanting, or application of persistent or potentially contaminating chemicals.

Council's Environmental Health Section have confirmed that contamination is not considered a constraint for the proposal.

#### SEPP (Primary Production and Rural Lands) 2019

*"The aims of this Policy are as follows:*

- (a) to facilitate the orderly economic use and development of lands for primary production;*
- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources;*
- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations;*
- (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts;*
- (e) to encourage sustainable agriculture, including sustainable aquaculture;*
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture; and*
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors."*

There are no clauses in this Policy which would be relevant to the current proposal.

#### SEPP (Exempt and Complying Development Codes) 2008

The applicant is relying on Division 3 (Temporary Uses and Structures Exempt Development Code), Subdivision 6 (Tents or marquees used for filming purposes and private functions) to erect a marquee/tent to host the larger events.



In accordance with Section 2.117, *“the construction or installation of a tent or marquee used for filming purposes or a wedding, private party or other private function is development specified for this code if it is carried out on any of the following land:*

- (a) land within a rural, residential or environment protection zone and used for residential accommodation;*
- (b) land in a zone other than a rural, residential or environment protection zone;*
- (c) Crown land (within the meaning of the Crown Lands Act 1989);*
- (d) land vested in or under the control and management of the council or other public authority of the area in which the development is carried out.”*

The development standards in Section 2.118 limit the total floor area all tents or marquees being used at the same time to a maximum of 300sqm with a wall height of no greater than 4m and a total height of no more than 6m.

Subsection 2.118(l) specifies that *“any wedding, private party or other private function must take place only during the following periods:*

- (i) 7.30 am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday,*
- (ii) 7.30 am to 12.00 am on Friday or Saturday,*
- (iii) 8.00 am to 8.00 pm on Sunday.”*

In accordance with subsection 2.118(m), *“if the development is carried out for the purposes of a wedding, private party or other private function:*

- (i) each tent or marquee must not be erected on the land for more than 7 days, and*
- (ii) the number of days for which a tent or marquee is erected on the land together with the number of days for which tents or marquees have previously been erected on the land for private functions in the same calendar year must not exceed 30 days.”*

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

There are no draft Local Environmental Plans, State Environmental Planning Policies or Regional environmental Plans relevant to this proposal.

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

**Tweed Development Control Plan**

**A2 - Site Access and Parking Code**

The car parking generation table (Table 2C – commercial premises group) in Part A2 specifies a car parking rate of 0.5 spaces per staff member and 0.3 spaces to each seat. Applied to a conventional function centre where the capacity is related to seating and there is more flexibility in terms of access to the site (ie patrons are not normally ferried to and from the site in group), this is reasonable.

However in this instance, the TIA submitted with the application, supported by the OPM, advised that the majority of guests will be transported to the site in mini-buses with limited numbers travelling to the site by private vehicle. As such, the car parking demand on the site, is likely to be significantly less. The TIA advises that there is sufficient area along the access road at the start of the temporary use area for cars and mini-buses to park and that a formal (hard surfaced) area is not considered necessary given the nature of the use and the low vehicle generation.

Council's Development Engineer and Traffic Engineer have both reviewed the application and raised no objection with regard to the proposed parking.

#### A11-Public Notification of Development Proposals

In accordance with Part A11, the application was notified for a period of 14 days. In this period, four (4) submissions were received, three (3) in support of the application and one (1) opposing the proposal.

These submissions are dealt with later in this report.

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

There is no planning agreement or draft planning agreement relevant to this proposal.

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

Clause 92(1)(b) which relates to applications for demolition, Clause 93 which sets out Fire Safety Considerations and Clause 94 within relates to Buildings to be upgraded are not applicable in this instance.

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

##### **Tweed Shire Coastline Management Plan 2005**

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The subject site is not impacted by this plan.

##### **Coastal Zone Management Plan for the Tweed Coast Estuaries 2013**

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

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

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

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

Context and Setting

The proposed temporary use area is located on an agricultural holding of approximately 116.48ha with the nearest neighbouring dwelling located approximately 300m away.

While a function centre is not permissible in Zone RU2, as set out earlier in an assessment of the proposal against Clause 2.8A of the TLEP 2014, it is considered that the temporary use of the site for a function centre will not adversely impact on any adjoining land or the amenity of the neighbourhood.

Noise Impacts

Noise impacts are assessed earlier in this report in relation to the Clause 2.8A test.

Access, Transport and Traffic

Access to the site (from Carool Road), traffic and car parking are addressed earlier in this report.

Flora and Fauna

The proposed use will be limited to a maximum period of 52 days in any 12 month period with the activities limited to the temporary use area which has been cleared of all native vegetation, and which was formerly use for grazing and in association with a saw mill. There are no permanent structures proposed in the temporary use area and no vegetation removal in this area.

The proposed widening of the access to Carool Road will be subject to a Section 138 application. However Council's Natural Resource Management Unit have reviewed this application and raised no objection in principle to the widening of the access.

It is not considered that there will be any adverse impact on flora and fauna as a result of this proposal.

Economic impacts

As noted in an assessment of the submissions later in this report, it is noted that three (3) of the submissions support the application on the basis of the positive economic impacts that it will have in supporting local business. While the employment generation directly associated with the proposal will be minimal given the temporary nature of the use and casual work opportunities associated with same, it is recognised that there will be indirect positive economic impacts in terms of opportunities for business who typically support such events: caterers, equipment hire companies etc.

Having regard to the temporary nature of the use and the absence of adverse impacts, it is not considered that the proposal would adversely impact on the agricultural viability of adjacent properties.

There are a number of approved function centres currently in operation in this wider area. However as set out in *Australian Turf Club v Liverpool City Council (No 2) [2014] NSWLEC 1099* in circumstances where a business is proposed to be established that is similar to a business that is operating with existing approval in a local area, it is not to be inhibited merely because there is a generally like-for-like competition being introduced into that area.

The competition is the operation of conventional market forces and is not a proper planning matter. As set out in *Australian Turf Club v Liverpool City Council (No 2) [2014] NSWLEC 1099* while it is appropriate to have regard to potential economic impacts of a business type A on existing businesses in an area that may be of businesses type B, C, D, or E, but that it is not appropriate to have regard to the impact of a proposed business A on other businesses of business type A in that neighbourhood.

**(c) Suitability of the site for the development**

Surrounding Landuses/Development

The site is considered to be suitable for temporary use as a function centre, notwithstanding a prohibition on function centres in the Land Use Table of the TLEP 2014.

The applicant has made reference to Council's Draft Rural Lands Strategy in support of the application:

*"...(T)he applicant notes that Council is currently reviewing their policy under the Rural Lands Strategy which will allow for other 'complementary uses' (such as function centres) to be permitted within the rural Zone. Once this occurs, the applicant will have the ability to submit a revised application that seeks consent for a function centre, being a new use to what is being proposed under the current development application.'*

The most recent iteration of the Draft Rural Lands Strategy was on public exhibition from 19 February 2019 to 19 March 2019. The Draft strategy recommends an investigation into the making of function centres permissible with consent in Zone RU2 and that if supported (based on the outcome of that investigation of impacts) that function centres be made permissible with consent.

If the findings support such a change in permissibility, it is also recommended that the Development Control Plan 2008 be amended to provide appropriate objectives, guidelines and development requirements for function centres in Zone RU2 in accordance with the findings.

Notwithstanding that fact that the outcome of the investigation could be that such a change is not supported, the Draft Rural Lands Strategy can carry no weight in the assessment of this application.

Access

The temporary use area is accessed by a one lane wide, partially sealed road with passing bays provided at regular intervals. The TIA advises that the roadway generally has a gradient of 1:8 – 1:10. With a maximum gradient of approximately 1:5.5 on the last section leading to the top of the site where events will be held. The report advises that the majority of the access road has been sealed with only the mid-section (which has a moderate gradient of 1:100) unsealed.

The site was inspected by Council’s Development Engineer who advised that (as per the TIA) the steepest sections of driveway were sealed with an unsealed section near the existing house which is relatively flat. It is noted that the site is already accessed by a small to medium ridged vehicle for farming purposes, and that the gradient and width of the road was not considered to be an issue.

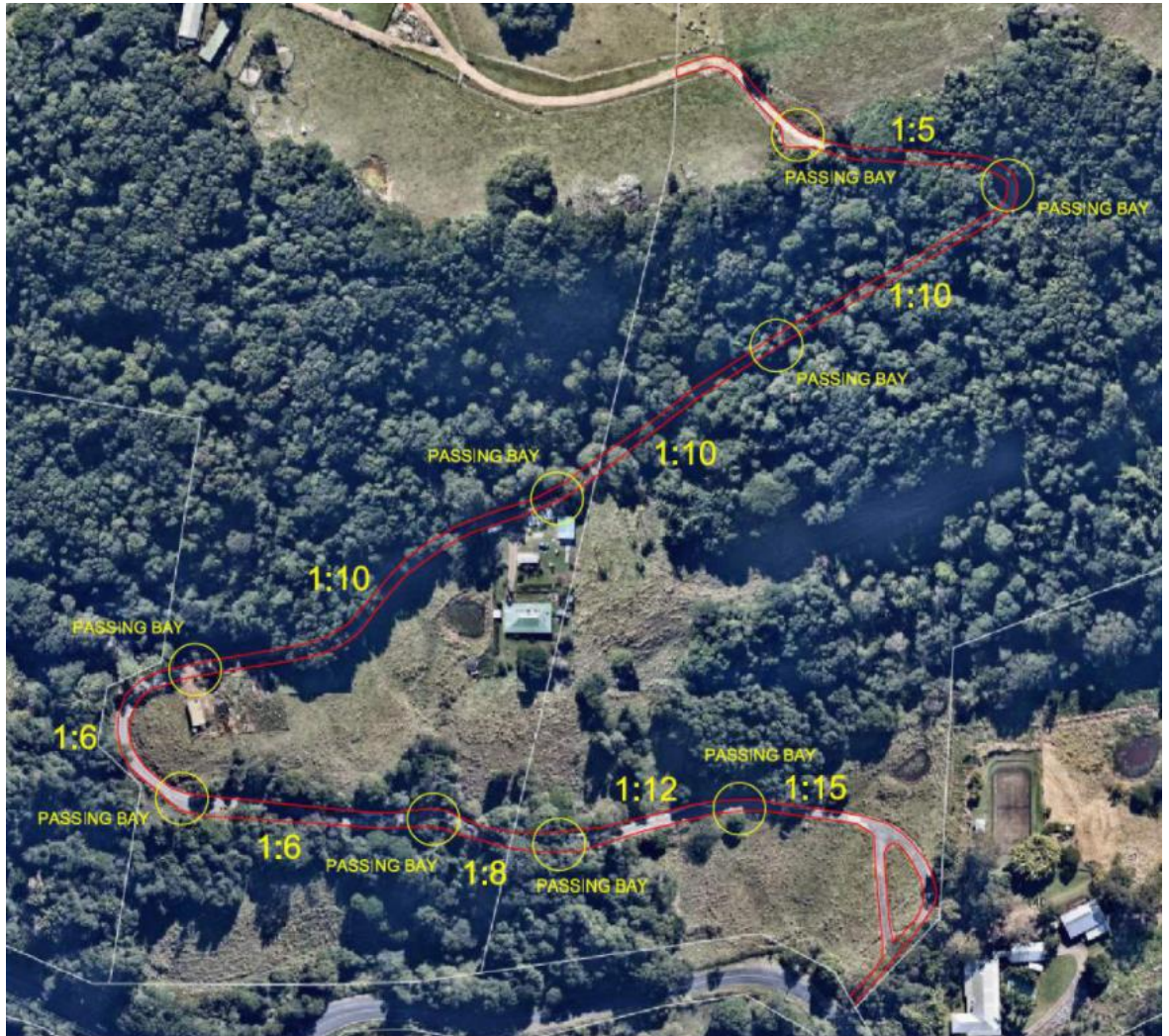


FIGURE 7.1 – PROPOSED DRIVEWAY LAYOUT  
*Figure 6: Proposed driveway layout*

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

Public submissions

The application was notified from Monday 7 May 2018 to Monday 21 May 2018. During this time, four (4) submissions were received, three (3) in support of the application and one (1) objecting to the proposal.

Submissions in support

The three (3) submissions in support of the application submitted the following:

- The proposal will make a positive contribution to businesses in Carool and the Tweed Shire with good businesses attracts more good business and this will help the entire community;
- Fully support any local new business utilising such a wonderful location which will bring tourism to the area;
- The proposal is consistent with other activities being conducted in the area and will further enhance Carool's reputation as being an event destination in the Tweed Shire; and
- The site is remotely located to other properties and is low impact to the rural environment.

Objection

The objector has submitted a detailed submission objecting to the proposal on the basis of the prohibited nature of the land use and the associated high threshold for assessment under Clause 2.8A of the TLEP 2014, adverse impacts in terms of noise impacts and traffic safety and the precedence which would be established in approving this application. The objector also refers to the legal precedence that has been established in the Land and Environment Court.

In summary the issues raised are as follows:

- There are strict conditions to be satisfied for approval under Clause 2.8A – “*development must not be granted unless the consent authority is satisfied that...b) the temporary use will not adversely impact on the adjoining land or amenity of the neighbourhood*”. Approval of an application where there is potentially an adverse impact to amenity could result in an expensive legal challenge and displacement of booked couples;
- Approvals for developments of a similar nature have been overturned in the Courts and temporary use applications refused – Refer to *Marshall Rural Pty Ltd v Hawkesbury City Council and Ors [2015] NSWLEC 197*, *Roden v Bandora Holdings Pty Ltd [2015] NSWCA 191*, *Roden v Bandora Holdings Pty Ltd [2016] NSWCA 220*;
- In the Byron Shire Clause 2.8 of the LEP only permits a maximum period of 14 days in any period of 12 months, far less than the 52 (before set up and pack down days) that is being applied for in this case;

- Traffic impacts
  - The trip generation associated with a wedding venue is significant – Delivery and removal of caterers' tents / food trucks, portable toilets, waste bins, generators, cool rooms, tables, chairs and other furniture, property tours and on-site meetings by prospective clients and suppliers involved to set up, deliver and pack down a wedding across 1-2 days prior, the day of the event and 1-2 days afterwards which may include stylists, florist, photographer, videographer, musicians, lighting suppliers, caterers, wait staff, cake maker, photo booth, caravan bar and security staff;
  - Traffic movements are underestimated;
  - Who will use 50 car parking spaces adjacent to the temporary use area;
- Concern raised in relation to the number of days of use - 52 weddings per year plus potentially three (3) to four (4) days of set up and pack down equates to over 200 days 'in use' per year. With 52 events per year, this could essentially be one (1) event every Saturday, or more than once a week in the wedding season (autumn and spring);
- Will Council place a time limit / expiry plus a weekly and annual limit on the DA if approved to avoid temporary use on a permanent basis;
- Impact on neighbouring properties as a result of traffic noise and guests departing the site, concern raised that a 10pm departure can be achieved with a 9.50pm finish and up to 150 guests plus suppliers.
- Should guest numbers be therefore limited to a more practical number and an earlier finish time to facilitate the departure of guests;
- A mini bus driver at a prior event at this property would not drive up the 1km steep winding internal road to the event location due to the access roads, rather parking near the Carool Road access where guests were then ferried up by cars. The potential impact to local amenity as a result of this type of scenario could be significant particularly if they have to be ferried back down the hill after celebrations have finished at 10pm and then make their way onto buses near an adjoining neighbouring property;
- Dangerous Road Conditions
  - Access to the property is via a blind (in both directions) and dangerous right hand turn from Carool Road on a section of Carool Road which has an open speed limit.
  - Driveway access is one lane only which may cause a heavy vehicle or a queue of cars on Carool Road.
  - Internal access road is steep and narrowPerhaps the current access challenges should result in finish times being before dusk;
- Limitation to Marquee Events - How will the other 42 events be delivered in the case of adverse weather factors such as rain, thunderstorms, high winds (exposed hill top), off-season weddings (cold / heat)? This would ultimately lead to marquees having to be booked on a last minute basis and thus inevitable that the 10 marquee events will be exceeded; and
- Will the applicant pay development contributions;

Following the receipt of the Further Information, this objector made a second detailed submission addressing the Further Information and reiterating some of the points in the first submission. In summary:

- Function centres are a specialised business requiring solid management and strict controls, particularly when operated on a DIY basis where the couples, their guests and outside contractors control key elements such as guest numbers, position of structures, minimum toilet requirements, cool rooms, responsible service of alcohol, security, start and finish times, noise levels, type of music, transport arrangements etc;
- The development should be levied for development contributions;
- Reference is made to the policies being adopted by Byron Shire Council (Draft LEP amendment) with a suggestion that these controls/development standards should be imposed on the applicant. These include the following:
  - minimum of 250m separation distance from an existing dwelling house on an adjoining property;
  - subject site is accessed by way of a sealed road with sufficient capacity for the traffic volume and type generated;
  - majority of event attendees will be transported to and from each event by bus as deemed appropriate;
  - amplified music will cease no later than 8:00pm;
  - all event attendees will be off-site no later than 8:30pm;
  - monitoring of noise generated at events and six-monthly reporting of results to Council;
  - notification of nearby residents prior to each event, including contact details for the appropriate management person who must be on-site and contactable during each event;
  - use of fireworks, helicopters and/or other comparable activities known to cause disturbance to livestock and/or farming activities will be prohibited; and
  - impose a condition specifying that development consent would cease if three substantiated complaints were received in relation to functions at the site within a twelve-month period.
- If there are any adverse impacts, Council is prevented from granting approval under Clause 2.8A. Light and noise pollution from buses/car movements using the turning circle by Carool Road approximately 20m from a neighbour's house at night must be an adverse impact on its own.
- The applicant references the Draft Rural Land Strategy but this is still in draft form.
- The internal road is not fully sealed and does not provide continued two lane traffic access nor does it provide two separate routes in and out, raising the question of how 6 mini buses (likely to be from different bus companies due to the number required) can make their way to and from the event space through the internal road, particularly in poor weather conditions or after dark.
- Traffic movements in the Traffic Impact Assessment Report are underestimated. An accurate picture needs to be provided of actual vehicle movements and times to properly assess the amenity impacts.

Response to objection

Clause 2.8A Test



An assessment of the proposal against Clause 2.8A is set out earlier in this report where potential noise impacts and traffic impacts have been assessed, and it is considered that the proposal satisfies the test.

*Underestimate of traffic generation*

As set out earlier, it is noted that Council's Traffic Engineer has expressed some concerns that the proposed development could generate higher volumes of traffic than that estimated in the SEE and in the TIA, if the guests were to rely on private vehicles to access the site. There is also the possibility that service deliveries in the lead up to an event could be higher than those identified in the TIA (up to 4 return trips a day in advance of a larger 150 person event). The risk from this is that queues would form on Carool Road and become a hazard for approaching through-traffic.

However, this is mitigated by the low volume of traffic approaching the site from the west (max. 43 vehicles/peak hour) and by the proposed upgrading the driveway to allow right turn access into the site and the requirement to erect a warning sign on Carool Road.

The time limiting of the consent to 36 months would allow Council to monitor the operation of the site with any future application to continue the use benefitting from real time data.

*Restrictions of frequency of events and maximum capacity*

Clause 2.8A of the TLEP 2014 allows for a temporary use to occur on up to 52 days, specifically stating that it is irrelevant as to whether or not this is on consecutive days. It is also likely that there are times of the year, and days of the week, which are more popular for outdoor functions with the possibility that there may be occasions when there is demand for more than one event a week, or other times when there is little or no demand.

It is therefore not considered appropriate to dictate what days the land can operate as a function or limit this to a certain number of days a week or a month.

The noise and traffic impact assessment has been undertaken on the basis of the 'worst case scenario' of a maximum of 150 guests. It is therefore reasonable that any consent issued restricts the capacity of the function centre (being defined as a place rather than structure in this instance) to a maximum of 150 guests.

As it has been accepted that an event can accommodate 150 guests with no adverse impacts, it would not be reasonable to limit the number of events which can operate at maximum capacity.

The applicant will be restricted in the number of events that can be accommodated in a marquee or tent by virtue of the maximum 30 day restriction in the *State Environmental Planning policy (Exempt and Complying Development Codes) 2008*. Though as set out earlier, the number of events which can be held in a marquee or tent will be less when the maximum continuous seven (7) day period is considered and the erection and dismantling is taken into consideration. Once the applicant has

expended the 30 days available for the maintenance of a marquee or tent on the site, any remaining events will have to be open air. Alternatively, the applicant may seek to lodge a development application to erect a marquee or tent on the site.

As set out earlier, preparatory and set-up activities are not considered in the expenditure of the 52 use days under Clause 2.8A.

#### Management of events

As stated by the objector, it is acknowledged that function centres are a specialised business requiring solid management and strict controls. The application has been accompanied by an OPM which sets out controls for the management of the site to negate adverse impacts. If a consent is issued, it is recommended that a condition be included requiring this to be updated to reflect the recommendations of the noise impact assessment and that more details be provided in relation to the management of a complaints management system and the notification of immediate neighbours in advance of an event.

Recommended conditions have also been included on operating hours:

- # *Hours of operation of the business are restricted to the following hours:*
- \* *10.00am to 10.00pm - Mondays to Sundays*
  - \* *All events must finish by 9.30pm with all service providers and guests to be off the site by 10.00pm.*

#### Internal road access

The TIA addresses the adequacy of the internal road network, and site inspection was also undertaken by Council's Development Engineer who advised that the internal road was adequate.

#### Byron Shire Council controls for temporary uses of land

The objector's advice in relation to Clause 2.8 of the Byron LEP 2014 and the draft LEP provisions being considered by Byron Shire Council is noted.

The Standard Instrument Principle LEP allows a local authority to adopt a maximum period as it deems appropriate for a period of up to 52 days. In this instance, Clause 2.8A of the TLEP 2014 has adopted the maximum period.

It is also not appropriate for Council to assess the application against the draft LEP provisions of a different local authority.

Notwithstanding this, there will be some overlap in the outcome in that it is deemed appropriate in terms of managing the impacts that there be conditions on any consent issued:

- prohibiting the use of fireworks or helicopters landing on the site (noting that consent has not been sought for same);
- requiring the written notification of nearby residents prior to each event; and
- time limits on noise.

Development Contributions

Approval of the application will necessitate the imposition of a condition requiring the levying of development contributions in accordance with the Tweed Road Contribution Plan (TRCP) also referred to as Section 7.11 Plan 4.

Table 3.6.1A of the TRCP sets out trip generation rates by land use where the trip generation rate is typically applied based on the GFA (Gross Floor Area) or the GLA (Gross Lettable Area), however the trip generation rate for a function centre is not nominated.

The plan states that where a proposed traffic generation rate is not stated, a detailed Traffic Study is required substantiating that the proposal conforms with the principles and objectives of this plan. The Traffic Study may be based on observed daily traffic generation rates of similar land uses in the area on at least 4 representative occasions.

Notwithstanding this, it is recognised that the current proposal would be an anomaly with no permanent structures (no GFA or set seating numbers), patrons to be ferried to the site by mini-bus and the number of events to be limited to a maximum of 52 events per 12 months.

As set out earlier, the application has been accompanied by a Traffic Impact Assessment Report which submits an estimated trip generation for a 50 person event, an 80 person event and a 150 person event.

Given the limited use of the marquees/tents under SEPP (Exempt and Complying Development Codes) 2008, the number of larger events (capacity of 150 persons) is to be limited to ten (10). As there will be no limit in the number of patrons at other events (up to 42 possible additional events), it is recommended that a capacity of 80 persons be adopted for the purposes of projecting the trip generation.

Marquee/tent event (150 persons)

	Activity	Number of trips
Day before event:	3-4 entry movements per day 3-4 exit movements per day	Up to 8 trips per day
Arriving to the event	6 mini-buses per hour*	6 trips per day
Leaving after the event	6 mini-buses per hour	6 trips per day
Day after event:	1-2 entry movements per day 1-2 exit movements per day	Up to 4 trips per day
Total Estimated Number of trips associated with a single event		24 trips across 3 days
Maximum number of trips associated with 10 marquee/tent events (150 persons)		240 trips across 30 days

\* The report does not specify a duration, however it is unlikely that guests would arrive more than one hour in advance.

Other event (80 persons)

	Activity	Number of trips
Day before event:	2-3 entry movements per day 2-3 exit movements per day	Up to 6 trips per day
Arriving to the event	3-4 mini-buses per hour*	Up to 4 trips per day
Leaving after the event	3-4 mini-buses per hour	Up to 4 trips per day
Day after event:	1-2 entry movements per day 1-2 exit movements per day	Up to 4 trips per day
Total Estimated Number of trips associated with a single event		18 trips across 3 days
Maximum number of trips associated with up to 42 non-marquee/tent events (80 persons)		756 trips across 126 days

\* The report does not specify a duration, however it is unlikely that guests would arrive more than one hour in advance.

As above, based on 10 marquee events and possibly 42 non-marquee events, a total of 996 trips would be generated over 156 days, and essentially per annum as there will be no events for the remainder of the 12 months. This equates to 2.7287 daily trips.

It is not considered appropriate to apply employment generating discount given the limited number of events and the casual nature of the employment that would be generated. As there is an existing dwelling and an intensive plant agricultural business on the site, there are no credits available.

Therefore development contributions to be levied on 2.7287 daily trips.

While Section 11.7 Plan 18 – Council Administration Offices and Technical Support Facilities is normally applicable to commercial developments, the contribution is based on GFA. In this instance, there is no GFA proposed (instead the application is relying on SEPP (Exempt and Complying Development Codes) 2008 for temporary structures), and as such there is no contribution under this plan.

Submissions from Public Authorities

As set out earlier, the application was referred to the Gold Coast Airport who raised no objection to the proposal and advised that no consent condition relating to airspace will be required for the development application.

**(e) Public interest**

The proposal is considered to be in the public interest. The proposal will allow for the temporary use of a rural site with expansive views as a function centre, enabling access to what is likely to be an attractive venue for weddings and similar events.

The proposal will generate an alternative source of income for the applicant but will also have positive economic impacts in supporting local business. While the employment generation directly associated with the proposal will be minimal given the temporary nature of the use and casual work opportunities associated with same, it is recognised that there will be indirect positive economic impacts in terms of opportunities for local business who typically support such events: caterers, equipment hire companies etc.

Having regard to the temporary nature of the use and the absence of adverse impacts, it is not considered that the proposal would adversely impact on the agricultural viability of adjacent properties.

### **OPTIONS:**

1. Approve the application subject to conditions for the following reasons:

The development proposal has been considered in accordance with the relevant provisions of the NSW Environmental Planning and Assessment Act 1979 and on balance is suitable to be determined by way of approval.

Community views were considered as part of the assessment in accordance with Council's Development Control Plan and the NSW Environmental Planning and Assessment Act 1979 requirements for public notification.

2. Refuse the application, providing reasons for refusal.

### **CONCLUSION:**

The site is zoned RU2 (Rural Landscape) where a function centre is prohibited. As such the applicant is seeking approval in accordance with Clause 2.8A of TLEP 2014 which allows for the temporary use of land for a prohibited use.

The Clause 2.8A test posed is in absolute terms and sets a high standard in terms of the impacts of development. Council must not consider whether a development will have an acceptable adverse impact but be satisfied that there will be no adverse impacts. Though this does not preclude the applicant from undertaking works in advance of the operation of the function centre (access widening and warning sign erection in this instance) to arrive at the juncture where there is no adverse impacts.

In consideration of the high hurdle imposed by subclause 2.8A(3)(b) of TLEP 2014 that the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, it is recommended that a nominated limiting period is appropriate for any consent issue. The applicant will then have an opportunity to demonstrate to Council whether another development consent for the use of the site as a function centre should be granted at the end of the nominated limiting period of this consent. For this reason, and in consideration of the typical lead times for wedding receptions (18 - 24 months), it is recommended that any consent issued be limited to 36 months.

### **COUNCIL IMPLICATIONS:**

- a. Policy:

Corporate Policy Not Applicable.

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

Not applicable.

**c. Legal:**

The applicant has right of appeal under Class 1 of the NSW Land and Environment Court in respect to any determination made by Council.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1.

Operational Plan of Management (ECM 5827495)

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**9 [PR-CM] Development Application D95/0193.02 for an Amendment to Development Consent D95/0193 for Continuing Use of Bartletts Quarry and the Expansion of the Landfill Site at Lot 1 DP 590220 & Lot 5 DP 221825 No. 298 Bartletts Road, Eviron**

**SUBMITTED BY: Development Assessment and Compliance**

mhm



**Making decisions with you**

*We're in this together*

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

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

**ROLE:** **Provider**

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**SUMMARY OF REPORT:**

Councils is in receipt of a Section 4.55(2) modification application from Council's Waste Management Unit. The modification relates to Development Consent D95/0193 which was issued on 11 September 1996 for the 'Continuing use of a Bartletts Quarry and the expansion of the landfill site at the Stotts Creek Resource Recovery Centre (SCRRC), located at Lot 1 DP 590220 & Lot 5 221825, 298 Bartletts Road, Eviron (the subject site) (refer to Figure 1 later in this report).

By way of background; the original consent permitted the extraction and landfilling of three individual sites (otherwise referred to as 'cells') in stages over three portions of the property, that being; the 'south west' extraction cell, the 'central' extraction cell and the 'south-eastern' extraction cell (see Figures 1 and 3 later in this report). This approval was issued as a "Designated Development" and subject to a deferred commencement condition which required the submission of an updated Environmental Management Plan to satisfy relevant condition (as set out in 'Schedule A' of the consent). The deferred commencement period was set for 54 months and subsequently extended to 110 months under an approved Section 4.55(1A) modification to the consent (issued 1 July 2004).

On 20 September 2004, a Landfill Environmental Plan of Management (LEMP) was submitted to Council and the consent was made operational. The plan addresses environmental issues and goals pertaining to water pollution, air pollution, land management and conservation as well as hazards, and loss of amenity.

The proposed modifications seek to adjust the approved boundary of the south eastern landfill site (referred to as Cell B) and enable it to be used for the disposal of a putrescible waste (solid waste that contains organic matter typically collected in the 'red' bin) as compared to its previous approval for non-putrescible waste materials (general waste materials) (refer to Attachment 1 for visual representation of proposed modification to the cell boundary).

It is noted that the proposed operations do not seek to alter the annual quantity of waste being disposed at the subject site and therefore the approved waste quantities under the original consent and subsequent Environmental Protection Licenses will not be impeded by the proposed modification. Rather, the proposed modification seeks to facilitate the ongoing use of the site for disposal of putrescible waste after other waste cells are filled to capacity and capped off for rehabilitation.

The proposed modifications were notified to adjoining land owners and as a result of the notification process two submissions were received. Ongoing consultation with objectors has occurred during the assessment of this application and consideration of the matters raised by the objectors is contained later in this report.

In addition, the proposed modification has been considered by NSW EPA whom have raised no objections to the issuing of a modified development consent subject to recommended conditions. These conditions have been included as a new condition of consent to reflect current best practice and guidelines for solid waste landfill operations.

The proposed redefinition of the Cell B boundary involves the removal of some vegetation. The impact of which has been considered as part of a comprehensive Flora and Fauna Assessment Report. This report has been reviewed by Councils Natural Resource Management (NRM) Unit and no objection is raised to the removal of vegetation subject to conditions of consent to require additional offset locations and ongoing management of existing vegetation to protect the habitat of flora and fauna species identified on the site.

The proposed modification has been considered having regard to odour and noise, and subject to compliance with conditions of consent, it is considered that the proposed modifications is unlikely to have additional adverse impact in regard to odour and noise as compared to the originally approved development.

The development has been considered pursuant to Section 4.55(2) of the Environmental Planning & Assessment Act 1979 and is deemed to satisfy "substantially the same" development.

Furthermore, pursuant to Clause 35 in Schedule 3 of the Environmental Planning & Assessment Regulation 2000, despite the original consent being "Designated Development", the proposed alterations and additions have been assessed having regard to matters for consideration under Schedule 3 of the Environmental Planning & Assessment Regulation 2000 and it is considered that the proposed modification does not significantly increase the environmental impact of the total development compared with the existing or approved development and therefore the proposed modification is not "Designated Development".

Based on the relevant matters for consideration under the legislatively framework to which the proposed modifications apply, the modification to Cell B is considered worthy of support and is recommended for approval subject to updated and new conditions of consent as outlined in the recommendations below.



It should be noted that Condition 4 requires the creation for a covenant for conservation purposes in area of 2.5 hectares. Whilst this demonstrates Council's commitment to better practice in its own developments, it does further constrain the geographic area available at the site for its primary purpose which is long term waste management and resource recovery for the Shire.

**RECOMMENDATION:**

**That Modification Application D95/0193.02 for an amendment to Development Consent D95/0193 for continuing use of Bartletts Quarry and the expansion of the landfill site at Lot 1 DP 590220 & Lot 5 DP 221825 No. 298 Bartletts Road, Eviron be approved subject to the following amendments being made to Schedule B of the consent:**

- 1. Delete Schedule B Condition 1 and replace it with Condition 1A which reads as follows to reflect the new plans:**
  - 1A. The development is to be completed generally in accordance with the Environmental Impact Statement prepared by Ecotech International Pty Ltd dated February 1995 and the Plan(s) of Management, approved from time to time, except where varied by these conditions and supporting information approved under D95/0192.02 being:**
    - i. Amended plans prepared by Tonkin Consulting Pty Ltd (dated July 2017);**
    - ii. Impact Analysis and Habitat Compensation Area Plan (dated 22 March 2019 prepared by Tweed Shire Council) and;**
- 2. Insert new Condition in Schedule B after Condition 3 which is numbered 3.1 which reads as follows to reflect the requirements for an updated Plan of management (LEMP):**
  - 3.1 Within 90 days of the issue of S4.55 D95/0193.02 consent, an amended Plan of Management prepared in accordance with those matters prescribed in new Attachment 1 forming part of this consent shall be submitted to and approved by Council. The amendments may be made as an attachment and/or addendum of the Plan of Management. Where any conflict or inconsistency exists between the Plan of Management and attachment and/or addendum (consistent with Attachment 1 of this consent) the provisions detailed in the later shall prevail.**
- 3. Insert new Condition in Schedule B after Condition 4 which is numbered 4.1 which reads as follows to reflect the requirements by the EPA:**
  - 4.1 The following conditions are to be complied with for the purposes of the modifications approved under D95/0193.02:**
    - a. No food waste or garden waste collected from domestic or commercial green bin collection service will be disposed in landfill Cell B.**

- b. Prior to the construction of any new waste cell, a leachate collection, storage and disposal system must be designed in accordance with the Environmental Protection Authority's Environmental Guidelines Solid Waste Landfills (2nd edition, 2016) and approved by the Environmental Protection Authority.
  - c. Any waste cells constructed at the facility must be designed in accordance with the Environmental Protection Authority's Environmental Guidelines Solid Waste Landfills (2nd edition, 2016) and approved by the Environmental Protection Authority in writing prior to construction.
  - d. Prior to the commencement of work associated with the amendments under D95/0193.02, the applicant shall submit a licence variation application to Environmental Protection Authority that includes detailed designs of the proposed cell construction. The designs shall be approved by the Environmental Protection Authority prior to the issue of the variation to the environmental protection licence to allow for the construction and use of the new cell.
  - e. All operations shall be in accordance with the Environmental Protection Authority's Environmental Guidelines Solid Waste Landfills (2nd edition, 2016) or to the satisfaction of the Environmental Protection Authority.
4. Insert new Condition in Schedule B after Condition 11 which is numbered 11.1 which reads as follows to reflect the requirements for a restrictive statutory covenant for conservation purposes:
- 11.1 Within 90 days of the issue of Section 4.55 consent for D95/0193.02 a restrictive statutory covenant for conservation purposes in respect of the entire area described as 'Compensation Area – Habitat Restoration and Statutory Protection (2.5 ha)' shown on the plan Impact Analysis and Habitat Compensation Area Plan dated 22 March 2019 prepared by Tweed Shire Council shall be created under s. 88B of the Conveyancing Act 1919 for the benefit of the Tweed Shire Council on the terms specified below:
- a. The area described as 'Compensation Area – Habitat Restoration and Statutory Protection (2.5 ha)' must be subject to a habitat restoration program undertaken in accordance with an approved Plan of Management and managed as a natural area for conservation purposes in perpetuity
  - b. The following activities are not permitted within the 'Compensation Area – Habitat Restoration and Statutory Protection (2.5 ha)' area
    - i. Clearing, lopping or removal of any native plants, whether existing at the date of this approval or planted pursuant to conditions of this consent;

- ii. **Erection of any fixtures or improvements, including buildings or structures;**
- iii. **Construction of any trails or paths unless otherwise approved by the NSW Rural Fire Service (or equivalent state agency) and Council;**
- iv. **Depositing of any fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the protected area;**
- v. **Keeping or permitting the entry of domestic animals or any other animals that are not indigenous to the protected area; and**
- vi. **Performance of any other acts which may have detrimental impact on the values of the protected area.**

**Burden: Part 1 DP 5902220. Benefit: Tweed Shire Council**

5. **Insert new Condition in Schedule B after Condition 11.1 which is numbered 11.2 which reads as follows to reflect the requirements for a restrictive statutory covenant for conservation purposes:**

**11.2 Within 90 days of the issue of Section 4.55 consent for D95/0193.02 the boundary of the 'Compensation Area – Habitat Restoration and Statutory Protection (2.5 ha)' shown on the plan Impact Analysis and Habitat Compensation Area Plan dated 22 March 2019 prepared by Tweed Shire Council shall be physically surveyed, clearly marked and delineated at regular intervals by a registered surveyor.**

6. **Insert new Condition in Schedule B after Condition 11.2 which is numbered 11.3 which reads as follows to reflect the requirements for a restrictive statutory covenant for conservation purposes:**

**11.3 Habitat restoration works within the 'Compensation Area – Habitat Restoration and Statutory Protection (2.5 ha)' shown on the plan Impact Analysis and Habitat Compensation Area Plan dated 22 March 2019 prepared by Tweed Shire Council in accordance with the approved Plan of Management (subject to Attachment 1) shall commence immediately upon any works occurring within the quarry and landfill approved by Section 4.55 consent D95/0193.02.**

7. **Insert after Condition 11.3 as referenced in new Condition 1B of consent ATTACHMENT 1 CONDITIONS – LANDFILL ENVIRONMENTAL MANAGEMENT PLAN (LEMP) AMENDMENTS as follows:**

**ATTACHMENT 1 CONDITIONS – LANDFILL ENVIRONMENTAL MANAGEMENT PLAN (LEMP) AMENDMENTS**

**The applicant shall amend the existing approved Landfill Environmental Management Plan (LEMP) Stotts Creek Landfill Facility for Solid Waste Landfill**

Expansion dated 20 September 2004 prepared by Tweed Shire Council in accordance with all the amendment items detailed herein.

1. **Amendment Item 1 General Provisions**

- a. All LEMP components and reference to the quarry and landfill layout plan shall be consistent with and reflect the layout plan approved by D95/0193.02
- b. Ensure consistency between any general provisions of the LEMP and those stipulated in specific supplementary management plan sub-components described below
- c. Provide an updated Action Plan based on the detail provided in the supplementary plans

2. **Vegetation and Fauna Management Plan**

A Vegetation and Fauna Management Plan ('V&FMP') shall be prepared by a suitably qualified ecologist to be implemented during the construction and operational phase of the development. The V&FMP shall be included as a sub-component of the LEMP and detail the following:

- a. Particulars and locations of vegetation to be removed and vegetation to be retained in order to facilitate the development.
- b. Clearly identify the layout plan approved by D95/0193.02 to ensure all necessary measures are implemented to:
  - i. Ensure works remain within the approved extraction and landfill boundary
  - ii. Habitat within the 'Compensation Area – Habitat Restoration and Statutory Protection (2.5 ha)' shown on the plan Impact Analysis and Habitat Compensation Area Plan dated 22 March 2019 prepared by Tweed Shire Council to be protected is afforded adequate protection during the construction and operational phase of site operations
- c. Details of all proposed infrastructure, site access and services
- d. Details of strategies and methods to be implemented to protect vegetation and habitat to be retained in accordance with the *Australian Standard AS 4970-2009 Protection of trees on development sites*
- e. Information on how the clearing will be undertaken including:
  - i. Whether the clearing will be undertaken in stages
  - ii. Special considerations for clearing (e.g. juvenile vegetation first)

- iii. **Time periods between clearing of staged areas (where applicable) or immature vegetation**
- iv. **Direction of clearing**
- v. **Details of erosion and sediment control measures to be employed prior to, or immediately following clearing activity**
- f. **Methods for the reuse of felled vegetation from the subject site (i.e. sensitively placing felled material where appropriate within retained areas to improve habitat values)**
- g. **Disposal methods for remaining debris after the above methods have been employed**
- h. **Identification of known and potential habitat trees (displaying values such as hollows, fissures, nests, drays, arboreal termitaria used as nests etc.) and description of fauna species known/likely to utilise habitat features**
- i. **Information on how trees are to be inspected for denning or nesting animals including constraints for inspecting trees (to provide acceptable alternative methods) and summary of removal and relocation methods for each faunal group (including observed species and species likely to occur in the area to be disturbed)**
- j. **Considerations relating to time periods for when fauna is likely to be removed/flushed prior to clearing. Regard shall be given to nesting/roosting times when scheduling tree works**
- k. **Details of special equipment required (such as cameras, elevated platforms etc.)**
- l. **Identification of general locations that wildlife may be relocated/translocated to if required (based on habitat requirements and subject to any required licences/permits)**
- m. **Specify that all fauna management procedures shall be undertaken by a suitably qualified wildlife specialist who holds all necessary permits/licences issued by the NSW Department of Environment & Heritage (or equivalent agency at the time)**
- n. **Long term fauna management requirements (including but not limited to):**
  - i. **Review and update of the feral animal management plan for the Stott's Creek Resource Recovery Centre by a qualified zoologist**
  - ii. **removal of unnecessary barbed fencing or retrofitting to make fauna friendly**
- o. **Any other vegetation management measures as detailed in:**

- i. **Section 8.2 of the *Flora and Fauna Assessment. Proposed Landfill Cell Expansion, Stotts Creek Resource Recovery Centre dated May 2017 prepared by Tweed Shire Council***
- ii. ***Nest Box Plan Stotts Creek Resource Recovery Centre Proposed Landfill Cell Expansion revised May 2017 prepared by Tweed Shire Council – Design Unit***

**3. Habitat Restoration Plan**

**A Habitat Restoration Plan ('HRP') shall be prepared as a sub-component of the LEMP for the 'Compensation Area – Habitat Restoration and Statutory Protection (2.5 ha)' shown on the plan Impact Analysis and Habitat Compensation Area Plan dated 22 March 2019 prepared by Tweed Shire Council**

**The HRP shall be prepared by a suitably qualified professional in accordance with Council's *Draft Habitat Restoration Plan Preparation Guideline dated February 2012* to include the following information (but not be limited to):**

- a. **An appraisal of the present condition of remnant and regrowth vegetation**
- b. **A plan overlaying an aerial photograph of the site which divides the area into appropriate management zones**
- c. **A management strategy for each of the zones, using an 'Assisted Natural Regeneration' approach**
- d. **Natural recruitment must exceed one (1) plant per metre square**
- e. **A program of works to be undertaken to remove invasive weed species (declared and environmental weeds);**
- f. **A schedule of timing of proposed works and frequency of activities developed to achieve site capture over a 5 year maintenance period**
- g. **Management of adjacent works and any fencing/signage requirements to restrict unauthorised access**
- h. **Nomination of key performance indicators/criteria for monitoring purposes**
- i. **An active maintenance, monitoring and reporting schedule with developer commitment for a period of not less than five (5) years**
- j. **An adaptive management statement detailing how potential problems arising may be overcome and requiring approval of Council's General Manager or delegate for such changes.**

4. **Nest Box Plan**

The submitted Nest Box Plan Stotts Creek Resource Recovery Centre Proposed Landfill Cell Expansion revised May 2017 prepared by Tweed Shire Council – Design Unit shall form a sub-component of the LEMP. All prescribed measures shall be implemented in accordance with the timing specified in the Nest Box Plan.

5. **Stormwater Management**

Prior to the construction of any new cell as modified under D95/0193.02, an updated Stormwater (including Leachate) management plan is to be approved by the NSW EPA and included in the updated LEMP.

**REPORT:**

**Applicant:** Tweed Shire Council  
**Owner:** Tweed Shire Council  
**Location:** Lot 1 DP 590220 & Lot 5 DP 221825 No. 298 Bartletts Road, Eviron  
**Zoning:** SP2 - Infrastructure Waste Management Facilities  
**Cost:** \$0

**Site Detail:**

The Stotts Creek Resource Recovery Centre is located approximately 10 kilometres north east of Murwillumbah and 16 kilometres south east of Tweed Heads. It comprises two properties described as Lot 1 DP 590220 and Lot 5 DP 221825 (No. 298) Bartletts Road, Eviron and has a combined site area of 35.01 hectares. Between these two properties is a crown road reserve, which forms part of the SCRRC site.

Site activities undertaken on each lot are as follows (refer to **Figure 1** for visual layout of the SCRRC site):

Lot 5 DP 221825 – This lot contains a capped landfill area, the bulk waste transfer station, community recycling centre, household hazardous waste building, a small vehicle transfer station and a building that was previously used as a Materials Recovery Facility (MRF). The MRF is decommissioned with all operational plant removed from the site. The MRF building is currently being used under a separate EPL by a third party to separate solids from vacuum excavation mud.

Lot 1 DP590220 – This lot incorporates the access from Bartletts Road and the site entry area comprising the gatehouse, weighbridge and staff offices. It also contains a tip shop and animal impoundment. This lot is presently used for landfilling operations, has a green waste disposal and processing area and also contains the significant components of the landfill water management system including the leachate pond and wetland.





Figure 1: Site Layout – Stotts Creek Resource Recovery Centre

Adjoining the site to the south-east is land owned by Tweed Shire Council that has been approved for a future extractive industry and landfill expansion under DA11/0573, Concept Plan MP08\_0067 & Project Application MP08\_0069. The future landfill, known as 'Eviron Landfill', will be accessed via the main entrance to the Stotts Creek landfill. The location of the future Eviron Landfill site is shown in **Figure 2** below.



Figure 2: Environ Landfill project area (DA11/0573)

### Background:

The Stotts Creek Resource Recovery Centre is the waste processing and disposal facility for the Tweed Shire Local Government Area. It is owned and operated by Tweed Shire Council (TSC) and is licensed by the EPA to accept general solid waste, green waste, construction and demolition waste, asbestos and a range of recyclable items.

Development Consent No D95/0193 for 'Continuing use of Bartlett's Quarry and the expansion of the landfill site' at the Stotts Creek Resource Recovery Centre (the subject site) was issued 11 September 1996. The Development Application was for Designated Development. The consent permitted the extraction and landfilling sites in stages over three portions of the property which are shown on **Figure 3** below. These include:

- The south west extraction and landfilling area. This portion of the property is described as Lot 5 DP 221825 (this landfill area has now been completed and is capped).
- The 'central' extraction cell (Cell A) and landfilling area for general (putrescible) waste located on Lot 1 DP 590220 and
- The south-eastern extraction and landfilling site (Cell B) for non-putrescible waste located on Lot 1 DP 590220.

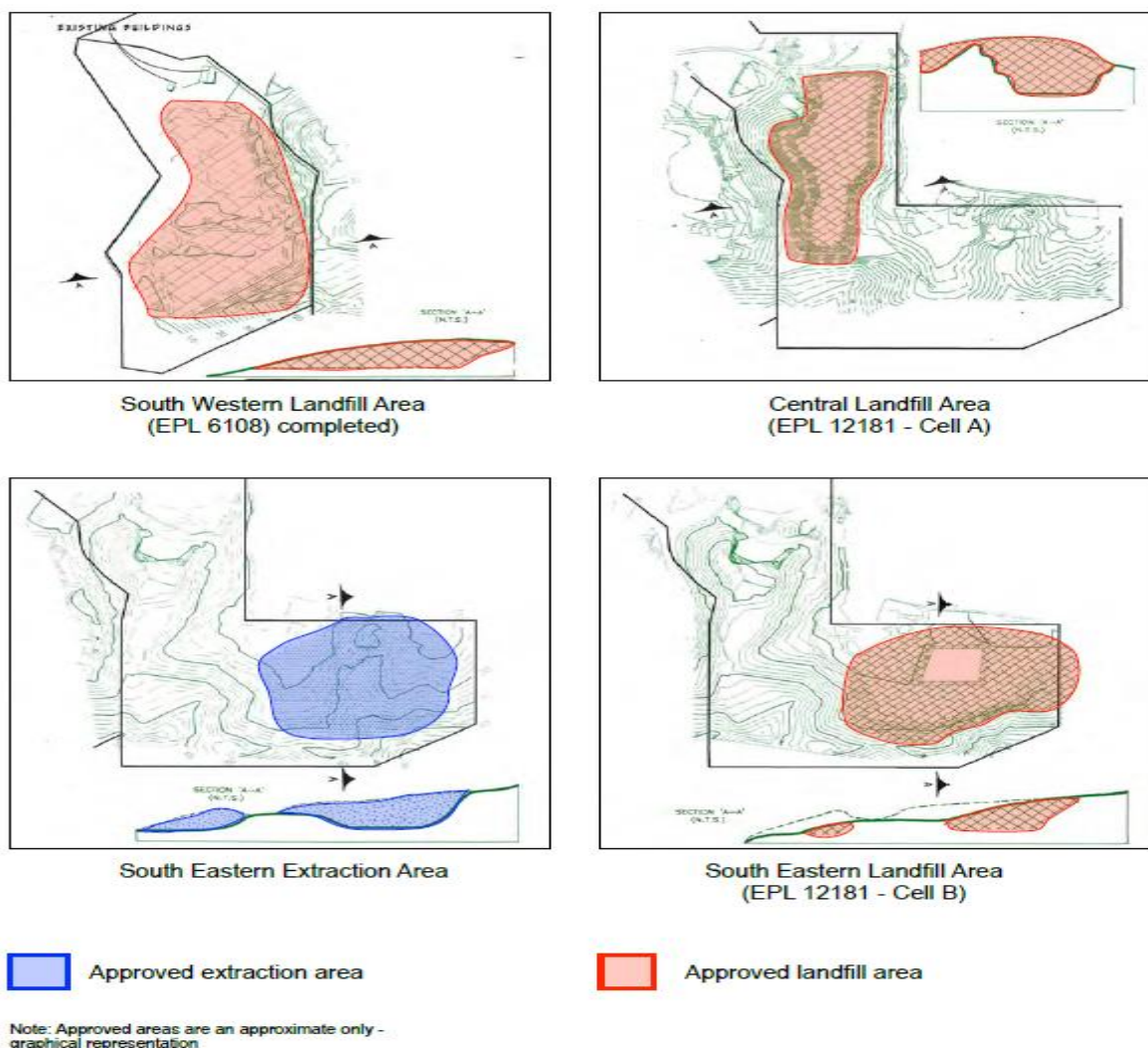


Figure 3: Approved cell extraction area and landfill areas on the site

The consent conditions included a deferred commencement matter relating to the submission of a Plan of Management (identified in Schedule B of the consent) within 54 months of the consent date. The Plan of Management was to be referred and approved by the NSW EPA to determine the appropriateness of the plan for the purposes of issuing an Environmental Protection License.

