

Mayor: Cr K Milne

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

Agenda

Ordinary Council Meeting Thursday 5 December 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] Adoption of the Recommendations of the Planning Committee Meeting held Thursday 5 December 2019

SUBMITTED BY: Corporate Governance

nhm



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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

SUMMARY OF REPORT:

The recommendations of the Ordinary Planning Committee Meeting held Thursday 5 December 2019 require their adoption by Council for the resolutions to be acted upon.

RECOMMENDATION:

That the recommendations of the Ordinary Planning Committee Meeting held Thursday 5 December 2019 be adopted.

REPORT:

As per Summary.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

2 [CONMIN-CM] Confirmation of Minutes of the Ordinary and Confidential Council Meeting held Thursday 21 November 2019

SUBMITTED BY: Corporate Governance

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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

The