On 1 July 2004, Council granted consent to a Section 4.55(1A) application which sought to extend the period of time for the submission of the Plan of Management to 110 months.

A Landfill Environmental Plan of Management (LEMP) was prepared on 20 September 2004. The plan addresses Environmental issues and goals pertaining to water pollution, air pollution, land management and conservation and hazards and loss of amenity.

Currently, the facility operates under the approved LEMP, developed in response to consent conditions, and in conjunction with two licences from the NSW Environment Protection Authority (EPA) which have been issued over the subject site. These licences include:

- Environmental Protection Licence – 12181: Waste disposal (application to land). The licence refers to part Lot 1 DP 590220 and enables up to 55,000 tonnes per annum of solid waste disposal including; general solid waste (putrescible and non-putrescible) asbestos and tyres in Cell A, and 15,000 tonne per annum of inert waste including; Virgin Excavated Natural Material (VENM), building and demolition waste, paper and cardboard, asphalt, asbestos and tyre waste in Cell B. Both cells are located on the eastern portion of the site on Lot 1 DP 590220 and;
- Environmental Protection Licence – 6108: Resource Recovery: The licence relates to Lot 5 DP 221825 and part Lot 1 DP 590220. The licence refers to the recovery of general waste. No volume limit is specified.

The subject Section 4.55(2) application seeks to redefine the boundary of the south eastern landfill site (as outlined in **Attachment 1**, identified in **Figure 3** and highlighted in **Figure 4** below) and enable it to be used for the disposal of putrescible waste.

The extent of the proposed modifications to the development have been considered pursuant to Part 2, Schedule 3 of the Environmental Planning & Assessment Regulation 2000 (Are Alterations and Additions Designated Development?) and it is considered that, based on the information provided by the applicant, the proposed modifications are not Designated Development given that the alterations do not significantly increase the environmental impacts of the total development compared with the existing or approved development.

Further discussion regarding the developments performance against these provisions is contained later in this report under Section 4.55(2)(a) and Section 4.15(1) matters for consideration.

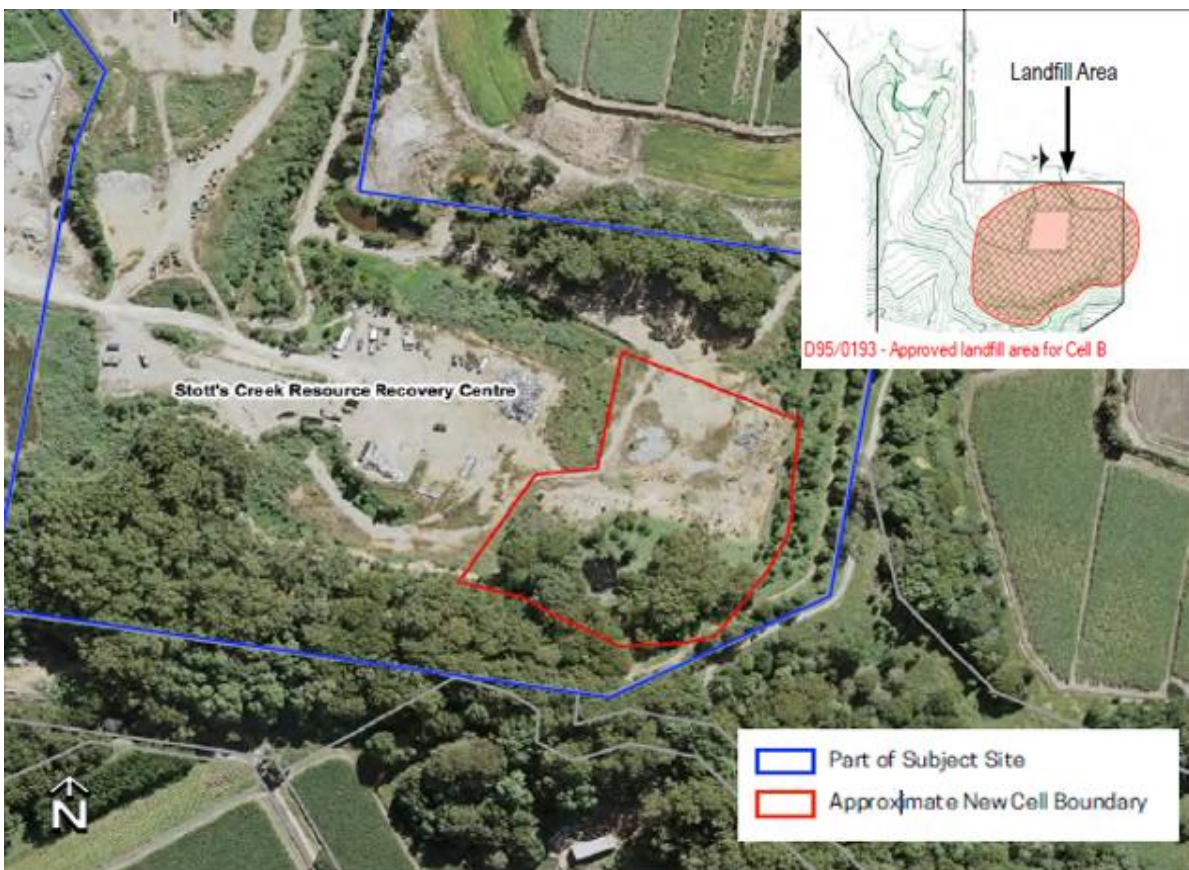


Figure 4: proposed modification to Cell B Landfill area

Pursuant to Section 4.46 of the Environmental Planning & Assessment Act; the current Section 4.55(2) modification application was referred to the NSW EPA for consideration and approval.

On 18 October 2017, the NSW EPA issued a letter of support for the modification subject to the following terms of approval:

- Submit a license variation application to the EPA that includes detailed designs of the proposed cell construction. The designs will be approved by the EPA prior to the issue of the variation to the environmental protection license and will allow for the lawful construction and use of the new cell.
- The license variation application must include detailed designs which demonstrate that the additional leachate which will be generated from the proposed new waste cell will have a leachate storage system which meets the minimum requirements set out by Section 2.1 Environmental Guidelines – Solid Waste Landfills, Second Edition 2016.
- Provide the EPA with details of the maximum volumes of material which will be extracted per annum from the continuing Bartlett's Quarry operation that demonstrates that if this activity will constitute a scheduled activity.

In addition, the subject Section 4.55(2) application was neighbour notified and advertised for a period of 14 days from Wednesday 4 October 2017 to Wednesday 18 October 2017. During this time two submissions were received. The submissions were received by nearby residents whom objected to both the current and proposed site operations. Queries were raised in regard to existing conditions of consent and the sites ability to operate in accordance with those conditions together with the likely impacts of the proposed development in regard to odour, noise and air pollution. In addition, the objectors queried the developments performance against Section 4.55 provisions (i.e. whether the proposed development is "substantially the same" as the existing approval).

As a result of the concerns raised during the neighbour notification and having regard to the nature of the proposal and recommendations by the NSW EPA, Council's Development Assessment Unit resolved to request that the Amended Leachate Management Plan (as required by the NSW EPA for licensing purposes) be prepared and submitted for further consideration and assessment as part of the proposed modification application. The nexus for this request was twofold; Firstly, to ensure that the disposal of putrescible waste in Cell B did not result in any additional odour impacts resulting from site operations for leachate management and secondly; to ensure that the amended leachate management plan did not result in significant changes to the approved layout and function of the site that would result in the scope of the application falling outside of Section 4.55(2) provisions (i.e. the development was able to satisfy 'substantially the same development' test under Section 4.55(2) of the Act).

On 24 August 2018 a Stormwater Management Plan (prepared by GreenTec Consulting) was prepared and submitted to Council for consideration and review. The plan addresses holistic management measures for clean water, site water and leachate management over the entire site. In the plan, it identifies that without irrigation on-site and tankering off-site, leachate

generation at the site currently exceeds storage capacity. Therefore recommendations of the stormwater management plan include:

- Redesign and construction of the Constructed Wetland (future primary stormwater management pond).
- Increase the capacity of leachate storage capacity onsite. Available space is limited onsite with potential for new leachate pond adjacent to Primary Sediment Basin A subject to further investigation or if this is unfeasible then an increase to capacity of existing leachate dams may be required.
- Continue to irrigate leachate in the utilisation area to reduce leachate quantities (adopted option by applicant).
- Continue to tanker leachate to sewage system when leachate quantities exceed site leachate storage and treatment capacity (adopted option by applicant).
- Separate drainage lines near central leachate dam.
- Apply capping standards progressively as the landform develops.
- Apply applicable capping standard as soon as practical to reduce leachate/site water generation.
- Apply sediment and erosion controls as required.
- Undertake regular maintenance.
- Continue environmental monitoring program.

The applicant has advised that current management measures to deal with the shortfall in leachate storage is for irrigation and tankering offsite which provides sufficient contingency when leachate quantities exceed storage capacity onsite. Whilst the required storage capacity will increase for Cell B when this waste cell comes online, the applicant proposes to continue managing excess leachate through the option to irrigate and transport via off-site tankering as part of the current Section 4.55(2) Application. Therefore, the applicant seeks no changes to current arrangements. No additional leachate ponds or increased in size or layout of leachate ponds forms part of this application.

The above mentioned Stormwater Management Plan (prepared by GreenTec Consulting) was referred to the NSW EPA and also notified to objectors for a period of 14 days from Wednesday 3 October 2018 to Wednesday 17 October 2018.

During the notification period, the objectors each put forward a further submission which reiterate the objectors' original concerns regarding odour, noise, air pollution and the developments performance against Section 4.55 of the Act. The submissions were referred to the applicant as well as the NSW EPA for consideration and review.

On 23 November 2018, Council received comments from the NSW EPA which includes their assessment of the proposal in regard to likely odour impacts as well as leachate management. The NSW EPA indicated that they were in a position to support the proposal subject to additional conditions of consent (as scheduled below):

- No food or garden organic waste is to be disposed of at the facility;
- Prior to the construction of any waste cell, a leachate collection, storage and disposal system must be designed in accordance with EPA's Environmental Guidelines Solid Waste Landfills (2<sup>nd</sup> edition, 2016) and approved by the EPA;

- Any waste cells constructed at the facility must be designed in accordance with the EPA's Environmental Guidelines Solid Waste Landfills (2<sup>nd</sup> Edition, 2016) and approved by the EPA in writing prior to construction.

In the same letter, it was also noted by the NSW EPA that their comments in regard to Stormwater Management Plan provided in a letter to Council's Waste Unit (dated 27 July 2018) have not been addressed and it was requested that Council's Waste Unit address the issues identified prior to any new cell being constructed.

Due consideration of the matters raised in the EPA advice have been undertaken; in particular it was noted that the three new recommendations may hinder the viability of the proposed modification to dispose putrescible waste in Cell B having regard to the wording of the above conditions (in particular the first condition which restricts the types of wastes being processed at the 'facility') as well as the fact that information in the Stormwater Management Plan still did not fully address the EPA issues raised. Therefore to ensure that a comprehensive assessment could be facilitated in regard to amenity and environmental impacts of the proposed modification, the information was referred to Council's Environmental Health officers for consideration and review.

Council's Environmental Health officer raised no objection to the proposal however identified that the submitted Stormwater Management Plan failed to address current guidelines and practices as identified in the above mentioned conditions. In addition, it was identified that the restrictions imposed under the first condition by the NSW EPA could severely impact the intent of the modification application as well as the overall operations of the site (to dispose putrescible waste in Cell B). As such, the applicant was advised of the proposed conditions and requested to respond to the conditions in writing. On 11 December 2018, DAC Planning Pty Ltd prepared a written response on behalf of the applicant which includes the following comments to the proposed conditions by EPA:

*"Councils Waste Unit has stated in the modification application report that organics will not be included in the landfill cell. This terminology is a reference to the organics bin collection services that Council currently performs in the Tweed Shire. The use of this terminology was an oversight as the proposal includes putrescible waste that may be present in municipal waste collection services, such as waste that hasn't been separated correctly at the source, or waste from rural collection.*

*On behalf of the applicant, we request that the EPA consider that the condition state as follows:*

*'No food waste or garden waste collected from domestic or commercial green bin collection service will be placed in landfill Cell B'.*

*It is confirmed that the design of the proposed modified Cell B will comply with the EPA's Environmental Guidelines Solid Waste Landfills (2<sup>nd</sup> edition, 2016), and will be approved by the EPA prior to the construction of any waste cell. These requirements is no different to the current DA for the site for any construction or modification of the Landfill Environmental Management Plan and Environmental Protection License for the operation of the site.*

*As above; it is confirmed that the design of the proposed modified Cell B will comply with the EPA's Environmental Guidelines Solid Waste Landfills (2<sup>nd</sup> Edition, 2016) and approved by the EPA in writing prior to construction".*

In the same letter, the applicant's planning consultant also confirmed that the outstanding items raised by the EPA (in their letter dated 27 July 2018 and 23 November 2018) will be complied with prior to the construction of the facility and will not have an impact on the proposed modification of the cell.

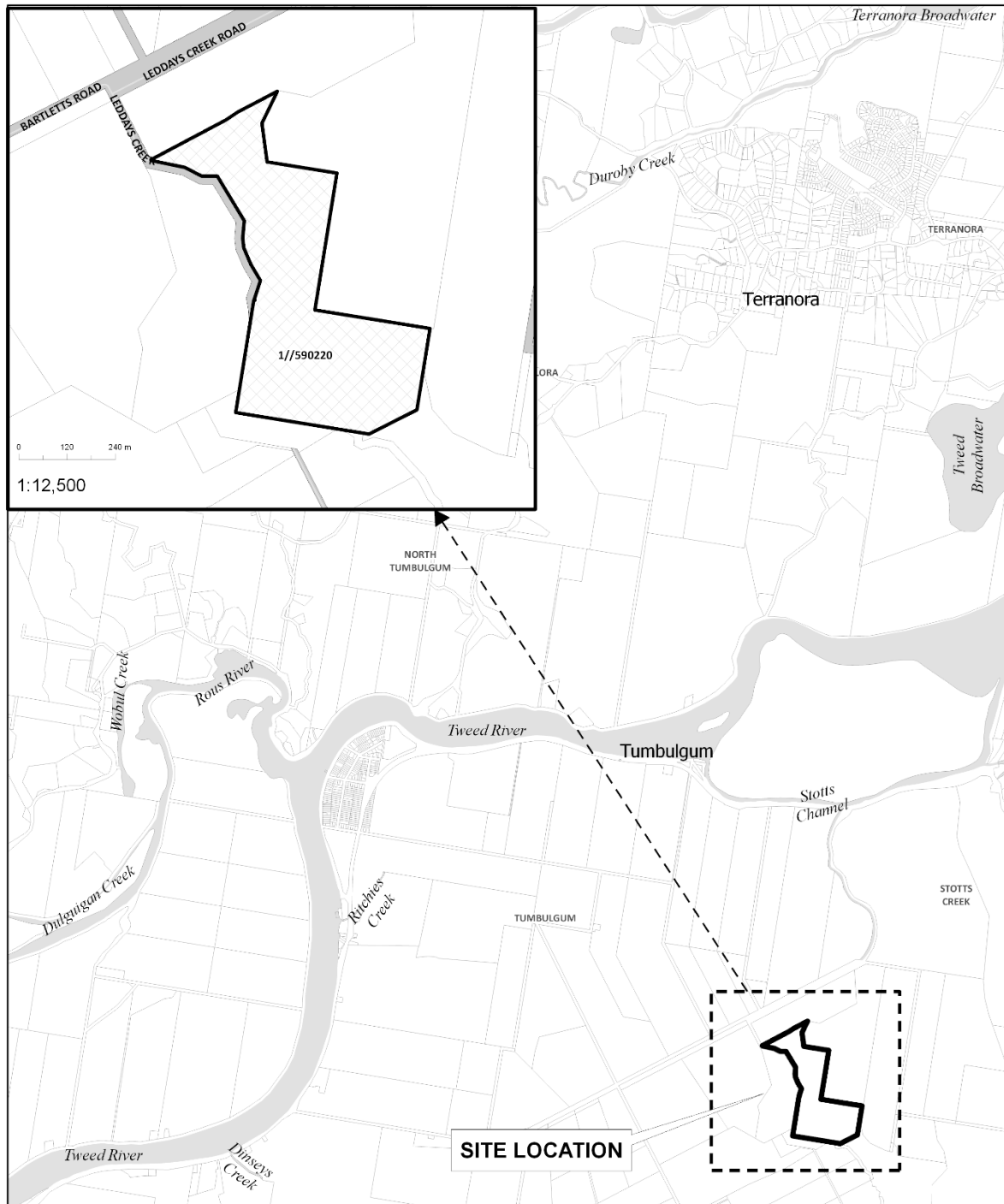
The above advice was referred to the NSW EPA for consideration and their comments were received on 31 January 2019. No objection was raised to the revised wording and EPA advised that the original wording of this condition was based on information contained in the submitted modification report (which broadly referred to food or garden organic waste) however was intended to restrict the disposal of organic waste from green bin collection system being disposed in Cell B (as opposed to all food and organic waste in the entire facility or to restrict general household waste that is collected in councils red bin system). Therefore, the condition of consent recommended by the EPA is considered to reflect the intent for Cell B waste disposal which will be limited to waste streams from the domestic and commercial red bin system only.

Therefore, the only outstanding consideration relates to the outstanding matters in the Stormwater Management Plan. However, from a planning perspective; it is accepted that the matters raised by the EPA in their letter dated 27 July 2018 and 23 November 2018 can be dealt as part of the application for an amended license for the facility without impacting on the subject modification application. Given the outstanding matters outlined in the EPA letter are a licensing issue, it is accepted that the provision of overall site water management for *all* landfilling activities occurring on the site (as already approved under the original development consent) can be dealt with prior to the new Cell B being constructed given that the issues relate to the overall site operations and stormwater (including clean water, site water and site leachate management) as opposed to the specifics of the propose modification. However, if the EPA were to require construction of an additional onsite leachate storage pond for proposed Cell B (to deal with the leachate generation as opposed to the preferred option of irrigate and tankering off site), the applicant would be required to further modify their consent with new site/layout plans for leachate management as well as update their LEMP to reflect the new arrangements and site practices (via a new Section 4.55 modification application).

Therefore, having regard to the general concurrence comments by NSW EPA, Council officers assessment of the proposed modification under Section 4.55(2) of the Act (including the submissions and matters of public interest), as well as likely impacts of the development (as modified) under Section 4.15(b) of the Act (as contained herein), the modification application is worthy of support and is referred to Council with a recommendation for approval subject to additional and modified conditions of development consent.



**SITE DIAGRAM:**



**Site Plan**

Lot 1 DP 590220  
298 Bartletts Road ENVIRON

0 0.4 0.8 Km  
1:35,000



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Coordinate System - MGA Zone 56  
Datum - GDA 94

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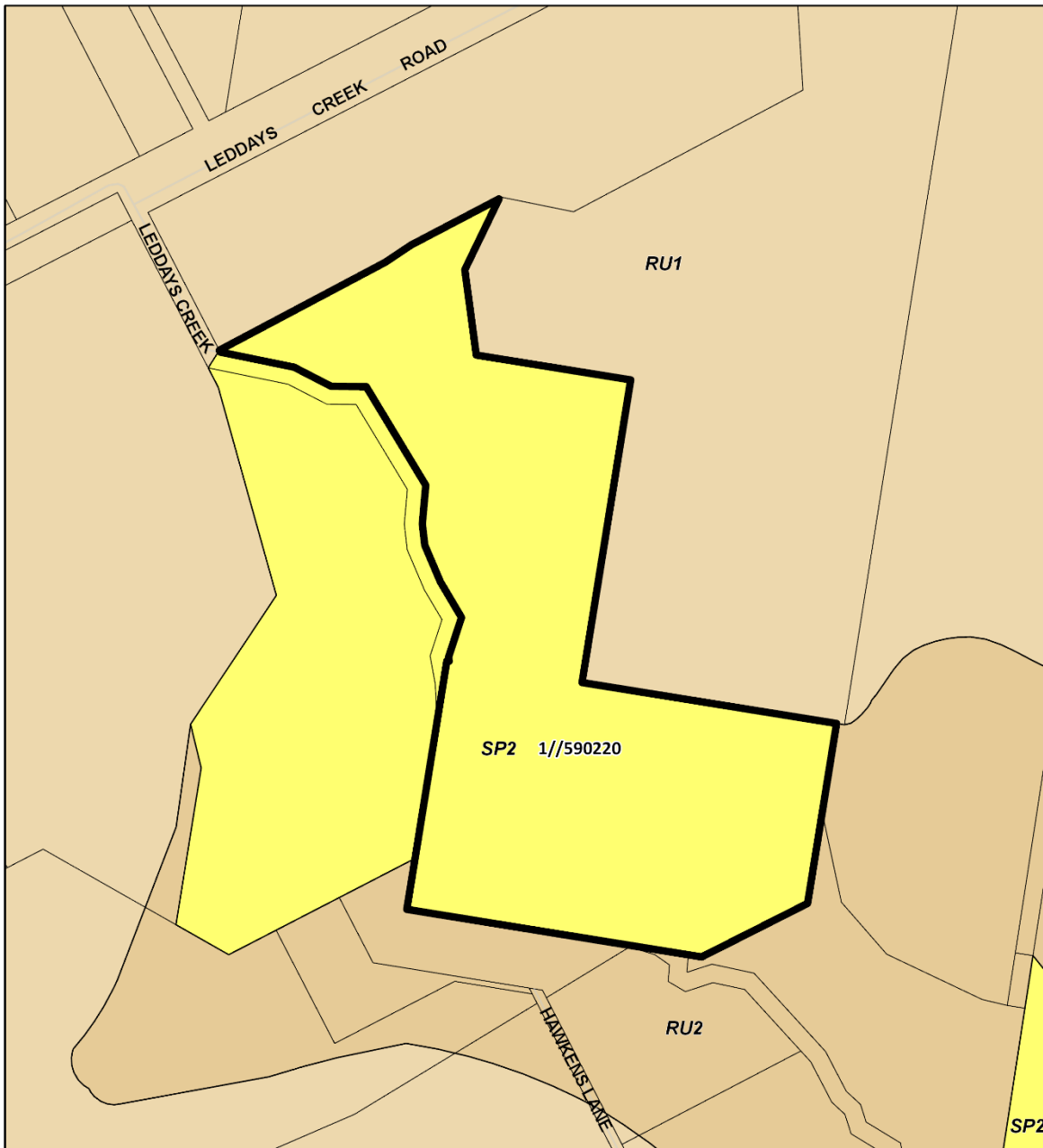
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SHIRE COUNCIL

Date Printed: 27 February, 2019




**ZONING PLAN:**




Subject Land

 Subject Land

Tweed Local Environmental Plan 2014

-  RU1 Primary Production
-  RU2 Rural Landscape
-  SP2 Infrastructure

1:6,000 @ A4 Portrait  
 0 50 100 m  
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 Map Projection: Universal Transverse Mercator  
 Horizontal Datum: Geoidetic Datum of Australia 1994  
 Grid: Map Grid of Australia, Zone 55

**Site Plan - Local Environmental Plan**  
 Lot 1 DP 590220  
 298 Bartletts Road ENVIRON

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**AERIAL PLAN:**



1:5,000 @ A4 Portrait  
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 GDA  
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 Map Projection: Universal Transverse Mercator  
 Horizontal Datum: Geodetic Datum of Australia 1994  
 Grid: Map Grid of Australia, Zone 56

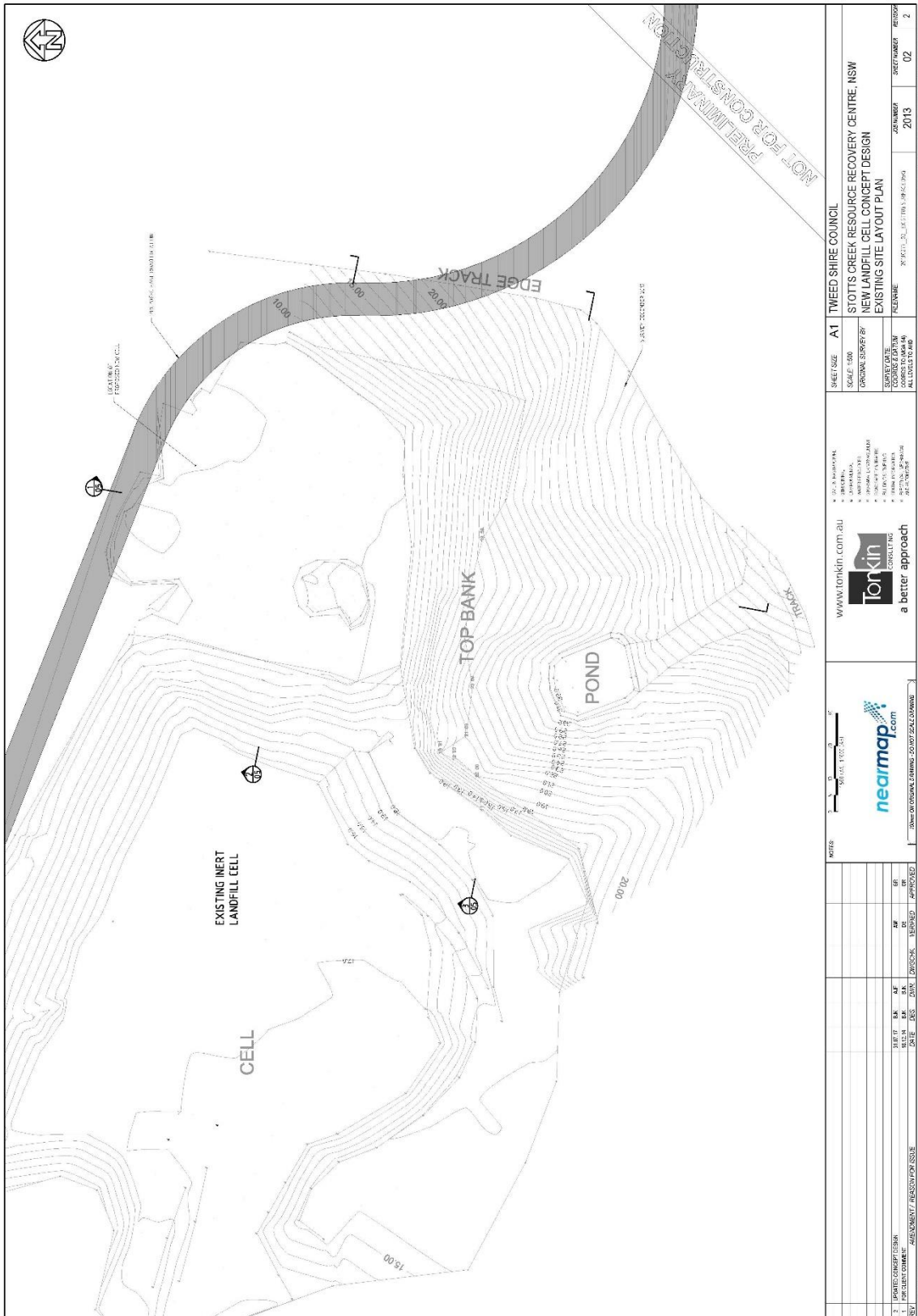
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**Aerial Photography April 2018**  
 Lot 1 DP 590220  
 298 Bartletts Road ENVIRON

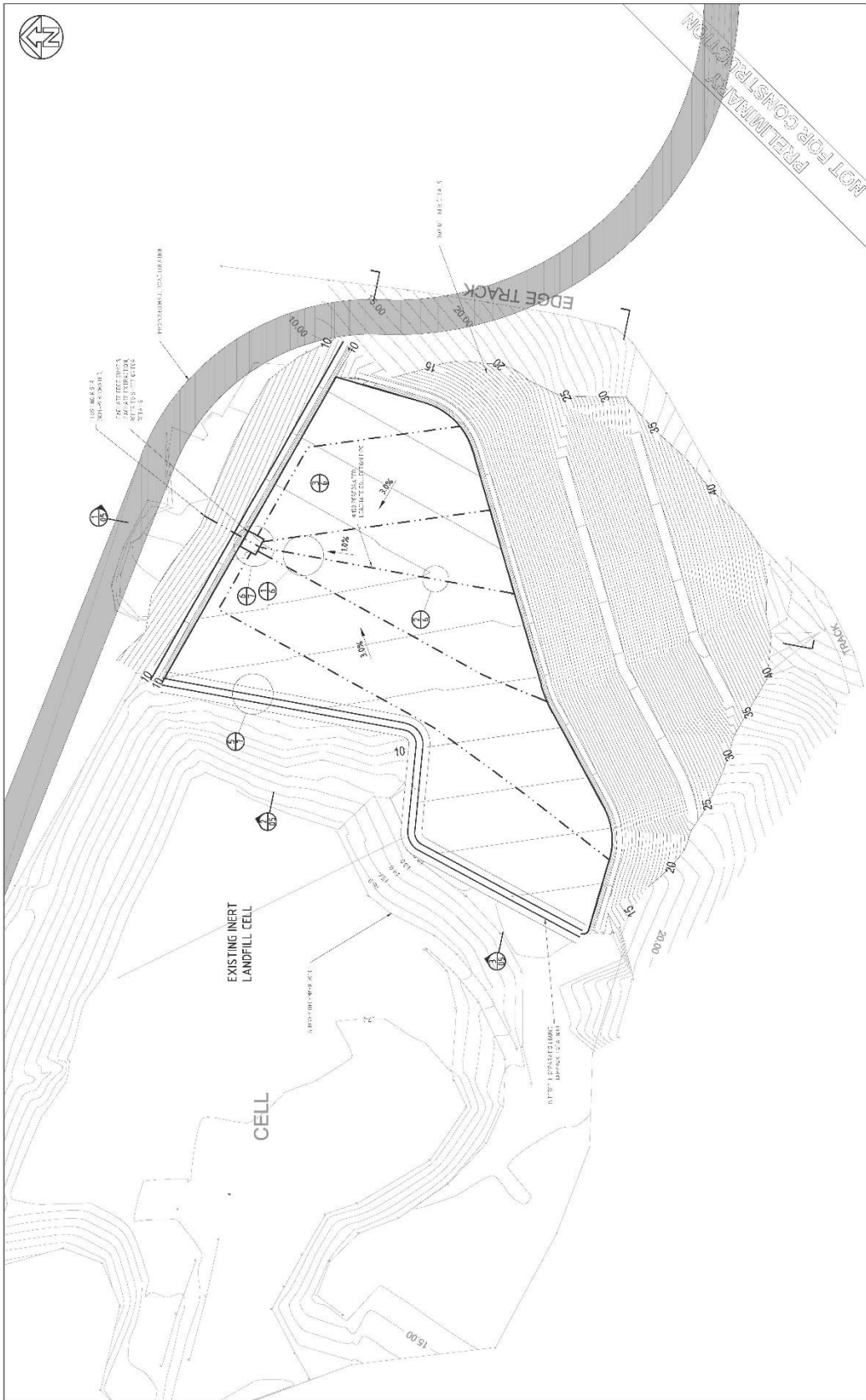
© 2018 Imagery - Tweed Shire Council  
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 Author: S.Scott - GIS  
 Date Printed: 27 February, 2019

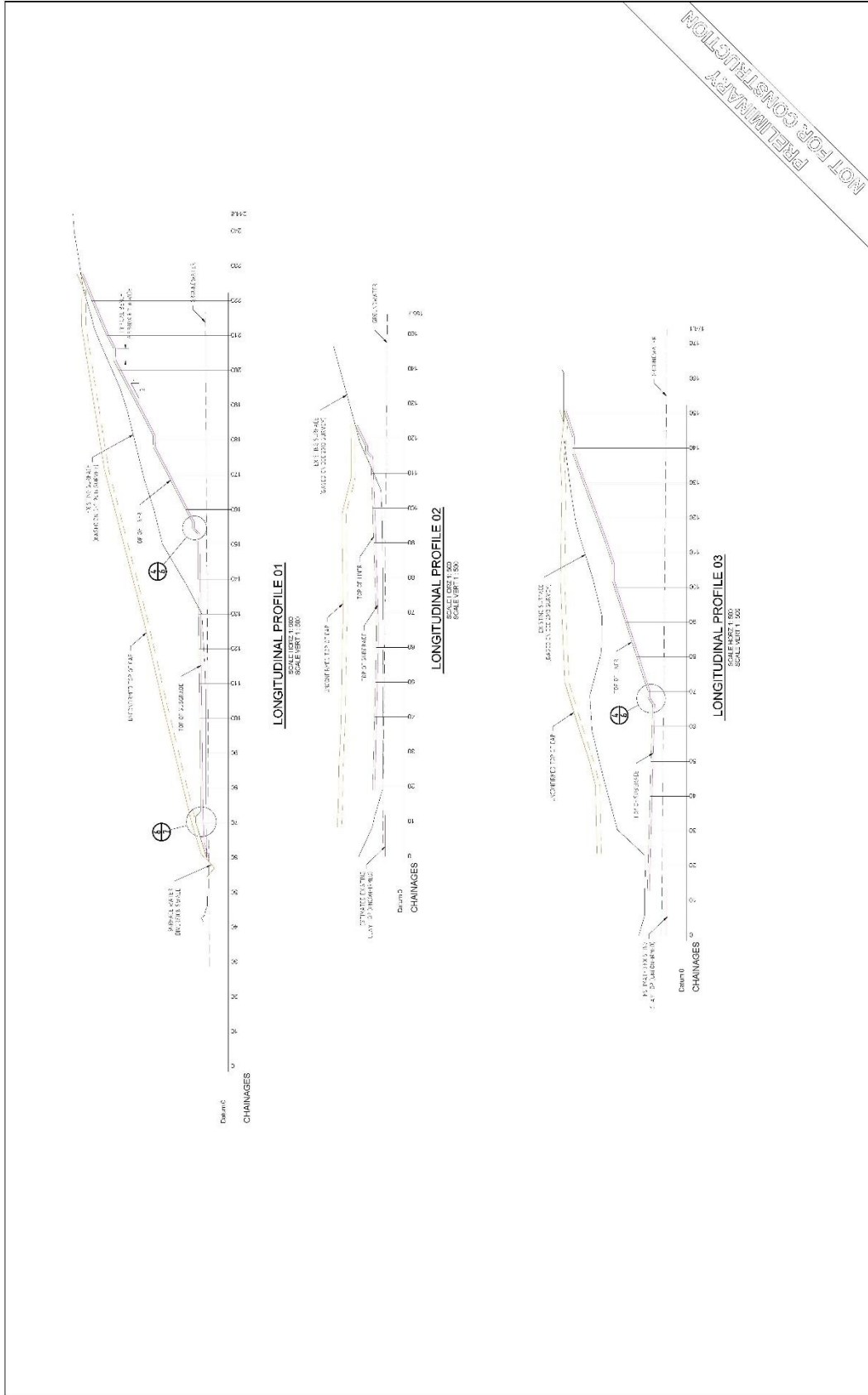
DEVELOPMENT PLANS:





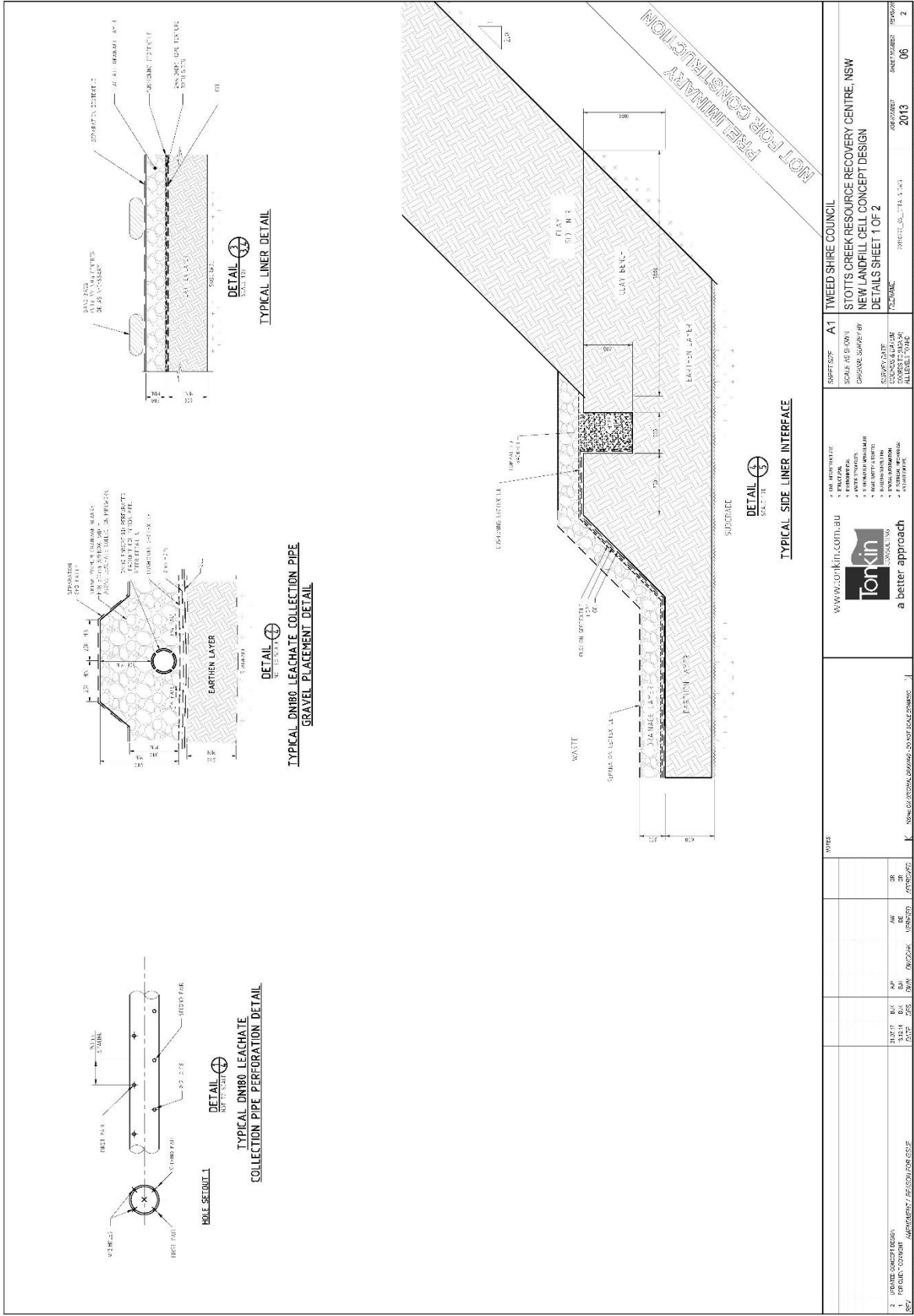


<p><b>PROJECT INFORMATION</b></p> <p>PROJECT NAME: STOTT'S CREEK RESOURCE RECOVERY CENTRE, NSW          PROJECT NO: 13-01-2013-04C          YEAR: 2013          SHEET NO: 04          PERIOD: 2</p>	
<p><b>CLIENT INFORMATION</b></p> <p>CLIENT: TWEED SHIRE COUNCIL          PROJECT: STOTT'S CREEK RESOURCE RECOVERY CENTRE, NSW          PROJECT NO: 13-01-2013-04C          YEAR: 2013          SHEET NO: 04          PERIOD: 2</p>	
<p><b>DESIGNER INFORMATION</b></p> <p>DESIGNER: Tonkin          PROJECT NO: 13-01-2013-04C          YEAR: 2013          SHEET NO: 04          PERIOD: 2</p>	
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<p><b>PROJECT DESCRIPTION</b></p> <p>PROJECT DESCRIPTION: NEW LANDFILL CELL CONCEPT DESIGN          TOP OF LINER PLAN</p>	
<p><b>PROJECT STATUS</b></p> <p>PROJECT STATUS: PRELIMINARY NOT FOR CONSTRUCTION</p>	
<p><b>PROJECT CONTACT</b></p> <p>PROJECT CONTACT: TWEED SHIRE COUNCIL</p>	
<p><b>PROJECT APPROVAL</b></p> <p>PROJECT APPROVAL: TWEED SHIRE COUNCIL</p>	
<p><b>PROJECT DRAWING</b></p> <p>PROJECT DRAWING: TOP OF LINER PLAN</p>	
<p><b>PROJECT SHEET</b></p> <p>PROJECT SHEET: 04</p>	
<p><b>PROJECT PERIOD</b></p> <p>PROJECT PERIOD: 2</p>	



PRELIMINARY  
NOT FOR CONSTRUCTION

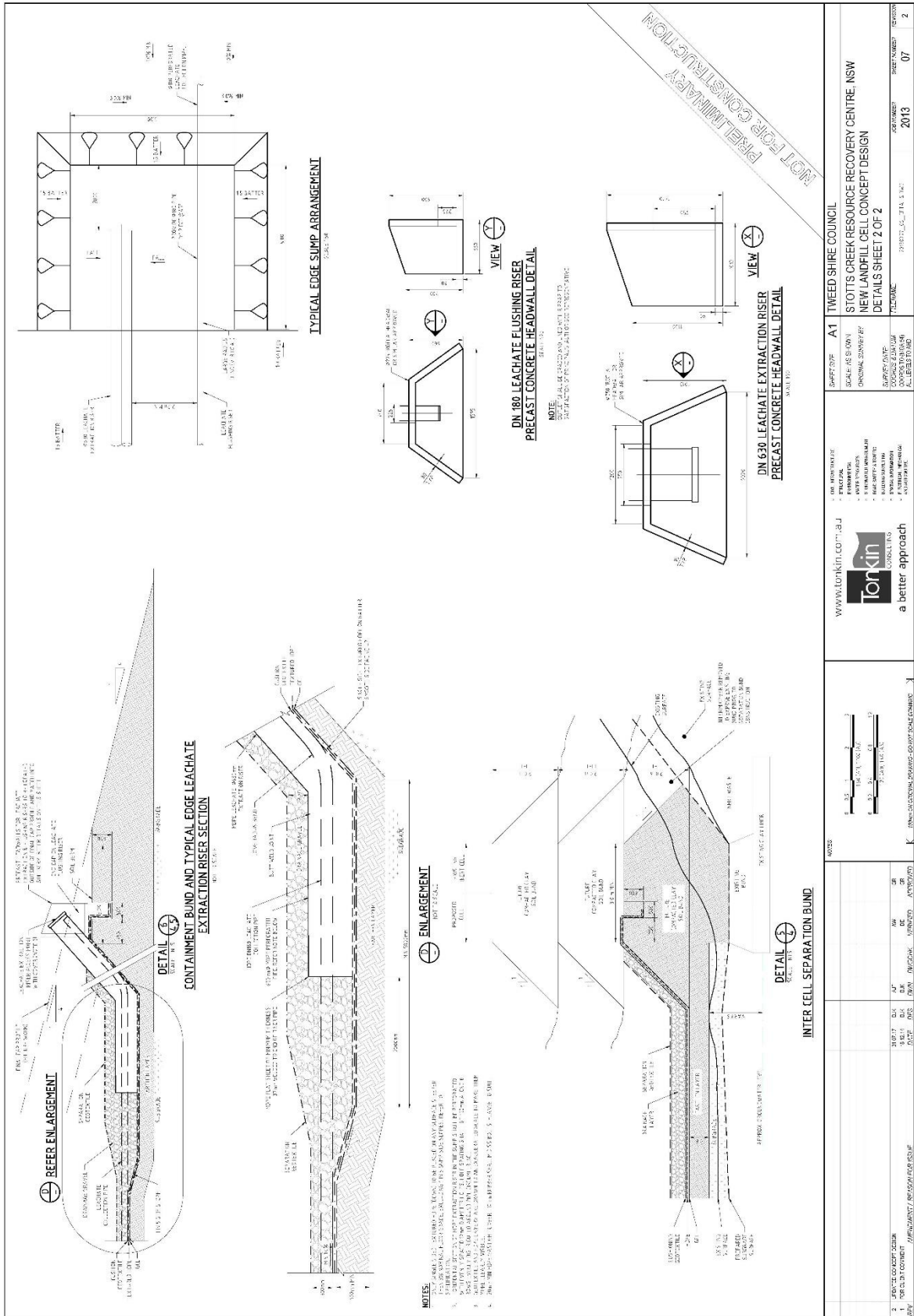
<p>www.tonkin.com.au</p> <p><b>Tonkin</b> CONSULTING a better approach</p>		<p>SHEET SIZE: A1</p> <p>SCALE: 1:50</p> <p>DATE: 2013</p>	<p>TWEED SHIRE COUNCIL</p> <p>STOTT'S CREEK RESOURCE RECOVERY CENTRE, NSW</p> <p>NEW LANDFILL CELL CONCEPT DESIGN</p> <p>SECTIONS</p>
<p>DATE: 2013</p> <p>SCALE: 1:50</p> <p>DATE: 2013</p>		<p>DATE: 2013</p> <p>SCALE: 1:50</p> <p>DATE: 2013</p>	<p>DATE: 2013</p> <p>SCALE: 1:50</p> <p>DATE: 2013</p>



SHEET SIZE: A1   TWEED SHIRE COUNCIL SCALE: AS SHOWN   GEOMETRIC SURFACE: (P) DESIGN DATE: 2013 DRAWN: T.2013/05/01   CHECKED: T.2013/05/01		PROJECT: STOTT'S CREEK RESOURCE RECOVERY CENTRE, NSW SHEET NUMBER: 06   2	
		DRAWING: NEW LANDFILL CELL CONCEPT DESIGN DETAILS SHEET 1 OF 2 SCALE: 1:2000 DATE: 2013 DRAWN: T.2013/05/01   CHECKED: T.2013/05/01	
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2: UNFINISHED CONCEPT DESIGN 1: FOR CLIENT'S COMMENT	R.A.P. B.I.A. S.J.A.	AM DE UP/DOWN	SR PR APPROVED
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<p>1. INTER-CELL SEPARATION BUND</p> <p>2. DN 630 LEACHATE EXTRACTION RISER</p> <p>3. DN 180 LEACHATE FLUSHING RISER</p>	<p>DATE: 2013</p> <p>SCALE: 1:50</p> <p>PROJECT NO: 13013</p>	<p>DATE: 2013</p> <p>SCALE: 1:50</p> <p>PROJECT NO: 13013</p>



### D95/0193.02 Eviron Landfill Expansion

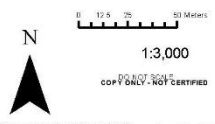
#### Impact Analysis and Habitat Compensation Area Plan

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Date Printed: 22 March, 2019  
 Author: NRM Unit - Endorsed by WKnight (TSC Waste Management) 18 March 2019  
 Filepath: V:\Michael Banks\Eviron\_LandfillMapping\Unliteded\_Overlays\_15032019.mxd

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Version: 2, Version Date: 27/03/2019

## **Considerations under Section 4.55(2) of the Environmental Planning and Assessment Act 1979:**

An assessment of the matters relevant for consideration under Section 4.55(2) of the Environmental Planning & Assessment Act 1979 has been undertaken and further discussion regarding those matters is contained herein.

*Section 4.55(2) states that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

### **Comment:**

The proposed modifications have been considered having regard to the established precedent in the NSW Land & Environment Court in regard to what should be factored into the considerations of the threshold as to whether a development is 'substantially the same'.

#### *Established NSW Land & Environment Court Precedent*

In *Tipalea Watson Pty Ltd v Ku-ring-gai Council NSWLEC 253*, it was established that substantially the same development maintains the 'essential characteristics' of the approved development. Further to this, in *Moto Projects (No. 2) Pty Ltd v North Sydney Council {1991}*, it was highlighted by Bignold J that a factual finding requires a comparison between the development as currently approved and the development as proposed to be modified. That comparison must be a finding that is 'essentially or materially' the same as the current approved development.

The reference of Bignold J to 'essentially' and 'materially' the same is derived from Stein in *Vacik Pty Ltd v Penrith City Council* (unreported), Land and Environment Court NSW, 24 February 1992, where his Honour said in reference to Section 102 of the Environmental Planning and Assessment Act 1979 (the predecessor to Section 96) that "Substantially when used in the Section means essentially or materially or having the same essence".

The applicant has submitted a comparison table for the essential elements of the proposed modification having regard to the approved development. The table suitably demonstrates that no change is observed to the nature of the development as approved or the extent of excavation and landfilling component of the approved development at the south-west site or the central site (i.e. Cell A and Cell C).

#### *The characteristics of the proposed modification to the development*

Where a change is observed at the south eastern site (Cell B) (for the disposal of putrescible waste), the following is noted:

- The proposed modification to the cell boundary maintains the general location of the approved cell boundary;

- The proposal continues to be for the extraction and landfilling operations as approved for the south eastern site;
- The changes to the south eastern site does not impact other areas of the consent or approved operations and therefore relates to a small portion of the overall site;
- The visual buffer to the north of the south eastern site remains unchanged;
- The overall quantity of putrescible waste disposal at the site will not change as a result of the proposed modification;
- The disposal of putrescible waste into the cell (with organic waste streams removed) would not give rise to adverse environmental impacts;
- The site will continue to be managed in accordance with the approved Landfill Environmental Management Plan (LEMP) with minor modification to reflect the proposed changes as permitted under existing conditions of consent (See Condition 10 and 11 of existing consent) and updates to reflect the provision of a Vegetation and Fauna Management Plan (including Habitat restoration plan for the site). It is considered the proposed updates will improve environmental management operations on the site and provide improved biodiversity outcomes for the site;
- The south eastern site will contain a cell designed in accordance with current EPA best practices and guidelines (i.e. EPA Environmental Guideline: Solid Waste Landfills 2016) and this will be regulated by the EPA in accordance with EPA licenses and therefore will be designed and maintained to EPA standards, which is likely to mitigate any potential environmental impacts;
- The recommendations in the Stormwater Management Plan include options to continue irrigation and tankering off site as part of an overall leachate management solution for the site. Given these options are in line with current site operations, the recommendation to continue in this manner has been adopted by the applicant and therefore the additional information submitted to satisfy stormwater (including leachate) management will not alter the overall function and layout of the site as far as the size and location of leachate ponds. Furthermore, given the leachate generated by Cell B Putrescible waste disposal can be adequately managed via on site irrigation and off site tankering, it is reasonable to conclude that the provision of leachate and stormwater management for the site (in line with the recommendations of the Stormwater Management Plan) are unlikely to create additional odour impacts; and
- Where adjustments to the approved boundary of Cell B require additional vegetation removal, the impacts have been considered as part of a Flora and Fauna Assessment report. It was identified that vegetation removal in the location of approved Cell B was already approved under the original consent, and the extent of additional vegetation removal is relatively minor in comparison to the original approval. Notwithstanding, the proposed modification highlighted a nexus for compensation or offset planting to occur given the impact area contains Blackbutt Open Forest. Therefore, in consultation with Council's Biodiversity officer, the applicant has committed to offset any impacts resulting from vegetation removal through the provision of a large compensation area south west of the Cell B boundary and this area will become protected as a Habitat Restoration area on the title information for the property (Refer to Attachment 1).

Having regard to the above key considerations, Council can be satisfied that the proposed modification satisfies both a qualitative and quantitative test of "substantially the same development" for the proposed modification as compared to that originally approved under D95/0193.

Furthermore, given the development's performance against matters for consideration under Section 4.55(2) of the Act, the development is considered to satisfy the provisions contained

under Clause 35 and 36, Part 2, Schedule 3 (Designated Development) of the Environmental Planning & Assessment Regulation 2000.

It is considered that given the proposed modification meets the “substantially the same” test under Section 4.55(2) of the Act, the proposed modification is unlikely to significantly increase the environmental impacts of the total development (that is the development together with the addition/modification) compared with the existing approved development. Characteristics of the development that are key factors that are relevant to the consideration of this matter are listed below:

- The existing approved LEMP (2004) adequately addresses environmental management performance including compliance with existing conditions of consent and the EPA licenses in place for the site activities. This plan will be updated to meet the performance objectives under the existing and proposed recommended conditions of consent, and an amended EPA license will be required to accommodate the proposed changes. However, to this extent, the development will not increase the volume of waste nor the scale, character of nature of the approved use of the site as compared to originally approved;
- There is only one previous modification to this consent which sought to vary the time frame to which the deferred commencement matters under the original consent were to be satisfied. This change has no material effect on the originally approved development. Therefore, the only material change to the approved development is that proposed under the subject modification application and the cumulative effect of the proposed modification is minimal as compared to the original consent;
- The applicant has stated that after landfill cells are filled to capacity they are capped and treated as part of an overall rehabilitation process. This is exemplified in the existing south west landfill site which has been filled to capacity and is now capped. The central landfill site is also now nearing capacity and the same processes will occur for this cell at the time it is filled. Under the proposed modification; the disposal of putrescible waste will then shift to Cell B and the same processes of capping the filled cell as part of rehabilitation and environmental management measures will occur in accordance with the LEMP, existing conditions of consent (to require this capping/covering activity to occur) and the EPA license;
- The subject site is an approved Waste facility and therefore measures are in place for the subject cell to receive putrescible waste. Existing site operations will manage impacts associated with the waste stream being disposed as the subject Cell B in line with current site practices as well as most recent best practice guidelines as required by the NSW EPA (and recommended as conditions of development consent);
- As mentioned above, conditions of consent are recommended to facilitate compliance with most recent standards and best practice guidelines for management of Solid Waste Landfills (published by NSW EPA);
- Given leachate generated by Cell B Putrescible waste disposal can be adequately managed via on site irrigation and off site tankering, it is reasonable to conclude that the provision of leachate and stormwater management for the site (in line with the recommendations of the Stormwater Management Plan) are unlikely to create additional odour impacts; and

- The provision of compensatory planting areas that will be protected under a Section 88B Instrument on title will mitigate environmental impacts and form an improved habitat for flora and fauna species so to ensure that protected habit is able to thrive in an area that will be available solely for this purpose (i.e. recommended conditions of consent will require this area to be protected in perpetuity and thus ensure that no excavation and landfilling including ancillary activities will occur in this area of the site). Furthermore, the location of this protected area secures a visual and vegetative 'buffer' along the boundary of the subject site and adjoining sites which contain dwellings thus further mitigating potential amenity impacts to adjoining residents. The compensation planting area also provides links to other biodiversity corridors on the land south east of the subject site thus providing connectivity between the two corridors that can be maintained and protected for the future.
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

**Comment:**

The subject modification application was referred to the NSW EPA for consideration and comment. As part of the assessment of the subject DA, ongoing liaison has occurred between Council and the NSW EPA to ensure that the ongoing licensing and regulation of the facility can be maintained to current best practice standards and guidelines. Furthermore, an appropriate level of due diligence by Council officers has been undertaken to ensure that additional measures to manage leachate will not impact the proposed modification performance against Section 4.55(2) of the Act as well as Schedule 3 of the Environmental Planning & Assessment Regulation 2000 (Designated Development). This process has been a critical part of this assessment having regard to Council (as the consent authority) obligations' under the relevant provisions of the EP&A Act as well as the EPA's function as the licensing authority.

Most recently, following the need to clarify conditions recommended by the EPA (in regard to the wording of conditions of consent in regard to the types of organic waste streams being disposed in the cell), on 31 January 2019 the EPA provided their final comments on the DA which included recommendations for the design and construction of the cell as well as ongoing operational management requirements in regard to the nature of waste being disposed of at the cell.

Those recommendations were reviewed by Council' Environmental Health Officers and no objections were raised. A list of the final recommendations are provided below and are included as new recommended conditions on the consent.

- a. No food waste or garden waste collected from domestic or commercial green bin collection service will be disposed in landfill Cell B.
- b. Prior to the construction of any new waste cell, a leachate collection, storage and disposal system must be designed in accordance with the Environmental Protection

Authority's Environmental Guidelines Solid Waste Landfills (2nd edition, 2016) and approved by the Environmental Protection Authority.

- c. Any waste cells constructed at the facility must be designed in accordance with the Environmental Protection Authority's Environmental Guidelines Solid Waste Landfills (2nd edition, 2016) and approved by the Environmental Protection Authority in writing prior to construction.

In addition to the above new conditions of consent, in consultation with Councils Environmental Health Unit, the following additional conditions are recommended to be applied to ensure appropriate actions are being taken by the applicant to submit license variations and ensure that EPA are satisfied with the site operations in accordance with current best practice and guidelines:

- d. Prior to the commencement of work associated with the amendment, the applicant shall submit a licence variation application to Environmental Protection Authority that includes detailed designs of the proposed cell construction. The designs shall be approved by the Environmental Protection Authority prior to the issue of the variation to the environmental protection licence to allow for the construction and use of the new cell.
- e. All operations shall be in accordance with the Environmental Protection Authority's Environmental Guidelines Solid Waste Landfills (2nd edition, 2016) or to the satisfaction of the Environmental Protection Authority.

- (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 made a development control plan that requires the notification or advertising of applications for modification of a development consent, and;*

**Comment:**

The subject Section 4.55(2) modification application was advertised pursuant to Clause 5(b)(iii) of the Environmental Planning & Assessment Regulation 2000 as well as neighbor notified in accordance with Section A11 of Tweed DCP 2008 from Wednesday 4 October 2017 to Wednesday 18 October 2017. During this time, two (2) submissions were received. The details of the submissions and how they have been addressed is contained later in this report.

- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

**Comment:**

The submissions received during the notification period were received by nearby residents whom objected to both the current and proposed site operations.

Queries were raised in regard to existing conditions of consent and the sites ability to operate in accordance with those conditions together with the likely impacts of the proposed development in regard to odour, noise and air pollution.

In addition, the objectors queried the development's performance against Section 4.55 provisions (i.e. whether the proposed development is "substantially the same" as the existing approval).

As a result of the concerns raised during the neighbour notification and having regard to the nature of the proposal and recommendations by the NSW EPA, Council's Development Assessment Unit decided to request that information required by the EPA (as conditions of consent) be provided for further assessment. In particular, it was requested that an amended leachate management plan be prepared and submitted to Council for further consideration and assessment by the EPA. The nexus for this request was twofold; Firstly, to ensure that the disposal of putrescible waste in Cell B did not result in any additional odour impacts resulting from site operations for leachate management; and secondly to ensure that the amended leachate management plan did not result in significant changes to the approved layout and function of the site that would result in the scope of the application falling outside of Section 4.55(2) provisions (i.e. the development was able to satisfy "substantially the same development" test under Section 4.55(2) of the Act).

On 24 August 2018 a Stormwater Management Plan was prepared and submitted to Council for consideration and review. The plan provided overall site management provisions for clean water, site water and leachate management. This plan was referred to the NSW EPA and also notified to the two objectors for a period of 14 days from Wednesday 3 October 2018 to Wednesday 17 October 2018.

During the notification period, the objectors each put forward a further submission which reiterate the objectors' original concerns regarding odour, noise, air pollution and the developments performance against Section 4.55 of the Act. The submissions were referred to the applicant as well as the NSW EPA for consideration and review.

On 23 November 2018, Council received comments from the NSW EPA which includes their assessment of the proposal in regard to likely odour impacts as well as leachate management. The NSW EPA indicated that they were in a position to support the proposal subject to additional conditions of consent (as previously detailed in this report).

A summary of the objection matters and a planning response is provided below.



Objection Matter	Response
<p>Impact to residents in regard to noise, air pollution and wind during the 'modification' process.</p>	<p>Noise – The applicant has demonstrated that there is no increase to waste operations as a result of the proposed modification. The scale of waste operations at the site is regulated by the EPA through existing Environmental Protection Licences (EPL's). As the existing putrescible landfill cell (CELL A of EPL12181) reaches capacity, landfilling of putrescible waste will transition to the landfill cell being reconfigured via the s4.55 application which is located further away from residential receptors than current landfilling operations at the site. The s4.55 application will not increase noise above current operating noise levels. Waste operations, including noise controls, will continue to be controlled by the NSW EPA.</p> <p>Air Pollution – The proposal does not seek to increase the capacity of the landfill being disposed at the site as part of the proposed modification. The applicant has advised that the current putrescible cell (Cell A) located on EPL12181 is closer to residential properties, the transition to the landfill cell in the s4.55 application would result in landfilling operations being further away from residential properties. This cell would have food and organics material removed so ultimately the new cell would result in less air pollution impacts than the current operation.</p> <p>Wind - The proposed modification application does not propose any modification or alteration to existing waste operations at the site. The proposed landfill cell will accept waste after existing putrescible landfill cells on EPL12181 are exhausted. Therefore the putrescible waste disposal cell will be located further away from the objector's property than the current putrescible cell. Further, as discussed above, the putrescible cell will not contain food or organics waste.</p> <p>It is noted that the EPA monitors license conditions and compliance with thresholds for noise, air quality and the like through annual reporting. The proposed modification will not impact the method of recording complaints and there are several mechanisms in place for complaints to be received and registered. The first is via the complaints telephone number with EPA as well as directly to Council's Waste Unit.</p>

Objection Matter	Response
<p>Page 19/221 of the LEMP (2004) addressed wind impacts to adjoining land as 'rural' land not rural/residential.</p>	<p>This is an approved document under the original DA and was prepared and submitted to Council (as the consent authority) to satisfy existing conditions of consent. However, it is noted that the LEMP indicates that it is a working document that are subject to periodical review and modification/improvements as new operational strategies and technologies are introduced. As such, should the application to modify the consent, the LEMP will be updated accordingly.</p> <p>It is further noted that the applicant has advised that current site operations are in place to control potential impacts from winds. In particular, waste that is landfilled at the site is contained using cover material that complies with the existing EPL and development consent conditions that relate to the operation and the site. This application will not change those operational measures that are employed to manage such impacts. Nor are there are any identified additional impacts given that there is no change to the quantity of waste being disposed at the site nor the hours of operation.</p> <p>Finally, the Figure 4 of LEMP (page 55) which relates to the contentions raised in regard to land use and zoning is an extract of the TLEP2000 zoning plan which accurately identifies the surrounding land uses as being 1(a) Rural under the LEP which was the actual zoning for the adjoining lands at the time the LEMP was made. Dwellings occupied those lands at the time the LEMP was made and therefore potential impacts were considered for the approved development based on the zoning at the time and existing development/improvements on the lands at the time.</p> <p>Notwithstanding, the contentions raised in regard to the zoning of the adjoining lands in the LEMP is not considered to be a matter subject to consideration under the proposed Section 4.55 application.</p>
<p>Claims that the original development consent is still in a 'state of deferred commencement' and therefore is not approved.</p>	<p>A 'deferred commencement' consent was issued and required that all requirements of "Schedule A" are to be satisfied prior to the consent becoming operational. The Schedule A matters in the consent were satisfied and the consent become operational on 12 August 2004. This was confirmed by way of letter from Council dated 12 August 2014. Therefore, the objectors' understanding is not correct and the consent is operational.</p> <p>Compliance of the facility with respect to these impacts are addressed by way of the annual licence reviews which are regulated by the EPA.</p>
<p>The LEMP (dated 2004) includes waste quantities that are less than those nominated in the Section 4.55(2) application.</p>	<p>Whilst it is acknowledged that the LEMP (2004) includes an annual waste quantity of 40,000 tonne per annum, the current EPA EPL specifies 55,000 tonne of putrescible waste and 15,000 tonne of non-putrescible waste which is the maximum quantity highlighted in the subject Section 4.55(2) application. The quantities provided in the documentation are current quantities as per the license and the subject of this application does not seek to alter or increase the quantity of waste beyond that already approved under the current license. Therefore the question of approved quantities of waste are not the subject of this modification request.</p>
<p>Objections raised to the subject DA related to the provision of a Food and organic Processing facility.</p>	<p>A separate DA was lodged at a similar time as the subject application was received. This application was a new DA for a Food and Organic Processing facility at the subject site. The application was subsequently withdrawn and the objection matters raised that relate to that DA are not relevant to the subject Section 4.55(2) application and therefore have not been included in the assessment.</p>

Objection Matter	Response
<p>The modification report mentions that there are alternate options for landfill to occur and that alternate option is for it to occur at an alternate site earmarked for landfill activities in the future.</p>	<p>The motive of the applicant to pursue the subject modification application as compared to pursuing the new landfill site for disposal of putrescible waste is not a matter for consideration by Council (as the consent authority) under legislative requirements of the EP&amp;A Act 1979. Notwithstanding, the applicant has advised that a decision was made by Council to pursue Option B as it is in the best interest of future waste management for the shire. It was considered more appropriate to exhaust the existing waste management facility before moving on to another site and leaving an existing facility underutilized.</p>
<p>The proposed modification fails to satisfy 'substantially the same' test.</p>	<p>The NSW Land &amp; Environment Court has established precedent for how a Section 4.55(2) can be assessed as 'essentially' and 'materially' the same as the original development based on the characteristics of the modification. Council officers have considered the precedent established in the NSW Land &amp; Environment Court cases to determine whether the proposed modification meets that test.</p> <p>During the assessment of this application, additional information was requested by the applicant to ensure that environmental management regimes for the proposed modification (disposal of putrescible waste at Cell B) would not further modify or change the overall function and use of the site as originally approved (i.e. leachate management plans etc). The information submitted by the applicant suitably demonstrated that apart from the change in Cell B Boundary (as identified in the proposed plans), the overall layout and planning for the entire site will not change and that there is capacity in current leachate management practices to appropriately collect, treat and dispose leachate for the site (including the proposed modification to Cell B). Furthermore, information was submitted to ensure that the use of Cell B for disposal of putrescible waste would not have adverse impact in regard to odour.</p> <p>It is noted that the original application considered a landfill and extraction (quarry) activities and the provision of three (3) landfill cells. Therefore the matters for consideration relate to the proposed modification to only one of the three landfill cells and an adjustment of the cell boundary and change in waste stream being accepted at that cell as compared to what was originally approved, in comparison to the overall approval under D95/0193, this modification continues to satisfy the 'substantially the same development' test. Further discussion regarding this matter is contained earlier in this report.</p> <p>Based on the information contained in the modification application package and the matters discussed in this report, Council can be satisfied the proposed modifications satisfy the 'substantially the same test' and can be considered under Section 4.55(2) of the EP&amp;A Act 1979.</p>

Objection Matter	Response
<p>The information contained in the modification application relies on a separate approval for the Food and Organic Processing (FOGO) facility to mount an argument regarding odor impacts. An objector has queried whether this mean that the FOGO facility needs to be built to ensure no odor impacts will arise as a result of the proposed modification.</p>	<p>This matter was referred to the applicant for clarification given the FOGO DA was recently withdrawn. The applicant has advised that the current waste collection program allows for the sorting and separation of waste on the road side by Council 3 bin system and this will continue to occur until an alternate sorting and organics processing facility is established. Until this time, this material (organic waste) will be taken off site for processing and will not be disposed in the putrescible waste cell.</p> <p>Council's assessment officers and the EPA have considered the above provisions and nominated special conditions of consent to secure this outcome. As such, Council can be satisfied that odor impacts will not be experienced as a result of disposal of organic waste into the putrescible cell B.</p>
<p>Flooding Impacts</p>	<p>The concerns raised in relation to flood impacts and appropriate provisions of flood management and run off requirements have been addressed by councils flood engineers whom have advised that whilst the subject site is mapped to be within an area affected by 1 in 100 year flooding as well as affected by PMF, with a flood planning level for the site of RL 3.9m AHD. The area of the subject modification (Cell B) is mapped to be located within a low flow area. This area of land (Cell B) is mostly above RL 12m AHD, which is above the flood planning level and PMF (8.8m AHD) therefore the proposed modification satisfactorily respond to the matters for consideration under Clause 7.3 of the TLEP2014 and Section A2 of TDCP2008.</p>
<p>Existing site operations causing odour impacts.</p>	<p>This is a compliance matter having regard to the existing EPA license and consent. As previously mentioned there are mechanisms in place for odour complaints to be managed and addressed via the EPA and Council. The objector has been advised of such and the complaint management phone number has been provided to the complainant.</p>
<p>Putrescible waste disposal will be closer to objectors house as compared to current waste disposal locations and this will increase noise and odour.</p>	<p>The closest objector's residence is located a greater distance from the South East Extraction/landfill site as compared to the existing south west site (which is now capped) and a comparative distance from the central extraction/landfill site as compared to the south east landfill site (proposed putrescible waste disposal location) (see <b>Figure 5</b> which includes a map/layout of site and approximate distances of dwelling from landfill cell boundaries). Based on the location of the proposal (being Cell B at the south east landfill site) which is a greater distance from residential properties as compared to the existing cell locations, it is likely that as operations continue at the site and the existing cells are filled and capped, existing odour impacts will dissipate due to the greater distance from the residential properties to the waste disposal Cell B.</p>

Objection Matter	Response
	
<p><i>Figure 5: Location of objector residence and approximate distance from cell location (343.2m to central landfill site and 330.3m from south east landfill site (242.9m from south west site which is now capped)).</i></p>	

Section 4.55(3) states that 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.

**Comment:**

An assessment of the proposed modification under the relevant matters for consideration under Section 4.15(1) of the Act is contained from herein.

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

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

**Tweed Local Environmental Plan 2014**

Clause 1.2 – Aims of the Plan

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

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

The proposal relates to a modification to the approved Waste Management Facility on land zoned for such purposes (SP2 Infrastructure – Waste Management Facilities). The development is in line with long term strategic planning for the shires waste resource management and is consistent with the aims of the plan as far as providing a consistent form of development on appropriately zoned land without compromising the cultural, environmental or ecological values of the land.

#### Clause 2.3 – Zone objectives and Land use table

The site is zoned SP2 Infrastructure (Waste Management Facilities). The objectives of the zone are:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

The proposed modifications is consistent with the approved land use for the site (Waste Management Facility) and remains consistent with the objectives of the zone as the development is for modification to the approved infrastructure use associated with the approved use of the land.

#### Clause 5.10 - Heritage Conservation

The site does not contain any items of heritage significance and is not within a heritage conservations area.

#### Clause 5.11 - Bush fire hazard reduction

The subject site is bushfire prone land however the proposed development is for modification to a Waste Management Facility and therefore there are no bushfire considerations that apply.

#### Clause 7.1 – Acid Sulfate Soils

The site is affected by Class 5 Acid Sulfate Soils however the proposed modifications do not affect the developments performance against the objectives of this Clause given that Cell B is an approved waste disposal cell.

#### Clause 7.2 - Earthworks

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

Any excavation works undertaken on the site would need to be undertaken in accordance with existing conditions of consent and approved Environmental Management Plans. As such, Council can be satisfied the development meets the objectives of this Clause.

### Clause 7.3 – Flood Planning

The subject site is mapped to be within an area affected by 1 in 100 year flooding as well as affected by PMF. The flood planning level for the site is RL 3.9m AHD and the area of the subject modification (Cell B) is mapped to be located within a low flow area.

Council's stormwater and flooding engineer has reviewed the proposed modification to Cell B and advised that the cell is mostly above RL 12m AHD, which is above the flood planning level and PMF (8.8m AHD) therefore the proposed modification satisfactorily respond to the matters for consideration under Clause 7.3 of the LEP.

### Clause 7.6 - Stormwater Management

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters. This clause general applies to land zoned residential, business and industrial and in this circumstance, the majority of stormwater management is the subject of separation consideration by the NSW EPA in regard to the issuing of Environmental Protection Licenses (due to the nature of the site and need for sophisticated water management facilities to treat and manage water on the site). Notwithstanding, Councils Stormwater Engineers have considered the proposal and raised no objection to the issuing of a modified development consent.

It was noted that surface waters for the site are directed away from the landfill cell by a system of bunds and swales and there is no hardstand areas requiring treatment included in this application. Whilst there is no erosion and sediment control plan submitted with the DA, the facility is an operating quarry and landfill and overall site drainage incorporates a sediment pond and stormwater is reused for dust control.

In addition to the above scenario, as part of additional information to satisfy relevant requirements by the NSW EPA, a Stormwater (including leachate) Management Plan has been submitted with the application which demonstrates that best practice can be achieved in terms of stormwater management for the site. The information in the stormwater management plan was considered by the NSW EPA and 'in principal' support was provided by the Authority for the purposes of this modification application (subject to special conditions of consent to require additional information in regard to operation and management of leachate) and further submission and consideration of Stormwater Management as part of an amended License application.

For the reasons above, Council can be satisfied that the information submitted in the proposed modification application will maintain stormwater disposal and treatment on the subject site to the satisfaction of the EPA and will minimise impact to adjoining properties, native bushland and receiving water, thus generally satisfying the objectives of this Clause.



### Clause 7.8 – Airspace operations

The subject site is mapped to be contained within Obstacle Limitation Surface layers for gold coast airport however given the nature of the development there is no conflict between airspace operations and the proposed modifications to the approved land use.

### Clause 7.10 - Essential Services

The development does not seek to alter or modify existing supply of water, electricity, disposal or management of sewer or access arrangements.

Additional stormwater infrastructure measures will be employed to collect and treat water run off (leachate) from the Cell. These measures will be subject to a license by the NSW EPA.

### Clause 7.11 Council Infrastructure Development

This clause identifies that certain development carried out by or on behalf of the Council can be done so without development consent. However, in considering the application of this Clause, it has been identified that the proposed modifications do not fall within this category and that an existing consent exists over the land and therefore the works proposed require consideration and approval by way of a modified consent.

## **State Environmental Planning Policies**

### SEPP (Infrastructure) 2007

The subject site is zoned SP2 Infrastructure and it operates as an approved Waste or Resource Management Facility.

Under Clause 120 of SEPP (Infrastructure) 2007, a Waste or Resource Management Facility is a permitted land use in SP2 Infrastructure zones.

The proposed modification seeks to alter the type of waste being disposed at Cell B (putrescible).

Clause 123 outlines matters for consideration for the consent authority in determining a development application for development for the purposes of construction operation or maintenance of a landfill facility.

The proposed modification has been considered having regard to the matters for consideration under Clause 123(1) of the SEPP and in considering the proposed modifications having regard to the provision of this Clause, Council can be satisfied that the development meets the requirements of this Clause for the following reasons:

- (a) The organics waste stream is continuing to be significantly reduced since the introduction of Tweed Shire Council's three bin system in July 2017. A large

portion of organics have now been removed from this waste stream thus minimising the amount of waste disposal at putrescible landfill cells;

- (b) The use and operation of Cell B for putrescible waste will be conditioned to adopt best practice guidelines for landfill design and operation (as required by the NSW EPA by recommended conditions of consent);
- (c) The current operations of the site occur in accordance with an approved Environmental Impact Statement (EIS), a subsequent LEMP (2004) and existing Environmental Protection Licenses (EPL's) by NSW EPA. In addition, to ensure no additional impacts will result from the proposed modification, a recently updated Stormwater and leachate management plan has been prepared for the site. It is considered that subject to compliance with conditions of consent, and amended EPL's, the updated reports and approved LEMP establish appropriate measures to manage the impacts of the disposal waste in terms of Greenhouse Gas (GhG) emissions and odour impacts. The continuing use of these mitigation measures will mitigate any potential for additional odour impacts resulting from the proposed modification;
- (d) Given the development relates to an expanded cell, the provisions under Clause 123(1)(c) are relevant:
  - i. Clause 123(1)(i) is satisfied given that the proposed modification relates to an already approved waste disposal Cell in an existing landfill site thus being suitable land for the disposal of putrescible waste.
  - ii. In considering the matters for consideration under Clause 123(1) (ii), the development does not increase the quantity of putrescible waste disposal at the site and current site management strategies (daily covering of the landfill waste) suitably mitigate any potential for additional odour and air quality impacts. The approved use of the subject Cell B for disposal of non-putrescible waste would have the same impact in regard to noise and therefore the proposed modification does not pose any additional land use conflicts beyond that already approved as part of the original development consent;
- (e) The proposed modifications have no nexus on existing transport logistics given that there is no change in quantity of waste being disposed at the site. Therefore, existing waste transport methods are appropriate for the proposed development.

#### SEPP No. 44 - Koala Habitat Protection

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

The subject site is greater than 1 Hectare and supports a Koala Food Tree species which is proposed for removal, being *Eucalyptus Microcorys*. As such, the provision of SEPP 44 applies to the site.

The applicant has submitted a Flora and Fauna Report which includes survey data which found that Koala feed trees comprised less than 15 % of the total number of trees in the upper and lower strata of the tree component. As such it was determined that the site does not support 'Potential Koala Habitat' and that Clause 8 of the SEPP 44 does not apply. Furthermore, the *Tweed Coast Comprehensive Koala Plan of Management 2015* does not technically apply to the site being outside the defined koala management areas.

Council's Biodiversity officers has reviewed the report and concurs with the applicant's determination. As such, Council can be satisfied that the proposed modification can be consented and that the provision of the SEPP 44 are satisfied where they apply.

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

No draft EPI's apply to the proposed development.

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

Tweed Development Control Plan 2008

A2-Site Access and Parking Code

Access to the site from is from Bartlett's Road and the development does not seek to alter or modify the existing access or vehicular circulation within the site as part of the proposal. Furthermore, the applicant has stated that no additional staff are required as a result of the proposed modification.

As such, Council can be satisfied that the proposal maintains a satisfactory performance against the provision of Section A2 of the Tweed DCP by virtue of the original approval (as modified).

A3-Development of Flood Liable Land

As previously discussed, the subject site is partially affected by 1 in 100 year flooding and PMF. However, the land to which Cell B is above the flood planning level and PMF. Therefore, the provisions of Section A3 of the DCP do not apply to the proposed development.

A11-Public Notification of Development Proposals

In accordance with the provisions under Section 4.55(2) of the Act, the application was advertised pursuant to the EP&A Regulation 2000 and neighbour notified from Wednesday 4 October 2017 to Wednesday 18 October 2017. During the notification period, two objections were received.

The assessment of the objections matters relevant to the subject application warranted a request for additional information and upon receipt of the additional information from the applicant, a further round of notification was undertaken from Wednesday 3 October 2018 to Wednesday 17 October 2018.

Consideration and assessment of the matters raised as a result of both rounds of notification have been previously discussed in this report.

#### A15-Waste Minimisation and Management

This section of the Tweed DCP requires that all applications for development (with some exceptions for minor development) must be accompanied by a Waste Management Plan. Given that the site contains an approved Waste Management Facility and waste can be easily recycled or disposed of onsite, it is considered that the preparation of a management plan is not required for the purpose of the application assessment.

Existing approved LEMP's and EPL's by NSW EPA are in place to ensure the appropriate management of waste for the facility.

#### A16-Preservation of Trees or Vegetation

As previously mentioned in this report, the proposed development includes the clearing of a portion of existing vegetation to accommodate the modified Cell boundary. The vegetation removal includes two vegetation communities; of which one is described as very tall Blackbutt open forest and the other as early regrowth sclerophyll forest and weeds. Neither of these are described as an Endangered Ecological Community (EEC) pursuant to the NSW Threatened Species Conservation Act 1996 (TSCA) or Threatened Ecological Community pursuant to the Commonwealth Biodiversity Conservation Act 1999 (BC).

The Flora and Fauna report submitted with the modification application further highlighted a number of constraints associated with the proposal including the loss of hollow bearing trees and potential impacts to Koala feed trees and other threatened species and their habitats. Whilst it is acknowledged that the existing site conditions reflect disturbance associated with the vegetation on the subject site (in particular, the vegetation in the affected area appears to have been subject to clearing and is fragmented), for the reasons listed above, the site is considered to be moderate to high biodiversity value and therefore the flora and fauna report highlighted potential for impact to these communities.

As such, despite not being subject to rigorous assessment under TSCA 1995, BC Act 1999 or SEPP 44 (Koala Habitat Protection), due consideration of these impacts having regard to Section A16 of the DCP has been undertaken.

The Flora and Fauna report highlights an opportunity to establish appropriate measures to compensate for the loss of identified hollows and koala feed trees in association with the vegetation removal, and it identifies that nest boxes have already been installed in retained vegetation to supplement to the potential loss of tree hollows. In addition, the report makes recommendations to offset the loss of Koala feed trees at a ratio that would provide a net gain in Koala habitat in the area.

The recommendations in the report have been considered by Council's Biodiversity Officer whom has recommended support of the recommendations as an appropriate measure to mitigate any adverse amenity or biodiversity impacts to the land in line with DCP objectives.

In order to secure amelioration and management opportunities for compensatory habitat restoration, the applicant (in consultation with Council's Biodiversity officers) has made the following commitments which form recommended conditions of consent:

- Long term protection of approximately 2.5 ha area of habitat onsite to be registered under an 88B instrument for conservation purposes. The conservation area shall be managed in accordance with an overarching site based management plan. The area is described as 'Compensation Area – Habitat Restoration and Statutory Protection (2.5 ha)' on Figure 6 below.



*Figure 6: Geo-referenced mapping highlighting in green the area of Blackbutt Open Forest Complex vegetation unit occurring within the proposed expanded cell boundary*

- The restoration and management of the 'Compensation Area – Habitat Restoration and Statutory Protection (2.5 ha)' shown in Figure 6 in accordance with an approved habitat restoration plan. Restoration is to adopt an assisted restoration approach (weed control). Active short term restoration activity shall be undertaken over a 5 year period. The compensation area connects to and is adjacent to a protection area under DA11/0573 'Eviron Landfill Project'.
- The installation of a minimum of a total of twelve nest boxes (final numbers to be determined post clearing) and monitoring for a minimum time period of 5 years in accordance with an approved Nest Box Plan. It is noted that 10 of

the minimum 12 nest boxes were pre-established July 2016 adjacent to the cell.

- Preparation of a Vegetation and Fauna Management Plan sub component to the site based management plan. The plan shall include vertebrate pest management measures.

Based on the above management opportunities which will be secured on the site under the modified consent and in line with current statutory considerations for biodiversity conservation, it is considered that any adverse ecological impacts associated with the proposed development can be avoided, minimised and management to an acceptable level. Therefore, Council can be satisfied that the objectives of Section A16 of the DCP can be met by the proposal.

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

There is no planning agreement or draft planning agreement that applies to the proposal.

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

Designated Development

Clause 35 in Schedule 3 of the Environmental Planning & Assessment Regulation 2000 provides that alterations and additions to development (whether existing or approved) are not designated development, where the consent authority is of the opinion that the development would not significantly increase the environmental impact of the total development compared with the existing or approved development.

As previously discussed in this report, the matters relevant for consideration (outlined under Clause 36 of Schedule 3 of the Environmental Planning & Assessment Regulation 2000) have formed part of the assessment of this application under the Section 4.55 provisions of the Environmental Planning & Assessment Act 1979. Having regard to those assessment matters (raised previously in this report), the proposed modification to the cell boundary for Cell B and change to the type of waste being disposed in this cell (from non-putrescible to putrescible) does not significantly increase the environmental impacts of the total development compared with the existing or approved development.

Therefore whilst the original application constitutes "Designated Development", the proposed modification have been considered under Section 4.55(2) of the Act but not as Designated Development.

Clause 92(1)(b) Applications for demolition

No demolition works are proposed.

Clause 93 Fire Safety Considerations

The proposed modification to Cell B will not impact existing fire safety considerations for the site given the modifications relate to earthworks and inert waste disposal.

Clause 94 Buildings to be upgraded

The proposed modification to Cell B do not require any upgrades to building and therefore Clause 94 provisions do not apply.

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

**Tweed Shire Coastline Management Plan 2005**

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. Given the distance of the site from the coastline (approximately 7.6km), and the residential development situated between the site and the coast, the proposed development will not impact upon that coastline with regard to demands and issues identified within the Plan for the whole of the Tweed coastline (Clause 2.4.1) including: recreation; water quality; heritage; land use and development potential; coastal ecology; and, social and economic demand. The Management Plan objectives at Clause 3.1.1 are therefore satisfied. It is noted that the site is not located within a specific area identified under that Plan.

**Tweed Coast Estuaries Management Plan 2004**

The development is not located within proximity to a Tweed Coast estuary.

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

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

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

Context and Setting

The proposed modification to the type of waste disposal at Cell B does not alter the site operations and use in the local context and setting. The site comprises of a Council owned and operated Waste Management Facility approved for the collection and disposal of the shires organic, putrescible and non-putrescible waste streams. The proposed modifications do not seek to alter or modify the overall function and use of the site as originally approved, furthermore the quantity of waste being processed at the facility will also not change.

### Flora and Fauna

As previously discussed in this report, the proposed modification to the alignment of Cell B boundary will result in the removal of vegetation. Therefore potential flora and fauna impacts have been considered in a Flora and Fauna Report and reviewed by Council's Biodiversity Officer. The submitted report highlights that the existing approval for the site included the provision of a large amount of vegetation removal including the area of land approved for landfilling operations associated with Cell B. Notwithstanding, the amount of additional vegetation removal is to the effect of approximately 2.5 Ha and includes Very Tall Blackbutt Open Forest, and therefore measures have been recommended in the report to mitigate impacts for the removal of additional vegetation associated with the proposed modification. These measures include the installation of nest boxes in other vegetation corridors on the site (and a recent site inspection revealed that installation works have already been undertaken to this effect) and the provision of compensatory planting.

Council's Biodiversity officer has reviewed this report and identified that given the fragmented operations on the site and having regard to existing biodiversity corridors that run along the southern boundary of the subject site and connect to other biodiversity corridors on the land south east of the subject site, that the compensatory planting area should be identified and statutorily protected. In particular, it was highlighted that land to the southern boundary of the subject site supports flora and fauna habitat and would be an appropriate location for offset planting.

As such, the applicant, in consultation with Council's Biodiversity officers, has committed to the creation of a protected area on the site which will be dedicated solely to habitat restoration. This area will be conserved and protected under an 88B Instrument and subject to a Vegetation Management Plan. Additional conditions of consent are recommended to secure the outcomes of this restoration area and require the submission of a Vegetation Management Plan. These plans will form part of an updated LEMP for the site.

Subject to recommended conditions of consent, Council can be satisfied that any potential flora and fauna impacts can be avoided, minimised and managed to an acceptable level.



## Odour

The landfill waste type is proposed to be amended by the approval. However existing management strategies including the daily cover of the landfill waste will mitigate against the potential for odour concerns. The facility will also include a leachate methane gas extraction system which will collect landfill derived gas for flaring at the existing facility on the site. The organics waste stream will also be significantly reduced since the introduction of the three bin system in July 2017. A large portion of organics have now been removed from this waste stream further reducing the potential for odour concerns. The proposal is not anticipated to increase odour issues above current operations and no further detailed odour assessment is deemed necessary. This aspect of the development is regulated by the NSW EPA and based on their comments which raise no objection to the development on grounds of odour, the development is unlikely to have any additional impacts on odour. It is further noted that Council officers have sought advice from the EPA as to whether the provision of leachate management on site have potential to contribute to additional odour impacts (to determine whether there is any potential adverse impacts from the proposed modification) and the EPA's response was:

*"With regards to odour, we do not believe that the issues raised by the EPA in relation to stormwater and leachate would impact on odour if current best practice leachate management are implemented to prevent any odour impacts from leachate collection and storage areas."*

Based on the above advice and the EPA recommendations, Council officers have recommended additional conditions of consent to ensure that onsite leachate and stormwater management practices are in line with current best practice guidelines.

## Construction Noise

The proposed modification may result in construction noise during the site excavation works. Appropriate conditions of consent are recommended to limit noise during typical construction hours. Notwithstanding the impacts, it is noted that the proposed modification is not anticipated to increase construction noise as both the current and proposed modification would require construction activities to occur.

## Operational Noise

Ongoing operational noise is not anticipated to increase when considered on a daily basis. The proposal will however increase the life of the facility. Noise will be regulated by the NSW EPA and given that the EPA have not raised any concerns in their referral comments, Council can be satisfied that existing conditions of consent, approved licenses and LEMP (2004) will appropriately address operational noise impacts.. Whilst the life of the land fill will be increased the noise levels are not anticipated on a daily basis and other operational aspects of the landfill site will be ongoing beyond the 7 years. On this basis further noise consideration are not considered necessary.

### Gas Emissions

Gas emissions will be mitigated through a proposed methane collection systems which will be burnt at the existing co-generation plant and flaring facility on the site. This is undertaken for the purpose of mitigation the potential for methane odours and for greenhouse gas offsetting purposes. This is standard practice and is a system that currently exists at the site. This aspect is regulated by the NSW EPA and they subject to recommended conditions of consent, no concerns have been raised in regard to Gas Emission resulting from the proposal.

### Stormwater (including Leachate) Management

The amended Stormwater Management Plan submitted to Council identifies that without irrigation on-site and tankering off-site, leachate generation at the site currently exceeds storage capacity. Several recommendations are contained in the plan to resolve this issue. However, of the recommendations it is mentioned that the applicant has the option to continue to irrigate leachate in the utilisation areas to reduce leachate quantities and to continue tankering leachate to sewage system when the leachate quantities exceed site leachate storage and treatment capacity.

The applicant has advised that current management measures to deal with the shortfall is for irrigation and tankering offsite which provides sufficient contingency when leachate quantities exceed storage capacity onsite. The required storage capacity for leachate management associated with Cell B will increase when this new cell comes online. Therefore, to accommodate for any additional leachate generation from this cell, the applicant proposes to continue with the option to irrigate and transport via off-site tankering as part of the current Section 4.55(2) Application. As such, no changes to current arrangements and no additional leachate ponds or increased in size or layout of leachate ponds forms part of this application.

Given the consultant's report provides the above scenario as an option and no objections are raised by Council's Environmental Health Officers or the EPA (noting this activity is already occurring under existing license provisions), the proposed modification is considered to be in line with current site practices for stormwater and leachate management and no additional impacts are likely to result from the proposed modifications.

Furthermore, the applicant has advised that whilst the proposed modification will result in additional leachate (as compared to the existing leachate generation for Cell B, being a non-putrescible cell), the net difference in leachate generation over the entire site is unlikely to substantially increase given that proposed Cell B will be used after existing putrescible waste cells are capped off and rehabilitated. Therefore, the proposed modification is for a 'transference' of landfill operations occurring from existing approved cells (ie. The Central landfill site) to the proposed Cell B as opposed to new/additional landfill operations occurring.

Notwithstanding, should any amended license application (submitted to EPA prior to construction of the cell B) result in the EPA requiring an additional leachate storage pond or significant changes to the current storage and management of leachate on site (i.e. the layout and location of leachate ponds), the applicant would be required to further modify their consent to include the new leachate management provisions on the site (to cater for Cell B).

**(c) Suitability of the site for the development**

Surrounding Landuses/Development

The proposed modification to the cell boundary is considered to be a development that is conducive to the overall approved function of the site as a Waste or Resource Management Facility within land zoned for such purposes. Whilst it is acknowledged that the subject site is located within proximity of existing residential dwellings, the ongoing operation of the site as a Waste Management Facility is a land use that is already consented to under previous development consents and has been endorsed as a continuing use under the parent DA.

In considering the impacts of the proposed development which aims to realign the approved boundary of the cell and nominate disposal of putrescible waste streams within that cell, the impacts as compared to existing operations of the south western and central cell is negligible.

The proposed south western cell is located a greater distance to affected dwellings south west of the site as compared to existing putrescible waste cells and therefore where impacts have been observed in the past, the future capping of those existing cells at the time they reach capacity is likely to mitigate any of the existing impacts. The proposed use of Cell B (south eastern cell) for disposal of putrescible waste will continue to be buffered by vegetation and natural ridgelines between the site boundary and adjoining residential sites.

As such, the proposed modifications are not considered to create additional conflicts between the existing land use and nearby residential land uses as compared to what is already approved and for this reason the proposed modifications remain suitable on the subject site.

Flora and Fauna

The proposed modification will result in additional vegetation clearing and due consideration as to the quantity, species and location of the clearing has been undertaken. It has been identified that the proposed modification will not have any significant impact on threatened flora and fauna species nor does the area of vegetation proposed to be removed support potential koala habitat. It is however noted that the site supports threatened species of Fauna and remnant vegetation classified as Blackbutt Open Forest Complex. One habitat tree has been identified within the proposed expansion area.

The applicant has submitted a Flora and fauna Report to address the potential impacts to Flora and Fauna species identified on the site and as previously mentioned in this report, mitigation measures are recommended to offset any potential impacts. Those mitigation measures (installation of nest boxes and onsite compensation planting area as part of a habitat restoration plan) have been expanded upon via commitments by the applicant in consultation with Councils Biodiversity Officer. The commitments to identify a habitat restoration area, protect it on title and manage it under a Vegetation Management Plan (VMP) have formed recommended conditions of consent. Subject to compliance with those conditions, it is considered that the subject site is suitably for the proposed development which will include a habitat restoration program/plan.

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

The subject site is an existing NSW EPA licensed facility and therefore the application was referred to the NSW EPA for consideration and comment.

The EPA have submitted comments on the proposed modification and those comments have formed a critical part of the assessment process to ensure that licensing matters can be fulfilled as part of the proposed modification without impacting the matters relevant for assessment under the Section 4.55(2) application.

The recommendations by the EPA have formed additional recommended conditions of consent and are discussed elsewhere in this report.

In addition, the application was advertised to previous submitters on this DA as well as nearby residents. As mentioned elsewhere in this report, the application went through two rounds of notification. The first being from Wednesday 4 October 2017 to Wednesday 18 October 2017, and the second being from Wednesday 3 October 2018 to Wednesday 17 October 2018. During each of the rounds of notification two submissions were received from nearby residences and those submissions have been considered as part of the Section 4.55(2) assessment.

**(e) Public interest**

The public interest has been described as referring to “considerations affecting the good order and functioning of the community and government affairs for the wellbeing of citizens”. It has also been described as being for the benefit of society, the public or the community as a whole.

The development would not be considered in the public interest if it was contrary to planning legislation applicable to the subject site. It is considered that this report demonstrates that the development is generally consistent with the matters for consideration under Section 4.55(2) and Section 4.15(1) of the EP&A Act 1979 including the relevant environmental planning instruments and Council policy requirements.

The proposed modification is considered appropriate for the subject site, given its location and the existing site operations already approved under the original consent. The subject site is zoned to permit waste operations and it is considered that the proposed modifications is of a scale and nature that commits the development to remain substantially the same as the original consent pursuant to Section 4.55(2) of the Act. For these reason the proposed modifications to the type of waste being disposed at the Cell and the layout of the Cell is considered to be in the broader public interest as far as providing an appropriate location to accept putrescible waste for landfill at an existing licensed landfill facility.

**OPTIONS:**

1. Approve the modification application and modify the conditions of consent to cater for the approved modifications.
2. Refuse the development, providing reasons for a refusal.

Council officers recommend Option 1.

**CONCLUSION:**

Based on the matters for consideration under Section 4.55(2) and Section 4.15 (evaluation) of the Environmental Planning & Assessment Act 1979, the proposed development has suitably demonstrated consistency with the relevant plans and policies that apply to the land. Where potential for additional amenity impacts in regard to odour and air quality have been identified, Council officers have undertaken a detailed assessment to determine whether those impacts are likely to be greater than that already approved. Having regard to the information submitted in the application and those assessment matters, Council officers have concluded that the proposed modification, subject to recommended conditions of consent, are unlikely to have additional adverse impacts on the built and natural environment. Therefore, based on the merits of the proposal, the application is considered to be worthy of support and is recommended for approval.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable

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

Not Applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

Not Applicable.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. Impact Analysis and Habitat Compensation Area Plan dated 22 March 2019 (ECM 5830604)

Attachment 2. D95/0193.01 - Modified Consent Approved July 2004 (ECM 5830606)

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## 10 [PR-CM] Draft Kingscliff Locality Plan - Exhibition Consultation Report

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

mhm



### Leaving a Legacy

*Looking out for future generations*

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

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

**ROLE:** **Leader**

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#### SUMMARY OF REPORT:

The *Kingscliff Locality Plan Community Consultation Evaluation Report* (the consultation report) was reported to Council's meeting on the 7 March 2019 where it was resolved that Council:

- "1. Defers consideration of this report until the Planning Committee meeting of 4 April 2019 in order for a position to be resolved about the site of the proposed Tweed Valley Hospital.*
- 2. Requests the State Government to publicly release the Tweed Health Precinct Background and Scenario Analysis report as prepared by Destravis Group on behalf of the Department of Planning and Environment."*

With regards to item 1 above, following the 2019 NSW State Elections, the Coalition Government have now been re-elected and confirmed the priority for the development of the Tweed Valley Hospital on the Cudgen site to be operational by 2023.

In relation to item 2 above the following is an extract from the response from the Department of Planning and Environment in regard to Council's request for approval to enable the Destravis Report (Tweed Health Precinct Background and Scenario Analysis Report) to be made publicly available:

*"In regards to the Councillor request for a copy of the Destravis Report (Tweed Health Precinct Background and Scenario Analysis Report) this report is a background document to preparing the Tweed City Action Plan. It has not been finalised as the Tweed City Action Plan timeframe has been extended to await the final location of the proposed Tweed Hospital. I note an alternate government, if elected, has proposed an alternative location for the proposed Tweed Hospital and this would inform further consideration to the Destravis work/report.*

*So at this stage given the NSW Government is in Care Taker and has Care Taker conventions, I'm not in a position to release the report to Councillors and or the wider public."*

Council staff will continue liaising and working with DP&E in the development of the Tweed Heads Action Plan including any further work which may be undertaken in relation to the *Tweed Health Precinct Analysis Report*.

The *Kingscliff Locality Plan Community Consultation Evaluation Report* as attached provides an analysis of the feedback comments received during the four community round table sessions held on 4 and 18 September 2018 as well as a review of the 56 written submissions received during the formal exhibition period held 20 August to 24 September 2018.

Council direction is sought on a number of key issues identified within the consultation report which have been presented as recommendations within this report. Council's direction in relation to these key issues will inform the final drafting of the Kingscliff Locality Plan and Development Control Plan (KLP&DCP) and include:

- Mapping and nomination of ecologically sensitive lands;
- Updating the KLP&DCP to include references to the Tweed Valley Hospital;
- Endorsing the exhibited building heights;
- Reviewing request to expand urban footprint areas within the Turnock and Cudgen precincts;
- Review request to update road alignments in the West Kingscliff and Cudgen Precincts (Altona Road, Crescent St and Turnock St extension);
- Review request to enable future community facilities to be nominated within the business and knowledge precinct rather than the town centre or Turnock St precinct;
- To consider master plan design principles to reduce potential to impact existing low density development immediately adjoining greenfield development sites including properties along Beach Street within the North Kingscliff Precinct;
- Review the development control for a 20m vegetative buffer along the Business and Knowledge Precinct frontage to Tweed Coast Road;
- Review planning and design principles to mitigate any potential impacts between greenfield development sites and existing R2 low density areas directly adjoining;
- Review options to facilitate rezoning from R2 low density to R3 medium density over certain sites within North Kingscliff;
- Review strategies in relation to the Council owned land along Elrond Drive;
- Review strategies over the Police station site within the Beachfront Precinct; and
- Review strategies in relation to facilitating rezoning of part Lot 169 DP1075495 fronting Bells Boulevard from SP3 Tourist to B4 Mixed Use to encourage a broader range of retail, commercial, residential uses.

Each of these issues listed above have been discussed in more detail within the consultation report where in some cases a number of different options have been identified. In the consideration of the key issues and recommendations embodied within this Council report, the consultation report should thereby be used as the principle reference in conjunction with the recommendations.



The consultation report and recommendations will be utilised to make the final amendments to the KLP & DCP which will be reported to Council for adoption following the endorsement of the consultation report.

**RECOMMENDATION:**

**That Council:**

- 1. endorse the attached draft Kingscliff Locality Plan and Development Control Plan Exhibition Community Consultation Report 20 August – 24 September 2018;**
- 2. notes that the endorsed Community Consultation Report will inform the final drafting of the Kingscliff Locality Plan and Development Control Plan which will be reported to Council for adoption; and**
- 3. in consideration of the key issues within the evaluation report resolve to:**
  - a) Utilise Council's current draft E-Zone criteria mapping as the basis for the nomination of 'ecologically significant land' within the final KLP&DCP. Provide Gales Holdings with the opportunity to make representations of their ongoing BAM assessment and offset planting strategy as part of Council's forthcoming E-Zone Review process;**
  - b) Include reference to the Tweed Valley Hospital as a major land use, social and economic anchor within the final KLP&DCP which involves:**
    - Updating diagrams and references to the TVH Site throughout the KLP & DCP documents;**
    - Including narrative references to the TVH across each of the KLP & DCP documents particularly in terms of locality wide strategies, economic, employment and social context sections;**
    - Expand the Kingscliff Hill Precinct to include the TVH Site and update the narrative within that section to discuss the planning and design implications of the TVH including a discussion on land uses on the immediate adjoining sites; and**
    - Continue ongoing consultation with NSW Health and the DP&E with regards to hospital planning and design issues and protecting Cudgen State significant farmland;**
  - c) Endorse the proposed building heights as exhibited and initiate a planning proposal to amend the Tweed Local Environmental Plan 2014 to reflect those building heights once the final KLP&DCP has been adopted by Council. Acknowledge that as greenfield sites undergo more detailed site specific master plan processes to inform future planning proposal(s), a review of building heights against proposed land uses and design led outcomes, as initiated by landowners, will likely form part of that master planning process;**

- d) **Not pursue the land owner request for the extension of nominated 'urban footprint' areas within the Turnock St Precinct (area the subject of DA17/0554) in consideration of environmental constraints but acknowledge ongoing investigations through a developer led master planning process regarding opportunity for either passive open space or offset planting;**
- e) **Defer consideration of land owner request for the extension of nominated 'urban footprint' areas within the Cudgen Precinct (lands adjoining future lake resulting from sand extraction operation) from the current KLP & DCP but retain strategies to investigate opportunity to establish a holiday park or tourist accommodation adjoining the future artificial lake (private recreation) as part of the precincts master planning process which should also address key constraints including flood impact. Acknowledge the future land use consideration of this site will be more appropriate at the cessation of the sand extraction industry which has an approved operational life until 2047;**
- f) **Updated diagrams within relevant sections of the final KLP&DCP to represent the approved alignment of Altona Road alignment and provide in principle support for the Crescent St realignment and Turnock St extension preliminary road alignment and intersection location with Tweed Coast Road. Acknowledge the detailed design including final alignment and dimensions, road pavement design and cross sections including fill levels, batters, drainage, integration of shared pathways and detailed intersection design along with consideration of potential impacts on the adjoining sites is deferred to a more detailed developer led master plan process for consultation and review by Council;**
- g) **Retain reference to the 20m vegetative buffer as a development control along the business and knowledge precinct road frontage to Tweed Coast Road noting that the development control plan is a guideline with landscape measures to achieve the vegetative buffer objective to be addressed through a more site specific master plan;**
- h) **Retain the planning and design principles to locate key community facilities within either the Town Centre or Turnock St Precincts in consideration of the beneficial co-locational advantages with the existing business centre and availability of well-located Greenfield development land. Acknowledge the evidence based need and location of such community facilities to be reappraised as an outcome of Council's Community Infrastructure Network Plan in coordination with developer led master plan processes;**
- i) **Amend the final KLP&DCP planning principles relating to the North Kingscliff greenfield development site to mitigate potential interface issues raised between the residents of Sand St and the North Kingscliff Greenfield development site by nominate a combination of both R3 medium density residential with 12.2m building height with the exception of land adjoining existing low density interface allotments which would have a building height of 9.0m (refer option 2 in the consultation report). It is acknowledged that the final structure plan including nomination of building typologies would be the outcome of a future developer initiated site specific master plan;**

- j) Retain strategies to investigate rezoning from R2 low density to R3 medium density to identified sites along the western side of Kingscliff and Sands Street but with a reduced building height of 9.0m (refer option 2 in the consultation report) and delete references to properties along Shell Street;**
- k) Amend the final KLP&DCP to retain Council owned land along Elrond Drive as RE1 Private Recreation (refer option 1 in the consultation report) in review of the lack of appropriately sized and embellished passive open space areas within walking distance of surrounding established residential areas. It is acknowledged that the evidence based need and likely future embellishment of this site will be better understood following the completion of Council's draft Open Space Strategy;**
- l) Amend the final KLP&DCP to remove reference to the strategies to investigate the rezoning of the NSW Police site from R3 to B4 Mixed Use with a 13.6m building height. The proposed 12.2m building height to R3 zones within Kingscliff would apply to this site;**
- m) Amend the final KLP&DCP in relation to the Salt Precinct to reference opportunity to rezone part of Lot 169 DP1075495 fronting Bells Boulevard from SP3 Tourist to B4 Mixed Use to encourage a broader range of retail, commercial, residential uses which would serve the broader Salt precinct residential catchment; and**
- n) Update the final KLP&DCP to including a number of minor editorial and diagrammatic amendments and corrections.**

## REPORT:

A preliminary review of tabulated feedback recorded as an outcome of the four community roundtable workshops and written submission received during the public exhibition period (20 August and 14 September 2018) was reported to the 12 December 2018 Council meeting where it was resolved that Council:

1. *Receives and notes this report and the attached community round table comment tabulations and written submission review;*
2. *Notes that a further future report will provide a more detailed and analytical review of the key issues as an outcome of the consultation process, with recommendations to inform the final drafting of the Kingscliff Locality Plan and DCP in the form of KLP Community Consultation Evaluation Report;*
3. *Forward a copy of the KLP Community Consultation Evaluation Report with the adopted Kingscliff Locality Plan, subject to Council approval, to the Department of Planning and Environment; and*
4. *Consider a future supplementary report on the status of the E-Zone review as it applies to the Kingscliff locality including Gales Holdings sites."*

In response to resolution 2 above, the consultation report as attached to this report (Attachment 1) now provides an analysis of feedback received from the four workshop sessions as well as a review of the 56 written submissions received during the formal exhibition period. In response to resolution 4 above, whilst consideration of the status of the e-zone review is identified in the context of the submission review contained within this report and its attachments, a separate Natural Resource Management Unit initiated status update will be reported to Council.

The consultation report has been broken into three broad sections:

**Engagement Program** – Describes the consultation which involved several approaches and tools to ensure a wide reach of community and stakeholder groups and gather feedback;

**Roundtable feedback** – Provides an overview of the key issues that were raised during the four round table workshop with a tabulated analysis of the key issues under each of the five nominated themes and a description of how the KLP&DCP addresses each of these issues. A copy of the tabulated results are attached to Appendix 1 of the consultation report; and

**Written submission review** – Provides an overview of the key issues identified in the analysis of the 56 written submissions received. The detailed written submission review is attached at Appendix 2 of the consultation report.

The key issues which emerged from both the round table workshops and written submissions are listed below however are discussed in more detail, including the discussion of options on which Council direction is sought, within the consultation report.

### **Round table Feedback**

As previously reported 3,407 comments were received as an outcome of the four roundtable workshop sessions. These comments received have been tabulated into related thematics and ordered in terms of the frequency of the comment (or similar comment) made across the four round table workshop sessions. These tabulations have been attached to the consultation report appendix 1.

This tabulation and recording of comments provided an opportunity to re-evaluate the most pressing themes and issues as raised by workshop attendees which in generic terms included:

- Protecting locality character;
- Improving transport, traffic and car parking;
- Protecting and strengthening the environment;
- Supporting existing or exhibited building heights;
- Support and objection to the Tweed Valley Hospital;
- Value and provision of open space;
- Support of strategies on economic development and employment;
- General comments on population growth, planning and governance;
- Comments relating to improving community infrastructure and social issues;
- Concern in relation to flooding, fill impacts and potential for flood impact;
- Support of strategies to improve housing diversity;
- Comments in support of local agriculture and agri-tourism; and
- Comments relating to improving education infrastructure and opportunities with local industry including the hospital.

The consultation report tabulates the key issues raised within each of the five thematics explored and provides an analysis against the exhibited provisions within the KLP&DCP. This analysis indicated that in most cases the key issues had been specifically addressed by way of strategy, planning principle or development control. These summaries of the stated issues and how the KLP&DCP address them are provided on pages 16-20 of the consultation report.

Despite the general concurrence between round table workshop outcomes and the current plan, there were a number of comments made which would 'value add' to the and will be integrated as part of the final drafting. These comments included:

- Greater acknowledgement of the role which agri-tourism and agri-business can play in locality economic development and employment which is also reflected in Councils draft Rural Land Strategy;
- The need to integrate the Tweed Valley Hospital into the locality plan;
- Include a strategy to investigate the heritage of remnant sugar mill buildings and infrastructure; and
- Opportunities to expand on nature based recreation and education.

### *Round table workshop limitations*

The nature of the feedback recorded during the round table workshops was focussed on the broader thematic and broader issues rather than a more detail or critical evaluation of the strategies, planning and design principles and development controls contained within the exhibited documents. As such the more general and open format of the workshops resulted in a large portion of more generic feedback and feedback on matters that are beyond the scope or intent of a KLP&DCP. This feedback will be redirected to relevant divisions of Council, including where concurrent strategies and public consultation activities are underway.

### **Written Submission Feedback**

The 56 written submissions were received during the formal exhibition period which came from a broad cross section of the community including individuals; landowners and land owner consultants; business groups including the Chamber of Commerce, State agency including NSW Health Infrastructure and resident groups including the Kingscliff Rate Payers and Progress Association. The nature of the written submissions ranges from detailed and specific comments against various strategies, planning principles and controls to a broader consideration of locality based issues.

Given the more detailed nature of some of the written submissions, they warranted a closer review and coordinated planning comment. As such each of the written submissions received has been tabulated and reviewed in terms of recording the comment or submission issue(s), a planning comment in association with the stated issue and a recommendation in terms of amending the context of the KLP&DCP. This detailed written submission review table has been attached at Appendix 2 of the consultation report.

### **Review and proposed amendments to the final KLP & DCP**

The table below provides a summary of the key issues and planning recommendations for Council's consideration and direction. Each of the issues or themes has been broken down into either a tier 1, tier 2 or tier 3 consideration based on a review of the impact on the intent and final drafting of the KLP&DCP. In addition to these key issues, there are a number of other recommendations including proposed amendments in relation to the final drafting of the KLP&DCP which are contained within the written submission review table attached at Appendix 2 of the consultation report.

<b>Issue / Theme</b>	<b>Planning Comment</b>	<b>Recommendation</b>
<b>Tier 1 – Most Impact</b> E-Zone review and conservation footprint  (Refer page 21 of the consultation report)	Submission(s) seeking amendments to lands nominated as being 'ecologically significant' within certain diagrams within the KLP & DCP in pending an ongoing vegetation assessment undertaken by the land owner. Council to date has undertaken preliminary e-zone mapping against DP&E criteria and guidelines in consultation with land holder. Whilst there is general concurrence across the majority of lands nominated as ecological significant there are a number of sites which the land owner disputes. In addition Council is not yet in receipt of an offset planting plan nominating areas to be replanted to offset other areas to be cleared.	For the purposes of the diagrams within the KLP & DCP utilise Council's current draft E-Zone criteria mapping as the basis for the nomination of 'ecologically significant land'. Provide Gales Holdings with the opportunity to make representations of their ongoing BAM assessment and offset planting strategy as part of Council's forthcoming E-Zone Review process.

Tweed Valley  
Hospital

(Refer page 22-23  
of the consultation  
report)

A number of comments from the round table workshops and written submissions have indicated a strong desire for the Tweed valley Hospital to be acknowledged and included in the consideration of the KLP&DCP.

In acknowledgment of the significance of the Tweed Valley Hospital as a major land use, social and economic anchor, it will be necessary to review the KLP & DCP to:

- Update diagrams and references to the TVH Site throughout the KLP & DCP documents;
- Include narrative references to the TVH across each of the KLP & DCP documents particularly in terms of locality wide strategies, economic, employment and social context sections;
- Expand the Kingscliff Hill Precinct to include the TVH Site and update the narrative within that section to discuss the planning and design implications of the TVH including a discussion on land uses on the immediate adjoining sites; and
- Continue ongoing consultation with NSW Health and the DP&E with regards to hospital planning and design issues and protecting Cudgen State significant farmland.

Building height

(Refer page 24-25  
of the consultation  
report)

The majority of roundtable comments supported retaining the three storey building heights limit in Kingscliff and generally endorsed the proposed building height amendments as exhibited. A total of 8 written submissions expressed a preference for the exhibited buildings heights and generally retaining the 3 storey status quo. Outside of the Gales Holdings submission, (3) three individual submissions including one from the Kingscliff Chamber of Commerce (KCC) indicated support for increased building heights in some locations.

Endorse the exhibited building heights as an outcome of the KLP&DCP exhibition and initiate a planning proposal to amend the TLEP 2014 to reflect the exhibited building heights. Acknowledge that as greenfield sites undergo more detailed site specific master plan processes, a review of building heights against proposed land uses and design led outcomes will form part of that master planning process.



<p>Extension of the Turnock St Urban Footprint</p> <p>(Refer page 26-27 of the consultation report)</p>	<p>Representations that some of the land within the Turnock St precinct, which has been diagrammed as 'ecological significant land', is not significant but 'cleared grass land.</p>	<p>Not extending the urban footprint within the Turnock Street precinct. For the purposes of the diagrams within the KLP &amp; DCP utilise Council's current draft E-Zone criteria mapping as the basis for the nomination of 'ecologically significant land'. Provide Gales Holdings with the opportunity to make representations of their ongoing BAM assessment and offset planting strategy as part of Council's forthcoming E-Zone Review process. Consider the 'cleared' or 'unvegetated' area of land within the Turnock St precinct as a candidate 'offset planting site' or as passive open space.</p>
<p>Extension of the Cudgen Precinct Urban Footprint</p> <p>(Refer page 28 of the consultation report)</p>	<p>Representations that some of the land within the Cudgen precinct (west of Crescent St), to be identified as 'residential' rather than 'tourist' nomination within the strategies and diagrammatic representations.</p> <p>Lands immediately adjoining this site have an approval for sand extraction operation until 2047. As such the final location of the artificial lake remains unknown.</p> <p>Detailed investigations into fill and flood impacts have not been undertaken to determine the appropriateness of this site for residential development.</p>	<p>Retain the strategy to investigate future opportunity to establish a holiday park or tourist accommodation adjoining the future artificial lake (private recreation) as part of the precincts master planning process which should also address key constraints including flood impact. Do not nominate the extension of residential urban footprint in this location as part of the current KLP &amp; DCP.</p>
<p><b>Tier 2 – Moderate Impact</b></p> <p>Design of Altona, Crescent and Turnock St</p> <p>(Refer page 28 of the consultation report)</p>	<p>Representations that the diagrams within the KLP &amp; DCP do not currently reflect the current approved road alignment of Altona Road or consider the potential to realign Crescent St in consideration of a future intersection with Tweed Coast Road and Turnock St extension.</p>	<p>Diagrammatic references to the future Altona Road alignment to be updated to reflect the current approved road alignment. In principle support be provided in reference to potential to realign Crescent St, location of intersection on Tweed Coast Road and alignment of Turnock St extension.</p>

Community  
Facilities Location

(Refer page 30 of  
the consultation  
report)

Representations that the identified Kingscliff wide civic uses such as multipurpose community building, library, incubator workspace and preschool are more appropriately provided in the Business and Knowledge Precinct so that they can serve as a catalyst for the development of that precinct rather than additional traffic and parking pressures being placed on the Kingscliff Town Centre.

The KLP & DCP currently advocates for locating key community services including but not limited to a library and multipurpose community centre within or within proximity to the town centre. This is based on the significant amount of Greenfield development adjoining the town centre and colocation advantages of combining community facilities with retail and commercial activities.

Notwithstanding the in principle support for the preliminary road alignment and intersection location, detailed design including final alignment and dimensions, road pavement design and cross sections including fill levels, batters, drainage, integration of shared pathways and detailed intersection design along with consideration of potential impacts on the adjoining sites is deferred to a more detailed developer led master plan process for consultation and review by Council.

Retain the planning and design principles to locate key community facilities within either the Town Centre or Turnock St Precincts due to co-locational advantages with the existing business centre and availability of well-located Greenfield development land.

Notwithstanding, the final location of required community infrastructure is best pursued through more detailed developer led master plans in consultation with Council's Community and Cultural Services Unit and the development of the Community Infrastructure Network Plan. This master plan process may also identify the need for additional community facilities to service the Business and Knowledge Precinct.

Land forming and Flooding

(Refer page 28 of the consultation report)

26 written submissions including 20 proforma letter submissions (Beach St residents) raise concern about the potential flood impact on existing residential areas resulting from additional Greenfield development land fill areas within the North Kingscliff Precinct.

Council's current flood plain modelling indicate that the North Kingscliff Greenfield Development area could be filled to a commensurate level with adjoining residential areas with legible impact on localised flood levels.

Whilst the Greenfield development site fill levels have not yet been determined, and only would be as part of a more detailed master plan / subdivision design, a number of land forming objectives and controls to mitigate potential fill, flood and interface issues are specified in KLP Vol 3 DCP Objective 4.

Any future master plan process over this and any other Greenfield development site in Kingscliff, would need to undertake appropriate flood modelling and demonstrate compliance with the provisions of Tweed DCP A3 – Development of Flood Liable Land and Tweed Valley Floodplain Risk Management Strategy (Control 1C1 Design Principle 11: Hazards and Resilience).

Update KLP Vol 3 DCP 2.5 Land forming development control C2 to state:

C2. Where Greenfield development sites directly interface with existing settlement areas, fill levels shall be consistent where both are above design flood level. Where existing settlement sites are below design flood level heights, new development areas are to be constructed at design flood levels. Interface between new and existing and settlement areas are to be carefully designed to not result in any exacerbated flooding and drainage issues to the existing settlement areas and level differentials are to be appropriately setback, landscaped and/or retained on the development site to reduce the visual and amenity impacts of retaining walls and level differential.

North Kingscliff  
Greenfield site

(Refer page 32-22  
of the consultation  
report)

20 proforma written submissions have been received from residents of Beach St area all of which identify similar themes / issues including concern about amenity impacts of R3 zoning with 12.2m height limit adjoining existing R2 low density with 9.0m building height.

The North Kingscliff greenfield development site is currently zoned R1 with a building height of 13.6m. This land use and building height nomination has been in place since TLEP 1987 (3 storey nomination).

Notwithstanding the long standing zoning and building height associated with this site, the KLP would require that the process of development this site would firstly need to undergo a developer led structure and master planning design process. This would review the site opportunities and constraints which include potential development site interface issues.

Amend the final KLP&DCP planning principles relating to the North Kingscliff greenfield development site to mitigate potential interface issues raised between the residents of Sand St and the North Kingscliff Greenfield development site by nominate a combination of both R3 medium density residential with 12.2m building height with the exception of land adjoining existing low density interface allotments which would have a building height of 9.0m (refer option 2 in the consultation report). It is acknowledged that the final structure plan including nomination of building typologies would be the outcome of a future developer initiated site specific master plan.

North Kingscliff R3  
Medium density

(Refer page 34 of  
the consultation  
report)

2 written submissions make representations against strategies within the North Kingscliff Precinct to investigate opportunities to expand R3 Medium density zoning. Basis for objection includes potential for impact on existing residents by way of congestion and increased building heights.

The KLP & DCP North Kingscliff Precinct strategies identifies certain properties along the western side of Kingscliff Street, western side

Retain strategies to facilitate rezoning from R2 low density to R3 medium density to identified sites along the western side of Kingscliff and Sands Street but with a reduced building height of 9.0m (refer option 2 in the consultation report) and delete references to properties along Shell Street.

of Sand Street and south side of Shell street to transition from R2 low density residential to R3 medium density residential. The strategic principle behind this transition is acknowledging these properties are either along a key transport route, are within walking distance or directly adjoining significant areas of passive and active open space, directly adjoin areas of R3 medium density and are of a lot size and building stock age which presents redevelopment opportunity to achieve a more diverse housing types.

Council owned  
Elrond Drive Site

(Refer page 35 of  
the consultation  
report)

A written submission purporting to represent the interests of 20 residents of Beach St make objection to a strategy to investigate Council owned land fronting Elrond Drive for residential land use options including affordable housing. The nature of the objection relates to a lack of existing usable open space within a walkable catchment of the existing residential areas around Elrond Drive which will be exacerbated with additional Greenfield development surrounding.

Amend the final KLP&DCP to retain Council owned land along Elrond Drive as RE1 Private Recreation (refer option 1 in the consultation report) in review of the lack of appropriately sized passive open space areas within walking distance of surrounding established residential areas. It is acknowledged that the evidence based need and likely future embellishment of this site will be better understood following the completion of Council's current Open Space Strategy.

In pursuit of Council's interests in delivering more affordable housing types, this land was identified as being a potential candidate site for investigating affordable housing as a strategy within the KLP&DCP. Affordable housing could take many forms ranging from low density residential subdivision to a more multi-unit development where a proportion would be subsidised as affordable accommodation

managed by an affordable housing provider.

Notwithstanding the identified overall causal open space surplus within the locality, Council's draft Open Strategy indicates that residents in West Kingscliff (in the vicinity of Elrond Ave), north of McPhail Ave and the south end of Sand St, Kingscliff are undersupplied with quality neighbourhood playgrounds. In recognition of this, there is also merit in retaining this site as open space to be embellished to an appropriate level in the immediate future.

### **Tier 3 – Minor Impact**

Buffer zone to  
Tweed Coast Road

(Refer page 30 of  
the consultation  
report)

Nomination of B4  
land in Salt Precinct

(Refer submission 4  
item 51 in Appendix  
2 of the  
Consultation report)

Retain reference to the 20m vegetation buffer screen within the KLP & DCP. There is opportunity for future landowner / developer proponents to demonstrate how the intent of this is being met as part of design led master planning processes over Greenfield development sites. This would provide the opportunity to provide more site specific detail on the relationship between proposed urban structure, built form and providing landscaping to enhance and strengthen the landscape character.

Amend the final KLP&DCP in relation to the Salt Precinct to reference opportunity to rezone part of Lot 169 DP1075495 fronting Bells Boulevard from SP3 Tourist to B4 Mixed Use to encourage a broader range of retail, commercial, residential uses which would serve the broader Salt precinct residential catchment.

Kingscliff Police Station Site	<p>Three submissions objected to a strategy within the KLP&amp;DCP to facilitate the rezoning of the current Kingscliff Police Station site to B4 Mixed Use with a building height of 13.6m. Objection include potential amenity impacts of increased traffic and noise associated with retail and commercial uses and impact on view by way of a potential higher building.</p>	<p>Amend the final KLP&amp;DCP to remove reference to the strategies to investigate the rezoning of the police site from R3 to B4 Mixed Use with a 13.6m building height. The proposed 12.2m building height to R3 zones within Kingscliff would apply to this site.</p>
(Refer submission 5, 7, 9 & 10 in Appendix 2 of the Consultation report)	<p>Throughout the KLP process, the NSW Police have not expressed an intent to relocate. The draft strategy sought to explore opportunity to provide alternate housing types as well as opportunity to integrate low scale retail and commercial uses to serve the residents of surrounding predominantly residential flat building.</p>	
	<p>Upon review, a wide range of housing types, including shop top housing could be pursued within the current R3 Medium Density Land Use, thereby negating the intent of the draft nomination of a B4 Mixed Use land use.</p>	
KLP & DCP editorial changes	<p>A number of editorial amendments across each of the three KLP &amp; DCP volumes to correct errors and ensure consistency between each of the sections including diagrams, strategies, objectives, planning and design principles and development controls.</p>	<p>Review and update the final KLP &amp; DCP to make editorial and diagrammatic amendments to ensure consistency across each volume.</p>

**OPTIONS:**

1. To accept the *Kingscliff Locality Plan and Development Control Plan: Community Consultation Evaluation Report* and identified recommendations as outcomes of

that analysis and evaluation contained within this report to inform the final drafting of the KLP & DCP; or

2. Council nominate alternative recommendations and amendments to inform the final drafting of the KLP & DCP.

Option 1 is recommended.

## **CONCLUSION:**

The KLP & DCP has been developed through a multi-stage iterative process which involved extensive community and stakeholder engagement.

Feedback received during the public exhibition period included a substantial number of comments from the four round table workshops and (56) written submissions received during the public exhibition period. These submissions have now been collated and analysed within the attached *Kingscliff Locality Plan and Development Control Plan: Community Consultation Evaluation Report*.

In evaluating each of the comments and submissions made, the consultation report identifies the key issues which emerged and makes a number recommendations in relation to those key issues to inform the final drafting of the KLP & DCP.

Council resolution to endorse the consultation report and provide direction in relation to these key recommendations is now sought.

## **COUNCIL IMPLICATIONS:**

### **a. Policy:**

Corporate Policy Not Applicable

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

Whilst the development of the KLP & DCP is in the final stages of review, any additional community consultation which may be required as an outcome of consideration of the attached Community Consultation Evaluation Report would require a budget allocation.

Further, any Council nominated further reviews, workshops or investigations would require additional staff resource allocation which may have an impact on the project management and delivery of other projects on Strategic Planning and Urban Design units work program.

### **c. Legal:**

Not Applicable.

### **d. Communication/Engagement:**

**Empower**-We will give the community greater opportunity to participate in a transparent flow of information and feedback to Councillors who have been empowered as the Community representatives to make decisions in accordance with the Local Government Act 1993.



**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. Kingscliff Locality Plan and Development Control Plan -  
Community Consultation Evaluation Report (ECM 5779373)

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## 11 [PR-CM] Helipads and Heliports - Management of Noise

**SUBMITTED BY:** Building and Environmental Health

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
- 3.1.6 Environmental Health - To support public health and environmental safety through education, inspections and enforcement of government rules and regulations.

**ROLE:** **Provider**

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#### SUMMARY OF REPORT:

In response to a Notice of Motion submitted to Council's meeting of 19 July 2018 in relation to noise associated with the use of helipads, Council resolved the following:

*“Council requests that an options report, on a noise control policy associated with the use of helipads within the Shire, be brought forward to a future Council meeting”.*

The development of new helipads and heliports or where changes to existing operations are proposed can often raise legitimate concerns for local communities. This is particularly noticeable in areas that have not been previously exposed to such noise or where early morning and night time helicopter operations may cause sleep disruption.

Each helipad or heliport is a unique situation and the development approval process and final decision may not result in a satisfactory outcome for every resident, community or operator.

Council officers have prepared an issues paper (please refer to Attachment 1 of this report) on the Management of Noise Associated with the Use of Helipads and Heliports that explains how noise from helicopter activity is regulated in New South Wales, provides development assessment guidance for applicants, and outlines how an application for a helipad or heliport is assessed.

It is recommended that Council consider the need for a Councillor Workshop on the matters raised in this report and that the attached issues paper Management of Noise Associated with the Use of Helipads and Heliports dated April 2019 be used as a supporting document for staff involved in the assessment and regulation of helipads and heliports within the Tweed Shire.

**RECOMMENDATION:**

**That Council:**

- 1. Considers the need for a Councillor Workshop to discuss key issues surrounding the assessment and regulation of noise associated with helipads and heliports;**
- 2. Supports the creation of a development assessment guide for use by applicants seeking development consent for a helipad or heliport; and**
- 3. Supports the use of the issues paper Management of Noise Associated with the Use of Helipads and Heliports dated April 2019 as a supporting document for staff involved in the assessment and regulation of helipads and heliports.**

## REPORT:

### Council Resolution

In response to a Notice of Motion submitted to Council's meeting of 19 July 2018 in relation to noise associated with the use of helipads, Council resolved the following:

*“Council requests that an options report, on a noise control policy associated with the use of helipads within the Shire, be brought forward to a future Council meeting”.*

### Further Investigation

The responsibility for helicopter noise management is shared between airline and aircraft operators, air navigation providers, airports, federal government agencies, and state and local governments.

The attached issues paper incorporates detail on the responsibilities of each of the following agencies:

- Local Government;
- Civil Aviation Safety Authority (CASA);
- AirServices Australia (ASA);
- Environmental Protection Authority (EPA);
- NSW Department of Planning and Environment;
- Federal Department of Infrastructure and Regional Development and Cities;
- Airports; and
- Aircraft Noise Ombudsman.

### Land Use Planning

The issues paper provides information in terms of the Tweed Local Environmental Plan (LEP) 2014 and permissibility of a helipad or heliport with consent in particular zones.

It is noted that a recent heliport appeal (Nessdee Pty Limited v Orange City Council [2017] NSWLEC 158) incorporated a breakdown of steps to be taken during the assessment of a development application to enable a consent authority to be satisfied that a helipad or heliport would be acceptable including that:

*“In most cases it can be expected that the Court will approve an application to use a site for a purpose for which it is zoned, provided of course the design of the project results in acceptable environmental impacts.”*

The issues paper also provides information on development that is considered Designated Development and addresses State Environmental Planning Policy (SEPP) (Infrastructure) 2007 in terms of what is permitted with or without consent.

### Noise Assessment Criteria

In addition to providing applicants with information that is required for a development application in general, the issues paper outlines what an applicant may include in terms of

noise assessment criteria for a proposed helipad or heliport. The issues paper also includes a list of recommended considerations with regard to various legislation requirements.

**OPTIONS:**

That Council:

1. Considers the need for a Councillor Workshop to discuss key issues surrounding the assessment and regulation of noise associated with helipads and heliports;
2. Supports the creation of a development assessment guide for use by applicants seeking development consent for a helipad or heliport;
3. Supports the use of the issues paper Management of Noise Associated with the Use of Helipads and Heliports dated April 2019 as a supporting document for staff involved in the assessment and regulation of helipads and heliports; or
4. Takes no further action.

Points 1, 2 and 3 are recommended.

**CONCLUSION:**

Where Council is the approval authority for a helipad or heliport, Council plays a crucial role in balancing the needs of the applicant and the potential impacts of the surrounding community.

Although safety concerns may be referred to CASA or AirServices Australia, noise impacts will ultimately be directed to Council to monitor and seek compliance.

Each helipad or heliport is a unique situation and the development approval process and final decision may not result in a satisfactory outcome for every resident, community or operator.

Individual consideration should be given to the local community through consultation and by applying the appropriate assessment considerations, noise criteria, and conditions of consent to ensure a helipad or heliport may operate without unacceptable adverse effect on the amenity of residents and the aesthetic values of the locality.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable

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

Not Applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1.

Management of Noise Associated with the Use of Helipads  
and Heliports - Issues Paper, April 2019 (ECM 5834188)

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## REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

### 12 [CNR-CM] Jack Evans Boat Harbour Plan of Management Community Consultation Report and Update

**SUBMITTED BY:** Recreation Services

mhm

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

**ROLE:** **Provider**

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#### SUMMARY OF REPORT:

Council has resolved to prepare a Plan of Management for the Jack Evans Boat Harbour (JEBH) in consultation with the community. Advice was sought from the NSW Department of Industry (DoI) - Crown Lands and Water in this regard and confirmation is sought from Council in relation to the land to which the proposed Plan of Management will apply.

In determining the scope of the Draft JEBH Plan of Management, several matters require consideration including land tenure, land zoning and classification, Aboriginal Land Claims and procedural timeframes. Given these considerations, the area as mapped below in Figure 1 is recommended as land subject of the proposed Draft Plan of Management.



**Figure 1: Recommended land to which the proposed Draft Jack Evans Boat Harbour Plan of Management applies.**

JEBH comprises several separate Crown Reserves and Tweed Shire Council is not nominated Crown Land Manager for all of these. If Council is not appointed Crown Land Manager of a Crown Reserve, any plan of management for that Crown Reserve that Council adopts has no legal authority under the Crown Land Management Act 2016 (CLM Act) and any directions from that plan may not be able to be enacted. Therefore it is considered that in order for the proposed Draft Plan of Management to be an effectual legal regulatory document authorised by the CLM Act, it is recommended that Council requests NSW DoI - Crown Lands and Water to appoint Council as Crown Land Manager of Crown reserves which are currently not managed by Council within the area that will be subject to the Plan of Management.

## **RECOMMENDATION:**

### **That Council:**

- 1. Supports the scope of the proposed Draft Jack Evans Boat Harbour Plan of Management to include the JEBH Waterway, Chris Cunningham Park, Goorimahbah, Ebenezer Park and land north of Coral Street shown in Figure 1.**
- 2. Requests NSW Department of Industry - Crown Lands and Water to appoint Council as Crown Land Manager of the land within the Jack Evans Boat Harbour precinct described in point 1 above.**
- 3. Acknowledges the flexibility required with regard to timeframes given the inclusion of land subject to an Aboriginal Land Claim.**



## REPORT:

### Background

Jack Evans Boat Harbour Reserve Trust resolved at its meeting on Thursday 18 May 2017 that:

*Tweed Heads Jack Evans Boat Harbour Reserve Trust prepares a Plan of Management for the Jack Evans Boat Harbour in consultation with the community and with regard to the current event guidelines for the Jack Evans Boat Harbour.*

The main issues that will influence the proposed timeline of the preparation of the Plan of Management were reported to the Jack Evans Boat Harbour Reserve Trust meeting on Thursday 15 February 2018.

The main issues involve:

- Consultation with the Aboriginal Advisory Committee regarding 'Goorimahbah - Place of Stories'
- Land Tenure
- Divergence of views between community stakeholders
- Homeless use of the park
- Cross border impacts with the Gold Coast City Council
- State Government development plans for Crown Land surrounding JEBH
- The proposed all access playground
- The RSL cenotaph and the RSL's expectations
- Twin Towns Services Club
- The existing aquatic hire operation and conflicts with use of the area by cross border time share resorts.

Upon consideration of the above, the following was resolved by the Trust on Thursday 15 February 2018:

1. *Acknowledge the important cultural management considerations existing at Jack Evans Boat Harbour and prioritise actions relating to cultural heritage management in the JEBH Draft Plan of Management.*
2. *Acknowledge the existing Tweed Coast Single Coastal Reserve Plan of Management, the recently adopted Commercial Recreation Activities in Public Open Space Policy, The Draft Tweed River Estuary Coastal Management Program and the existing Jack Evans Boat Harbour Park Usage and Event Guidelines as forming primary considerations in the writing of the Draft Plan of Management for the Jack Evans Boat Harbour .*
3. *Utilise the considerable information gained during the recent extensive community consultation for the Open Space Strategy to inform the writing of the Draft Plan of Management for the Jack Evans Boat Harbour.*
4. *Requests clarity from the State Government on any plans it has for the development of Crown Land within and or surrounding JEBH so that this can be considered as part of the development of the Plan of Management.*

5. *Requests that Council allocates the required \$50,000 in order to prioritise the development of a Draft Plan of Management for JEBH to be brought back for consideration by the Trust within 12 months.*
6. *Acknowledges that the 12 month time line for delivery of the Draft plan of management will be contingent on agreement by the Aboriginal Advisory Committee to finalised plans for Goorimahbah.*

### **'Goorimahbah - Place of Stories'**

'Goorimahbah - Place of Stories' is an Aboriginal and Torres Strait Islander Botanic and Artwork Garden and contemporary meeting place planned for the northern section of the former Border Caravan Park, the design of which needed to be reviewed prior to engaging the broader community.

This project was initiated in 2002 as a *The City of the Arts* 'Indigenous Public Place-making Project' (IPPP) by the Tweed Shire Council Aboriginal Advisory Committee and was intended to create a high profile community cultural site. The project was highlighted in the Tweed Heads Town Centre Masterplan (2004) as a feature of the Jack Evans Boat Harbour Precinct and integrated into Stage 2 of the 2009 Jack Evans Boat Harbour upgrade works masterplan.

Given the history and level of commitment by Council to the Aboriginal community, it was critical that engagement with the community be undertaken in a considered manner prior to embarking on broader community engagement to ensure that their expectations are understood and respected and as it will set the boundaries for discussions with the broader community on potential uses and future development of this site.

A workshop has been undertaken in this regard and the Aboriginal Advisory Committee resolved at its meeting 3 August 2018 to support the workshop outcome which involves a redesign of the project and a design brief was compiled. This will inform the Plan of Management.

### **Land Tenure**

Jack Evans Boat Harbour (JEBH) comprises several separate Crown Reserves however Tweed Shire Council is not nominated Crown Land Manager for all of these. Council has no power to authorise any third party use or occupation of the Crown Reserves which it is not Crown Land Manager of. Additionally, the 'Reserve Purpose' of these reserves varies which has implications for the potential use of the land as any proposed use needs to be consistent with the reserve purpose.

It is noted that the NSW Department of Industry - Crown Lands and Water previously advised on 24 May 2018:

*Council cannot compile a Local Government Act plan of management over land that Council is not currently the Trust manager of. Council can request to be appointed over the land. This will depend on current land negotiations with the LALC.*

It is noted that the new Crown Lands Management Act 2016 came into force on 1 July 2018 and under the new Act, any land where Council was 'Reserve Trust Manager', Council is now 'Crown Land Manager'.

This matter was reported to Council on 19 July 2018 seeking confirmation regarding the land that will be subject to the proposed Jack Evans Boat Harbour Plan of Management and sought to rectify any associated land tenure matters.

At the Council meeting on 19 July 2018, Council resolved to defer this item in order to receive clarification on the following:

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

This report seeks to provide an update on clarification sought from NSW Department of Industry - Crown Lands and Water and given this information, seeks confirmation regarding the land that will be subject to the proposed Jack Evans Boat Harbour (JEBH) Plan of Management and seeks to rectify any associated land tenure matters.

### **NSW Department of Industry - Crown Lands and Water Advice**

Council sought written advice from NSW Department of Industry (DoI) - Crown Lands and Water on 25 July 2018 as outlined in the Council resolution. Regular follow up emails and phone calls were made and a further letter sent dated 26 March 2019.

A response was received 29 March 2019 addressing each of the points of the Council resolution on 19 July 2018 which are as follows:

1. *Whether it is possible for Council to create a Plan of Management for the Jack Evans Boat Harbour Precinct under the Crown Land Management Act given it is advised by staff it is not possible under the Local Government Act, due to Council not being the designated Crown Land Managers for all Reserves in this Precinct.*

Department response:

*Council is not able to prepare a POM under the provisions of the Crown Land Management Act 2016 (CLM Act) for reserves which are not under a Reserve Trust of which Council is appointed to manage.*

*Currently, under the provisions CLM Act, Tweed Heads Jack Evans Boatharbour Reserve Trust (Trust), remains in place as a transitional trust until 1 July 2019, when it will be abolished and Council will be directly appointed as Crown Land Manager of the current managed reserves.*

*Council must be the appointed Crown Land Manager of the identified Crown lands in the Precinct before it may consider the preparation of a POM under the provisions of the Local Government Act 1993.*

- 2. If it is possible for Council to initiate the Plan of Management under the Crown Land Management Act (CLMA), then Council writes immediately to the Department of Industry - Crown Lands and requests their support in preparing a plan for the Jack Evans Boat Harbour Precinct under the CLMA.*

Department response:

*Any proposed POM for Council managed reserves should be prepared under the provisions of the Local Government Act 1993.*

- 3. The current status of Aboriginal Land Claim 24855 lodged by New South Wales Aboriginal Land Council and provision of all the relevant information of the lands subject to the Land Claim.*

Department response:

*Aboriginal Land Claim 24855 was lodged by the New South Wales Aboriginal Land Council on 6 May 2010 over Lot 702 DP 720453 and Lot 703 DP 877250 and as at today's date has yet to be determined.*

Therefore if Council is not Crown Land Manager of the land, any Plan of Management Council may adopt for the precinct will have no legal authority under the Crown Land Management Act 2016 and therefore any directions from that plan may not be able to be enacted including issuing of leases and licences, maintenance works and implementing recommendations.

Crown Land in NSW is regulated by the Crown Land Management Act 2016 (CLM Act) and under the care, control and management of the Minister (section 3.1) who delegates authority to the NSW Department of Industry (DoI) - Crown Lands and Water. Under the CLM Act, the Minister may appoint Council to be Crown Land Manager of Crown Reserves (section 3.3).

If Council is not appointed Crown Land Manager, a Crown Reserve is managed by NSW Department of Industry (DoI) - Crown Lands and Water or may be subject to other land management arrangements or management by other non-Council Crown Land managers as appointed by the Minister.

The CLM Act gives provisions of how the land is to be managed by Councils which are appointed Crown Land Manager. Management of Crown Land by Council Crown Land Managers involves the adoption of a Plan of Management (sections 3.21 & 3.23) which is to be compiled as per the process and framework outlined within the Local Government Act 1993 (LG Act). Therefore, any Plan of Management needs to be in accordance with the CLM Act and LG Act.

If Council is not appointed Crown Land Manager of a Crown Reserve, any plan for that Crown Reserve Council may adopt has no legal authority under the CLM Act and any directions from that plan may not be able to be enacted.

### Aboriginal Land Claim 24855

As a determination has not been made regarding Aboriginal Land Claim 24855, consent is required from the New South Wales Aboriginal Land Council for the appointment of Council as Crown Land Manager or for the adoption of a Draft Plan of Management that is proposed for land subject to this claim. The timeframe for this process is unknown. As such, it was originally recommended land subject to this claim not be included in the proposed JEBH Plan of Management given Council's initial timeline for delivery however should this land be included, flexibility in timeframes for the Plan of Management needs to be considered.

### Scope of the future Jack Evans Boat Harbour Plan of Management

Whilst awaiting a response from the Department, it is noted that an interim scope of the Plan of Management was established for the purposes of community engagement consistent with Councillor advice as shown below.

Community consultation was undertaken from 8 October to 30 November 2018. Research Consultants were engaged and the data from the public submissions will inform the recommendations in the Draft Plan of Management.



**Figure 2: Interim scope of proposed Jack Evans Boat Harbour Draft Plan of Management for Community Consultation**

Given the above, in determining the scope for the proposed Draft Plan of Management, the following matters require consideration:

#### 1. Land Tenure:

The following map shows Crown Reserves in Jack Evans Boat Harbour precinct managed by Tweed Shire Council. Red denotes land where Council is Crown Land Manager. Blue denotes land devolved to Council under section 48 of the LG Act. It is noted that in the case of devolved land, Council maintains the site, however has no management control and for example, cannot issue leases or licences. Uncoloured areas are either State managed Crown Land or are not Crown Land thereby under Council or private ownership.



**Figure 3: Crown Reserves in Jack Evans Boat Harbour precinct managed by Tweed Shire Council (TSC). (Source: Crown Land Manager Reserves Portal - NSW Crown Lands)**

As stated above, any Council adopted plan of management for a Crown Reserve has no legal authority under the CLM Act if Council is not appointed Crown Land Manager of that Crown Reserve and therefore any directions from that plan may not be able to be enacted.

As advised by the Department, if Council wishes to adopt a Plan of Management over Crown Land Council is not appointed Crown Land Manager of, it is recommended that Council requests the Minister to appoint Council as Crown Land Manager of the Crown Land within the Jack Evans Boat Harbour precinct that it wishes to adopt the subject plan over.

As such the following Crown Land Manager appointments and Crown Reserve amendments are required should the scope of the Draft Plan of Management reflect the scope outlined in Figure 1. It is noted that these amendments were recommended by the Department in February 2017. The Department in its letter dated 29 March 2019, has offered to arrange a meeting to discuss options to enable the progression of the rationalisation of the management of these Crown Lands.

<b>Recommended Crown Reserve Appointments/Amendments</b>	
<p>In Ebenezer Park, Lot 7339 DP 1166191 (shaded in gold) to be added to Reserve 57974 and Council be appointed Crown Land Manager of Lot 7339. Part Crown Reserve 57974 is shaded in green.</p>	

*Figure 4: Lot 7339 DP 1166191 Part Crown Reserve 57974*

Council be appointed Crown Land Manager of Crown Reserve 55246 (mapped in purple);



Figure 5: Crown Reserve 55246

Council be appointed Crown Land Manager of Reserve 80245 over Lot 7036 DP 1054009 and Lot 703 DP 877250. (Note that Lot 703 is subject to an Aboriginal Land claim discussed elsewhere in this report.)

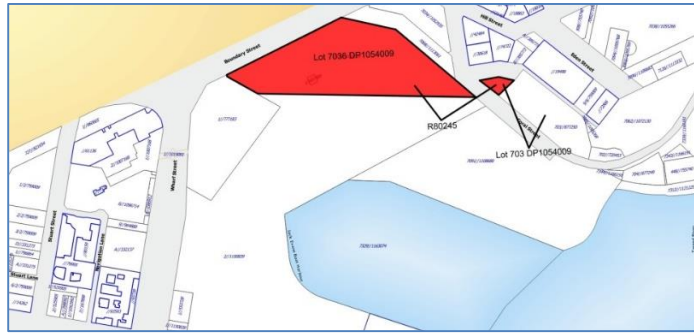


Figure 6: Crown Reserve 80245

Lot 7091 DP 1108680 and Lot 7329 DP 1163074 (currently part of Crown Reserve 755740) be added to Reserve 1012191 and Council be appointed Crown Land Manager of these Lots within Reserve 1012191;



Figure 7: Lot 7091 DP 1108680 and Lot 7329 DP 1163074 Part Crown Reserve 755740

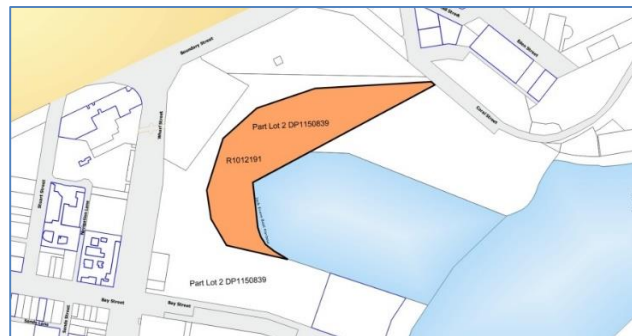


Figure 8: Crown Reserve 1012191

**2. Operational Land**

Lot 2 DP 554400 is located east of Strata Plan 20856 known as Seascope whilst Lot 1 DP 607300 is around Council infrastructure west of the playground shown in pink below. These lots are Council owned (not Crown land) and classified as ‘operational’. The Office of Local Government has advised that land classified as ‘operational’ cannot form part of a Plan of Management under the Local Government Act 1993 (s36).

To include these lots in a Community Land Plan of Management, the lots could be reclassified as 'community' land. This process requires Council to consider whether it is necessary to reclassify the land, and if so, give public notice of that intention with a submission period of 28 days. Any submissions are then reported to Council for consideration prior to a final resolution to reclassify. This process will need to be completed prior to the preparation and exhibition of the Draft Plan of Management for the precinct and as such this avenue may not be consistent with the Council's timelines for delivery for the JEBH Plan of Management. It is further noted that reclassifying Lot 1 is not appropriate given primary use of the public land is infrastructure related.

Alternatively, it is considered that these lots can feature within the future Crown Land Plan of Management document, however, any directions of the plan will not be empowered under the Crown Land Management Act 2016, nor section 36 of the Local Government Act 1993 and instead be a Council Policy given Council's ownership of the parcels.



**Figure 9: Council owned Operational Land (in pink) within the JEBH Precinct**

### 3. Old Aquatic Club site, the land north of Coral Street and Aboriginal Land Claim 24855

This area of land north of Coral Street features additional constraints and administrative processes in comparison to the other areas within the precinct that require consideration in determining whether to include these areas within the JEBH Plan of Management.



**Figures 10 & 11: Land north of Coral Street and TCCLEP 2012 zoning map**



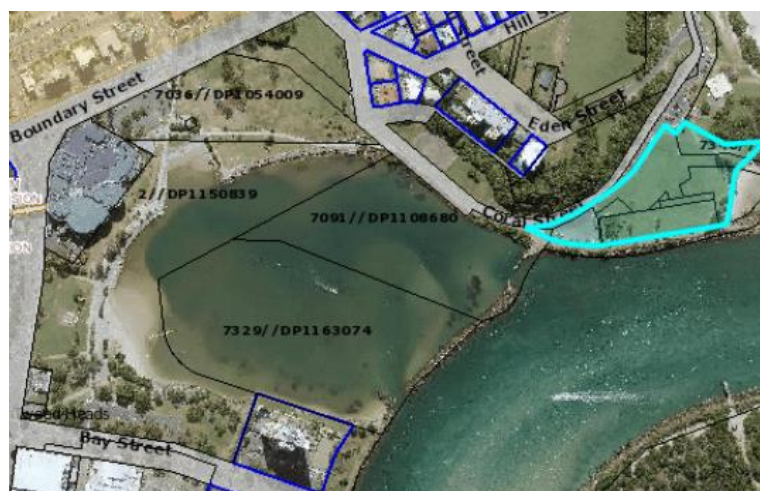
Crown Land to the north of Coral Street was included in the interim scope for the Plan of Management. Under TCCLEP 2012, the land use zoning for the rest of the JEBH precinct is RE1 Public Recreation and W2 Recreational Waterways. However, the old Aquatic Club site and north of Coral Street includes land zoned B4 Mixed Use (shaded blue) and E2 Environmental Conservation (shaded orange) as shown above. Further, the Crown Reserve R88182 has a reserve purpose as 'Future Public Requirement' unlike the common 'Public Recreation' reserve purpose of other land in the precinct. Additionally, this area features land protected and mapped as Littoral Rainforest under State Environmental Planning Policy (Coastal Management) 2018. Given these features, management of these areas will vary and the proposed plan of management will need to address these areas differently.

As discussed elsewhere in this report, another matter associated with land north of Coral Street is that Aboriginal Land Claim 24855 has been made over land within this area. The Department has advised that a determination is yet to be made and as such, consent is required from the New South Wales Aboriginal Land Council prior to the adoption of a draft Plan of Management or for the appointment of Council as Crown Land Manager for land subject to this claim. The timeframe for these processes is unknown.

As such, it was originally recommended land subject to this claim not be included in the proposed JEBH Plan of Management given Council's initial timeline for delivery. However, these areas were included in the interim Plan of Management scope. **Should this land be included in the JEBH Plan of Management, flexibility in delivery timeframes for the Plan of Management needs to be considered.**

### 3. Ebenezer Park

Although Ebenezer Park has not previously formed part of the Jack Evans Boat Harbour precinct, the site historically has similar uses and management issues and as such is recommended for inclusion in the scope of the Plan and was included in the interim scope.



**Figure 12: Ebenezer Park**

Therefore, given the feedback received in relation to the proposed Jack Evans Boat Harbour Plan of Management, biodiversity and the challenges prevalent in the area, Council officers recommend that the Crown Land areas mapped shaded in green are nominated as the land to which the proposed Draft Plan of Management applies.

Further, in order for the proposed Draft Plan of Management to be an effectual legal regulatory document authorised by the CLM Act, it is recommended that Council requests NSW DoI - Crown Lands and Water that Council be appointed Crown Land Manager of Crown reserves which are currently not managed by Council within this nominated area.

Additionally, given the inclusion of land that is subject to an Aboriginal Land Claim, the requirement for flexibility in delivery timeframes for the preparation of the Plan of Management in this regard needs to be acknowledged.



**Figure 13: Recommended scope of the proposed Draft Jack Evans Boat Harbour Plan of Management.**

#### **OPTIONS:**

That Council:

1. Supports the scope of the proposed Draft Jack Evans Boat Harbour Plan of Management to include the JEBH Waterway, Chris Cunningham Park, Goorimahbah, Ebenezer Park and land north of Coral Street.
2. Requests NSW Department of Industry - Crown Lands and Water to be appointed as Crown Land Manager of the land within the Jack Evans Boat Harbour precinct described in point 1 above.
3. Acknowledges the flexibility required with regard to timeframes given the inclusion of land subject to an Aboriginal Land Claim.

4. Limits the scope of the proposed Draft Jack Evans Boat Harbour Plan of Management to lands to which Council is currently Crown Land Manager and excludes land north of Coral Street.

**CONCLUSION:**

Council has commenced liaising with NSW Department of Industry - Crown Lands and Water toward the preparation of a Draft Plan of Management for the Jack Evans Boat Harbour precinct. In determining the scope of the Draft JEBH Plan of Management, several matters require consideration including land tenure, land zoning and classification, Aboriginal Land Claims and procedural timeframes. It is considered that in order to the proposed Draft Plan of Management to be an effectual legal regulatory document authorised by the CLM Act, it is recommended that Council requests NSW DoI - Crown Lands and Water to be appointed Crown Land Manager of Crown Reserves which are currently not managed by Council within the area that will be subject to the Plan of Management. A scope of a proposed draft Plan of Management has been recommended in addition to proposed Crown Land Manager appointments required to facilitate Council's preparation of the Plan.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Community Engagement Strategy v2.0  
Crown Lands Management Act 2016  
Local Government Act 1993

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

Not Applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

A comprehensive community engagement process is being undertaken in the development of the Draft Plan of Management.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attach 1      Response Letter from Department of Industry dated 29 March 2019 - Proposed Rationalisation of the Management of Crown Lands at Jack Evans Boat Harbour, Tweed Heads (ECM 5826216)

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## 13 [CNR-CM] Temporary Outdoor Cinema in Ebenezer Park

**SUBMITTED BY:** Recreation Services

mhm



### People, places and moving around

*Who we are and how we live*

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

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

**ROLE:** Collaborator

---

#### SUMMARY OF REPORT:

Council has received a proposal from Barefoot Cinemas Pty Ltd to operate a temporary outdoor cinema in Ebenezer Park, Tweed Heads. The activity is proposed to occur over 16 nights during September/October 2019. Specific dates will be confirmed if Council advises the applicant the event will be supported.

The activity involves a portable inflatable cinema screen and can cater for 250 to 500 persons per evening. The applicant provides a VIP area with seating and a general admission area. The applicant will have a local food truck, some typical movie candy sales plus a bar that operates from a converted container (subject to liquor licensing approval). Activities are intended to be run on the grassed area before the event such as giant chess.

#### RECOMMENDATION:

**That Council supports the temporary outdoor cinema activity in Ebenezer Park, Tweed Heads during September/October 2019 in principle, subject to all details being provided and assessed by Council staff.**

## REPORT:

Council has received a proposal from Barefoot Cinemas Pty Ltd to operate a temporary outdoor cinema in Ebenezer Park, Tweed Heads. The activity is proposed to occur over 16 nights during September/October 2019. Specific dates will be confirmed if Council advises the applicant the event will be supported.

The activity involves a portable inflatable cinema screen and can cater for 250 to 500 persons per evening. The applicant provides a VIP area with seating and a general admission area. The applicant will have a local food truck, some typical movie candy sales plus a bar that operates from a converted container (subject to liquor licensing approval). Activities are intended to be run on the grassed area before the event such as giant chess.

A short promotional video can be viewed at the following location:

<https://www.youtube.com/watch?v=qdCsGcnxb8>



While the times of the activity are not specified, it's understood to involve typical evening movie times and would not extend late into the night.

During the day, almost everything other than the screen is packed into the container that remains on site. The screen is deflated but remains in the open protected by a security fence.

It's a commercial operation and there is an entry fee (\$22 adult, \$15 children, \$65 family ticket). The park use fee will be \$260 per day, potentially generating up to \$4160 income for Council over 16 days.

The Barefoot Cinema has been running in several locations in Victoria for the last three years. They concentrate on locations of significant natural interest and have expressed strong interest in the Ebenezer Park location. If successful they may seek to run the activity again at this location, or possibly other locations in the shire. Council staff have contacted the Mornington Shire Council, who has advised the events are common, are professionally run and have proved very popular.

The activity is likely to have a lower social and visual impact on the community than circuses which operate in Jack Evans Boat Harbour annually, and the proposed location in Ebenezer Park lessens the impact due to isolation from residences and other park users. Matters such as noise levels, direction of screen, speakers and similar detail can be conditioned should a license be issued. Advice from the Development Assessment Unit is that as the land is zoned RE1 Recreation and given the land has a long history of being used as a recreation area, such uses can continue without additional development approval, subject to licensing.



**OPTIONS:**

That Council:

1. Supports the activity in principle subject to all details being provided and assessed by Council staff.
2. Does not support the activity.

**CONCLUSION:**

The Barefoot Cinema is a temporary outdoor cinema that has proved a popular and professionally run commercial recreation activity in Victoria. It appears to be consistent with past use of the area, such as circuses in Jack Evans Boat Harbour and major surf events at Duranbah Beach, and should contribute to the economic and social needs of the shire.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Commercial Recreation Activities on Public Open Space Policy.

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

Potential income of \$4,160.

**c. Legal:**

Not Applicable.

Ebenezer Park is situated on Crown Land and Council is Trust Manager.

**d. Communication/Engagement:**

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

1. Advance notice of the event to be provided to local community.
2. Assess feedback from operator and community regarding the event.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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## 14 [CNR-CM] Pottsville and District Men's Shed - Licence Request

**SUBMITTED BY:** Recreation Services

mhm



### People, places and moving around

*Who we are and how we live*

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

- 3 People, places and moving around
- 3.2 Places
- 3.2.9 Sporting Fields - To provide a range of accessible sports facilities and major event venues to promote an active and healthy lifestyle.

**ROLE:** **Provider**

---

#### SUMMARY OF REPORT:

At its meeting held 16 March 2017, Council resolved to grant a temporary licence to the Pottsville and District Men's Shed at the Black Rock Sports Field for a five year period. The licence is due to expire in 2022.

The Pottsville and District Men's Shed (the Men's Shed) has written to Council requesting consideration to a licence in perpetuity or a modification of the licence to include an appropriate renewal clause. The Men's Shed is also requesting an extension to the licence area.

The Men's Shed state that the current short term lease makes it impossible to contemplate any long term strategic planning and severely impedes its ability to access various forms of grant funding.

Council has expressed a desire in the past that the Men's Shed finds alternative accommodation at an alternative site and the initial licence was provided as a stop gap measure.

#### RECOMMENDATION:

**That Council resolves its preferred option.**



## **REPORT:**

At its meeting held on 16 March 2017, Council resolved to grant a temporary licence to the Pottsville and District Men's Shed at the Black Rock Sports Field for a five year period. The licence is due to expire in 2022.

The Pottsville and District Men's Shed (the Men's Shed) has written to Council requesting consideration to a licence in perpetuity or a modification of the licence to include an appropriate renewal clause. The Men's Shed is also requesting an extension to the licence area.

The Men's Shed state that the current short term lease makes it impossible to contemplate any long term strategic planning and severely impedes its ability to access various forms of grant funding.

Since the Men's Shed relocated from the Pottsville Beach Primary School campus in 2017, the membership has grown from 35 to 70 creating Occupational Health and Safety concerns and also storage limitations.

The Men's Shed wrote to the Minister for Lands and Forestry through the Member for Tweed, Geoff Provest on 16 August 2017 seeking assistance in identifying any potential sites on Crown Land that it may be able to secure for long term use. The Minister responded on 21 September 2017 that an initial desk top review did not identify any suitable Crown Land in the immediate area and that Council may be better placed to identify a suitable site through the Crown Land negotiation process.

### **Site Master plan**

On 11 January 2019, the Men's Shed invited a number of regular and potential users of the sports fields to discuss their future use and aspirations for the fields. In attendance were representatives from:

- The Pottsville and District Men's Shed
- Pottsville Croquet Club
- Far North Coast Electric Flyers
- Pottsville Junior Cricket Club
- Pottsville Community Association
- Tweed Shire Council (Stewart Brawley)

Also invited but unable to attend was the Cabarita Cricket Club which use the field for senior games.

The Men's Shed advised of its requirement for additional space and acknowledged potential future requirements for other user groups and the broader community. All attending agreed that the best outcome for the site would be achieved through a considered master planning process and that this should be facilitated by Council as the land owner commencing with a stakeholder working group.

The major constraint to developing a master plan for the site is the future of the Men's Shed. Until the long term location of the Men's Shed is determined and the future of the shed at the location determined, master planning of the site would be limited.

### **Discussion**

Should Council be supportive of providing an extension to the licence at the site, Council may consider deferring an extension to the licence area until a master plan for the site is completed. This would provide the Men's Shed with the surety of tenure to allow it to undertake strategic planning and apply for funding while not constraining the site for other potential uses.

### **OPTIONS:**

That Council:

1. Advises the Pottsville and District Men's Shed that it is Council's preference that they again seek an alternative site on Crown Land in accordance with their Memorandum of Understanding.

Or

2. Advises the Pottsville and District Men's Shed that there will be no variation to the current licence agreement at the Black Rocks Sports Field.

Or

3.
  - a. Agrees to the extension of the licence for the Pottsville and District Men's Shed at the Black Rocks Sports Fields for an additional five year term with an option for a further five years.
  - b. Agrees to the extension of the licence area for the Pottsville and District Men's Shed as requested in its letter dated 7 March 2019.
  - c. Develops a master plan for the Black Rocks Sports Field.

Or

4.
  - a. Agrees to the extension of the licence for the Pottsville and District Men's Shed at the Black Rocks Sports Fields for an additional five year term with an option for a further five years.
  - b. Includes the consideration of a request for an extension of the licence area in the development of a master plan for the Black Rocks Sports Field.
  - c. Develops a master plan for the Black Rocks Sports Field.

Or

5. Considers another option.

### **CONCLUSION:**

The Pottsville and District Men's Shed has requested an extension to its current licence at the Black Rocks Sports Field to allow it to continue to expand its membership, operate in a safe environment, undertake strategic planning and apply for funding.

There is support from the sports field users to develop a master plan for the site, but the limited tenure of the Men's Shed and associated uncertainty renders the development of a master plan extremely constrained.

Council has expressed a desire in the past that the Men's Shed finds alternative accommodation at an alternative site and the initial licence was provided as a stop gap measure.

**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.

Letter from Pottsville and District Men's Shed (ECM 5807145)

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## 15 [CNR-CM] Pest Management Program Report - July to December 2018

**SUBMITTED BY:** Natural Resource Management

mhm



### People, places and moving around

*Who we are and how we live*

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

- 3 People, places and moving around
- 3.1 People

**ROLE:** **Provider**

---

#### SUMMARY OF REPORT:

This report outlines works undertaken by Council's Pest Management Program Area (Natural Resource Management Unit) for the period July 2018 to December 2018 (inclusive).

During the reporting period, monitoring and control works have been implemented for both invertebrate and vertebrate pest species to: protect the natural environment and; to protect community health and well-being.

The 13th Mosquito Control Association of Australia Conference was held in Tweed Shire in September 2018. Council staff played a key role on the organising committee for this conference and Council was a Silver Sponsor for the event. The conference attracted delegates from Australia and overseas.

The NSW Environmental Trust funded project 'Working Together to Protect Threatened Fauna on Fingal Peninsula' was finalised in September 2018. This project focused on reducing the impacts of invasive species and domestic pets on threatened species.

The success of this project was due to the ongoing support of the local community, the Tweed Byron Local Aboriginal Land Council and the other members of the highly committed 'Fingal Focus Group', in particular Birdlife Northern Rivers, and the Fingal Head CoastCare Group. The enthusiasm with which Fingal Head Public School students and teachers participated in this project was also a big part of why it was so successful.

#### RECOMMENDATION:

**That Council receives and notes the Pest Management Report - July 2018 to December 2018 and continues the scheduled works.**

**REPORT:**

**MOSQUITOES**

**Enquiries**

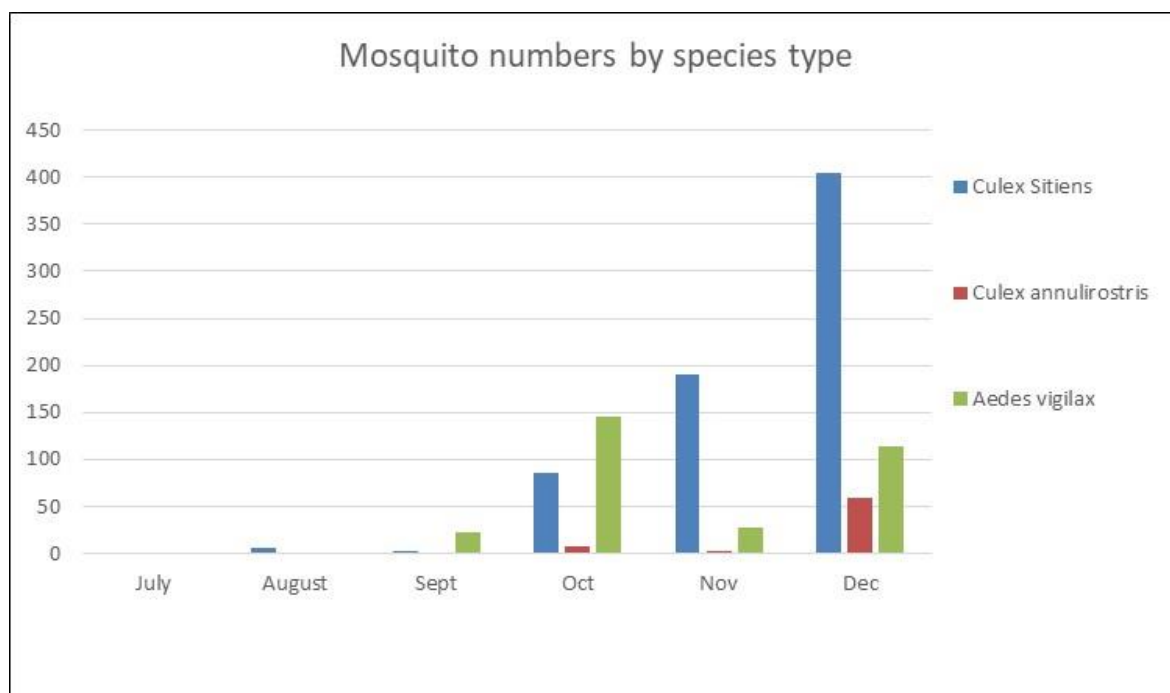
There were seven enquiries relating to mosquitoes during the reporting period.

**Seasonal abundance**

Mosquito monitoring using carbon dioxide baited mosquito traps occurs at three sites on the Tweed Coast. These are Piggabeen, Terranora and Koala Beach. The most frequently trapped mosquitoes, recorded between July 2018 and December 2018 were *Culex sitiens*, *Aedes vigilax* and *Culex annulirostris*.

Two of the species recorded above (*Aedes vigilax* and *Culex annulirostris*) are known vectors of arbovirus. Council mosquito control events are only triggered if mosquito species that are vectors of arbovirus are recorded at known breeding sites in Tweed Shire adjacent to residential areas.

Figure 1, below, shows the numbers of each of these species recorded during the reporting period.



**Figure 1:** Numbers of key mosquito species recorded during the reporting period.

As shown in Figure 2, results of Mosquito sampling during the reporting period were unremarkable, other than a peak in Mosquito numbers in Terranora in October and December. This result is due to the high tides leading up to those months.

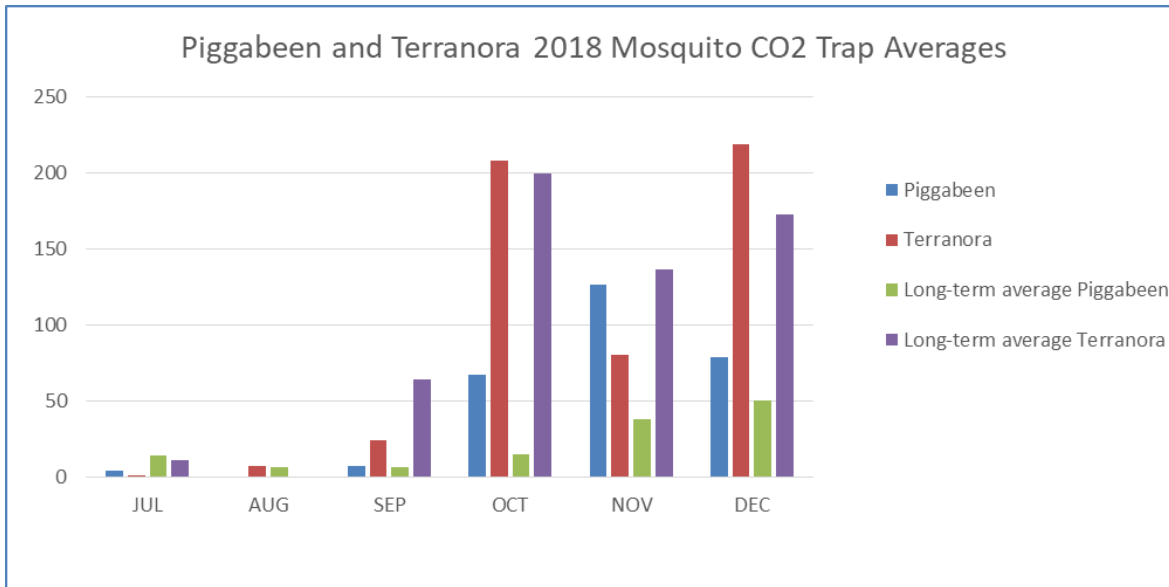


Figure 2: Results of mosquito trapping at Piggabeen and Terranora

Figure 3 shows that the mosquito numbers recorded at Koala Beach during the reporting period were low. This result is due to control works carried out and dry conditions.

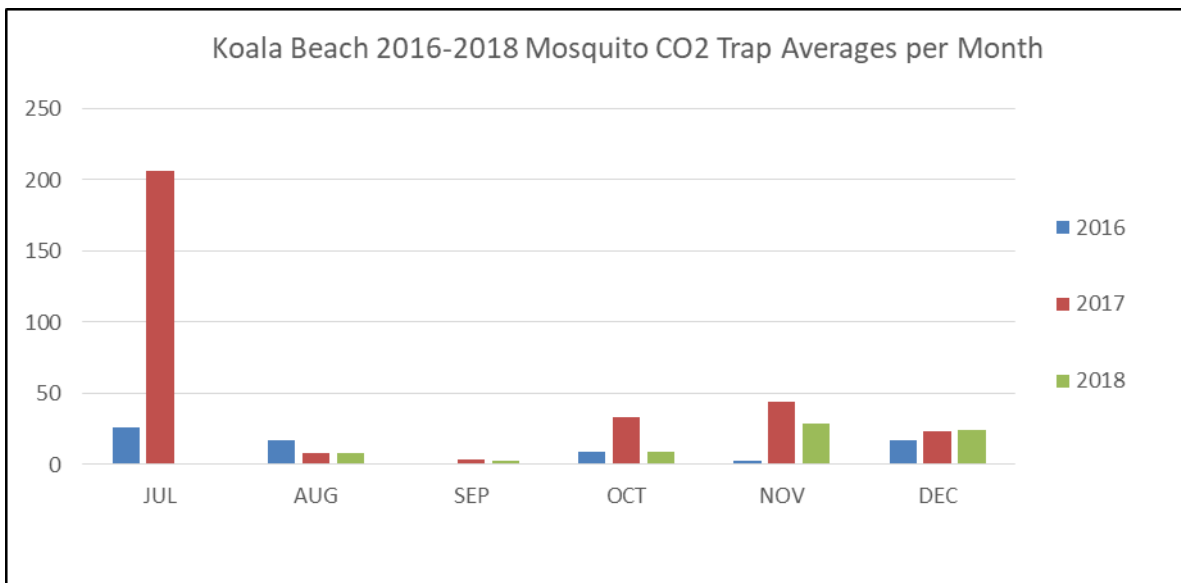


Figure 3: Results of mosquito trapping at Koala Beach Estate

### Control Program

Council's mosquito control program focuses on controlling the larval stage of the mosquito lifecycle. All mosquito larvae control events in Tweed Shire are initiated in response to data recorded through Councils routine mosquito surveillance program. Control events are only triggered if mosquito species that are known vectors of arbovirus are recorded.

Council uses two target specific products, one a biological larvicide and the other an insect growth regulator. These are described below.

#### Bacillus thuringiensis subsp. israelensis (Bti)

Bti is a larvicide which is ingested by the mosquito larvae, causing death within 24 hours. This larvicide is specific to mosquitoes and several other closely related flies. Bti poses no harm to other aquatic non-target organisms.

Methoprene

Methoprene is an insect growth regulator. Methoprene treated larvae are unable to successfully change from a pupa to an adult insect, breaking the biological life cycle of the insect. Methoprene is also specific in its action, posing no risk to fish, crabs, amphibians and water birds.

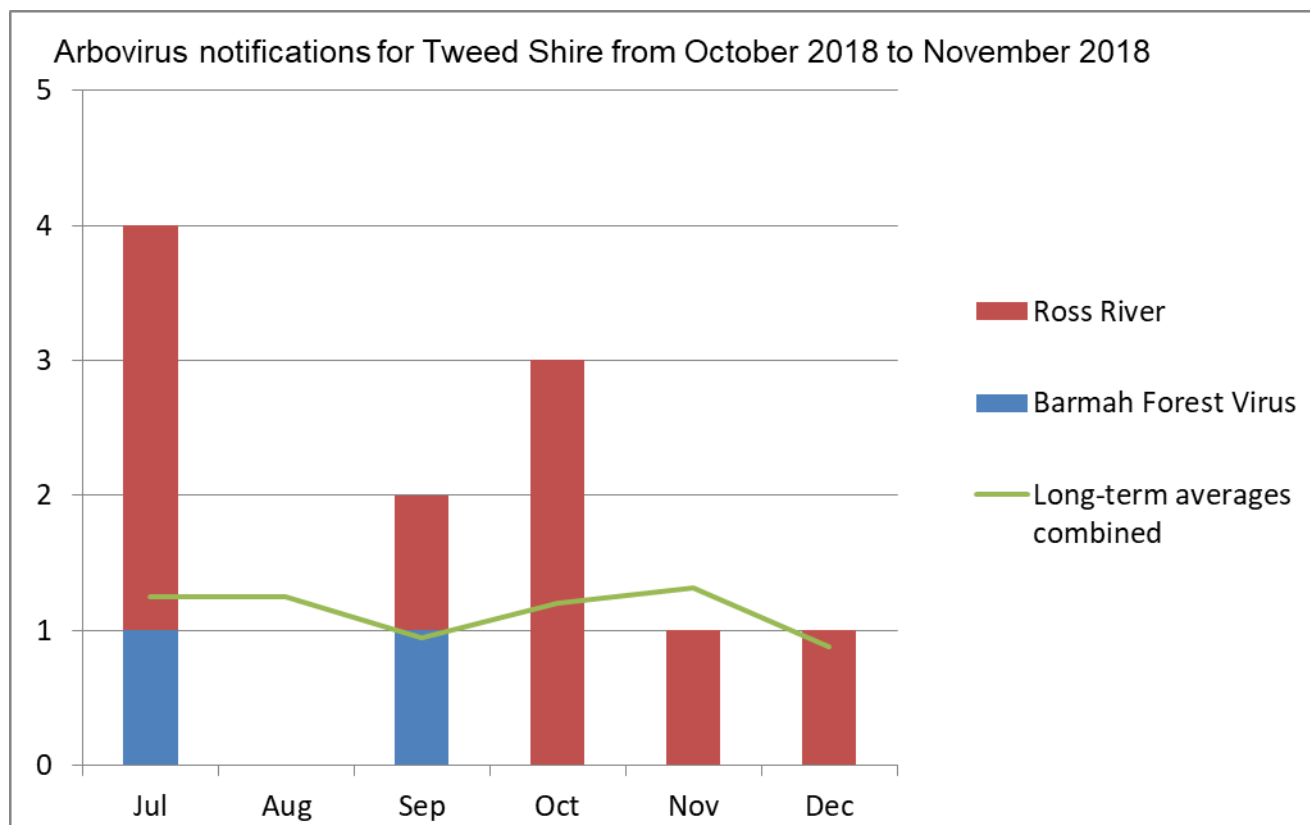
Throughout the mosquito breeding season, aerial and ground-based treatments were carried out in response to mosquito hatches stimulated by tidal and rainfall events. The two main species of mosquito that were targeted through these control works were *Veralina funerea* and *Aedes vigilax*. These species have the ability to transmit arboviruses, such as Ross River Virus and Barmah Forest Virus.

There were six aerial mosquito larvicide treatments carried out over the report period using 720Kg of ProLink Prosand and 161.0L Vectobac 12AS, with a total of 316ha treated. **Attachment 1** provides details on aerial treatments undertaken. Ground-based works used 29Kg of Prolink Pellets and 756 Prolink briquettes.

**Arbovirus**

The levels of arbovirus recorded in Tweed Shire vary from year to year, depending on a number of different combinations of environmental factors, such as heavy rainfall following a dry period, as well as the number of virus hosts present.

**Figure 4** shows Tweed Shire arbovirus records for the report period against long-term averages and that, for some months of the reporting period, the number of arbovirus cases exceeded long-term averages.



**Figure 4:** Arbovirus notifications in Tweed Shire from July 2018 to December 2018

### **Honey-baited Card Monitoring Program**

Council uses a honey baited card program to monitor for mosquitoes carrying Ross River and Barmah Forest Virus. During the reporting period there was no isolates of Ross River and Barmah Forest Virus recorded at the three monitoring sites, being Piggabeen, Terranora and Koala Beach.

### **Exotic mosquito monitoring program**

In late 2015, Council commenced an exotic mosquito monitoring program at the request of the Australian Government's Department of Agriculture and Water Resources. This program monitors for presence of the Asian tiger mosquito (*Aedes albopictus*) and the Dengue and Zika carrying mosquito (*Aedes aegypti*). Council has four monitoring sites in close vicinity to the Gold Coast Airport.

No exotic mosquitoes were recorded at monitoring sites in Tweed Shire during the reporting period.

### **Terranora mangrove breeding mosquito research project**

Monitoring of the Maher's Lane mosquito breeding habitat modification site is ongoing. Monitoring comprises mosquito larval sampling and pH monitoring. Monitoring data has consistently shown that the modifications to the site are continuing to allow regular tidal flushing of the mosquito breeding area. This is leading to improved water quality and fish habitat in the area which, in turn, leads to increased levels of predation on mosquito larvae by fish and other natural predators.

### **Exotic Mosquito Incursion Plan**

Pest management staff continue to provide technical input as required into the preparation of an Exotic Mosquito Incursion Plan.

### **Mosquito Control Association of Australia Conference**

The 13th Mosquito Control Association of Australia Conference was held in Tweed Shire in September 2018. Pest Management Program Area staff were on the organising committee for this conference and Council was a Silver Sponsor for the event. The conference was very well attended, and attracted delegates from Australia and overseas.

### **BITING MIDGE**

#### **Enquiries**

There were four enquiries relating to biting midges during the reporting period.

#### **Seasonal activity**

Canal breeding midge larval monitoring is undertaken at six sites at Tweed Heads and Banora Point being, Crystal Waters, Endless Summer, Blue Waters, Tweed Waters, The Anchorage and Oxley Cove.

Canal breeding midge larval numbers have been below long term average during the reporting period. This is due to regular dredging of the canal beaches.

#### **Control**

There was no control carried out over the report period.



Figure 5 (below) shows that midge larval numbers at monitoring sites between July 2018 and December 2018 were lower than the long-term (six year) average.

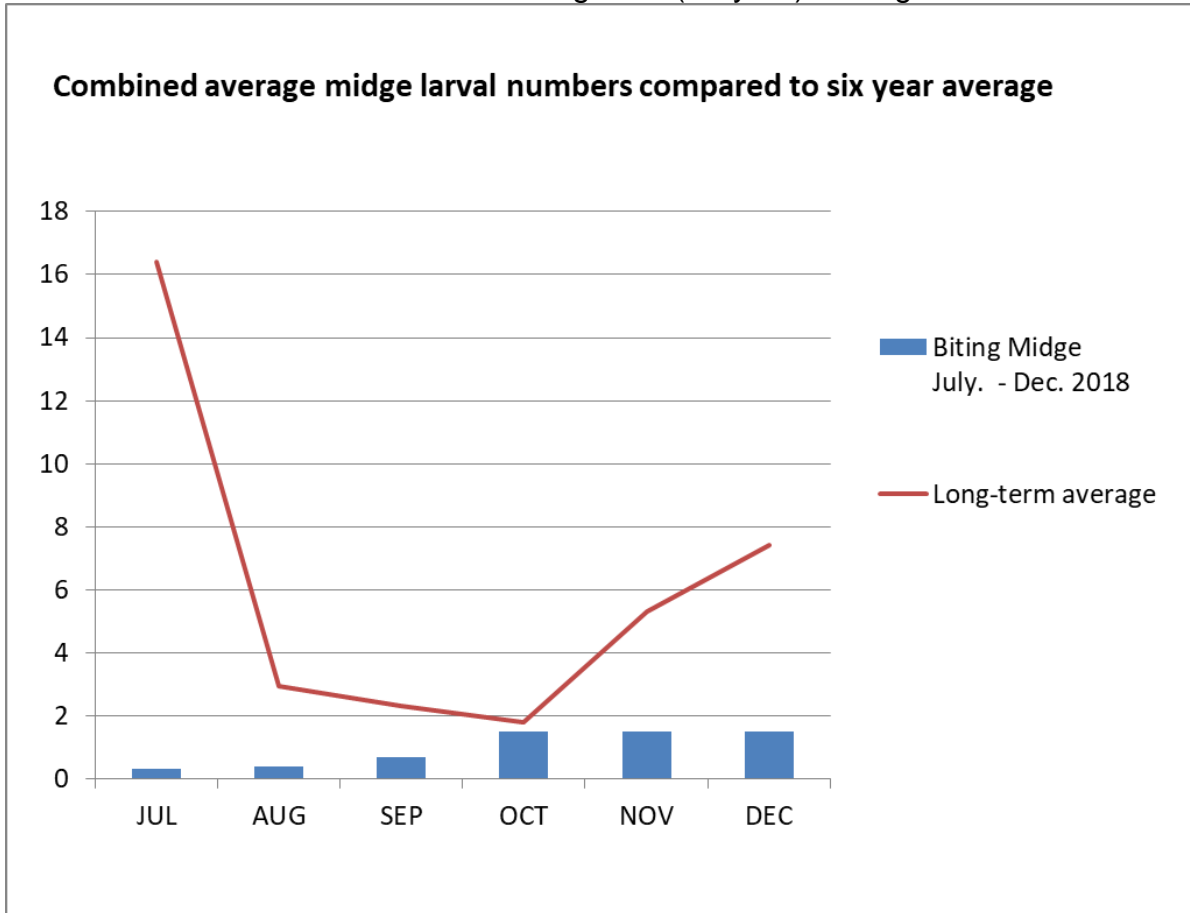


Figure 5: Biting midge larvae seasonal activity

## OTHER PESTS

### Enquiries and service requests from community

The most common enquiries relating to vertebrate pest species included Indian myna, roaming cats, foxes and rabbits. The most common enquiries relating to invertebrate pest species (other than mosquito and biting midge) related to Pandanus plant-hopper and Termites.

### Council Rodent Control

Rodent baiting and trapping has been carried out over the report period in Council buildings, around coastal holiday parks, water and sewerage treatment plants and pump stations.

### Pandanus Plant-hoppers

Monitoring of Pandanus trees in coastal areas for plant-hopper related dieback continued during the report period. In response to monitoring and reports from the public, 90 Pandanus trees were treated in the Duranbah Beach, Kingscliff, Salt and Casuarina Beach areas.

### Termites

Inspection of 317 in-ground termite bait stations was carried out around Council owned buildings during the report period. No active termites were recorded in termite bait stations.

### **Red Imported Fire Ants**

Red Imported Fire Ants represent a serious threat to our health, environment and economy. They have the capacity to form 'super colonies' with multiple queens that spread rapidly. Red Imported Fire Ants are opportunistic feeders that are omnivorous and prey on invertebrates, vertebrates, and plants. They destroy seeds, harvest honeydew from specialised invertebrates and also scavenge.

Red Imported Fire Ants have now been recorded at three locations within the Gold Coast City Council area: Hope Island, Helensvale, and Labrador. Having infestations so close to the border of Tweed Shire is of great concern, as this species of ant is highly mobile and are often transported with soil, turf or other products. They have also been known to be transported in scaffolding and building materials.

Council has a 'General Biosecurity Duty' (under the NSW *Biosecurity Act 2017*) to prevent, minimise or eliminate any biosecurity risk. Accordingly, there is an expectation that Council will take steps to reduce the risk of Red Imported Fire Ants being transported into the Shire from the Gold Coast City Council area, and to develop a procedure to follow should Red Imported Fire Ants be recorded on Council managed land.

In an effort to increase the capacity of Council staff and the local community to recognise and report sightings the National Red Imported Fire Ant Eradication Program held a workshop in Tweed Shire on the 21 November 2018. Forty people attended the workshop, including staff from both Tweed and Byron Shire Councils.

Whilst this workshop was reasonably well attended, additional annual workshops should be held on this issue to build the capacity of staff to respond appropriately to this threat.

Pest Management staff are continuing work with the National Red Imported Fire Ant Eradication Program to develop processes to minimise the risk of importation to Tweed Local Government Area, and develop a response.

### **Community cage trap hire service**

During the reporting period the community cage trap loan service for Indian myna, rabbits and feral/stray cats was well subscribed to with 19 cat, six rabbit, and 33 Indian myna cage traps being lent to residents to trap these pest species on their properties. There is consistently a waiting list for Indian myna traps. Traps are available however there is currently no annual budget provided for the Indian Myna trapping program.

### **Wild dog, fox and cat management**

Monitoring and control of wild dogs, foxes and cats is ongoing in areas of High Conservation Value Bushland in Tweed Shire.

#### Koala Beach Estate

A program of monitoring and controlling foxes and cats is being implemented at Koala Beach Estate and surrounding properties. These works are to mitigate the impacts of these introduced predators on native fauna, and are funded through the Koala Beach Special Levy.

Recent camera monitoring on some private properties adjacent to Koala Beach estate has shown fox activity levels that triggered a 1080 baiting control program. The 1080 baiting works were implemented on these private lands as the distance restrictions included in the Pesticide

Control Order for 1080 (2010), precludes 1080 baiting on Council managed lands at Koala Beach, due to the close proximity to urban areas.

The 1080 baiting was conducted over a three-week period (3 December - 21 December 2018) and focussed on areas that were known to have significant fox activity. All of the baiting stations were closed down prior to the Christmas holiday period.

Post-baiting monitoring has not yet been undertaken, as no remote cameras are deployed over the Christmas holiday period due to the risk of theft.

To support 1080 baiting works in protecting threatened ground-nesting birds on the Tweed Coast, a comprehensive fox den survey and fumigation program was also undertaken on the Tweed Coast between December 2018 and February 2019.

### Mount Nullum

A contractor was engaged by Tweed Shire Council to undertake a wild dog, fox and cat monitoring program on Council owned land at Mount Nullum. The monitoring program used remote cameras over a three week period in spring 2018. These works were funded through the Tweed Shire Council Vegetation Management Strategy.

A monitoring program was conducted concurrently, by the same contractor, on NSW National Parks and Wildlife estate and private lands adjacent to Council managed land at Mount Nullum. The private land component of the program was funded through a NSW Environment Trust grant (administered by NSW Local Land Services).

A significant number of foxes were recorded at camera monitoring sites on both private and public land locations. Dingo numbers and activity was very low. No cats were recorded.

Through the NSW Environmental Trust funding, a three week 1080 baiting program for foxes was implemented on the private properties involved in the program. Following the completion of the baiting program, the number of foxes being recorded had reduced at all monitoring locations, including those on public land.

Follow-up monitoring did show, however, that fox activity increased again at all locations once the baiting program finished. This suggests that the 1080 baiting program may have been of too short a duration.

### **Grant funded projects**

#### NSW Environmental Trust - Working Together to Protect Threatened Fauna on Fingal Peninsula

The project 'Working Together to Protect Threatened Fauna on Fingal Peninsula' was initiated in November 2015, and completed in September 2018. The grant awarded was \$99,987 and Councils in-kind financial contribution of \$35,000 from Council's Coastal Management budget.

The objectives of this project were to BY 2018:

1. Reduce levels of predation of threatened fauna by foxes and feral cats on Fingal Peninsula leading to improved breeding success of a flagship species, the Bush Stone-curlew.

2. Increase the knowledge, interest and involvement of Fingal Peninsula residents in managing the impacts of feral animals and domestic pets on threatened fauna.

This project achieved its objectives and the activities undertaken through this project have been well supported by the local community. The success of this project was due in no small part to the ongoing support and encouragement of the Tweed Byron Local Aboriginal Land Council and the other members of the highly committed 'Fingal Focus Group', in particular Birdlife Northern Rivers and the Fingal Head CoastCare Group.

Monitoring protocols for shorebirds, Bush Stone-curlews, and invasive species were developed and implemented through this project. The results of monitoring works were pivotal in prioritising areas for targeted on-ground works for invasive species control. These monitoring activities also provided data that allowed the success of on-ground management activities to be measured.

Three on-ground fox soft-jaw trapping events were implemented. These were supported by fox den searches. All three trapping events were implemented on Tweed Byron Local Aboriginal Land Council land.

The trapping events and fox den searches were initiated immediately prior to the annual breeding season for the Bush Stone-curlew and Beach Stone-curlew, as well as other local resident shorebirds. Five foxes were trapped during the initial trapping event.

The following two trapping events were not successful in trapping any additional foxes, however fox numbers on the Peninsula appear to have remained at a low level. Ongoing monitoring has recorded the presence of one, possibly two foxes, however these animals were not able to be trapped despite considerable trapping effort.

Activities to instil a love and respect for native wildlife in the broader Fingal community were held at regular intervals throughout the three year project (a total of 23 public events). The premier event for this component of the project was titled 'Love Pets Love Wildlife'. To deliver this event, the Fingal Focus Group teamed up with the NSW Environmental Trust Education Grants project 'Love Cats Love Wildlife'. The multi-day Love Pets Love Wildlife event was very well attended, and received a lot of positive feedback from stall holders and the general public.

The enthusiasm with which Fingal Head Public School students and teachers participated in this project was a big part of why this project was so successful. A range of activities such as monitoring of Bush Stone-curlews and shorebirds and learning about feral animals have been undertaken with the students and teachers of the school. Understanding the concept of responsible pet ownership was supported by artistic activities, such as the production of works for the 'Fingal Head Mural Art Trail'.

#### NSW Environmental Trust - 'Love Cats Love Wildlife'

In 2016 Council was awarded a \$91,714 grant from the NSW Government's Environmental Trust for an education project entitled 'Love Cats Love Wildlife'. In accordance with the application, an in-kind financial contribution of \$15,000 has been contributed from Council's Coastal Management Program.

This project, which will run through until May 2020, has many partners including Griffith University, Friends of the Pound, Cat Protection Society and Birdlife Northern Rivers. The

project has also gained the support of many local vets, as well as regional, NSW State and inter-State authorities.

This project has two primary objectives. Objective 1 is to foster behaviour change, as a result of addressing barriers and benefits of a selected behaviour within responsible cat ownership. Objective 2 of the project aims to measure a 50% decrease in cat activity at four sites within High Conservation Value Bushland on the Tweed Coast by 2020 after behaviour change programs are implemented through the project.

To achieve Objective 1, the project is using community based social marketing to: identify the barriers to behaviour change; develop and pilot programs to overcome these barriers; implement the program across the community; and then evaluate the effectiveness of the program.

Through the project, four behaviour change strategies will be piloted. The first of these was the 'Cool Cats Workshop' that was held with animal behaviourist Dr Jo Righetti as part of the Love Pets Love Wildlife event. The second pilot is 'Cat Tales' where community 'champions' offer peer learning through stories and social media. 'Cat Tales' can be viewed on Tweed Shire Council's website. The third strategy is 'Cats on Camera', an interactive mapping tool using local remote camera data to show the movement of pet cats through the local landscape (currently under development). The fourth strategy will commence soon, and will install displays in public spaces that offer animal welfare and wildlife conservation information.

A focus group of cat owners (Feline Friends) will be held in March to refine and assess the four pilot strategies. Participants in the focus group will provide feedback as to which of the programs they feel are most effective in encouraging behaviour change. The most popular/effective initiatives will then be rolled out across the Shire.

As part of achieving Objective 2 of the project, the guiding document *Monitoring Protocol Cats in High Conservation Value Bushland, Tweed Coast* was developed in January 2018. Based on this protocol, the first of three rounds of monitoring was implemented in July - August 2018. This monitoring found that there are currently high numbers of pet cats roaming into the High Conservation Value Bushland on the Tweed Coast. The report *Monitoring Program - Cats in High Conservation Value Bushland, Tweed Coast* provides an outline of this first stage (baseline) monitoring. This document is available on request.

The second of the three cat monitoring events to be implemented as part of the LCLW project is scheduled to commence in April 2019.

The Love Cats Love Wildlife project staff work collaboratively with other sections of Council, including the GIS and Compliance Units, as well as Communication and Engagement staff.

#### NSW Environmental Trust - Investing in the Future of Pottsville's Koalas

Monitoring and control of foxes at the Pottsville Wetland is being implemented as part of the 'Investing in the Future of Pottsville's Koalas' Environmental Trust grant, through which Council was awarded \$99,285.

At this site, Pest Management staff monitor for presence and activity levels of foxes. Following several successful fox control programs (1080 baiting/trapping/fox den searches and fumigation) undertaken in the preceding year, camera monitoring in this reporting period has

shown a marked reduction in fox activity at this site. Camera monitoring will continue, with monitoring results assessed to see when further fox control programs are required.

At this site, koala habitat plantings are also undertaken. These plantings have been detrimentally impacted by hare browsing - a pest species commonly recorded on monitoring cameras. Hare control is planned in autumn of 2019, prior to future plantings at this site.

#### NSW Environmental Trust - Conserving Cockatoos and Curlew on the Tweed Coast

Council has been awarded \$99,810 to implement the project 'Conserving Cockatoos and Curlew on the Tweed Coast'. This project commenced in December 2018, and will run through until December 2021.

Bush Stone-curlews and Glossy Black Cockatoos are both listed as threatened under the NSW *Biodiversity Conservation Act* 2016. Both of these iconic species are well known residents of Tweed Shire, and are highly popular with the local community.

Many of the natural areas that originally provided habitat for these species on the Tweed Coast have been subject to clearing and fragmentation, leading to a serious contraction in the amount of natural habitat available to these birds. Subsequently, both these species now utilise Council managed parks and reserves as core breeding, foraging and/or roosting habitat.

Despite being popular with the local community, both species are impacted by a number of human-related threats including disturbance to breeding, foraging and roosting activities and disturbance and/or predation from domestic dogs and pet cats. They are also subject to predation by feral animals like foxes and stray cats and injury or fatality from vehicle strike.

The Conserving Cockatoos and Curlew on the Tweed Coast project aims to implement management actions that will identify, protect and manage existing Bush Stone-curlew and Glossy Black Cockatoo habitat; implement feral animal control to increase breeding success; create additional foraging, roosting and breeding habitat for Curlews and; create additional foraging habitat/watering points for Glossy Black Cockatoos.

#### **Crown Reserves Improvement Fund Program**

The Crown Reserves Improvement Fund Program is a self-sustaining program that is supported by income generated from loan repayments and interest, leases and licences on Crown land and levies from the operation of coastal Crown caravan parks. Funding through this program is allocated through a competitive application process, and can only be expended on Crown Land.

Council was awarded \$29,900 through this funding body to undertake control and monitoring of foxes and rabbits on the Tweed Coast Reserve from November 2018 through to November 2019. This project will implement monitoring and control of two priority pest species (foxes and rabbits) on the Tweed Coast Regional Crown Reserve to reduce impacts of these pest species on the social and natural environments.

Benefits to the social environment are:

- reduced predation on pets and livestock by foxes;
- control of prey items (i.e. rabbit) for wild dogs, resulting in reduced levels of stress for residents caused by the presence of this species within urban areas;

- continued reduction of impacts from rabbits on residents assets, such as building footings and gardens;
- strengthening of collaborative working relationship and awareness raising with private land owners and land managers on adjoining lands.

Benefits to the natural environment are:

- improved survivorship of threatened fauna species in the Tweed Coast Reserve such as the critically endangered Beach Stone-curlew and Green Turtle; and
- reduced levels of damage from rabbits to native flora and fauna and vegetation, including the EEC Littoral Rainforest.

#### **OPTIONS:**

1. That this report be received and noted.
2. That this report be received and noted and that further information be requested on particular aspects of the program.

#### **CONCLUSION:**

Overall, on-ground works undertaken within the reporting period have achieved the objectives of:

- controlling the nuisance and health impacts of biting insects (mosquito and midge) to Tweed Shire residents;
- minimising the impact of pest species (termite and rodents) on Council infrastructure;
- minimising impacts of vertebrate and invertebrate pests on biodiversity (cat, fox, wild dog, Indian Myna, rabbit, and Pandanus planthopper); and
- supporting Tweed Shire residents with pest enquiries and service requests.

#### **COUNCIL IMPLICATIONS:**

##### **a. Policy:**

Corporate Policy Not Applicable

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

Works are undertaken through the allocated pest management budget or through grant funded programs.

##### **c. Legal:**

Not Applicable.

##### **d. Communication/Engagement:**

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

All pest control works will be undertaken in accordance with Council's Pesticide Notification Plan and relevant legislation.

#### **UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1.

Aerial treatments undertaken from July to December 2018 (inclusive) (ECM 5793586)





## REPORTS FROM THE DIRECTOR ENGINEERING

### 16 [E-CM] Recycled Products and Sustainable Procurement

SUBMITTED BY: Infrastructure Delivery

mhm



#### Behind the scenes

*Providing support to make it happen*

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

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: **Provider**

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#### SUMMARY OF REPORT:

At its meeting of 16 August 2018, Council resolved for staff to hold a workshop with Councillors and bring forward a report on how more recycled products can be incorporated into Council's business. This included reviewing processes to incorporate the ISO20400 Sustainable Procurement Standard, ensuring staff are making informed sustainable procurement decisions, and training of staff on sustainable alternatives in alignment with the ISO standard.

The workshop was held with Councillors on 11 October 2018 to discuss these and other issues. Following the workshop, Council staff have undertaken a number of initiatives.

This report puts forward a number of proposed actions looking to improve and enhance sustainable outcomes before and during purchasing.

#### RECOMMENDATION:

That Council:

1. **Implements the supply chain, framework and reporting initiatives outlined in this report to enhance opportunities to use more recycled products.**
2. **Undertakes a gap analysis of Council's current systems and processes against ISO 20400 Sustainable Procurement to set sustainable procurement goals and priorities which are relevant to Council's operations, and to provide staff with focussed processes and training in these areas.**

3. **Endorses the revised Procurement Policy (with updates regarding Sustainable procurement and recycled products, Business associations disclosure, Indigenous procurement, and Local preference) and place the document on public exhibition.**

## REPORT:

### Background

At its meeting of 16 August 2018, Council resolved for:

*“...staff [to] hold a workshop with Councillors and bring forward a report on how more recycled products can be incorporated into Councils business potentially through:*

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

At the workshop with Councillors on 11 October 2018 and during subsequent discussions the following key items were discussed:

- Sustainable Procurement under ISO 20400  
Would require Council to consider environmental, social and economic factors during procurement.
- Minimum Recycled Content  
It can be counter-productive to specify minimum recycled content when determining which product is the most sustainable (for instance a similar product from several suppliers where one is 100% recycled overseas, one will last twice as long, and one is produced locally).
- Greater Benefits Earlier in the Supply Chain  
Council can achieve sustainable outcomes when purchasing, but greater benefits occur by focussing on earlier decisions in the supply chain such as avoiding procurement, reducing procurement, and using alternative materials.
- Better Promotion of Existing Initiatives  
Council already undertakes many sustainable practices during the early decision making phases and during purchasing phases; however Council must get better at promoting these initiatives.
- Ongoing Improvements and New Initiatives  
Council can continue to improve its sustainable practices by investigating and implementing a number of new initiatives.

Following the workshop, Council staff have undertaken a number of initiatives looking to improve and enhance sustainable outcomes before and during purchasing. Key initiatives are outlined below.

### Examples of recycled products and techniques in Council's existing operations

Council's most significant contribution to using recycled products occurs across its civil construction activities. For example:

- Of the approximately 70,000 tonnes of excavated material generated from Council worksites in 2017/2018, almost 90% was reused or recycled with only 8,000 tonnes sent to landfill
- Recycled plastics are regularly used for decking, seating and timber substitutes
- Recycled flyash substitutes a minimum of 25% of cement in concrete used by Council
- Council's rubberised bitumen contains recycled car tyres
- Council regularly reuses items such pavers, guardrails and cobblestones

There are also many other business-as-usual approaches that reduce the negative environmental impacts of Council's operations in a socially and economically responsible way, for instance:

- Council's standard bridge design has been refined to use significantly less concrete than bridges Council built five years ago
- Council prefers pipeline relining rather than full reconstruction wherever possible to reduce material consumption and minimise waste generation
- Preferential use of aluminium seating and tables reduces the need for painting/repainting
- Implementation of power and water efficient switches, timers, showers, air conditioning etc in Council buildings and facilities (including mandatory use of Waterwise fittings)
- Implementation of follow-me-printing in all Council offices saves paper, toner and power

### **Council's existing framework to encourage sustainable purchasing**

Council's operations are guided by a range of strategies and guidelines to embed sustainability considerations into Council's civil works projects and purchases:

- Environmental Design Guidelines for Buildings and Infrastructure: includes detailed checklists that designers and internal 'clients' must follow in the development of new infrastructure
- Procurement Policy, Protocol and contract templates require staff and suppliers to consider and articulate relevant sustainability criteria associated with goods and services, and encourages purchases from local businesses through its Local Preference clause
- Environmental Sustainability Prioritisation Strategy includes participation in the Sustainable Choice procurement program as a key action
- Renewable Energy Action Plan (REAP) articulates which facilities provide the most effective opportunities to reduce greenhouse gas pollution from reducing Council's grid electricity use through efficient lighting, air conditioning/ventilation, and solar
- Reconciliation Action Plan (RAP) includes specific actions to improve opportunities for indigenous businesses

### **PROPOSED ACTIONS**

#### **Additional supply chain initiatives**

Council is investigating additional sustainable supply-chain initiatives as new technologies, products and methods become available. For example, Council is looking at:

- Substituting virgin sand with sand made from recycled glass bottles on a new stormwater pipeline on Queensland Road
- Requesting Council's concrete supplier to provide fibres made from recycled plastic in its footpath concrete

Council is currently seeking feedback from major suppliers and relevant staff about how to enhance opportunities to use more recycled products.

#### **Additional frameworks and reporting initiatives**

Council is investigating additional initiatives to guide further sustainability considerations:

- How existing industry systems such as the Infrastructure Sustainability Council of Australia's (ISCA's) framework can apply to Council's infrastructure delivery model
- Incorporation of sustainability considerations and prompts within Council's existing Project Management and Contract Management systems and software
- Better capture and reporting of existing and new sustainability initiatives through new Cascade software

- Undertaking a gap analysis against ISO 20400 Sustainable Procurement

### **Investigate ISO 20400 Gap Analysis**

The new ISO 20400 standard defines Sustainable procurement as *“Procurement that has the most positive environmental, social and economic impacts across the entire life cycle and that strives to minimise adverse impacts”*.

The standard acknowledges that these factors are difficult to evaluate against each other. In order to provide guidance to practitioners, the standard recommends that organisations set sustainable procurement goals and priorities which are relevant to the context in which they operate.

An efficient way for Council to identify organisational specific goals that will positively impact on sustainable procurement decisions is to identify gaps and improvements against ISO 20400; and to provide staff with focussed processes and training in these areas.

Local Government Procurement (LGP) are experts in sustainable procurement, being responsible for the Sustainable Choice program for Local Government in NSW. Council staff have made initial contact for LGP to undertake a gap analysis and bench-marking exercise against the key elements of the new ISO 20400 standard:

- Fundamentals
- Policy, Strategy and Governance
- Education and Training
- Stakeholder Engagement
- Setting Sustainable Procurement Priorities
- Tracking and Measurement
- Integrating Sustainability into the Procurement Process

The outcomes of the review will provide information on current practices, will benchmark successes against other LGAs, and will recommend improvements for sustainable procurement progress within Council. It is expected this review could be completed before the end of the current financial year.

### **Update of Procurement Policy and Procurement Protocol**

Council's Procurement Policy and Procurement Protocol are being updated to include a number of criteria directly relevant to sustainability and recycling.

The Procurement Policy provides overall direction for the way in which Council carries out procurement. The updated draft policy document is attached and includes recent updates:

#### *Sustainable Procurement*

*The objective of Sustainable procurement is to account for the total benefits and costs involved in a purchase utilising a quadruple bottom line approach which considers the following four impacts:*

- *Economic – whole of life cost and economic impact of the purchase.*
- *Environmental – environmental impact of the production/manufacture, transport, installation, operation, maintenance and disposal of the product or service.*
- *Social – social and ethical implications.*
- *Governance – application of good governance.*

Business Associations Disclosure Statement

Council does not support the development of the Carmichael Mine in the Galilee basin. On 19 April 2018, Council resolved that all civil construction tenderers are required to complete a compulsory tender schedule 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.

Indigenous Procurement

Council is committed to working with the Aboriginal and Torres Strait Islander community to increase employment and economic development opportunities in the Tweed Shire. One method for achieving this goal is incorporating Aboriginal and Torres Strait Islander supplier diversity within our organisation. An Aboriginal and Torres Strait Islander supplier is any business that is 50% or more Indigenous owned.

Local Preference

Strengthening the economy has been identified by the community as a top strategic priority. Council recognises that the consideration of local content contained in offers for supply of goods and services has a positive impact on the local economy.

Local Preference provides a framework to ensure consideration is given to the benefits of sourcing goods and services locally whilst also adhering to Council's best value for money purchasing objective.

The Procurement Protocol is an internal document providing procedural guidance to Council officers on how Council staff should carry out procurement functions. It has also recently been updated to include:

Sustainable Procurement

The objective of Sustainable procurement is to account for the total benefits and costs involved in a purchase utilising a quadruple bottom line approach which considers the following four impacts:

- Economic – whole of life cost and economic impact of the purchase
- Environmental – environmental impact of the production/manufacture, transport, installation, maintenance and disposal of the product or service
- Social – social and ethical implications
- Governance – application of good governance

It is acknowledged that it can be difficult to define sustainability and to measure or compare various sustainability measures (eg balancing issues such as maximising recycling versus reducing transport miles etc). However these concerns should not stop progress on Council improving its focus on sustainability.

Officers must consider these factors when making purchases on Council's behalf; and should refer to guidelines such as:

- LG NSW's Sustainable Procurement Guide (May 2017)
- Council's Environmental Design Guidelines for Council Facilities
- ISO20400:2018 Sustainable procurement - Guidance
- Council's Reconciliation Action Plan

*Business Associations Disclosure Statement*

*Council does not support the development of the Carmichael Mine in the Galilee basin. On 19 April 2018, Council resolved that all civil construction tenderers are required to complete a compulsory tender schedule 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.*

*Officers are required to notify Council's Contracts Coordinator where a contractor submits a 'yes' response.*

The Indigenous Procurement and Local Preference clause updates are in the Protocol.

**OPTIONS:**

Following the Council workshop, a number of possible initiatives have been identified. Council can opt to:

1. Note the new initiatives and not implement any new sustainability measures.
2. Note the suggested systems improvements but continue to implement existing/new sustainability measures when Council's current processes identify them.
3. Investigate suggested initiatives and systems improvements with a view to accelerating identification, implementation and promotion of both existing and additional sustainability measures.

**CONCLUSION:**

Council's operations involve a number of significant recycling and sustainability initiatives, however this Notice of Motion and subsequent workshop identified a number of new initiatives and systems improvements to enhance sustainable outcomes when purchasing.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Procurement Policy v1.7.

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

Initial costs such as the ISO 20400 Gap Analysis will be relatively minor and can be absorbed within existing operations budgets. Depending on the actions identified in the gap analysis there is some potential for more substantial impacts to the budget that will impact broadly over the organisation – but this can only be quantified at that time. Given that Sustainability encapsulates environmental, social and financial aspects; so long as Council balances these aspects, the impacts to the budget should be manageable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

Communications to suppliers and contractors will continue to occur through current tender and quotation processes. Staff will also investigate the most appropriate ways to increase the promotion of Council's sustainability actions.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. Draft Procurement - Version 1.8 (Policy) (ECM5823017).

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## 17 [E-CM] Owners Consent Request - Lot 1 DP 8825 and Chinderah Bay Drive Road Reserve, Chinderah

**SUBMITTED BY:** Roads and Stormwater

mhm



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

### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

**ROLE:** **Provider**

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### SUMMARY OF REPORT:

The owner of Cubby Bakehouse at Lot 1 DP 8825, No.162 Chinderah Bay Drive, Chinderah, has sought owner's consent from Council to enable a Development Application to be lodged for a large dining blister within Chinderah Bay Drive road reserve.

Ordinarily requests for owner's consent are assessed by impacted asset owners within Council (typically Roads and Stormwater and Water and Waste Water Units) and responded to accordingly by the General Manager.

However in this case it has been referred to Council for decision, given the recent resolution to undertake a Locality Plan for Chinderah, and as the initial assessment of the proposal raises some merit concerns.

### RECOMMENDATION:

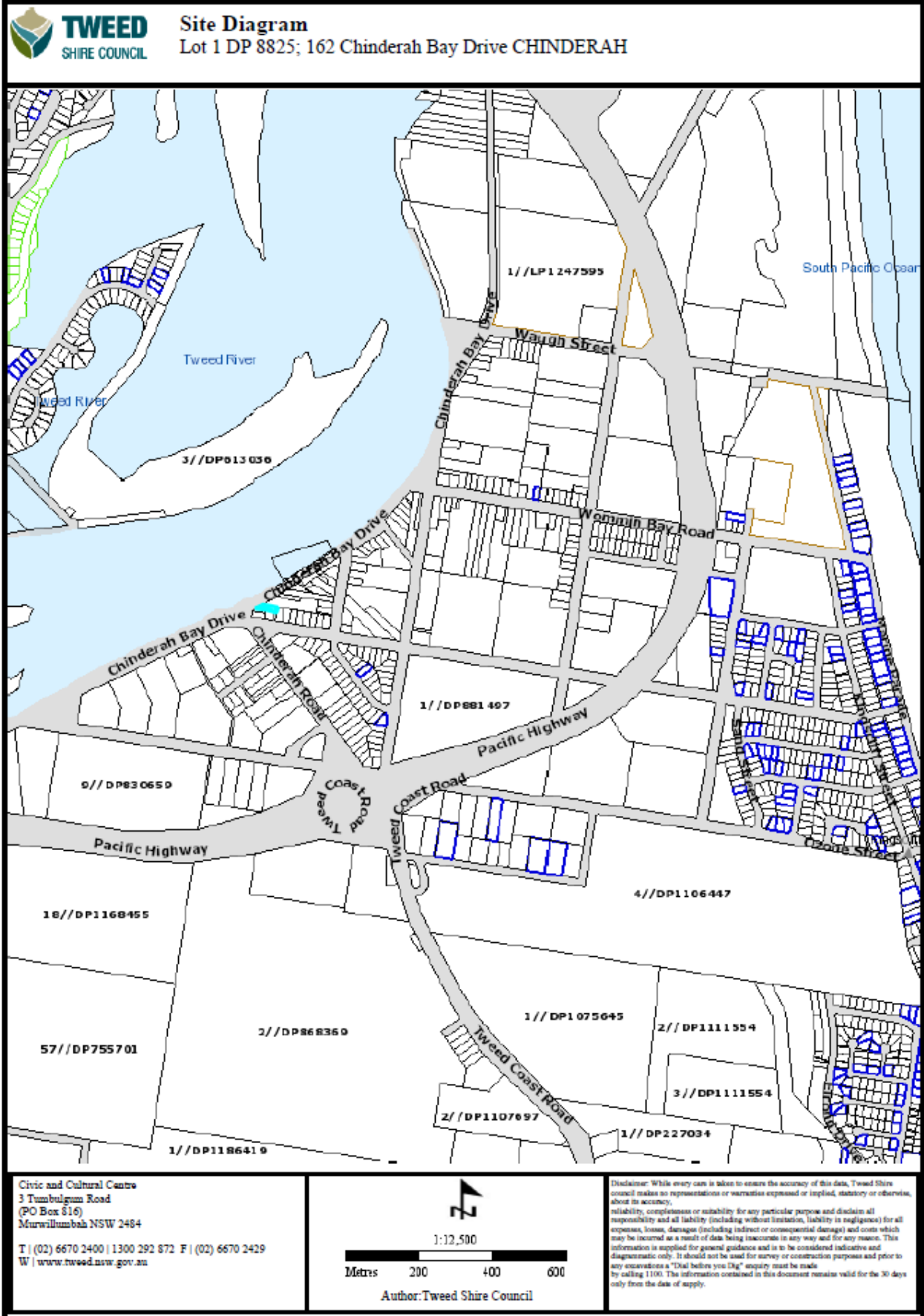
**That Council grants owner's consent to enable the lodgement of a Development Application for a dining blister on Chinderah Bay Drive, Chinderah, associated with an existing bakery/café use at Lot 1 DP 8825, No.162 Chinderah Bay Drive, Chinderah.**

**REPORT:**

The owner of Cubby Bakehouse at Lot 1 DP 8825, No.162 Chinderah Bay Drive, Chinderah, has stated their intent to lodge a Development Application for a large dining blister within the Chinderah Bay Drive road reserve. The dining blister takes up the full frontage of the premises and requires owner's consent from Council. The Statement of Environmental Effects submitted with the request for owner's consent states that:

*"The proposed development is to further enhance the approved use as a bakery and café named Cubby Bakehouse (defined as Food and Drink Premises per TLEP2014) catering for the expected demand at the premises and ensuring customers take advantage of the surrounding amenities including Tweed River, adjacent public recreation parks and associated views and vistas in which these areas provide. The proposed outdoor blister will also work in unison and is considered appropriate with other surrounding existing and proposed uses including recently approved DA17/0172 being a staged development for mixed use comprising a pub, restaurant, café, retail premises, commercial premises, community facilities, medical centre, indoor recreation facility and markets. The outdoor dining facility will also bolster tourism and demand in the local area with available support facilities including public transport and utility services in close proximity".*

**SITE DIAGRAM**



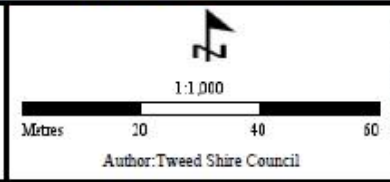
**AERIAL PHOTOGRAPHY**



**Aerial Photo**  
 Lot 1 DP 8825; 162 Chinderah Bay Drive CHINDERAH



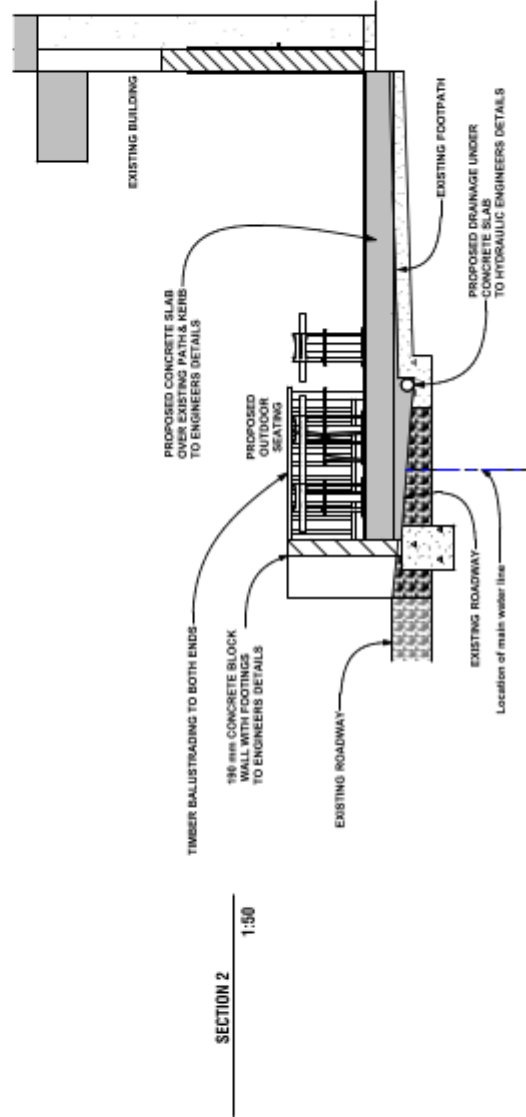
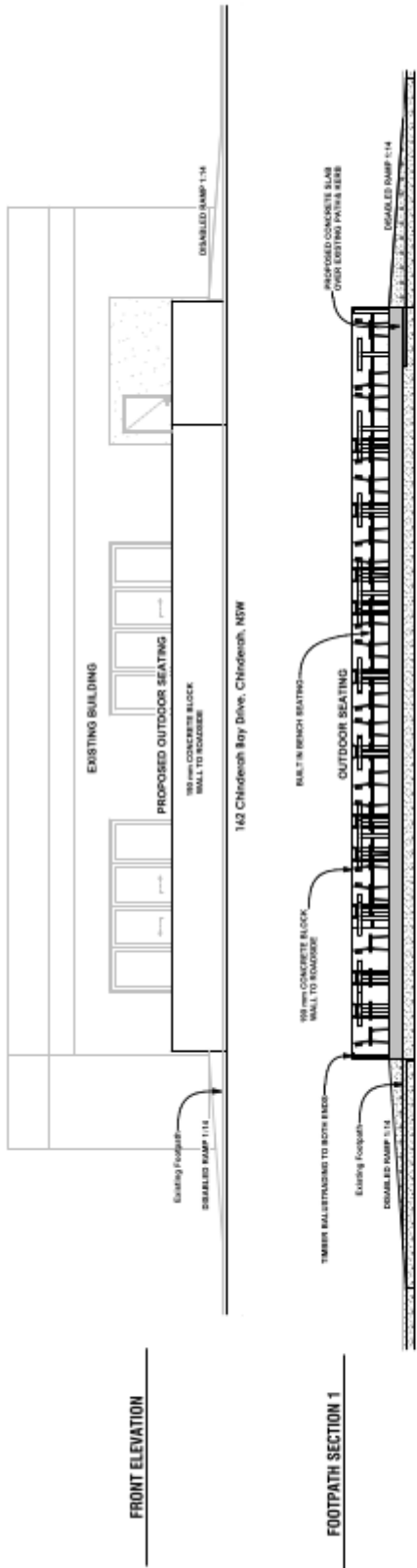
Civic and Cultural Centre  
 3 Tumbulgum Road  
 (PO Box 516)  
 Murwillumbah NSW 2484  
 T | (02) 6670 2400 | 1300 292 872 F | (02) 6670 2429  
 W | www.tweed.nsw.gov.au



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PRELIM DRAWINGS



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BANKERS POINT  
142 CHIDSEACH BAY DRIVE, CHIDSEACH NSW 2258

Client: **CURRY BARBEY**  
Project: **Proposed Food & Beverage Business**  
Address: **142 Chidseach Bay Drive Chidseach, NSW**

Project Number: **17043**  
Scale: **AS H**  
Drawing: **SR**

Project Manager: **Sam Roy**

REV.	DATE	DESCRIPTION	BY	CHK
1	15/04/19	ISSUE FOR PERMIT	SR	SR
2	15/04/19	ISSUE FOR PERMIT	SR	SR
3	15/04/19	ISSUE FOR PERMIT	SR	SR
4	15/04/19	ISSUE FOR PERMIT	SR	SR
5	15/04/19	ISSUE FOR PERMIT	SR	SR



<p>PROJECT: 162 CHINDERAH BAY DRIVE</p> <p>ISSUE: SIGHT DISTANCE ASSESSMENT</p> <p>EXISTING ADJACENT DOMESTIC DRIVEWAY</p>		<p>PROJECT NUMBER: 186CT028B</p> <p>ISSUE NUMBER: 186CT028B-01</p> <p>DATE: 21 Dec 2018</p> <p>SCALE: A3</p> <p>FIGURE: B</p> <p>OF: 1 OF 1</p>
<p>CLIENT: TTM CONSULTING PTY LTD</p> <p>414 DUNDY ROAD, MURRAYVILLE QLD, 4212</p> <p>P.O. BOX 590, MURRAYVILLE QLD, 4212</p> <p>T: 075334 8888 F: 075334 8144</p> <p>E: info@ttm.com.au</p>		
<p>DRAWN BY: URSULA WATTS</p> <p>DATE: 21 Dec 2018</p>		
<p>SCALE: 1:1000</p>		
<p>PROJECT: 162 CHINDERAH BAY DRIVE</p>		
<p>ISSUE: SIGHT DISTANCE ASSESSMENT</p>		
<p>EXISTING ADJACENT DOMESTIC DRIVEWAY</p>		
<p>PROJECT NUMBER: 186CT028B</p>		
<p>ISSUE NUMBER: 186CT028B-01</p>		
<p>DATE: 21 Dec 2018</p>		
<p>SCALE: A3</p>		
<p>FIGURE: B</p>		
<p>OF: 1 OF 1</p>		

As shown on the development plans, the dining blister will consist of a large concrete slab and block wall design, covering the existing footpath, kerb and gutter and road shoulder. The owner has advised that the proposal is to eliminate the steps into the building which currently prohibit disabled and pram access to the business as well as providing access to the disabled toilets located inside the building. The proposal will also correct cross falls in the footpath and road shoulder for the dining area, with ramps down to existing levels either side of the development. No roofing structure is currently proposed, however the dining area extends beyond the current shopfront awning.

In order for the proponent to be able to lodge the Development Application, owner's consent is required, as Council is the landowner for Chinderah Bay Drive road reserve.

Consideration of the request for owner's consent does not involve detailed merit assessment, and does not pre-empt the final determination of the Development Application. Based on the preliminary assessment, the following merit assessment considerations are likely to arise through the Development Application process:

- Benefits for the Chinderah locality in activating public spaces and increasing the connection with the river front;
- Benefits for a small business and local employment;
- Potential for private investment to improve the Chinderah foreshore and create a sense of place;
- Compatibility of the proposed dining blister with the existing and future streetscape of Chinderah Bay Drive and nearby developments;
- Impacts of the dining blister on through traffic, including cyclists, on Chinderah Bay Drive;
- Impacts of the dining blister, due to level changes, on pedestrians using the Chinderah Bay Drive footpath;
- Impacts of the dining blister, due to reduced visibility, on pedestrians crossing Chinderah Bay Drive;
- Impacts of the dining blister on safe access to the adjoining residential property to the south (Lot a DP 345689, No.164 Chinderah Bay Drive);
- Impacts of the dining blister on local stormwater drainage;
- Impacts of the dining blister on the existing water main and hydrant in the road shoulder;
- Impacts of the dining blister on car parking in the locality, given:
  - The proposal removes on street parking spaces;
  - The proposal aims to increase demand for the commercial development, thereby generating additional parking demand;
  - The site is outside of the area for which loss of public parking can be offset under Developer Contribution Plan CP23 Offsite Parking;
- Potential liability for Council to remove the structure in the future, should the bakery/café use change.

#### **OPTIONS:**

Option 1: Grant owner's consent to lodge a Development Application for the proposed dining blister.

Option 2: Withhold owner's consent, and request further information from the applicant.

Option 3: Refuse owner's consent.



Option 1 is the recommendation of this report. Some of the above merit concerns may prove challenging for the applicant to overcome. It will allow for community input through the Development Application process. It will provide the proponents with the most certainty, and limit development application costs.

Option 2 recognises Council's recent resolution to undertake a Locality Plan for Chinderah. Dealing with this individual site in an ad-hoc manner could lead to undesirable precedents, or decisions that do not align with other development in the area. It presents an opportunity to use this dining blister application to explore the potential for private investment in creating public domain improvements along the Chinderah Bay Drive foreshore, which enhance the built environment, and complement and promote enjoyment of the natural environment that is so prominent at this location. This work will help ensure that the private benefits gained from the development can be translated through forthcoming work in the Locality Plan to benefit the broader community and attract people to the area. Issues to examine prior to the Development Application include the appearance, materials and adaptability of the dining blister, options for street trees and shade structures, and car parking strategies for the commercial zone on Chinderah Bay Drive between Chinderah Road and Wommin Bay Road. This work would be reviewed by Council's strategic and urban planners, landscape architect, and engineers. Option 2 delays the development, and incurs further costs by the applicant in preparing additional consultants reports.

Option 3 prevents further consideration of the dining blister proposal by Council staff and prevents a Development Application from being lodged.

#### **CONCLUSION:**

While Council officers have flagged merit concerns for the proposed dining blister, some of which may prove challenging for the proponent to overcome, it is recommended that Council grants owners consent for the proposed dining blister. An alternate, more strategic approach may be to withhold owner's consent and request additional information from the applicant, to allow street scaping, outdoor dining and car parking in Chinderah Bay Drive to be assessed in a more strategic manner, and inform the forthcoming Chinderah Locality Plan.

#### **COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable.

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

Not Applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

No consultation has occurred with the Chinderah community to date. Granting of owner's consent will allow for a Development Application to be lodged, and advertised / notified in accordance with planning requirements.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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## 18 [E-CM] Dulguigan Road Heavy Vehicle Route Assessment

**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**

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#### SUMMARY OF REPORT:

Due to community concerns in relation to heavy vehicle usage of Dulguigan Road associated with the Hy-Tec Quarry at North Tumbulgum an external consultant, RoadNet Pty Ltd, was engaged to undertake a Heavy Vehicle Route Assessment of the section of Dulguigan Road and Terranora Road between the quarry and Riverside Drive.

The consultant's report is attached to this report, and recommends a number of improvements on Dulguigan Road that could be considered to reduce the risks associated with heavy vehicles using the road.

Council's position on whether or not to continue to issue heavy vehicle permits for the use of the subject route in light of the recommendations of the Heavy Vehicle Route Assessment also needs to be confirmed.

#### RECOMMENDATION:

**That:**

1. **Council accepts RoadNet Pty Ltd's Heavy Vehicle Route Assessment report for Dulguigan Road, and implements its recommendations.**
2. **New applications through the National Heavy Vehicle Regulator for 20m Performance Based Standards (PBS) vehicles and 19m B-Doubles at higher mass limits to operate on the route between Riverside Drive and the Hy-Tec Quarry on Terranora Road and Dulguigan Road, continue to be received and assessed by the Roads and Stormwater Unit.**

## REPORT:

### Background to the report

Dulguigan Road is a rural road with a default rural 100km/h speed limit and 60km/h speed limit for heavy vehicles on the section between the quarry and Terranora Road. Heavy vehicles (including delivery trucks) make up approximately 20% of the traffic and account for an average of 142 trips per day. The Hy-Tec Quarry generates the majority of heavy vehicle movements and has a Development Approval DA04/0162 that permits up to 14,600 trips per year.

Heavy vehicles up to 19m and Performance Based Standard (PBS) heavy vehicles up to 20m, can operate on all 'general access' roads, without a permit, to a prescribed weight which is less than 50t (Level 1).

Approvals are required for Level 2 heavy vehicles to operate at a higher mass limit and for vehicles longer than 20m. When assessing the permissible weight allowed on a road, consideration is given to the integrity of the pavement and structures, such as bridges and culverts. The extra weight is not considered to have a significant impact on safety factors, such as manoeuvrability and stopping distances, as this is accounted for in vehicle design, particularly for PBS vehicles.

Council's Manager Roads and Stormwater has delegation to approve Heavy Vehicle Permit Applications received through the National Heavy Vehicle Regulator (NHVR) on the local road network. To date, numerous applications have been approved for 20m PBS vehicles operating at higher mass limits on Dulguigan Road to service the quarry in accordance with their consent, generally in truck and dog configurations. Further PBS applications and renewals for expiring approvals are regularly received by Council. Council is also in receipt of one application which is yet to be determined for a 19m B-Double to operate at 55t on this route. A decision on this application was deferred by Council at the 19 April 2018 meeting, and is awaiting a further report.

The Tumbulgum Community Association has raised amenity and safety concerns associated with the number of heavy vehicle movements on Dulguigan Road. To address these concerns, an external consultant, RoadNet Pty Ltd, was engaged to prepare a Heavy Vehicle Route Assessment to identify the risks associated with heavy vehicles using the route between Riverside Drive and the Hy-Tec Quarry and provide recommendations to mitigate the risks.

### Methodology

The consultant undertook site inspections and vehicle swept path analysis to identify geometric constraints and risks. Council officers requested that a 19m semi-trailer template be used for the swept path analysis because it is considered the worst case scenario for vehicles allowed to use the road without further approvals. Other combinations of heavy vehicles, e.g. truck and dog trailer or 19m B-double (<50t) that use the roads, are considered to perform better than the 19m semi-trailer. The consultant was also requested to use a 26m B-Double template to determine the suitability of Level 2 vehicles.

A risk assessment was undertaken to determine risks associated with heavy vehicles. The frequency of the hazard occurring for the risk assessments was based on the consultant's professional opinion of the current road condition and not the existing crash history. However to contextualise the perceived risks, a review of the past ten year crash history did not find any crashes at the five high risk locations related to the identified risks.

### Key findings

- Heavy Vehicles exiting the quarry and turning left onto Dulguigan Road may collide with a heavy vehicle waiting to turn right into the quarry;
- Heavy vehicles stopped in the westbound lane on Dulguigan Road waiting to turn right may result in rear end collisions;
- Heavy vehicles entering opposing travel lanes have the potential for a head-on collision at the curve at the intersection with Hogans Road and the series of curves east of Mayes Hill Road;
- Heavy vehicles may strike a vehicle waiting to turn right from Terranora Road into Riverside Drive, and;
- Vegetation extending into the roadway, and poor road shoulder conditions, may result in heavy vehicles crossing the road centreline and entering the opposing travel lane.

### Summary of recommendations

#### *Low/medium cost recommendations*

- Install more prominent signage and improve line-marking;
- Provide on-going maintenance of road condition and roadside vegetation (edge breaks, edge drop-offs, seal defects, shoulder integrity, trimming vegetation etc.) with 'quick response' maintenance regimes that maximise effective seal widths;
- Review the present line-marking and signage layout at the quarry entrance and undertake modifications if required. Undertake an onsite trial of heavy vehicles exiting the quarry to assess actual risk associated with traffic conflict with the quarry access and on Dulguigan Road;
- Confirm quarry operators have internal protocols in relation to vehicles entering and exiting the quarry and assess associated risk, and;
- That 20- 26m heavy vehicles (Level 2 and above) are an unacceptable risk and should not be given approvals to regularly operate on this route unless road modifications are implemented.\*

\*Council Officers have previously received applications for vehicles longer than 20m but have not given approval for these vehicles to operate on Dulguigan Road.

#### *High cost recommendations*

- Prepare concept designs to determine curve modifications required to ensure heavy vehicles can remain in their travel lane on the series of curves east of Mayes Hill Road and the curve at Hogans Road, and implement road improvements;
- Prepare and implement a road widening works program with consideration to high priority locations.

### Response to the Recommendations

The risk areas identified on the route are generally agreed by Roads and Stormwater staff. Given the lack of heavy vehicle related crashes to date and that none of the identified risk areas were rated as "intolerable risks" by the consultant, continued use of the route, in accordance with the operating conditions of the quarry and the prevailing heavy vehicle speed limit on Dulguigan Road is considered appropriate. That is, no immediate change to existing approvals for the quarry or heavy vehicle operators is warranted.

Roads and Stormwater staff will initiate actions recommended by the report, by undertaking the necessary observations and consultation with the quarry, and initiate design reviews of the two identified areas with road alignment concerns. Road maintenance protocols are already in place for Dulguigan Road.

Similarly, no change to the existing process for the Manager Roads and Stormwater to approve applications from the NVHR for 20m PBS vehicles at higher mass limits are proposed. The current application for a 19m higher mass B-Double to operate on the subject route would be reported back to Council with a recommendation for approval, and any further 19m B-Double applications would be received and considered by the B-Double Advisory Group.

However, if this view is not shared by the Council in light of the safety and amenity concerns of the local community, further permits could be withheld until the recommendations of the Heavy Vehicle Route Assessment are completed, and a further report summarising these changes is accepted by Council. This could be a 12 to 24 month process until the recommendations are completed.

**OPTIONS:**

1. That the Heavy Vehicle Route Assessment report be accepted and the recommendations to reduce risk associated with heavy vehicles accessing the Hy-Tec Quarry on Dulguigan Road be implemented. New applications for 19m B-doubles and PBS vehicles that are less than 20m but operating at a higher mass continue to be approved.
2. That the report be accepted and the recommendations to reduce risk associated with heavy vehicles accessing the Hy-Tec Quarry on Dulguigan Road be implemented. Until those recommended actions are completed to Council's satisfaction, no new applications for 19m B-doubles or PBS vehicles less than 20m operating at higher mass be approved.
3. That this report be noted, with no further action on Dulguigan Road.

Option 1 is the recommendation of this report.

**CONCLUSION:**

It is recommended that:

- Low and medium cost recommendations from the RoadNet Heavy Vehicle Route Assessment report be implemented and concept designs be developed for upgrades at high risk locations;
- Grant funding be sought for the high cost recommendations, to implement pavement widening and curve realignment projects, and;
- New applications for 19m B-doubles and PBS vehicles that are less than 20m but operating at a higher mass be approved.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable.

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

The Heavy Vehicle Route Assessment report recommends low/medium cost actions, and high cost actions.

Low/medium cost options can be readily absorbed through existing traffic facilities and road maintenance budgets, for additional road signage, linemarking, vegetation management etc.

The two projects for curve realignment would be entered as projects into Council's Project Management System and will require a budget allocation for the initial design work, and then implementation works. Grant opportunities will be sought if the works are eligible under available government programs. Budget allocations for these projects would be subject to Council consideration in a future Quarterly Budget Review.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

The need for the Heavy Vehicle Route Assessment was identified following several consultation sessions with the Tumbulgum Community Association, who have been representing the safety and amenity concerns of several landholders and road users of Dulguigan Road. If endorsed by Council, the RoadNet report will be made available to the TCA members, together with an explanation of the actions that will result.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1.

Heavy Vehicle Route Assessment Report from RoadNet dated 11 March 2019 (ECM 5828428).

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## 19 [E-CM] Exhibition of Voluntary House Purchase Schemes and High Flood Hazard Areas Policy

**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**

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#### SUMMARY OF REPORT:

The Tweed Valley Floodplain Risk Management Plan 2014 and Tweed Coastal Creeks Floodplain Risk Management Plan 2015 both recommended that Council implement a Voluntary House Purchase (VHP) scheme for identified high hazard properties. Both plans were adopted by the Tweed Floodplain Management Committee and Council.

The March 2017 flood event further highlighted the need for VHP schemes with multiple fatalities, many 'near misses' and a number of dwellings experiencing over floor flooding or being damaged.

Immediately after the March 2017 flood event Council applied to NSW Office and Environment and Heritage (OEH) to establish the two proposed VHP schemes and was subsequently offered access to the State VHP funding pool. Council resolved to accept this, and roll out the VHP schemes, at the February 2018 Council Meeting.

To implement the VHP schemes in a responsible manner requires the introduction of strict development controls for the high flood hazard areas in and around the areas designated for VHP. To do this, a "High Flood Hazard (HFH) Areas Policy" is proposed that will place strict limitations on development in and adjacent to the VHP designated areas.

Plans, policies and processes to implement VHP Schemes in an equitable, transparent and sustainable manner have now been prepared.

Councillors and the Tweed Floodplain Management Committee have provided feedback throughout the preparation process.

The next step is to exhibit these plans and policies publically, which this report recommends. The documents to be exhibited are attached to this report.



**RECOMMENDATION:**

**That:**

- 1. The South Murwillumbah and Bray Park Voluntary House Purchase Scheme Scoping Study and Implementation Plan, Burringbar and Mooball Voluntary House Purchase Scheme Scoping Study and Implementation Plan, High Flood Hazard Areas Policy and DCP-A3 Development of Flood Liable Land v1.5 be placed on public exhibition for a period of 42 days.**
- 2. ATTACHMENTS 1, 2, 3 and 4 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because they contain:-**
  - (a) *personnel matters concerning particular individuals (other than councillors).***

## **REPORT:**

### **Introduction**

The Tweed Valley Floodplain Risk Management Plan 2014 and Tweed Coastal Creeks Floodplain Risk Management Plan 2015 both recommended that Council implement a Voluntary House Purchase (VHP) scheme for identified high hazard properties. Both plans are endorsed by the Tweed Floodplain Management Committee and Council.

The March 2017 flood event further highlighted the need for VHP schemes with multiple fatalities, many isolated residents experiencing 'near misses' and a number of dwellings experiencing over floor flooding or being damaged in the event.

Immediately after the March 2017 flood event Council applied to NSW Office and Environment and Heritage (OEH) to establish the two proposed VHP schemes and was subsequently offered access to the State VHP funding pool. Council resolved to accept this, and roll out the VHP schemes, at the February 2018 Council Meeting.

To implement the VHP schemes in a responsible manner requires the introduction of strict development controls for the high flood hazard areas in and around the areas designated for VHP. It would be contrary to the aims of the schemes to purchase and demolish one high hazard house but allow the neighbour to develop to a higher density. To do this, a "High Flood Hazard (HFH) Areas Policy" is proposed that will place strict limitations on development in and adjacent to the VHP designated areas.

### **Voluntary House Purchase Schemes**

VHP is a flood risk management tool, used in high hazard residential areas when there are no other feasible options for protecting an existing community from severe flooding, such as building levees, diverting flood flows, or improving evacuation access.

The main aim of VHP is to permanently remove at risk people from high flood hazard areas (areas with high flood depths and velocities) by purchasing their properties. The dwelling is then removed and the property is back zoned to a more flood compatible land use, such as recreational park.

Council officers have assessed all of the flood prone properties in the priority localities identified in Tweed's two Floodplain Risk Management Plans, being South Murwillumbah, Bray Park, Burringbar and Mooball. Each property was assessed based on flood hazard, evacuation difficulty, likelihood of isolation and exposure to flooding to identify the most flood exposed, high risk dwellings that should be included in the VHP Schemes.

Due to the large number of properties that are suitable for VHP, the schemes have been split into stages. Stage 1, the designated VHP Schemes are the highest risk properties that will be pursued for purchase in the short term. Stage 2, the future schemes, are additional properties that Council would only pursue should additional funding be made available or the existing funding model be expanded.

Importantly, any house built after 1986 is not currently eligible for NSW OEH funding assistance. This potentially has significant impact on the Burringbar and Mooball VHP Scheme. Council has requested a concession to this clause for the Burringbar & Mooball VHP Scheme.

NSW OEH will be conducting a review into the state-wide VHP program in 2019. The review will include the pre-1986 clause and the level of state funding. Tweed's VHP schemes will be revisited based on the outcomes of the state review.

The proposed VHP schemes are detailed in Attachments 1 and 2.

### High Flood Hazard Areas Policy

To implement the VHP schemes in a responsible manner requires the introduction of strict development controls for the High Flood Hazard (HFH) Areas in and around the areas designated for VHP.

To do this, a new Council Policy and an amendment to Development Control Plan Section A3 – Development of Flood Liable Land are proposed.

The HFH policy will prohibit new or replacement dwellings in the designated VHP areas. DAs for replacement dwellings in the High Hazard Areas, but outside the designated VHP areas, will be assessed on merits and, where approved, will attract the strictest application of DCP-A3 controls. Where a replacement dwelling is deemed not appropriate, and budget allows, negotiations may be entered into with the landowner for the purchase of these properties. This would be reported to Council for approval.

Boundary adjustments to facilitate new dwelling sites will also be prohibited. Alterations and additions to existing dwelling will still be permitted, as well as appropriate ancillary non-habitable buildings, subject to the existing DCP-A3 controls.

The HFH Policy's effect on potential development applications is summarised below:

Development Type	Mapped Area			
	Designated VHP Area	Future VHP Area	High Hazard Area (No VHP)	Low Hazard Area
New Dwellings (vacant land)	No - VHP or Consolidate	No - Consolidate	No - Consolidate	Yes
Replacement Dwellings	No - VHP	Assess on Merits*	Assess on Merits*	Yes
Boundary Adjustment (to facilitate new dwellings)	No - VHP or Consolidate	No - Consolidate	No - Consolidate	Yes
Alterations & Additions	Yes	Yes	Yes	Yes
Ancillary Structures	Yes	Yes	Yes	Yes

Note: Subdivision and dual occupancies/secondary dwellings are already prohibited under current controls

\* DA's will be assessed on merits and, where approved, will attract the strictest interpretation of DCP-A3 controls. Where a replacement dwelling is inappropriate, and budget allows, Council may seek to Voluntary Purchase these properties. However, this would not be eligible for NSW OEH funding assistance.

The proposed HFH Policy and additions to DCP-A3 are detailed further in Attachments 3 and 4.

### Flood Study Data

For Burringbar and Mooball, mapping data from the Coastal Creeks Floodplain Risk Management Study 2015 has been utilised for the formation of the subject plans and policy.

In South Murwillumbah and Bray Park, the modelling and mapping from the South Murwillumbah Floodplain Risk Management Study (Draft) has been utilised. Whilst it is still in draft format, this study represents far superior modelling and mapping than the Tweed Valley Flood Study Update 2009 and has been adopted to inform this project and the South Murwillumbah Industrial Land Swap Project. The South Murwillumbah Floodplain Risk Management Study (Draft) is due for exhibition in mid-2019.

### **Floodplain Management Committee**

The Tweed Floodplain Management Committee (FMC) has overseen the preparation of the Tweed Valley Floodplain Risk Management Plan 2014 and Tweed Coastal Creeks Floodplain Risk Management Plan 2015, both of which recommend Council implement VHP schemes for high hazard residential areas.

Since the March 2017 flood event and the NSW State Government granting of access to the VHP Funding pool, progress and plans for the VHP schemes and associated High Flood Hazard Policy have been reported to FMC on 2 occasions (15/06/18 and 2/11/18). Both times, the FMC was supportive of the proposed schemes and policy and this is recorded in the minutes subsequently reported to Council.

### **Previous Report to Council**

At the 5 July 2018 Council Meeting, Council considered an "Interim Policy" to address high flood hazard areas and resolved the following:

**"RESOLVED** that:

1. *Council prepares an Interim Policy for high flood hazard areas within South Murwillumbah, Bray Park, Burringbar and Mooball. The Interim Policy is to address the issues highlighted in this report, and shall be prepared according to the process detailed therein.*
2. *Council reviews and updates Development Control Plan Section A3 – Development of Flood Liable Land to incorporate contemporary flood data and the recommendations of the Tweed Valley Floodplain Risk Management Study and Plan and the Tweed Coastal Creeks Floodplain Risk Management Study and Plan.*
3. *Council place the draft Interim Policy on Public Exhibition for 42 days (6 weeks) for public submissions and report back to Council after the exhibition period.*
4. *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."*

This report and its attachments updates the work on the HFH Policy and associated DCP-A3 amendments, and are generally consistent with the 2017 Council Report.

### **Council Workshop**

The proposed VHP Schemes and associated HFH Policy were the subject of a Council Workshop on 14 March 2019. The reasons for the Schemes and Policy were explored and the funding required to implement them were outlined. Budget implications are outlined further below.

### **Proposed Exhibition Activities**

The proposed exhibition activities include:

- Uploading the four Attachments to this report to the Council website “On Exhibition” section
- Notification of exhibition in the TweedLink
- Placement of hardcopy documents in Council’s Offices’ reception areas
- Direct letter to all property owners in VHP and High Hazard areas of South Murwillumbah, Bray Park, Burringbar and Mooball
- An advertised “drop-in” information session
- Staff availability for 1 on 1 information sessions where requested.

Exhibition feedback would then be considered and finalised versions reported to Council for adoption.

### **Private Property Information**

The VHP Scheme Scoping Studies and Implementation Plans to be exhibited contain maps identifying private properties included in the schemes. This is why they are currently confidential. However, they do not include any personal details or information on the property owners.

Exhibition of the VHP Schemes would not be meaningful if it did not include identification of the areas included. Therefore, once Council resolves to exhibit the attached documents, the proposed VHP mapping will be made public but in map format only without addresses or private property information.

### **OPTIONS:**

1. Place the two Voluntary House Purchase Schemes, High Flood Hazard Areas Policy and update to DCP-A3 on exhibition for a period of 42 days.
2. Do not place the two 2 Voluntary House Purchase Schemes, High Flood Hazard Areas Policy and update to DCP-A3 on exhibition.

Option 1 is the recommendation of this report.

### **CONCLUSION:**

Plans, policies and processes to implement Voluntary House Purchase Schemes in an equitable, transparent and sustainable manner have been prepared.

Councillors and the Tweed Floodplain Management Committee have provided feedback throughout the preparation process.

The next step is to exhibit these plans and policies publically, which this report proposes. The documents to be exhibited are attached to this report.

### **COUNCIL IMPLICATIONS:**

#### **a. Policy:**

Flood Risk Management v1.1.

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

The implementation of the VHP Schemes and associated HFH Policy requires a substantial budget allocation to achieve the identified goals in an equitable, sustainable and transparent manner.

Currently, the Long Term Financial Plan (LTFP) includes an allocation of \$300,000 per annum for flood mitigation capital projects. It is estimated that \$890,000 per annum will be required in the Flood Mitigation Capital Projects budget for the VHP Schemes and HFH Policy to be implemented effectively. Therefore, an additional \$590,000 is required. The majority of this funding would be used to match NSW State funding at a 2:1 ratio (State 2: Council 1)

	Total	OEH	Council
A5680. Voluntary House Purchase - Sth Murbah & Bray Pk	\$ 900,000	\$ 600,000	\$ 300,000
A5763. Voluntary House Purchase - Coastal Creeks	\$ 1,080,000	\$ 720,000	\$ 360,000
A5688. Future flood mitigation works	\$ 150,000	\$ 100,000	\$ 50,000
A5669. Flood Mitigation Lot Consolidation	\$ 180,000	\$ -	\$ 180,000
			\$ 890,000

Opportunities have been identified in the LTFP to defer loan funded Stormwater projects and borrow equivalent amounts to fund the VHP Schemes in the short-term. After this period the schemes will be reviewed and budget updated as required.

Funding of the VHP Schemes and HFH Policy will be formalised through the LTFP and 2019/2020 Integrated Planning and Reporting process.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

The proposed exhibition activities include:

- Uploading the four attachments to this report to the Council website "On Exhibition" section
- Notification of exhibition in the TweedLink
- Placement of hardcopy documents in Council's Offices' reception areas
- Direct letter to all property owners in VHP and High Hazard areas of South Murwillumbah, Bray Park, Burringbar and Mooball
- An advertised "drop-in" information session
- Staff availability for 1 on 1 information sessions where requested.

Exhibition feedback would then be considered and finalised versions reported to Council for adoption.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

- (Confidential)* Attachment 1. South Murwillumbah and Bray Park Voluntary House Purchase Scheme – Scoping Study and Implementation Plan (ECM 5829516).
  - (Confidential)* Attachment 2. Burringbar and Mooball Voluntary House Purchase Scheme – Scoping Study and Implementation Plan (ECM 5829816).
  - (Confidential)* Attachment 3. High Flood Hazard Areas Policy - Draft v1.0 (ECM 5828146).
  - (Confidential)* Attachment 4. Proposed DCP-A3 Section A3.2.7 – High Flood Hazard Areas (ECM 5828148).
-

## 20 [E-CM] Parkes Lane Area Sewerage Scheme

**SUBMITTED BY:** Water and Wastewater

mhm



### Leaving a Legacy

*Looking out for future generations*

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

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

**ROLE:** **Provider**

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#### SUMMARY OF REPORT:

The Parkes Lane area in Terranora, known collectively as the Parkes Lane, Trutes Terrace and Market Parade subdivisions, was originally developed in the mid 1980s. The subdivisions were regarded as rural residential and adjacent land was primarily utilised for small crop farming. The new "Altitude Aspire" development to the north of the Parkes Lane area is creating urban seweraged subdivisions on the immediate surrounding land, which has significantly changed the rural characteristics of the area. Other land to the west of Parkes Lane is also zoned as R1 Residential.

A review by Council's Environmental Health Unit identified 101 properties that are still currently serviced by on-site sewage systems within the Parkes Lane area are approaching the end of their serviceable life. The likelihood of all systems malfunctioning within the next ten years is considered high. To address the current and increased future public health and environmental issues that will result from failing on-site sewerage systems, it is proposed to provide sewerage for the lots made up of 73 gravity sewer connections and 28 pump station connections.

It is proposed to commence community consultation with the affected property owners, with an aim of gaining acceptance from two thirds of the owners to allow a future recommendation to Council to proceed with a compulsory scheme. The costs shall be:

- 50% paid for by Council i.e. \$15,750 / lot
- 50% paid for by Owner i.e. \$15,750 / lot

Owners can pay upfront to receive a 20% discount, or over a 10 year period via a levy of \$1,575 in year one with annual CPI increments. The construction works shall be staged as connections to the nearby sewerage system in the Altitude Aspire development become available.



**RECOMMENDATION:**

**That Council:**

- 1. Supports the provision of Council owned sewerage scheme for the 101 properties that are still currently serviced by on-site sewage systems in the Parkes Lane area.**
- 2. Commences consultation with the property Owners with an aim to gaining acceptance from two thirds of the owners to allow a future recommendation to Council for a compulsory scheme based on the following costs in 2019 dollars:**
  - 50% paid for by Council i.e. \$15,750 / lot**
  - 50% paid for by Owner i.e. \$15,750 / lot.**

**Owners pay the full amount upfront to receive a 20% discount, or over a 10 year period via a levy of \$1,575 in year one with annual CPI increments.**

- 3. Commences detailed design of sewerage system and prepare a new sewerage levy for the scheme.**
- 4. Notes that the construction works shall be staged, as connections to the nearby sewerage system in the Altitude Aspire development become available.**

## REPORT:

The Parkes Lane area in Terranora, known as the Parkes Lane, Trutes Terrace and Market Parade subdivisions, was originally developed in the mid 1980's. The subdivisions were regarded as rural residential and adjacent land was primarily utilised for small crop farming. Parkes Lane area is zoned as R5 (Large Lot Residential) in LEP2014.

The new "Altitude Aspire" development to the north of the Parkes Lane area is creating urban sewerred subdivisions on the immediate surrounding land, which has significantly changed the rural characteristics of the area. The Altitude Aspire area and other land surrounding Parkes Lane is zoned as R1 (General Residential) in LEP2014.

A review by Council's Environmental Health Unit identified 101 properties that are still currently serviced by on-site sewage systems within the Parkes Lane area. The majority of systems were installed prior to 1988 and are approaching the end of their serviceable life. Aged primary treatment septic systems with traditional disposal trenches are located on 67% of properties and ageing secondary treatment / effluent irrigation systems make up the remainder.

Council has issued approvals to operate to all properties, however using the performance standards and key performance objective within Australian Standard AS1547/2012 "On-site domestic wastewater management".

- 80% of systems are currently rated as a low risk
- 15% are rated as medium risk
- 5 % are rated as high risk

These risk ratings are expected to increase to medium and high as systems deteriorate and malfunction over the next few years. The likelihood of all systems malfunctioning within the next ten years is considered high.

Upgrading or replacing malfunctioning systems is considered to be extremely challenging and costly for property owners in the future due to the identified critical risk factors. Some lots have been over developed so that there is inadequate land left for effluent disposal. Council's Environmental Health Unit officers have strongly advised some sites are so constrained (dwellings, slopes, soil type and size) that even new technologies may not work adequately (particularly if not properly maintained).

Typical on-site sewerage upgrade costs to today's standards are at least \$15,000 to \$25,000 for total replacement or between \$10,000 to \$20,000 for partial upgrade, if land is available. EHU officers consider the positive public health, environmental, community amenity and resource protection outcomes provided by connecting the Parkes Lane area to a sewerage system is essential for the future of the area.

The Water and Wastewater Unit therefore proposes to provide a sewerage scheme for this area to:

1. Address the current and increased future public health and environmental issues that will result from failing on-site sewerage systems.
2. Address the immediate issue of septic surface flows onto the Altitude Aspire development, and

3. Address future impacted stages of Altitude Aspire.

The Altitude Aspire Development immediately adjacent to the Parkes Lane area provides a feasible financial opportunity to provide reticulated sewerage to this area, which would otherwise not be available. This opportunity was identified as far back as 1999 as part of Council's Sewerage Strategy. The proposal is to provide sewerage for 101 lots made up of 73 gravity sewer connections and 28 pump station connections.

There are currently 13 lots connected to sewerage in Parkes Lane, known as Stage One and Stage Two. Stage One provided seven lots with gravity sewerage, as part of the Dobbys Crescent scheme that was constructed in 2004/05. Stage Two provided a pressure sewerage scheme to a further 12 lots in Parkes Lane under a voluntary participation scheme in 2012/13. Each lot in Stage Two has a private sewerage ejection pumping station. Six lots are yet to connect as part of this scheme.

The estimated cost to provide sewerage to the remaining 101 lots is \$2.466 Million, which is equivalent to a cost of \$31,300 per lot (including the 2019/2020 estimated developer charge for sewerage or \$6,908). It is proposed that it will be a compulsory scheme and the costs will be:

- 50% paid for by Council i.e. \$15,750 / lot
- 50% paid for by Owner i.e. \$15,750 / lot
- The Owner may pay over a 10 year period (applied via a levy, starting at \$1,575 in year One, with annual CPI increment)
- A 20% discount for owners who choose to pay in full upfront

It is proposed the construction works will be staged, as connections to the nearby sewerage system in the Altitude Aspire development become available. Sewerage may be available to lots 8, 10, 12, 14 and 16 Parkes Lane and 22, 24, 26, 27, 28, 29 & 33 Market Parade when Altitude Aspire (Stage 5) is constructed (proposed currently 2021/22). The remaining 6 lots in Stage Two would be transferred into this scheme and serviced by pump stations transferring to the existing pressure main along their frontage. It is not anticipated that sewerage could be provided to the other remaining 83 lots to be serviced until the completion of the gravity sewerage in the Altitude Aspire (Stage 10) is constructed, which may not be until 2025.

Water and Wastewater Unit proposes to commence consultation with Owners to gain two-thirds acceptance to go ahead with the project. Council shall then commence detailed design of the sewerage system and prepare a new sewerage levy for scheme.

**OPTIONS:**

1. Council continue to service the Parkes Lane area via on-site sewage systems. The likelihood of all systems malfunctioning within the next ten years is considered high risk. Septic sewerage overflows into the lots of neighbours and the nearby Altitude Aspire development will regularly occur. Council will then expect owners to upgrade their existing on-site sewage systems at a cost of at least \$15,000 to \$25,000 for total replacement, or between \$10,000 to \$20,000 for partial upgrade, assuming land is available.

2. Council commence consultation with Owners to provide a sewerage scheme to the 101 properties that are still currently serviced by on-site sewage systems within the Parkes Lane area. Council will seek acceptance from two-thirds of owners to go ahead with this compulsory scheme. The costs shall be:

- 50% paid for by Council i.e. \$15,750 / lot
- 50% paid for by Owner i.e. \$15,750 / lot

Owners can pay in full upfront to receive a 20% discount, or over a 10 year period via a levy of \$1,575 in year one with annual CPI increments. The construction works shall be staged, as connections to the nearby sewerage system in the Altitude Aspire development become available.

### **CONCLUSION:**

It is proposed that Council commence consultation with Owners of 101 lots currently serviced by on-site sewage systems in Parkes Lane, Trutes Terrace, and Market Parade, Terranora to discuss the provision of Council owned sewerage to their properties. If two-thirds of owners accept this proposal, it will be recommended to Council to go ahead with the design and construction of this compulsory scheme. The cost to owners will be \$15,750 per lot and Owners can pay upfront to receive a 20% discount, or over a 10 year period via a levy. The construction works shall be staged, as connections to the nearby sewerage system in the Altitude Aspire development become available.

### **COUNCIL IMPLICATIONS:**

#### **a. Policy:**

This proposed scheme is generally consistent in its intent and approach to similar historic schemes.

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

The works have been initially included in Council's current capital works plan in 2023 and represent a one off cost of \$34.00 per Assessment shire-wide to the sewer fund. If approved the timing of the various stages will require updates to the Capital Works Plan.

#### **c. Legal:**

Acceptance by two-thirds of owners prior to adopting a compulsory scheme should minimise any Legal challenge.

#### **d. Communication/Engagement:**

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

Commence Community Consultation with affected property owners with an aim of gaining two thirds acceptance to progress to a compulsory scheme.

### **UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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## 21 [E-CM] Water Supply and Wastewater Asset Management Plans

**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:** **Leader**

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#### SUMMARY OF REPORT:

Council adopted the – Water Supply Asset Management Plan (*Version 1.2*) in May 2011, and Wastewater Asset Management Plan (*Version 1.1*) in April 2011.

These Plans have been amended and Version 3.0 is attached. The amendments are necessary to review latest condition assessments and funding levels. At the same time, minor errors and anomalies have been corrected.

#### RECOMMENDATION:

**That Council places the Draft Water Supply and Wastewater Asset Management Plans (March 2019) on public exhibition for a period of 28 days and invites submissions for a period of 42 days.**

**REPORT:**

Council adopted the Water Supply Asset Management Plan (*Version 1.2*) in May 2011 and the Wastewater Asset Management Plant (*Version 1.1*) in April 2011.

These Plans have been amended to cover the latest information on asset condition, financial values, funding levels and Council's improvement plan. Information that is revised annually is now located on Council's website with links in the policy to ensure the latest information is publically available without having to formally revise the Plans. The Plans will now be reviewed every 4 years, commencing 1 July of each election year ready for public exhibition in April the following year.

**OPTIONS:**

Council is required to exhibit the amended Plans as per Section 160 of the Local Government Act 1993:

1. Place the Draft Plan on Exhibition.

**CONCLUSION:**

The amendments to the Plans ensure that once adopted, it will be consistent with Council's latest strategies.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Asset Management v1.4.

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

This plan guides the development of long term financial Plans.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. Draft Water Supply Asset Management Plan March 2019 (ECM5826267).

Attachment 2. Draft Wastewater Asset Management Plan March 2019 (ECM5826436).

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## 22 [E-CM] Sponsorship of the 2019 Northern Rivers Science & Engineering Challenge

**SUBMITTED BY:** Director

mhm



### **People, places and moving around**

*Who we are and how we live*

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

- 3 People, places and moving around
- 3.1 People
- 3.1.2 Community and Cultural Development - To provide community and cultural development services to foster and improve social and cultural well-being.

**ROLE:** **Leader**

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#### **SUMMARY OF REPORT:**

Tweed Shire Council has been approached by Southern Cross University to become a sponsor of the 2019 Northern Rivers Science and Engineering Challenge from 19 to 21 June 2019 with the Discovery Days for Primary Schools on Monday 24 to Wednesday 26 June at Lismore Campus, Southern Cross University. Council has sponsored this Challenge for several years. 2019 is the 13<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 2019 Northern Rivers Science and Engineering Challenge hosted by Southern Cross University, Lismore.

#### **RECOMMENDATION:**

**That Council becomes a Bronze Sponsor of the 2019 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 2019 Northern Rivers Science and Engineering Challenge from 19 to 21 June 2019 with the Discovery Days for Primary Schools on Monday 24 to Wednesday 26 June at Lismore Campus, Southern Cross University. Council has sponsored the Challenge for several years.

The Challenge is in its 13<sup>th</sup> year and 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. The Challenge is a practical day of fun, teamwork and discovery. 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
- 2018 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 an Activity sponsor at the Challenge 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 any appropriate social media

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



## **OPTIONS:**

The options available to Council are to:

1. Support the 2019 Northern Rivers Science and Engineering Challenge 2019 by becoming a Bronze Sponsor at \$500 excluding GST.
2. Support the 2019 Northern Rivers Science and Engineering Challenge 2019 by becoming a Silver Sponsor at \$750 excluding GST.
3. Support the 2019 Northern Rivers Science and Engineering Challenge 2019 by becoming a Gold Sponsor at \$1,500 excluding GST.
4. Support the 2019 Northern Rivers Science and Engineering Challenge 2019 by becoming a Platinum Sponsor at \$2,000 excluding GST.
5. Not proceed with any sponsorship of the 2019 Northern Rivers Science and Engineering Challenge.

## **CONCLUSION:**

By sponsoring the 2019 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 2019 Northern Rivers Science and Engineering Challenge (ECM 5818179).

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**REPORTS FROM THE EXECUTIVE MANAGER FINANCE, REVENUE AND INFORMATION TECHNOLOGY**

**23 [FRIT-CM] In Kind and Real Donations - October to December 2018**

**SUBMITTED BY: Financial 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
- 3.1.3 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:**

Details of in kind and real donations for the period October to December 2018 are reproduced in this report for Council's information.

**RECOMMENDATION:**

**That Council notes the total in kind and real donations of \$74,642.76 for the period of October to December 2018.**

**REPORT:**

Council maintains a register of in kind and real donations. Details of these donations for the period October to December 2018 are reproduced as follows:

<b>In Kind and Real Donations - October to December 2018</b>					
<b>Financial Assistance</b>	<b>Amount</b>	<b>Recipient</b>	<b>Donated Item</b>	<b>Date</b>	
\$	4,900.00	NX Sports Community Foundation Pty Ltd	Budget Allocation - Events	24/10/2018	
\$	17,000.00	International Riverfoundation	Budget Allocation	29/10/2018	
\$	7,500.00	Cudgen Headland Surf Life Saving Club	Budget Allocation - Events	07/11/2018	
\$	15,000.00	Tweed Valley Wildlife Carers Inc	Budget Allocation	21/11/2018	
\$	2,000.00	Bruce Partlan	Budget Allocation - Twee	12/12/2018	
\$	2,000.00	Maidira Harwood Sugears	Budget Allocation - Twee	12/12/2018	
\$	<b>48,400.00</b>				
<b>Goods, Services and/or Materials</b>					
\$	22.60	Murwillumbah Historical Society	Printing & Copying	Oct/Nov	
\$	35.50	Tweed Heads Historical Society	Printing & Copying	Oct/Nov/Dec	
\$	687.80	Pottsville Community Centre	Charity Waste - Dumping F	Oct/Nov/Dec	
\$	2,660.00	On Track Community Programs Inc	Charity Waste - Dumping F	Oct/Nov/Dec	
\$	1,387.00	RSPCA Animal Shelter	Charity Waste - Dumping F	Oct/Nov/Dec	
\$	1,352.80	Salvation Army	Charity Waste - Dumping F	Oct/Nov/Dec	
\$	760.00	Tweed Coast Community Baptist Church	Charity Waste - Dumping F	Oct/Nov/Dec	
\$	4,362.40	St Vincent De Paul	Charity Waste - Dumping F	Oct/Nov/Dec	
\$	4,347.20	Tweed Palliative Care	Charity Waste - Dumping F	Oct/Nov/Dec	
\$	3,047.60	Tweed Valley Op Shop	Charity Waste - Dumping F	Oct/Nov/Dec	
\$	391.40	Agape Outreach Inc	Charity Waste - Dumping F	Oct/Nov/Dec	
\$	703.00	You have a Friend	Charity Waste - Dumping F	Oct/Nov/Dec	
\$	<b>19,757.30</b>				
<b>Provision of Labour and/or Plant &amp; Equipment</b>					
<b>Amount</b>		<b>Recipient</b>	<b>Donated Item</b>		
\$	853.02	Life Education Van Relocation	Provision of Labour & Cou	Nov	
\$	<b>853.02</b>				
<b>Rates</b>					
\$	426.24	Twin Towns Police and Community Youth Club	<b>Donated Item</b>		
\$	166.00	Twin Towns Police and Community Youth Club	Water Usage	Oct	
\$	<b>592.24</b>		Sewer Usage	Oct	

<b>Tweed Link Advertising</b>		<b>Recipient</b>	<b>Donated Item</b>	
<b>Amount</b>				
\$	202.80	Community Notices - Tyalgum District Community Association	Advertising	Oct/Nov/Dec
\$	169.00	Community Notices - Banora Point & District Residents Association	Advertising	Oct/Nov/Dec
\$	33.80	Community Notices- Fingal Head Community Association	Advertising	Oct/Nov/Dec
\$	33.80	Community Notices - Chinderah District Residents Association	Advertising	Oct/Nov/Dec
\$	67.60	Community Notices - Cabarita Beach/Bogangar Residents Association	Advertising	Oct/Nov/Dec
\$	67.60	Community Notices - Casuarina, Seaside & Salt Residents Association	Advertising	Oct/Nov/Dec
\$	67.60	Community Notices - Kingscliff Ratepayer & Progress Association	Advertising	Oct/Nov/Dec
<b>\$</b>	<b>642.20</b>			
<b>Room Hire</b>				
<b>Amount</b>		<b>Recipient</b>	<b>Donated Item</b>	
\$	210.00	Twin Towns Friends Association	Room and Hall Hire	Oct/Nov/Dec
\$	90.00	Banora Point & District Residents Association Inc	Room and Hall Hire	Oct/Nov/Dec
\$	255.00	Tweed Chaplains	Room and Hall Hire	Oct/Nov/Dec
\$	255.00	Tweed Hospital Chaplains - Remembrance Service	Room and Hall Hire	Oct/Nov/Dec
\$	195.00	South Sea Islanders Community	Room and Hall Hire	Oct/Nov/Dec
\$	1,153.00	Tweed Heads Hospital Auxiliary	Room and Hall Hire	Oct/Nov/Dec
\$	100.00	Tweed Theatre Company Inc	Room and Hall Hire	Oct/Nov/Dec
\$	1,886.00	Murwillumbah Theatre Co Inc	Room and Hall Hire	Oct/Nov/Dec
\$	254.00	Northern Rivers Symphony Orchestra Inc	Room and Hall Hire	Oct/Nov/Dec
<b>\$</b>	<b>4,398.00</b>			
<b>\$</b>	<b>74,642.76</b>	<b>Total Donations 2nd Quarter (October, November, December 2018)</b>		

**OPTIONS:**

Not Applicable

**CONCLUSION:**

For Councillor's Information and inclusion in the Annual Report.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Donations and Subsidies Version 1.2

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

As per Budget estimates.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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## 24 [FRIT-CM] Monthly Investment Report for Period ending 31 March 2019

**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 Executive Manager Finance, Revenue and Information Technology, being the Responsible Accounting Officer, certifies that investments have been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies. Council had **\$341,897,919** invested as at **31 March 2019** and the actual net return on these funds was **\$787,641** or **2.76%** annualised for the month. (Note: this is income received during the month not accrued interest)

#### RECOMMENDATION:

**That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at period ending 31 March 2019 totalling \$341,897,919 be received and noted.**

## REPORT:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested. The Executive Manager Finance, Revenue and Information Technology, being the Responsible Accounting Officer, certifies that investments have been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies. Council had **\$341,897,919** invested as at **31 March 2019** and the actual net return on these funds was **\$787,641** or **2.76%** annualised for the month. (Note: this is income received during the month not accrued interest)

### 1. Ethical Investments

Ethical Financial Institutions  
\$170,798,025 which represents 49.96% of the total portfolio

*Source: Australian Ethical*

### 2. Economic Commentary

#### Australian and World Economy and Cash Rate

At its 2 April 2019 meeting, the Reserve Bank of Australia Board decided to leave the cash rate unchanged at 1.50 per cent.

The global economy grew above trend in 2018, although it slowed in the second half of the year. The slower pace of growth has continued into 2019. The outlook for the global economy remains reasonable, although downside risks have increased. The trade tensions remain a source of uncertainty. In China, the authorities have taken further steps to ease financing conditions, partly in response to slower growth in the economy. Globally, headline inflation rates have moved lower following the earlier decline in oil prices, although core inflation has picked up in a number of economies. In most advanced economies, unemployment rates are low and wages growth has picked up.

Overall, global financial conditions remain accommodative. They have eased recently after tightening around the turn of year. Long-term bond yields have declined, consistent with the subdued outlook for inflation and lower expectations for future policy rates in a number of advanced economies. Also, equity markets have risen, supported by growth in corporate earnings. In Australia, short-term bank funding costs have moderated, although they remain a little higher than a few years ago. The Australian dollar has remained within the narrow range of recent times. While the terms of trade have increased over the past couple of years, they are expected to decline over time.

The Australian labour market remains strong. There has been a significant increase in employment and the unemployment rate is at 5 per cent. A further decline in the unemployment rate to 4¾ per cent is expected over the next couple of years. The vacancy rate is high and there are reports of skills shortages in some areas. The stronger labour market has led to some pick-up in wages growth, which is a welcome development. The improvement in the labour market should see some further lift in wages growth over time, although this is still expected to be a gradual process.

Other indicators suggest growth in the Australian economy slowed over the second half of 2018. The central scenario is still for the Australian economy to grow by around 3 per cent this year. The growth outlook is being supported by rising business investment, higher levels of spending on public infrastructure and increased employment. The main domestic uncertainty continues to be the strength of household consumption in the context of weak growth in household income and falling housing prices in some cities. A pick-up in growth in household income is nonetheless expected to support household spending over the next year.

The adjustment in the Sydney and Melbourne housing markets is continuing, after the earlier large run-up in prices. Conditions remain soft in both markets and rent inflation remains low. Credit conditions for some borrowers have tightened a little further over the past year or so. At the same time, the demand for credit by investors in the housing market has slowed noticeably as the dynamics of the housing market have changed. Growth in credit extended to owner-occupiers has eased further. Mortgage rates remain low and there is strong competition for borrowers of high credit quality.

Inflation remains low and stable. Underlying inflation is expected to pick up over the next couple of years, with the pick-up likely to be gradual and to take a little longer than earlier expected. The central scenario is for underlying inflation to be 2 per cent this year and 2¼ per cent in 2020. Headline inflation is expected to decline in the near term because of lower petrol prices.

The low level of interest rates is continuing to support the Australian economy. Further progress in reducing unemployment and having inflation return to target is expected, although this progress is likely to be gradual. Taking account of the available information, the Board judged that holding the stance of monetary policy unchanged at this meeting would be consistent with sustainable growth in the economy and achieving the inflation target over time.

*(Source: RBA Monetary Policy Decision)*

## **Council's Investment Portfolio**

Council's investment portfolio is conservatively structured in accordance with NSW Office of Local Government guidelines with approximately 80% of the portfolio held in cash and term deposits. Term deposits and bonds are paying average margins over the 90 day bank bill rate.

Bank demand for term deposit funds has waned as overseas wholesale funding alternatives become less expensive in conjunction with a global falling interest rate outlook. At the same time Australian Prudential Regulation Authority (APRA) imposed mortgage lending restrictions have loosened meaning some increased demand for depositor's funds. Banks are also using debt issuance (bonds) as a less expensive source of funds than term deposits.

Many "cash at call" rates are at levels below the RBA cash rate. The historic low cash rate and long-term bond rates are 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 recently purchased short-term term deposits. Longer-dated bonds and term deposits and are being replaced with high yielding short-term deposits. Overall, the investment portfolio has returned a weighted average 1.01% pa above the 90 day UBS bank bill index for the last month.

### 3. Term to Maturity

Maturity Profile	Actual % Portfolio	Policy Limits
Less than 365 days	47.88%*	Minimum 40%
More than 365 days and less than 3 years	36.67%	Maximum 60%
3 years and less than 5 years	15.45%	Maximum 35%
Portfolio Total	100.00%	
*Note: Some of Council's Bond Portfolio is included with longer dated maturities i.e. >1 year < 5 years however this type of investment can generally be liquidated within two (2) business days		

### 4. Diversification and Credit Risk

Total Portfolio Credit Limits Compared to Policy Limits					
Long-Term Credit Ratings			Short-Term Credit Ratings		
Credit Ratings	Investment Policy Limit	Portfolio	Credit Ratings	Investment Policy Limit	Portfolio
AAA Category	100%	<b>1.33%</b>	A-1+	100%	<b>10.68%</b>
AA Category	100%	<b>26.26%</b>	A-1	100%	<b>11.41%</b>
A Category	60%	<b>17.83%</b>	A-2	60%	<b>19.30%</b>
BBB Category	20%	<b>9.40%</b>	A-3	20%	<b>0.58%</b>
Unrated	10%	<b>1.46%</b>	Unrated	10%	<b>1.75%</b>

## 5. Investment Summary

### General Fund

Corporate Fixed Rate Bonds	5,665,269.69	
Floating Rate Notes	60,732,650.50	
Asset Backed Securities	0.00	
Fund Managers	0.00	
Term Deposits	98,999.999.00	
Call Account	7,500,000.00	<b>172,897,919.19</b>

### Water Fund

Term Deposits	67,000,000.00	
Fund Managers	0.00	<b>67,000,000.00</b>

### Sewerage Fund

Term Deposits	102,000,000.00	
Fund Managers	0.00	<b>102,000,000.00</b>

<b>Total Investments</b>		<b>341,897,919.19</b>
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It should be noted that the General Fund investments of **\$172 million** are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

All Water and Sewerage Fund investments can only be expended in accordance with Government regulation and Council resolution.

### Statutory Statement - Local Government (General) Regulation 2005 Clause 212

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Local Government (General) Regulations and Council's investment policies.



### Responsible Accounting Officer

Executive Manager  
Finance, Revenue & Information Technology  
Tweed Shire Council

### OPTIONS:

Not Applicable.

### CONCLUSION:

Not Applicable.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable.

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

Not Applicable.

**c. Legal:**

Local Government (General) Regulations 2005 - Section 212 - Reports on council investments

*"(1) The responsible accounting officer of a council:*

*(a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:*

*(i) if only one ordinary meeting of the council is held in a month, at that meeting, or*

*(ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and*

*(b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.*

*(2) The report must be made up to the last day of the month immediately preceding the meeting."*

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. Tweed Shire Council Investment Report – March 2019 (ECM 5836045).

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## 25 [FRIT-CM] 2017/2021 Delivery Program and 2019/2020 Operational Plan

**SUBMITTED BY:** Financial Services

mhm



### **Making decisions with you**

*We're in this together*



### **Behind the scenes**

*Providing support to make it happen*

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

2	Making decisions with you
2.2	Engagement
2.2.2	Communications - To inform, educate and engage the public about Council and community activities.
4	Behind the scenes
4.1	Assurance
4.1.1	Governance - To provide assistance to Councillors and support for Council to operate within its legal framework.

**ROLE:** **Leader**

---

#### **SUMMARY OF REPORT:**

Council has prepared the Draft 2017/2021 Delivery Program and 2019/2020 Operational Plan and now seeks public feedback. Principal streams listed in the Delivery Program/Operational Plan are linked to long-term goals/strategies and actions in the 2017/2027 Community Strategic Plan as well as linkages to the Resourcing Strategy and Budget for the next financial year.

The 2017/2027 Resourcing Strategy has been reviewed and updated to ensure all principal streams listed in the Delivery Program are fully resourced.

#### **RECOMMENDATION:**

**That in accordance with Sections 404 and 405 of the Local Government Act 1993, the following documents be placed on public exhibition inviting submissions for a minimum 28 days:**

- **Draft 2017/2021 Delivery Program/2019/2020 Draft Operational Plan;**
- **Draft 2019 Resourcing Strategy supporting the Community Strategic Plan;**
- **Draft 2019/2020 Revenue Policy and Statement;**
- **Draft 2019/2020 Operational Plan Budget; and**
- **Draft 2019/2020 Fees and Charges.**

## **REPORT:**

The 2017/2027 Community Strategic Plan was adopted by Council on 6 April 2017.

To support the implementation of the 2017/2027 Community Strategic Plan Council has adopted a "Resourcing Strategy 2019" which includes the Workforce Management Plan, Asset Management Planning and the Long Term Financial Plan.

The 2017/2021 Delivery Program incorporates the Draft 2019/2020 Operational Plan. The Operational Plan details all activities to be engaged in by Council during the year.

The Draft 2019/2020 Operational Plan also includes:

- a statement of the council's Draft 2019/2020 revenue policy for the year including the statements and particulars required by the Regulations;
- the Draft 2019/2020 Operational Plan Budget; and
- the Draft 2019/2020 Fees and Charges.

Council must place the Draft Resourcing Strategy 2019 and the Draft 2017/2021 Delivery Program incorporating the Draft 2019/2020 Operational Plan on public exhibition inviting submissions for at least 28 days.

In deciding on the final delivery program/operational plan to be adopted, a council must consider any submissions that have been made concerning the draft plans.

Council must adopt all Plans by 1 July 2019 in accordance with section 405(1) of the *Local Government Act 1993*.

### **Delivery Program and Operational Plan**

The Draft 2017/2021 Delivery Program has been amended and includes the Draft 2019/2020 Operational Plan.

The Draft 2017/2021 Delivery Program and Draft Operational Plan 2019/2020 will be placed on public exhibition from 22 April 2019 to 24 May 2019 with access to all documents available via printed copies on request or from the Tweed Shire Council internet site.

### **Resourcing Strategy 2019**

The Resourcing Strategy 2019 is attached to this report and incorporates the Workforce Management Plan, an overview of Asset Management Planning and the outcomes of the Long Term Financial Plan.

While the Community Strategic Plan highlights all the objectives and aspirations of the community, the Resourcing Strategy focuses in detail on matters that are the direct responsibility of Council.

The Long Term Financial Plan section of the Resourcing Strategy has been amended to incorporate recent factors that have a long term financial impact on the budget.

The Long Term Financial Plan forecasts the financial capacity of Council to meet the objectives adopted in the Community Strategic Plan.

Estimates, projections and assumptions have been used to develop a picture of how Council's finances will progress over each of the next 10 years by quantifying revenue growth, expenditure commitments, and funding capacity.

### Draft Revenue Policy and Statement

The Draft 2019/2020 Operational Plan includes a statement of the council's revenue policy for the year. The Draft 2019/2020 Revenue Policy and Statement includes separable parts detailing the proposed Draft 2019/2020 Fees and Charges and Draft 2019/2020 Operational Plan Budget and are attached to this report and available for community submissions.

The Draft 2019/2020 Revenue Policy and Statement has been prepared to conform to the requirements as prescribed within the Local Government (General) Regulations and embodies all the rates, special rates, annual charges, interest on unpaid accounts and proposed fees and charges to be applied by council during 2019/2020. The General Fund Rate increase is based upon the IPART approved 2.7% increase for 2019/2020.

### 2019/2020 Proposed Rating Structure

The 2019/2020 rating structure is proposed as follows:

Item	2018/2019 \$	2019/2020 based on allowed Ordinary Rate increase 2.7%	\$ variation	% variation
Ordinary Rate				
Residential*	1,046.45	1,074.70	28.25	2.70%
Business*	1,150.35	1,181.40	31.05	2.70%
Farmland*	1,046.45	1,074.70	28.25	2.70%
* Minimum Rate				
Water Access Charge	173.15	176.55	3.40	1.96%
Sewerage Charge	837.95	854.35	16.40	1.96%
Domestic Waste Service Charge (140 litre fortnightly)	163.50	192.90	29.40	17.98%
Recycling Service Charge (240 litre fortnightly)	54.50	82.00	27.50	50.46%
Organics Service Charge (240 litre weekly)	82.40	92.00	9.60	11.65%
Domestic Waste Management (Admin) Charge	69.80	69.80	0.00	0.00%
Landfill Management Charge	52.00	54.00	2.00	3.85%
<b>Total</b>	<b>2,479.75</b>	<b>2,596.30</b>	<b>116.55</b>	<b>4.74%</b>

### Special Rates

The 2019/2020 special rates are proposed as follows:

Description	No. of Properties	Rate	Revenue \$
Koala Beach	498	0.0696	85,542.22
Cobaki	1	1.0074	590,700.00

### Domestic Waste Management

The domestic waste management charge represents the reasonable cost of providing garbage and recycling services to residents and is in accordance with Sections 496 and 504 of the *Local Government Act*.

In 2009 the NSW State Government introduced a Waste and Environment Levy, aimed at increasing the price of disposing waste to landfill in an effort to promote recycling. The NSW Waste Avoidance and Resource Recovery (WARR) Act 2001 identifies a target of 66% diversion from landfill for domestic waste.

The Domestic Waste Charges proposed for 2019/2020 are:

Service	2018/19 \$	2019/20 \$
80 litre fortnightly waste service	160.00	161.40
140 litre fortnightly waste service	163.50	192.90
240 litre fortnightly waste service	180.00	241.60
80 litre weekly waste service	181.00	205.90
140 litre weekly waste service	186.00	268.80
240 litre weekly waste service	205.00	318.50
Recycling service (fortnightly 240 litre bin)	54.50	82.00
Organic bin collection service (Weekly)	82.40	92.00
Domestic waste services charge (Admin charge)	69.80	69.80
Landfill Management Charge	52.00	54.00

The increase in charges reflects a significant increase in cost. Cost increases are associated with the introduction of a levy for waste disposal in Queensland. The charges have now been allocated on the basis of the amount of waste generated by each service type which has led to proportionately more of the increase allocated against services which do not have a third bin, or where there is considerably more waste generated.

### Water Cost Requirements

As part of the NSW Department of Primary Industry Water's Best Practice Pricing Guidelines there is a requirement that the income received from volumetric charges be a minimum of 75% of the combined access and volumetric income, for residential assessments. This is intended to send a stronger water conservation signal through pricing to consumers.

The increase in access and volumetric charge rates have been calculated to maintain the minimum 75% requirement, as well as cater for increased regulatory compliance related to water quality and reporting; growth, ageing infrastructure and the associated increases in operational and treatment costs.

## 2019/2020 Water Charges

Water Access (S501) and Volumetric Charges (S502) proposed to apply from 1 July 2019 are:

- Residential assessments – an annual access charge of \$176.55.
- Business assessments - an annual access charge based on the residential assessment 20mm access charge, multiplied by the ratio of meter size cross sectional area.
- Volumetric charge of \$3.02/kL for non-residential assessments.
- Volumetric charge of \$3.02/kL for residential assessments for each kL up to and including 300kL per annum.
- Excess volumetric charge of \$4.53/kL for residential assessments for each kL in excess of 300kL per annum consumption.
- The above volumetric charges relate to the reading period from 1 July 2019 to 30 June 2020.
- Bulk water sales from standpipes for use within the shire will be charged at \$4.53/kL in 2019/2020. Use outside the shire will be charged at \$9.06/kL, being twice the Residential Properties High Consumption Charge.
- Vacant properties rated for water are subject to an access charge of \$176.55.
- Unpaid accounts are subject to interest charges applicable calculated from the due date.

It is estimated that the yield from access charges will be \$7,127,289 and \$23,682,000 from the volumetric charge.

## Sewer Cost Requirements

Due to increased regulatory compliance related to recycled water quality and reporting; growth, ageing infrastructure and the associated increases in operational and treatment costs, the sewerage access charge will continue to increase on an annual basis.

The sewerage usage charge was implemented to manage and control sewerage trade waste discharges to the public sewer system and to recover council's additional costs in the transportation, treatment and disposal of trade waste discharges.

## 2019/2020 Sewerage Charges

Sewerage charges (S501) proposed to apply from 1 July 2019 are:

### Residential Assessments

- Residential assessments – an annual access charge of \$854.35.
- Vacant properties rated for sewer are subject to an annual access charge of \$854.35.
- Unpaid accounts are subject to interest charges applicable calculated from the due date.

It is estimated that the notional yield from access charges will be \$31,613,978.67.

## Draft Budget 2019/2020

The 2019/2020 draft budget has been formulated using the following assumptions:



Item	Indexation
Employee costs	2.5%
Materials and Contracts	2.5%
Other expenses	2.00%
Rates	2.7% for Minimum rate

Capital works expenditure includes:

Category	Amount \$'000
Roads	13,342
Drainage	952
Water infrastructure	8,764
Sewer infrastructure	6,680

### OPTIONS:

Council is required to place the Draft Delivery Program and associated documentation on public exhibition, inviting submissions prior to the formal adoption of these documents.

### CONCLUSION:

That the 2017/2021 Delivery Program and supporting Resourcing Strategy as amended by the Draft Operational Plan 2019/2020, Draft Revenue Policy and Statement 2019/2020, Operational Plan Budget 2019/2020 and Fees and Charges 2019/2020, be placed on public exhibition inviting submissions, in accordance with Sections 404 and 405 of the Local Government Act 1993.

### COUNCIL IMPLICATIONS:

#### a. Policy:

Principal streams listed in the Delivery Program/Operational Plan are linked to long-term goals/strategies and actions in the 2017/2027 Community Strategic Plan as well as linkages to the Resourcing Strategy and Budget for the next financial year.

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

All operations, services and infrastructure projects have been identified and costed within the Draft Budget 2019/2020.

#### c. Legal:

Public exhibition inviting submissions is required in accordance with Sections 404 and 405 of the Local Government Act.

#### d. Communication/Engagement:

**Consult** - We will listen to you, consider your ideas and concerns and keep you informed. All plans will be placed on public exhibition from 22 April to 24 May 2019 with submissions welcome.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

- Attachment 1. Draft Delivery Program 2017/2021 and Draft Operational Plan 2019/2020 (ECM 5837736).
  - Attachment 2. Draft Revenue Policy and Statement 2019/2020 (ECM xxxx).
  - Attachment 3. Draft Budget 2019/2020 (ECM 5837654).
  - Attachment 4. Draft Fees and Charges 2019/2020 (ECM 5837737).
  - Attachment 5. Draft Resourcing Strategy, Supporting the 2017/2027 Community Strategic Plan (ECM 5837837).
-

## REPORTS FROM THE EXECUTIVE MANAGER PEOPLE, COMMUNICATION AND GOVERNANCE

### 26 [PCG-CM] Lease Arrangements - Kingscliff Amateur Fishing Club and Bluewater Fishing Club clubroom, Ed Parker Rotary Park Kingscliff

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
- 2.1 Built Environment

ROLE: **Provider**

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#### SUMMARY OF REPORT:

This report discusses the finalisation of lease negotiations between Tweed Shire Council and the Kingscliff Amateur Fishing Club (KAFC) and Kingscliff Bluewater Fishing Club (KBFC) for the ongoing use of their facility located on Council owned land at Ed Parker Rotary Park Kingscliff, Lot 287 DP 542598.

#### RECOMMENDATION:

**That Council:**

1. Enters into a lease agreement with Kingscliff Amateur Fishing Club and the Kingscliff Bluewater Fishing Club as tenants in common for use of their Clubs' facility located within Ed Parker Rotary Park, Lot 287 DP 542598, Kingscliff.
2. Executes all the documentation under the Common Seal of Council.

## REPORT:

KAFC and KBFC operate from their facility attached to, but physically separate from, the Ken McDonald Training Centre, at Ed Parker Rotary Park Kingscliff. Council records provide little information as to the historical development of the facility. However, the KAFC President informed Council the building was constructed in 1953 by the fishing community, and the KAFC held a ninety-nine (99) year lease. There is no evidence of a formal lease having been entered into with Tweed Shire Council.

At Council's Ordinary Meeting of 16 April 2015, Council resolved to approve:

1. *Recording the history of and formally acknowledging the service of the Australian Volunteer Coast Guards Association Kingscliff Flotilla members past and present;*
2. *Entering into an interim 12 month licence and lease respectively with Marine Rescue NSW for the Kingscliff Radio Tower within Crown Reserve 1001008 comprised in Lot 2 DP 1122062 and a portion of the Ed Parker Rotary Park building currently occupied by AVCGA as their training facility and boat storage within Lot 287 DP 542598;*
3. *The negotiation of a long term licence of the Kingscliff Radio Tower if requested by Marine Rescue NSW;*
4. *Entering into negotiations with Kingscliff Beach Fishing Club to establish mutually agreeable lease arrangements for their ongoing use of the training facility within Ed Parker Rotary Park; and*
5. *Executing all documentation under the Common Seal of Council.*

As per Item 4 above protracted negotiations with the KAFC have now been finalised.

Approval is sought to enter into a lease agreement for the KAFC owned and maintained facility noting the following terms:

- The Lease expires 31 January 2023;
- Rent of \$675 plus GST per annum;
- Option for renewal;
- Permitted use – Clubhouse for activities directly associated with the Lessee; and
- Public liability insurance amount - \$20,000,000.

## CONCLUSION:

Following protracted negotiations, and in accordance with Council's resolution of 16 April 2015, approval is sought to enter into lease arrangements with the KAFC and KBFC, as tenants in common, for the ongoing use of their Clubs' facility located within Ed Parker Rotary Park at Lot 287 DP 542598.

## COUNCIL IMPLICATIONS:

### a. Policy:

Corporate Policy Not Applicable

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

Not Applicable.

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**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

Not Applicable.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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27 [PCG-CM] Meeting Dates 1 July 2019 to September 2020

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 19 April 2019 Council resolved the dates and venues for the Planning Committee and Council meetings for the period 1 July 2019 to 30 June 2020.

The purpose of this report is to determine the dates of the Planning Committee and Council Meetings, incorporating appropriate Community Access sessions up until the end of this current Council with Local Government elections proposed for 12 September 2020.

**RECOMMENDATION:**

That Council adopts the following Meeting Dates and venues for the period 1 July 2019 to September 2020:

PLANNING COMMITTEE		COUNCIL MEETING	
Date	Venue	Date	Venue
4 July 2019	Murwillumbah	18 July 2019	Murwillumbah
1 August 2019	Tweed Heads	15 August 2019	Tweed Heads
5 September 2019	Murwillumbah	19 September 2019 %	Murwillumbah
3 October 2019	Tweed Heads	24 October 2019 ^	Tweed Heads
7 November 2019	Murwillumbah	21 November 2019	Murwillumbah
5 December 2019	Tweed Heads	11 December 2019 #	Tweed Heads
6 February 2020	Murwillumbah	20 February 2020	Murwillumbah
5 March 2020	Tweed Heads	19 March 2020	Tweed Heads
2 April 2020	Murwillumbah	16 April 2020 *	Murwillumbah
7 May 2020	Tweed Heads	16 May 2020	Tweed Heads

PLANNING COMMITTEE		COUNCIL MEETING	
Date	Venue	Date	Venue
4 June 2020	Murwillumbah	18 June 2020	Murwillumbah
2 July 2020	Tweed Heads	16 July 2020	Tweed Heads
6 August 2020	Murwillumbah	20 August 2020	Murwillumbah
3 September 2020	Tweed Heads		

NOTE: % 19 September 2019 will include an Extraordinary Meeting for the election of the Deputy Mayor.  
 ^ 24 October 2019 to allow consideration of the Annual Financial Statements.  
 # 12 December 2019 given proximity to Christmas Period may even be changed to Wednesday 11 December 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 2019 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 2019 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 2019 to September 2020:

PLANNING COMMITTEE		COUNCIL MEETING	
Date	Venue	Date	Venue
4 July 2019	Murwillumbah	18 July 2019	Murwillumbah
1 August 2019	Tweed Heads	15 August 2019	Tweed Heads
5 September 2019	Murwillumbah	19 September 2019 %	Murwillumbah
3 October 2019	Tweed Heads	24 October 2019 ^	Tweed Heads
7 November 2019	Murwillumbah	21 November 2019	Murwillumbah
5 December 2019	Tweed Heads	11 December 2019 #	Tweed Heads
6 February 2020	Murwillumbah	20 February 2020	Murwillumbah
5 March 2020	Tweed Heads	19 March 2020	Tweed Heads
2 April 2020	Murwillumbah	16 April 2020 *	Murwillumbah
7 May 2020	Tweed Heads	16 May 2020	Tweed Heads
4 June 2020	Murwillumbah	18 June 2020	Murwillumbah
2 July 2020	Tweed Heads	16 July 2020	Tweed Heads
6 August 2020	Murwillumbah	20 August 2020	Murwillumbah
3 September 2020	Tweed Heads		

NOTE: % 19 September 2019 will include an Extraordinary Meeting for the election of the Deputy Mayor.  
 ^ 24 October 2019 to allow consideration of the Annual Financial Statements.  
 # 12 December 2019 given proximity to Christmas Period may even be changed to Wednesday 11 December 2019.

Pending the adoption by Council 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."*

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 2019 to September 2020 be adopted.
2. That Council determines a different meeting schedule.

**CONCLUSION:**

That the proposed meeting schedule and venue for the period July 2019 to September 2020 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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## 28 [PCG-CM] Model Code of Conduct

**SUBMITTED BY:** Corporate Governance

mhm



### Behind the scenes

*Providing support to make it happen*

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

- 4 Behind the scenes
- 4.1 Assurance
- 4.1.1 Governance - To provide assistance to Councillors and support for Council to operate within its legal framework.

**ROLE:** **Leader**

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#### SUMMARY OF REPORT:

The 2018 Model Code of Conduct for Local Councils in NSW and the associated Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW were prescribed on 14 December 2018 under the *Local Government (General) Regulation 2005 (Regulation)*.

Under section 440 of the *Local Government Act 1993*, each council is required to adopt a code of conduct based on the Model Code of Conduct prescribed under the Regulation.

Council must adopt the new Model Code of Conduct and Procedures within six months of prescription, which is by 14 June 2019.

#### RECOMMENDATION:

That the:

1. **Model Code of Conduct be adopted, effective 14 June 2019, as three separate codes as follows:**
  - a) **Code of Conduct for Councillors Version 1.0;**
  - b) **Code of Conduct – Council Staff Version 1.0; and**
  - c) **Code of Conduct for Council Committee Members, Delegates of Council and Advisors Version 1.0, and**
2. **Model Code of Conduct Administration Procedure Version 2.7 be adopted effective 14 June 2019.**

## **REPORT:**

### **Why must Council adopt a new Code of Conduct and Procedures?**

The 2018 Model Code of Conduct for Local Councils in NSW and the associated Procedures for the Administration of the Model Code of Conduct (**Procedures**) for Local Councils in NSW were prescribed on 14 December 2018 under the *Local Government (General) Regulation 2005 (Regulation)*.

Under section 440 of the *Local Government Act 1993 (Act)*, each council is required to adopt a code of conduct based on the Model Code of Conduct prescribed under the Regulation.

Under section 440AA, each council is required to adopt procedures for the administration of their adopted code of conduct based on the Model Procedures prescribed under the Act and Regulation.

Council must adopt the new Model Code of Conduct and Procedures within 6 months of prescription, which is by 14 June 2019.

### **What is the purpose of the Model Code of Conduct?**

The Model Code of Conduct prescribes the minimum ethical and behavioural standards all council officials in NSW are required to comply with. In doing so it seeks to:

- prescribe uniform minimum ethical and behavioural standards for all councils in NSW
- provide clear guidance to council officials on the minimum ethical and behavioural standards expected of them as council officials
- provide clear guidance to local communities on the minimum ethical and behavioural standards they can expect of the council officials who serve them
- promote transparency and accountability
- promote community confidence in the integrity of the decisions councils make and the functions they exercise on behalf of their local communities; and
- promote community confidence in the institution of local government.

### **What has changed in the new version of the Model Code of Conduct?**

The key change is that the pecuniary interest provisions previously contained in the Act and Regulation have now been included in the Model Code of Conduct.

Other key changes include:

- new standards relating to discrimination and harassment, bullying, work health and safety, behaviour at meetings, access to information and maintenance of council records
- new rules governing the acceptance of gifts including mandatory reporting
- a new ongoing disclosure requirement for councillors and designated persons requiring disclosure of new interests in returns of interests within three months of becoming aware of them
- councillors will be required to disclose in their returns of interests whether they are a property developer or a close associate of a property developer.

### **What has changed in the new version of the Procedures?**

Changes have been made to the Procedures to address the following issues:

- the role of the general manager in the receipt and initial management of code of conduct complaints about councillors

- the ability of complainants, who are unhappy with decisions of the council, to misuse councils' codes of conduct by repackaging routine complaints as "code of conduct complaints"
- the lack of recourse against members of the public who inappropriately disclose information about complaints they have made under a council's code of conduct.

### **Proposed approach to adopt three separate Codes of Conduct**

Under section 440, a Model Code of Conduct may be prescribed that applies to councillors, members of staff of councils and delegates of councils.

With reference to Attachments 1 to 3, to allow councillors and staff to better understand their Code of Conduct obligations, instead of a single code of conduct applying to all council officials, the Executive Management Team has endorsed adopting three separate codes of conduct for:

- Councillors;
- Staff; and
- Committee Members, Delegates of Council and Advisors.

In that regard, it is recommend that Council adopt the three bespoke versions of the Model Code of Conduct as published by the Office of Local Government, for each of the above respective categories.

With reference to Attachment 4, it is recommended that Council adopt the Model Code of Conduct Administration (Procedures) as published by the Office of Local Government.

### **What happens if Council does not adopt a new Code of Conduct by 14 June 2019?**

The 2018 Model Code of Conduct and Procedures only apply from 14 June 2019 or the date they are adopted by each council (whichever is first)

Council's existing adopted codes of conduct and procedures will remain in force until such time as councils adopt a new code of conduct and procedures based on the Model Code of Conduct and Procedures prescribed under the Regulation.

If council fails to adopt a new code of conduct and procedures based on the new Model Code of Conduct and Procedures by 14 June 2019, the provisions of the new Model Code of Conduct and Procedures will automatically override any provisions of council's adopted code of conduct and procedures that are inconsistent with those contained in the Model Code of Conduct and Procedures through the operation of sections 440(4) and 440AA(4) of the Act (unless the inconsistent provisions of a council's adopted code of conduct are more onerous than those contained in the Model Code of Conduct).

## **OPTIONS:**

That the:

1. Model Code of Conduct be adopted, effective 14 June 2019, as three separate codes as follows:
  - a) Code of Conduct for Councillors Version 1.0;
  - b) Code of Conduct – Council Staff Version 1.0; and
  - c) Code of Conduct for Council Committee Members, Delegates of Council and Advisors Version 1.0, and
2. Model Code of Conduct be adopted by Council as a single code.
3. Model Code of Conduct Administration Procedure Version 2.7 be adopted by Council.
4. Council adopts alternative versions of the Model Code of Conduct and/or Model Code of Conduct Administration Procedure.

## **CONCLUSION:**

That the three Model Codes of Conduct be adopted.

That the Model Code of Conduct (Procedures) be adopted.

## **COUNCIL IMPLICATIONS:**

### **a. Policy:**

Council's current Code of Conduct and Associated Administrative Procedures will need to be replaced on adoption of the new documents.

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

External consultants will be engaged to roll out Code of Conduct training to all staff and Councillors. The cost for this training will be covered by Divisional budgets.

### **c. Legal:**

Not Applicable.

### **d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

- Attachment 1: Code of Conduct for Councillors (Model) Version 1.0 (ECM 5802227).
- Attachment 2: Code of Conduct for Staff (Model) Version 1.0 (ECM 5802296).
- Attachment 3: Code of Conduct for Council Committee Members, Delegates of Council and Council Advisors (Model) Version 1.0 (ECM 5802282).
- Attachment 4: Code of Conduct Administration (Procedure) Version 2.7 (ECM 5802308).
-



## 29 [PCG-CM] Tweed Shire Australia Day

**SUBMITTED BY:** Corporate Governance / Economic Development

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**

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### SUMMARY OF REPORT:

A Councillor Workshop was held on 9 May 2017 to discuss the Australia Day functions and current challenges, as well as emerging challenges. It was determined a further workshop be convened in August 2017, following the Event Officers attendance at the National Australia Day (NAD) Conference in July 2017.

At the Councillor workshop held on 10 August 2017 the feedback from the NAD Conference was tabled and a number of options on the way forward were proposed. Those options were endorsed at the Council meeting of 26 October 2017.

Council's resolution of 26 October 2017 continues to be referenced by Council Officers when making decisions around the Tweed Shire Australia Day Awards, and Tweed Shire Australia Day Celebrations | Official Program.

This report outlines the actions taken to date to support Council's resolution and recommends some changes to improve the Tweed Shire Australia Day functions.

**RECOMMENDATION:**

**That Council:**

- 1. Maintains the Tweed Shire Australia Day Awards Selection Panel comprising 7 Councillors and the current Awardees of the categories listed below, to consider Tweed Shire Australia Day Award nominations:**
  - **Citizen of the Year;**
  - **Arts and Culture (1 representative if a group);**
  - **Volunteer of the Year;**
  - **Sporting Achievement (1 representative if a group); and**
  - **Young Achiever of the Year.**
  
- 2. Maintains the following Tweed Shire Australia Day Award Categories:**
  - **Arts and Culture**
  - **Community Event of the Year**
  - **Sporting Achievement**
  - **Young Achiever in Community Service**
  - **Volunteer of the Year**
  - **Citizen of the Year**
  
- 3. Supports the changes to the Eligibility Criteria for the Tweed Shire Australia Day Awards as outlined in the report.**
  
- 4. Holds the 2020 Tweed Shire Australia Day celebrations, which include the Citizenship Ceremony, at the Tweed Heads Auditorium.**
  
- 5. Continues to explore gift ideas from local Aboriginal organisations for Award recipients.**
  
- 6. Continues to support, from the Australia Day budget, applications for financial assistance of up to \$300 from non-profit organisations and community groups interested in hosting small community Australia Day events.**
  
- 7. Invites the 2018 Tweed Shire Australia Day Citizens of the Year, Meredith Dennis and Samuel Ford, to be the 2019 Tweed Shire Australia Day Co-Ambassadors.**
  
- 8. Does not participate in the Australia Day Achievement Medallion and Pin Program, as it currently has a staff recognition program.**

## REPORT:

### Background

A Councillor Workshop was held on 9 May 2017 to discuss the Australia Day functions and current challenges, as well as emerging challenges. It was determined a further workshop be convened in August 2017, following the Event Officers attendance at the National Australia Day (NAD) Conference in July 2017.

At the Councillor workshop held on 10 August 2017 the feedback from the NAD Conference was tabled and a number of options on the way forward were proposed. Those options were endorsed at the Council meeting of 26 October 2017:

*“that Council:*

1. *Not re-establish the Tweed Shire Australia Day Committee.*
2. *Forms a Tweed Shire Australia Day Awards Selection Panel comprising 7 Councillors and the existing Awardees of the categories listed below, to consider Tweed Shire Australia Day Award nominations:*
  - *Citizen of the Year;*
  - *Arts and Culture (1 representative if a group);*
  - *Volunteer of the Year;*
  - *Sporting Achievement (1 representative if a group); and*
  - *Young Achiever of the Year.*
3. *Hold the 2018 Tweed Shire Australia Day celebrations, which include the Citizenship Ceremony, at the Murwillumbah Auditorium.*
4. *Respect the local Aboriginal Community members’ position on Australia Day, as expressed through the Aboriginal Advisory Committee.*
5. *Explore the engagement of a local Aboriginal artist for future gift ideas for Award recipients and new citizens on Australia Day.*
6. *Continues to support, from the Australia Day budget, applications for financial assistance of up to \$300 from non-profit organisations and community groups interested in hosting small community Australia Day events.*
7. *Does not register for an Australia Day Ambassador through the NSW Australia Day Council and instead nominates an Australia Day Ambassador local to the Tweed Shire.”*

Council’s resolution of 26 October 2017 continues to be referenced by Council Officers when making decisions around the Tweed Shire Australia Day Awards, and Tweed Shire Australia Day Celebrations | Official Program.

## **Tweed Shire Australia Day Awards Selection Panel**

*“..2. Forms a Tweed Shire Australia Day Awards Selection Panel comprising 7 Councillors and the existing Awardees of the categories listed below, to consider Tweed Shire Australia Day Award nominations....”*

The Tweed Shire Australia Day Awards Selection Panel met on Thursday 29 November 2018 to review the 2018 Tweed Shire Australia Day Award nominations. Whilst the Panel were reviewing the nominations it was suggested that the Volunteer of the Year criteria be updated to include volunteer groups, as well as individuals:

### Volunteer of the Year

This is an individual *or group* who has made a significant contribution to volunteer work within the community.

The other award categories and criteria are as follows:

### Citizen of the Year

This is an individual who has made an outstanding contribution to the Tweed Shire community.

### Arts & Culture Award

This is an individual or group who has made a significant contribution to cultural development within the Tweed Shire community.

### Sporting Achievement

This award is for an outstanding playing sportsperson, or team, or an ancillary volunteer who has dedicated a lot of time and effort into sports.

### Community Event of the Year

An event that promotes and increases the profile of its local area and/or delivers wider benefits across the Tweed Shire community.

### Young Achiever in Community Service

A young person 25 years of age and under, who has made a significant contribution to the community.

Another suggestion from the Panel was to include an option for the Panel to nominate someone if an award category has received no nominations. Taking this into consideration the eligibility criteria has been updated as follows:

13. The Panel reserves the right to nominate someone for an award if a category has received no eligible nominations, subject to the majority vote of the Panel.

It also became evident when reviewing the nominations that there were a number of worthy recipients, so it is recommended that the Tweed Shire Australia Day Awards Selection Panel be able to make an 'Honourable Mention' to a nominee who deserves recognition for their efforts.

Therefore the eligibility criteria for nominations has been updated as underlined below:

1. The nominee/s must be an Australian Citizen and must have been born, live, or previously lived for more than two (2) years in the Tweed Shire Local Government area.
2. The nominee/s will have made a significant community contribution in their field in the last 12 months.
3. The nominee/s should be a role model that people can aspire to.
4. The nominee/s will only be eligible to receive one Australia Day Award in the given year.
5. Successful nominee/s should be willing to engage in Council promotional activities.
6. The nominee/s and the nominator must be separate individuals (ie, you cannot nominate yourself).
7. Unsuccessful nominee/s may be re-nominated in subsequent years.
8. Previous category winners may be re-nominated in subsequent years.
9. Ages of nominees are as at 26 January (year of presentation).
10. Nominations must be received by 4.30pm, ~~Thursday 1 December 2016~~ on the advertised closing date.
11. No late nominations will be accepted.
12. The Panel reserves the right to move nominations to a category it deems to be more appropriate.
13. The Panel reserves the right to nominate someone for an award if a category has received no eligible nominations, subject to the majority vote of the Panel.
14. The Panel reserves the right to make an 'Honourable Mention' to a nominee who deserves recognition for their efforts.
15. The decision of the Tweed Shire Australia Day Awards Selection Panel is final.

The General Manager and Councillors presented the following awards at the 2019 Ceremony:

- Arts and Culture (Murwillumbah Art Trail 2018);
- Community Event of the Year (Charity Cup Touch Football Tournament);
- Sporting Achievement (Eliza Campbell);
- Young Achiever in Community Service (Jaime Coetzee);
- Volunteers of the Year (Jenny Hayes and Reverend Theresa Mitchell); and
- Citizens of the Year (Meredith Dennis and Sam Ford).

### **New Award Category**

An advertisement appeared in the Tweed Link on 11 September 2018 advising that nominations were open for the 2018 Tweed Shire Australia Day Awards.

On 15 October, almost a month after nominations opened, Council received advice from the Australia Day Council of NSW that they were introducing an *Environmental Citizen of the Year Award* and were encouraging local councils to do the same. With nominations already open and advertised, it was determined by the internal Tweed Shire Australia Day Working Group to consider the introduction of a new category for the 2019 Awards.

As Council determined on 17 May 2018 to “develop a dedicated Sustainability Awards program and showcase”, it is recommended that the Australia Day Awards categories remain unchanged as the new Sustainability Awards Program will be recognising individuals and organisations championing environmental initiatives.

## Venue

*“..3. Hold the 2018 Tweed Shire Australia Day celebrations, which include the Citizenship Ceremony, at the Murwillumbah Auditorium...”*

The 2019 Tweed Shire Australia Day Awards and Citizenship Ceremony was again held in the Murwillumbah Auditorium due to the refurbishment work being undertaken at the Tweed Heads Auditorium.

Usually the venue rotates between Murwillumbah, Tweed Heads and the Tweed Coast with the last six (6) year's locations as follows:

2019	Murwillumbah Civic Centre
2018	Murwillumbah Civic Centre
2017	Twin Towns Services Club
2016	Kingscliff High School
2015	Bogangar Public School
2014	Pottsville Hall

Attendance numbers are not officially recorded on the day, but based on catering in 2017 we had in excess of 350 people, and based on the number of seats used in 2018 and 2019 there was 320 people. It was also noted that there were a number of people standing at the back of the auditorium in both years.

With attendance numbers in excess of 300 for the past three years, the option to rotate venues to comfortably accommodate such numbers has become limited. Therefore it is recommended that the 2020 celebrations be held on Sunday 26 January 2020 at the Tweed Heads Civic Centre Auditorium.

## Gift Ideas

*“..4. Respect the local Aboriginal Community members' position on Australia Day, as expressed through the Aboriginal Advisory Committee.*

*5. Explore the engagement of a local Aboriginal artist for future gift ideas for Award recipients and new citizens on Australia Day...”*

On Thursday 27 September 2018 Council's Events Officer and Community Development Officer – Aboriginal met with the Mayor, Cr Katie Mile to explore gift ideas. The following actions were suggested:

- Purchase a recycled mat for the Citizen of the Year (Charity Mat | Family Centre design) – [https://www.recycledmats.com.au/christine\\_slabb\\_bundjalung](https://www.recycledmats.com.au/christine_slabb_bundjalung)
- Purchase bush tucker products for the other Australia Day awardees categories (x5).
- Provide bush tucker products (condiments) for use on the refreshments table at the Official Ceremony.

Two mats were sourced from the Tweed Heads South business, Recycled Mats. They support fair, ethical, sustainable trading and manufacturing standards, and have high ethics in supporting the Indigenous Art Code by only working with artists from a cultural heritage

background for each cultural design range, ensuring cultural appropriateness and respect. The recycled plastic picnic mats were presented to Citizens of the Year Meredith Dennis (Family Mat) and Sam Ford (High Tide) which were both designed by local indigenous artist Christine Slabb.

Due to the uniqueness of the local bush tucker products, procuring those products and the quantities required needed more lead time as they are from a niche market and not readily available. Therefore Council officers will start work mid-year on the introduction of bush tucker products as gifts, and use on the refreshment table for the 2020 celebrations.

As referenced in Council's Reconciliation Action Plan (RAP) it is important that Council "*investigates opportunities to incorporate Aboriginal and Torres Strait Islander diversity in our organisation.*"

### **Community Event Funding**

*"..6. Continues to support, from the Australia Day budget, applications for financial assistance of up to \$300 from non-profit organisations and community groups interested in hosting small community Australia Day events."*

For a number of years Council has supported small community events held on Australia Day up to a maximum of \$300 each, funded from the Australia Day budget. Six (6) organisations were financially supported in 2019, totalling \$1,800. These community events included breakfast barbeques, sports and games, presentation of local awards, and Australian Native tree planting.

To strengthen the application process going forward, it has been determined by the internal Tweed Shire Australia Day Working Group to include additional items in the Application Criteria:

- Full *or* partial *or* no funding may result following assessment by the Tweed Shire Australia Day Awards Selection Panel.
- A copy of the organisations Certificate of Currency for Public Liability Insurance to be provided with the application.
- That the organisation be incorporated.

Therefore the criteria for assessing 2020 small community Australia Day events will be:

#### Application Criteria

- No financial assistance will be given to privately owned businesses/companies.
  - No financial assistance will be given to Government Departments or agencies or for support of Government owned facilities.
  - Organisations must be Tweed based.
  - The funds are not to be used for a social activity for members of the organisation exclusively.
  - The event must be a public event accessible to everyone.
  - That the organisation be incorporated.
  - A copy of the organisations Certificate of Currency for Public Liability Insurance to be provided with the application.
  - Full *or* partial *or* no funding may result following assessment by the Tweed Shire Australia Day Awards Selection Panel.
-

- Event organisers are to place the event details on Council's calendar of events.
- An event acquittal be submitted after the event and additional information may be requested.
- A separate application form is required if the event is planned to be held on Council managed land such as a park or beach, or for a road closure. The organisation to provide evidence that the appropriate application forms have been submitted to Council.

The 2020 Australia Day Community Events Application funding round will open and close at the same time as the 2019 Tweed Shire Australia Day Award Nominations.

### **Australia Day Ambassador**

*“..7. Does not register for an Australia Day Ambassador through the NSW Australia Day Council and instead nominates an Australia Day Ambassador local to the Tweed Shire.”*

The original intent of not re-forming the Australia Day Committee was to explore new ways of enhancing the ongoing connection with our current Australia Day Award winners. With that in mind our 2016 Citizen of Year Awardee Bill Chaffey became our 2018 Australia Day Ambassador, however due to the ill-health of our 2017 Citizen of the Year (Kevin Palmer) it was suggested that we approach other awardees. Therefore an invitation was extended to the 2016 and 2017 Young Achiever of the Year (Sam Smith – 14yo) and 2017 Sporting Achievement award winner (Anthea Warne – 17yo) to take on the role as the local 2019 Tweed Shire Australia Day Co-Ambassadors.

Both Sam and Anthea represented the Shire extremely well at three local community events (Kingscliff, Tumbulgum and Burringbar) as well as the Official Ceremony in Murwillumbah. The feedback Council received was that they were inspiring young people with great positive messages.

It is recommended that an invitation be extended to the 2018 Citizens of the Year Meredith Dennis and Samuel Ford to perform the role of 2020 Tweed Shire Australia Day Co-Ambassadors.

### **Australia Day Achievement Medallions and Pins**

The National Australia Day Council (NADC) is inviting Government Departments and agencies to participate in the Australia Day Achievement Medallion and Pin Program, which recognises the significant contribution of the public service to the life of the nation.

During recent years, over 80 Australian Government departments and agencies implemented the Australia Day Achievement Medallions to enhance their Australia Day Program. Australia Day Achievement Medallions provide government departments and agencies with the opportunity to acknowledge the contribution of their staff for outstanding performance of special projects or in performance of their core duties.

The criteria for or purpose of awarding Australia Day Achievement Medallions is determined by the organisation or department presenting them.

In 2014 Council launched the inaugural “Productivity Awards”. The aim of the awards was to identify and reward Council staff who do their work in a way that exemplifies Council's values



and delivers efficient and effective outcomes for Council and the community. In 2015 these Awards were renamed to "Service and Productivity Excellence Awards".

As Council currently has a staff recognition program, it is recommended that Council does not participate in the Australia Day Achievement Medallion and Pin Program.

**OPTIONS:**

That Council:

1. Maintains the Tweed Shire Australia Day Awards Selection Panel comprising 7 Councillors and the current Awardees of the categories listed below, to consider Tweed Shire Australia Day Award nominations:
  - Citizen of the Year;
  - Arts and Culture (1 representative if a group);
  - Volunteer of the Year;
  - Sporting Achievement (1 representative if a group); and
  - Young Achiever of the Year.
2. Maintains the following Tweed Shire Australia Day Award Categories:
  - Arts and Culture
  - Community Event of the Year
  - Sporting Achievement
  - Young Achiever in Community Service
  - Volunteer of the Year
  - Citizen of the Year

with the option to make an 'Honourable Mention' to a nominee who deserves recognition for their efforts.
3. Supports the changes to the Eligibility Criteria for the Tweed Shire Australia Day Awards as outlined in the report.
4. Holds the 2020 Tweed Shire Australia Day celebrations, which include the Citizenship Ceremony, at the Tweed Heads Auditorium.
5. Continues to explore gift ideas from local Aboriginal organisations for Award recipients.
6. Continues to support, from the Australia Day budget, applications for financial assistance of up to \$300 from non-profit organisations and community groups interested in hosting small community Australia Day events.
7. Invites the 2018 Tweed Shire Australia Day Citizens of the Year, Meredith Dennis and Samuel Ford, to be the 2019 Tweed Shire Australia Day Co-Ambassadors.
8. Does not participate in the Australia Day Achievement Medallion and Pin Program, as it currently has a staff recognition program.

**CONCLUSION:**

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That Council endorses the options outlined above, and continues to review and update the Tweed Shire Australia Day functions as required.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable

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

There is a 2019/2020 budget allocation for Australia Day Celebrations.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

Advertisements appeared in the Tweed Link on 11 September advising nominations were open for the 2018 Tweed Shire Australia Day Awards and a reminder about nominations closing on 6 November. An advertisement also appeared in the Tweed Link on 9 October inviting applications for financial assistance from non-profit organisations and community groups that were interested in hosting small community events on Australia Day 2019. The closing date for nominations and applications was 16 November 2018.

A 'Your Say' Tweed page was launched on 11 September and remained open until nominations closed in November.

Emails were sent to sporting organisations, primary/secondary/tertiary schools, Chambers of Commerce, and community service organisations advising nominations were open for the 2018 Tweed Shire Australia Day Awards.

Council's Facebook page included posts about the opening of nominations and reminders about nominations (including paid advertising), financial assistance for community events, the announcement of the Australia Day ambassadors and the announcement of the winners.

InsideOut (Council's internal newsletter) featured stories about the Australia Day nominations in the September, October and November editions – and the grants for community events was featured in the October edition. An announcement of the winners was featured in the February 2019 edition.

The Community Engagement Network were present at the Murwillumbah Show on Friday 2 and Saturday 3 November 2018 and people were actively encouraged to nominate.

A media release, social media post, Inside Out and Tweed Link article were used to announce the ambassadors and the winners.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.



## 30 [PCG-CM] RFO2018145 Casual Labour Hire and Associated Services Contract

SUBMITTED BY: Corporate Governance

Valid



### Behind the scenes

*Providing support to make it happen*

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

4	Behind the scenes
4.2	Support Services
4.2.2	Human Resources and Work Health and Safety - To support a productive, respectful and safe work environment.

ROLE: **Leader**

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Request for Offer RFO2018145 casual Labour Hire and Associated Services was called to select an experienced organisation to provide suitably qualified personnel on a casual labour hire basis to perform various duties associated with Council functions, projects and activities. There are no guaranteed minimum quantities of services under this Contract however the expenditure is estimated to be in the vicinity of \$3M annually.

At the time of closing four 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 RFO2018145 Casual Labour Hire and Associated Services:

1. Council awards the offer from Spinifex Recruiting (ABN 77 100 120 474) for the schedule of rates tendered.
2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at finalisation of the contract.
3. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret.

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

Offer RFO2018145 was called to engage an experienced organisation to provide suitably qualified personnel on a casual labour hire basis to perform various duties associated with Council functions, projects and activities.

**Request for Offer Advertising**

The Offer was invited by Local Government Procurement (LGP) through the Vendor Panel tendering platform, 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. Quotations were requested from the established panel of providers on 12 November 2018 and submissions were received on the 26 November 2018

**Offer Addendums**

There was 1 Offer Addendum (Notice to Bidders) issued before close of Offer.

Notice to Bidders No.001 was issued to issue Bidders with additional information on Salary Structure for the State and Industry Awards

**Offer Submissions**

Offer submissions closed at 4:00pm (local time) on 26 November 2018 on the Vendor Panel Tender portal and the following Offers were received:

<b>Bidder</b>	<b>ABN</b>	<b>Offered Amount (incl GST)</b>
Hays Specialist Recruitment (Australia) Pty Ltd	47 001 407 281	Schedule of Rates
NORTEC Staffing Solutions	88 129 092 280	Schedule of Rates
Programmed Skilled Workforce Limited	66 005 585 811	Schedule of Rates
Spinifex Recruiting	77 100 120 474	Schedule of Rates

**Offer Evaluation**

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

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

Position
Coordinator-Contracts
Executive Manager People Communication & Governance
Operations Coordinator - Parks

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

Criterion	Document Reference	Weighting (%)
Value for Money (Normalised Offer Price)	Schedule 2	40
Relevant Experience & Capability	Schedule 4	20
Management Systems & Implementation Methodology	Schedules 5, 6 and 7	10
Finance Procedures	Schedule 8	20
Local Preference	Schedule 9	10
	Total	100

Offers were evaluated as per the Offer Evaluation Plan dated 23<sup>rd</sup> November and updated 11 December 2019. An initial evaluation shortlisted two preferred bidders and these were both invited to attend an interview with the Evaluation Panel to present their proposals. A number of referee interviews were also held by the Evaluation Panel

Correspondence was held with each Bidder to clarify exclusions & inclusions, correct inaccuracies and generally ensure that the offers being evaluated were comparable. These communications were documented and recorded.

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

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

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

**OPTIONS:**

That Council:

1. Council awards the offer from Spinifex Recruiting (ABN 77 100 120 474) for the schedule of rates tendered.
2. Declines to accept any of the Offers, including reasons for this course of action in accordance with Regulation 178 of the Local government (General) Regulation 2005).

**CONCLUSION:**

Spinifex Recruiting (ABN 77 100 120 474) has been determined to satisfy the non-price criteria and has been deemed to demonstrate good value for money.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Procurement Policy v1.7

In accordance with Local Government (General) Regulations 2005.

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

Provision for the RFO2018145 Casual Labour Hire and Associated Services 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:**

*(Confidential)* Attachment 1. RFO2018145 Casual Labour Hire and Associated Services – Offer Evaluation Report (ECM 5829779).

*(Confidential)* Attachment 2. RFO2018145 Casual Labour Hire and Associated Services – Offer Evaluation Worksheet (ECM 5829780).

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## REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

### 31 [SUB-CHAC] Minutes of the Community Halls Advisory Committee Meeting held Wednesday 6 February 2019

**SUBMITTED BY:** Community Services

mhm

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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
- 3.1.4 Cultural and Community Development - To provide community and cultural development services to foster and improve the social and cultural wellbeing of the community and to plan for the needs of current and future populations by understanding needs and identifying gaps in service delivery.

**ROLE:** **Leader**

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#### **SUMMARY OF REPORT:**

The Minutes of the Community Halls Advisory Committee Meeting held Wednesday 6 February 2019 are reproduced in the body of this report for the information of Councillors.

#### **RECOMMENDATION:**

**That the Minutes of the Community Halls Advisory Committee Meeting held Wednesday 6 February 2019 be received and noted.**



**REPORT:**

The Minutes of the Community Halls Advisory Committee (CHAC) Meeting Held Wednesday 6 February 2019 are reproduced as follows for the information of Councillors.

**Venue:**

Canvas and Kettle Meeting Room, Murwillumbah Civic and Cultural Centre,  
Tumbulgum Road, Murwillumbah

**Time:**

11:00am

**Present:**

Jennifer Kidd (Tumbulgum Hall - Deputy Chairperson), Robyn Madden and Margaret Hulbert (Crabbes Creek Hall), Helen Manning (Fernvale Hall), Jill Buttfeld and Yvonne Hogan (Pottsville Beach Hall), Maree Edwards (Chillingham Hall), Steve Sweetnam (Doon Doon Hall), Claire Masters (Limpinwood Hall), and Cr Warren Polglase (Tweed Shire Council)

**Apologies:**

Reg Robinson (Crabbes Creek Hall), Janet Tkachenko (Pottsville Beach Hall), and Robyn Grigg (Tweed Shire Council)

**Not in Attendance:**

Crystal Creek Hall Representative  
Piggabeen Hall Representative

**Ex-officio:**

Tracey Stinson, Chantelle Howse Shannon Rees and Kim Wilson (Tweed Shire Council) Lisa Bailey (Tweed Shire Council - Minutes)

**Minutes of Previous Meetings:**

Notes of the previous meeting held 5 December 2018 were circulated for information in draft form until presented to Council for endorsement at the next Council meeting on 21 February 2019.

**OUTSTANDING MATTERS REPORT:**

**OM1 Review of Draft Guidelines**

Refer notes for Agenda Item 2 of this meeting.

**OM2 Hall Management Agreements**

Refer notes for Agenda Item 3 of this meeting.

**OM5 Piggabeen Progress Association Newsletter**

Tweed Shire Council has confirmed arrangements for distribution of the Tweed Daily News edition that includes the Tweed Link to Piggabeen Hall have been made.

This item is now closed.

## **AGENDA ITEMS:**

### **AI1. Community Infrastructure Framework Update**

Kim Wilson (Community Development Officer - Social Planning) attended the meeting to provide an update on the framework which looks at how we plan, manage and design Council's community and cultural infrastructure now and in to the future. Kim thanked members who have registered on Council's Have Your Say page and highlighted that this is the Hall Committees' opportunity to look at how community facilities work in their communities and what is needed to fill any gaps. Any solutions and ideas are highly valued and the Have Your Say page is a place to enter this feedback.

Kim presented the information on the Have Your Say page and clarified details on some of the tools and information available on this page around community infrastructure. The closed forum that was to conclude on 18 February 2019 has now been extended to 18 March 2019 and will be followed by community engagement and focus groups in conjunction with the Community Development Strategy.

### **AI2. Review Draft Guidelines**

Shannon confirmed that any suggested changes to the draft Guidelines have been reviewed and included where appropriate. Shannon reminded members that the document is intended to be used as a guideline for hall operations and should be shared with individual hall committee members, and particularly for succession planning with new committee members.

All members were asked to review the document and provide any further comments within one month of being sent the document to allow for any discussions via email, with a view to presenting the final document at the next meeting. If no comments are received it will be assumed the document can be finalised.

**Action:** *All committee members to review Guidelines and advise any necessary changes to Shannon within one month of being sent the document.*

### **AI3. Hall Management Agreements**

The Hall Management Agreement has been reviewed following the classification of committee members as volunteers of Council. A draft copy was provided for all committee members to review and noted a period of currency will be applied to the Agreement.

Shannon circulated a copy of the Safe Work Australia information sheet to assist with the definition of 'work of a minor nature'.

An electronic copy of the Agreement will be circulated by Shannon with comments received within one month of receiving the document.

**Action:** *Shannon to forward electronic copy of draft Hall Management Agreement to all committee members.*

**Action:** *All committee members to review the draft Hall Management Agreement and advise any necessary changes to Shannon within one month of receiving the document.*

**AI4. Council Resolution (20 September 2018 Meeting)**

Chantelle updated the committee to advise she is awaiting internal governance advice to determine how these applications will be administered and approved, noting the process must be in accordance with the Local Government Act and also needs to balance the time taken for approvals to be provided. If any committee has a project in mind please advise Chantelle.

**AI5. Volunteer Induction**

The Volunteer Induction will be conducted at the next meeting. This will require members from all hall management committees to attend. Committee members will then be in a position to provide this induction to other current hall management committee members, and any new members into the future.

**AI6. Upcoming Events**

**Crabbes Creek Hall** - Some weddings booked in and also have yoga classes commencing on Wednesdays. Thursday and Friday meals are continuing.

**Fernvale Hall** - Murwillumbah Potters' regular activities are ongoing.

**Pottsville Beach Hall** - Up Front Music Festival and the Plasma group (psychic energy) commencing soon. A fashion parade is being held in collaboration with the Pottsville Beach Neighbourhood Centre.

**Doon Doon Hall** - Some weddings booked in.

**Chillingham Hall** - No bookings through the committee at the moment, January typically quiet.

**Limpinwood Hall** – No bookings through the committee at the moment, January typically quiet.

**Tumbulgum Hall** – Trivia fundraiser in collaboration with the primary school. Makeshift Planetarium event for eight of the local small schools.

**Inwards Correspondence:**

Nil.

**Outgoing Correspondence:**

Nil.

**General Business:**

**GB1. Acknowledgement by Council**

Tracey Stinson, Director Community and Natural Resources thanked all attendees for all their hard work over the years in managing the Community Halls.

**GB2. Fernvale Hall - Land Ownership**

Helen asked for an update on the land ownership matters before Council regarding Fernvale Hall. Shannon confirmed the advice received from Crown Lands is that the lease can be amended to include both lots. This process has now commenced.

**GB3. Seniors Festival**

An inquiry was received from Crabbes Creek Hall regarding this year's 2019 NSW Seniors Festival and when it is being held. It was confirmed the event has been set for 13 to 24 February 2019. Crabbes Creek advised they were not aware applications to hold an event had opened and already closed so will hold a separate event this year, most likely in April.

**GB4. Pottsville Beach Hall - Registered Food Premises**

Shannon inquired if this process had been finalised. Committee members confirmed all training had been completed and all documentation is in place at Council, just waiting on provision of certification.

**GB5. Essential Energy Grant**

Committee members discussed whether they have been successful in receiving the \$200 energy grant from Essential Energy – Community Hall Program. Maree Edwards noted their committee has been advised they have been successful, but that the money has not yet been received. Jenny Kidd noted this year's application process was much more involved than in previous years. Applicants were asked to outline the activities being carried out and to provide photographic support of these activities.

Claire Masters suggested committees consider community owned company Enova Energy as they reinvest profit back into the community, and that the energy provided is coming from a renewable source.

**GB6. Scheduling Next Meeting, including venue**

The next meeting will be held 10.30am Wednesday 15 May 2019 at the Canvas and Kettle Meeting Room, Murwillumbah Civic and Cultural Centre (venue to be confirmed) as noted in Agenda Item 5 to be Volunteer Induction. Lunch will be included with a conclusion time of 1.30pm.

The meeting closed at 12.40pm.

**EXECUTIVE LEADERSHIP TEAM'S COMMENTS:**

Nil.

**EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:**

Nil.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice.

Terms of Reference Version 1.1 - adopted 15 December 2017 (ECM 4934120).

**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-TRMAC] Minutes of the Tweed Regional Museum Advisory Committee Meeting held Wednesday 27 February 2019

**SUBMITTED BY:** Communication and Customer Services

mhm

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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
- 3.2 Places
- 3.2.6 Museum - To preserve and share the history of the Tweed for the benefit and enjoyment of visitors and the community.

**ROLE:** **Leader**

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#### SUMMARY OF REPORT:

The Minutes of the Tweed Regional Museum Advisory Committee Meeting held Wednesday 27 February 2019 are reproduced in the body of this report for the information of Councillors.

#### RECOMMENDATION:

**That the Minutes of the Tweed Regional Museum Advisory Committee Meeting held Wednesday 27 February 2019 be received and noted.**

**REPORT:**

The Minutes of the Tweed Regional Museum Advisory Committee Meeting held Wednesday 27 February 2019 are reproduced as follows for the information of Councillors.

**Venue:**

Tweed Regional Museum Murwillumbah

**Time:**

4pm

**Present:**

Robyn Grigg (Manager Community & Cultural Services); Judy Kean (Museum Director); Gary Fidler (Community); Sandra Flannery (Community); Ian Fox (Community); Christian Ellis (Community); Marion Mewett (Community); Brian O'Keefe (Tweed Heads Historical Society); Jim Sachs (Tweed Heads Historical Society); Helena Duckworth (Uki & South Arm Historical Society); Max Boyd (Murwillumbah Historical Society); David Taylor (Murwillumbah Historical Society).

**Apologies:**

Cr Warren Polglase; Tracey Stinson (Director Community & Natural Resources); Marion Roberts (Uki & South Arm Historical Society).

**Minutes of Previous Meeting:**

**Moved:** Max Boyd

**Seconded:** Ian Fox

**RESOLVED** that the Minutes of the Tweed Regional Museum Advisory Committee meeting held Wednesday 28 November 2018 be accepted as a true and accurate record of the proceedings of that meeting.

**Business Arising:**

**Item from Meeting held 28 November 2018**

**Business Arising from 22 August 2018**

Judy Kean also advised the meeting that an application for the Councillor workshop will be made.

The Committee was thankful of the opportunity to participate in a Councillor Workshop and expressed a desire to have the workshop early in the new year.

**At this meeting:**

Details on the Councillor workshop will be supplied later in the meeting, as part of Agenda Items.

**Item from Meeting held 28 November 2018**

**Museum Director's Report**

Judy Kean advised the Committee that at the first meeting of 2019, likely to be in February or March, more detail on the concept design would be provided to the Committee for their information.

**At this meeting:**

An update on the Natural History Wall will be supplied as part of the Museum Director's Report.

**Agenda Items:**

**Order of Business altered to the following order:**

**2. Museum Director's Report**

Report was circulated prior to the meeting.

Museum Director also tabled and circulated an information sheet with the key findings from the recent analysis of visitor surveys.

Museum Director, Judy Kean, spoke on this information sheet and advised the meeting that analysis was still being carried out and comparisons will be done with other Council cultural institutions, other Council facilities, and other regional Museums and Galleries.

Judy Kean also advised the meeting that this analysis will inform the Museum Strategic and Business Plan currently under development, and that further analysis will be presented to the meeting.

Discussion followed on the findings and options for promoting the Museum.

**Action:**

Judy Kean or Robyn Grigg to provide next meeting with figures on uptake of Tweed Link online.

**3. Proposed Deaccessions**

List of Proposed Deaccessions was circulated prior to the meeting.

No queries were received from members.

**Moved:** David Taylor

**Seconded:** Marion Mewett

**RESOLVED** that the proposed deaccessions be accepted by the Committee.

**1. Museum Strategic and Business Plan**

A paper on the Plan was tabled and circulated.

Museum Director, Judy Kean, explained the paper in detail.

Ms Kean advised that the Museum Strategic and Business Plan would sit under, and fit in with, Council's plans and priorities and would cover the years 2019-2020. Ms Kean advised that the Plan would look at what had been achieved in previous years, as well as what is planned for the future.

Judy Kean outlined the details of forthcoming major projects, including the Natural History Wall, the Arts & Heritage App, collaboration with the Library in audience development and programming, and collaboration with the Visitor Information Centre.

Judy Kean advised members to read the paper and to ask if any queries and that further Advisory Committee meetings may be called to discuss the Strategic and Business Plan.

Judy Kean also advised the meeting that the Councillor Workshop, resolved by the Committee at a previous meeting, is booked for later in March.

Discussion followed on forthcoming projects and their benefit to the Museum.

Jim Sachs enquired about the role of the Historical Societies in future projects. Judy Kean advised that the Societies are welcome to come forward with proposals of how they can contribute based on their estimation of their capacity. Judy Kean also advised that she is aware that the Societies are currently working with limited volunteer resources.

**4. Proposed meeting schedule for 2019.**

The proposed meeting schedule was sent to members in late 2018.

No members have advised of any issues with dates, so schedule will be adopted.

Chairperson, Gary Fidler, reminded members that Agenda items needed to be sent in by the deadline in order to be included.

2019 meeting schedule will be resent to members.

Judy Kean advised the Committee that she would be on leave for the next Advisory Committee meeting in May.

**General Business:**

**5. Bicentenary**

Max Boyd reiterated his belief that the Historical Societies should create a publication to mark the occasion of 200 years since Oxley named the Tweed River.

Max Boyd advised that he is attempting to contact the editor of the Tweed Daily News to gauge support for a publication and requested that the Historical Societies advise their willingness to participate.

Gary Fidler advised Max Boyd to contact the Tweed Daily News to see if the project is viable.

**6. Historic Rock Walls**

Chris Ellis advised the meeting that the Environmental Impact Statement for the new Tweed Hospital noted the existence of rock walls, and queried whether anyone in the Museum or Historical Societies were asked to comment on this.

Judy Kean advised that the Museum had not been notified or asked to comment.

**Next Meeting:**

The next meeting of the Tweed Regional Museum Advisory Committee will be held 22 May 2019.

The meeting closed at 5.25pm.

**EXECUTIVE LEADERSHIP TEAM'S COMMENTS:**

Nil.

**EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:**

Nil.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice.

Terms of Reference - Reviewed 21 August 2012 (ECM3283132).

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

Not applicable.

**c. Legal:**

Not Applicable.



**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**33 [SUB-TRAG] Minutes of the Tweed Regional Art Gallery Advisory Committee Meeting held Wednesday 20 February 2019**

**SUBMITTED BY:** Community and Cultural Services

mhm



**People, places and moving around**

*Who we are and how we live*

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

- 3 People, places and moving around
- 3.2 Places
- 3.2.2 Art Gallery - To promote awareness, enjoyment and understanding of the visual arts through collections, exhibitions, education and community programs.

**ROLE:** **Leader**

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**SUMMARY OF REPORT:**

The Minutes of the Tweed Regional Art Gallery Advisory Committee Meeting held Wednesday 20 February 2019 are reproduced in the body of this report for the information of Councillors.

**RECOMMENDATION:**

**That the Minutes of the Tweed Regional Art Gallery Advisory Committee Meeting held Wednesday 20 February 2019 be received and noted.**

## **REPORT:**

The minutes of the Tweed Regional Art Gallery Advisory Committee meeting held Wednesday 20 February 2019 are reproduced as follows for the information of Councillors.

### **Venue:**

Tweed Regional Gallery

### **Time:**

5.00pm

### **Present:**

Cr Warren Polglase (Chair), Jennifer Unwin, Hobie Porter, Shirley Kennedy, Martin Sullivan, Alan Hann (Friends of the Gallery), Brad Nardi (Tweed Tourism Co.), Tracey Stinson (Director Community & Natural Resources), Susi Muddiman OAM (Gallery Director), Kree Harrison (Minutes)

### **Apologies:**

Robyn Grigg (TSC), Louise Devine, Cr Reece Byrnes (late apology)

### **Minutes of Previous Meeting:**

**Moved: Martin Sullivan**

**Seconded: Alan Hann**

**RESOLVED** that the DRAFT Minutes of the Tweed Regional Gallery Advisory Committee meeting held on 21 November 2018 be accepted as a true and accurate record of the proceedings of that meeting.

### **Business Arising:**

The Committee was informed that the Minutes of the meeting held on 21 November have been provided in draft format until they are accepted at the Council meeting on 21 February.

The Gallery Director notified the Committee that David Wolff was elected as the Foundation representative from the Tweed Regional Gallery Foundation Ltd. to the Advisory Committee, at the organisation's Annual General Meeting held in November. It was noted that due to an administrative oversight Mr Wolff did not receive an invitation to this meeting.

The Gallery Director informed the Committee the 'soft' opening of Gallery DownTown at M-Arts, combined with the Finders Makers Market and the opening of Bacaro Cafe was a huge success.

### **Agenda Items:**

**Presentation: Brad Nardi, General Manager, Tweed Tourism Company (TTC):**

Mr Nardi delivered a presentation to the Committee outlining TTC's operations, priorities and tourism statistics. A copy of the presentation will be emailed to Committee members.

**Gallery Director's Report, including acquisition of artworks for ratification and presentation of relevant Council policies and procedures:**

The Gallery Director presented her report, and acquisitions of artworks were discussed with the Committee.

The Gallery Director informed the Committee that the Friends of the Tweed Regional Inc. Gallery are transitioning to electronic mail-outs from May 2019.

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Gallery DownTown will host its first Public Program (Blue Jean Sisters) as part of International Women's Day celebrations.

Tracey Stinson excused herself from the meeting due to a prior commitment at 5.50pm

**General Business:**

The Gallery Director informed the Committee that the Gallery will host the 2020 Archibald Prize in mid-October 2020. Ms Muddiman noted that while official, this information has not yet been made public.

**Upcoming Events:**

*Art Deco* exhibition opening at TRG on Friday 31 May. Gallery DownTown to call for applications to develop an Art Deco response exhibition titled *Facade: Art Deco of Murwillumbah* (17 May - 14 August 2019) and will coincide with the touring exhibition and the 2019 Murwillumbah Art Trail.

Cr Polglase excused himself from the meeting due to a prior commitment at 6.10pm.

The Committee agreed to carry over the presentation of relevant Council policies and procedures until the next meeting, due to the absence of both Councillors.

**Next Meeting:**

The next meeting of the Tweed Regional Gallery Advisory Committee will be held on Wednesday 15 May 2019.

The meeting closed at 6.15pm .

**EXECUTIVE LEADERSHIP TEAM'S COMMENTS:**

Nil.

**EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:**

Nil.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice.

Terms of Reference - Reviewed 21 August 2012.

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

Not applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**34 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 8 February 2019**

**SUBMITTED BY: Community and Cultural Services**

mhm



**People, places and moving around**

*Who we are and how we live*

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

- 3 People, places and moving around
- 3.1 People
- 3.1.2 Community and Cultural Development - To provide community and cultural development services to foster and improve social and cultural well-being.

**ROLE:** **Leader**

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**SUMMARY OF REPORT:**

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 8 February 2019 are reproduced in the body of this report for the information of Councillors.

**RECOMMENDATION:**

**That:**

1. **The Minutes of the Aboriginal Advisory Committee Meeting held Friday 8 February 2019 be received and noted; and**
2. **The Executive Leadership Team's recommendations be adopted as follows:**

***GB5. Changes to Chinderah / Kingscliff Locality Boundary***

**That Council acknowledges that the Aboriginal Advisory Committee supports the view of long term residents of Chinderah and opposes the submission to alter the locality boundary between Kingscliff and Chinderah.**

**REPORT:**

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 8 February 2019 are reproduced as follows for the information of Councillors.

**Venue:**

Canvas and Kettle Meeting Room, Murwillumbah Civic and Cultural Centre

**Time:**

9.30am

**Present:**

Jackie McDonald (Tweed Wollumbin Aboriginal Education Consultative Group representative), Des Williams (Tweed Byron Local Aboriginal Land Council representative), Victor Slockee (Canowindra representative), Dale Williams (Bugalwena representative), Cr Chris Cherry (Tweed Shire Council), Leweena Williams (Tweed Aboriginal Corporation for Sport representative)

**Ex-officio:**

Chantelle Howse, Robert Appo, Lisa Bailey (Minutes) (Tweed Shire Council), Tracey Stinson (Tweed Shire Council) (arrived 10.30am)

**Guests (in order of arrival):**

Tim Robins (Everick Heritage), Robyn Eisermann and Jonathon Lynch (Tweed Shire Council) (arrived 10.00am); Kerrie McConnell (Tweed Shire Council) (arrived 10.30am)

**Apologies:**

Aunty Joyce Summers (Canowindra), Mayor Katie Milne (Tweed Shire Council), Desrae Rotumah (Tweed Aboriginal Co-operative Society representative), Robyn Grigg (Tweed Shire Council), Christine Slabb

**Chair: Victor Slockee**

**Moved: Leweena Williams**

**Seconded: Jackie McDonald**

**RESOLVED** that the Chair was declared vacant and nominations were called. Victor Slockee was nominated and was unanimously elected to Chair the meeting.

Victor opened the meeting with a welcome to all present and paid respect to Elders past, present and those emerging.

**Minutes of Previous Meeting:**

**Moved: Dale Williams**

**Seconded: Jackie McDonald**

**RESOLVED** that the Minutes of the Aboriginal Advisory Committee meeting held Friday 7 December 2018 be accepted as a true and accurate record of the proceedings of that meeting. The minutes will be presented to Council for endorsement on 21 February 2019.

**Business Arising:**

**Business Arising from meeting held on 7 December 2018**

**GB5.Arts Northern Rivers**

As Robyn Grigg was not present at this meeting, this item held over to the next meeting.

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**Action:** *Manager Community and Cultural Services to provide a report on her discussions with Arts Northern Rivers regarding how Council will work with ANR and priority projects for 2019.*

Business suspended for Agenda Item A2.

**A2. Test excavations per Mooball Management Agreement - Lot 2 DP 534493 and Lot 7 DP 5932000, Tweed Valley Way, Mooball** Tim Robins (Everick Heritage), Robyn Eisermann and Jonathan Lynch (Tweed Shire Council)

Following is an extract from the Voluntary Planning Agreement (VPA) for Lot 2 DP 534493 and Lot 7 DP 5932000, Tweed Valley Way, Mooball that is to be satisfied:

Voluntary Planning Agreement and LEP amendment

Following negotiations with the owners, consultants and Council and as a commitment to the process and in response to a number of studies and assessments associated with the planning proposal, the owners of the site entered into a Voluntary Planning Agreement (VPA), dated 26 July 2016, under the provisions of the EP&A Act [then] S93F(1) and now S7.4.

'Specific to the matter of Aboriginal cultural heritage the VPA commits to:

***Part 5 - Requirements for Development Applications***

***30 Pre-DA Investigations***

- 30.1 *The Developer and Landowner agree not to lodge a Development Application for the Development unless documentary evidence has been provided to the Council to satisfy Council that the Landowner or Developer has:*
- 30.1.1 *dug test pits and tested soil on the Land for Aboriginal artefacts or items or matters of Aboriginal significance in accordance with the requirements of the Tweed Aboriginal Advisory Committee (TAAC) regarding the areas to be tested and the testing methodology;*
  - 30.1.2 *provided the results of the testing referred to in clause 30.1.1. to the TAAC;*
  - 30.1.3 *provided to Council a copy of the results of the testing referred to in clause 30.1.1 as well as a copy of the minutes of the TAAC meeting where these results were tabled;'*

Tim Robins attended the meeting to present the Report *Lot 7 DP 593200 and Lot 2 534493 Tweed Valley Way Mooball NSW: Excavation Report*, dated January 2019 prepared for Planit Consulting which was reviewed by all members and the findings discussed. The purpose of the presentation was to satisfy the requirements of the VPA. It was noted that, although an invitation was extended to the Tweed Byron Local Aboriginal Land Council (TBLALC) to have a representative present for the testing, a member was not present at the time. The report notes that testing was carried out on the ridge crest and some smaller spurs, and also went into the alluvial areas on the ridge lines, where ridge spurs had no top soil evident. The landscape has been altered significantly through farming practices and no artefacts were detected. The findings are that no Aboriginal Objects or Places and no areas



considered to contain Potential Archaeological Deposit (PAD) were identified. This was acknowledged by the AAC members.

It was noted that Everick is required to submit a copy of the results and minutes of the relevant AAC meeting to Council.

**Acceptance of the Report:**

**Moved: Jackie McDonald**

**Seconded: Des Williams**

**RESOLVED** that the Lot 7 Plan 593200 and Lot 2 Plan 534493, Tweed Valley Way, Mooball NSW: Excavation Report Prepared for Planit Consulting tabled by Everick Heritage dated January 2019 be accepted.

Tim Robins, Robyn Eisermann and Jonathan Lynch left the meeting 10.30am.

**General Business**

**GB4. Certificate of Appreciation presented to Jackie McDonald**

Kerrie McConnell, Events Officer - Tweed Shire Council, attended the meeting to present Jackie McDonald with a certificate of appreciation for conducting the Welcome to Country during the recent Australia Day Citizenship Ceremony. The Welcome to Country was conducted by Jackie at very short notice and this was greatly appreciated by Council.

Kerrie McConnell left the meeting at 10.35am

Resumption of business.

**Agenda Items:**

**A1. Community Development Officer-Aboriginal - Robert Appo (Tweed Shire Council)**

**(a) Tweed Cultural Plaza update with Christine Slabb**

In Christine's absence, Rob Appo presented the design for the balustrade section of the Cultural Plaza. The design currently shows a Tweed Shire Council Logo, however, the project team wanted to focus on the cultural aspects of the artwork so a decision has been made to remove the logo. The method to be used is suggested to be frosting on glass, however, a more permanent option is also being considered (eg. etching in between two pieces of glass). The story will be displayed and is as follows:

**Title: Joongarah**

*Story: Joongarrabah* is a peak that looks over the Tweed and Gold Coast region. This iconic landmark is a vital part of the local cultural landscape. For many generations, this special cultural place has been significant in teaching "Garrima" respect. Respect for land, elders, each other, and all things.

Committee members confirmed their acceptance of this design, noting that the artist has captured completely what the committee was looking for and commended the artist on the design.

**(b) Clean Up Australia Day**

In consultation with Council's Waste and Natural Resource Management units concerns have been raised regarding the accumulation of rubbish on Ukerabagh Island (bottles, cans, tents etc). There is potential for a project to be included in this year's 'Clean-Up Australia Day' in early March. Council typically supports these events through the provision of bins, bags and gloves etc. One issue to be considered is that this is a dedicated Aboriginal reserve and the other is access to the Island. Council is seeking logistical support to physically access the Island to remove the rubbish and have suggested a representative from the AAC attend a site inspection to propose a plan for the clean-up and to offer advice on how to carefully and effectively remove the rubbish. The AAC requested further information be presented at the next meeting, to include:

- Can Council's barge be made available, and will it be suitable?
- Involvement of National Parks and Tweed Aboriginal Co-operative Society
- Encouragement of Council's RAP committee to be involved (suggested by Tracey Stinson)
- Volunteer coordination
- Distribute cultural information to help people to understand the importance of the land
- Consider anyone who might be present on the Island, to make them aware of the event
- Avoid any clash with Land Council and Fingal Coast Care conducting their own events
- Is a police presence required?
- Communications

It was also suggested that a member from National Parks and Wildlife be invited to attend the next meeting to discuss this topic.

**Action:** CDO-Aboriginal to present information regarding possible Clean Up Australia Day event at Ukerabagh Island to the next AAC meeting.

**(c) Tweed Road Development Strategy - community consultation**

The strategy was on public exhibition and closed 3 July 2018. The area of concern raised by Jackie McDonald involves the suggested: "Remove Pacific Highway off/ramp on Pacific Highway at Kennedy Drive". The level of concern includes the general lack of awareness of the public that this ramp is marked for closure. Jackie will continue to have discussions with Council officers and will raise the topic again if needed.

**Inwards Correspondence:**

Nil.

**Outwards Correspondence:**

Nil

**General Business:**

**GB5. Changes to Chinderah / Kingscliff Locality Boundary**

Jackie advised that a property owner in Kingscliff has requested that the boundary between Kingscliff and Chinderah be altered and an application to be made to the Geographical Names Board NSW. Following discussion, the AAC confirmed it does not support these boundary changes and the further reduction in the size of Chinderah.

**Moved: Jackie McDonald**

**Seconded: Leweena Williams**

**RECOMMENDATION:**

That Council acknowledges that the Aboriginal Advisory Committee supports the view of long term residents of Chinderah and opposes the submission to alter the locality boundary between Kingscliff and Chinderah.

**A3. Presentation to Northern Rivers Joint Organisation (NRJO)**

Committee members moved to Council Chambers for the NRJO presentation, which was not minuted.

The next meeting of the Aboriginal Advisory Committee will be held on 5 April 2019.

The meeting concluded following the presentation.

**EXECUTIVE LEADERSHIP TEAM COMMENTS:**

*GB5. Changes to Chinderah / Kingscliff Locality Boundary*  
Nil.

**EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:**

*GB5. Changes to Chinderah / Kingscliff Locality Boundary*

That Council acknowledges that the Aboriginal Advisory Committee supports the view of long term residents of Chinderah and opposes the submission to alter the locality boundary between Kingscliff and Chinderah.

**COUNCIL IMPLICATIONS:**

**a. Policy:**

Code of Meeting Practice.

Terms of Reference - Aboriginal Advisory Committee adopted 19 September 2013 (ECM3146605).

**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**

Nil.

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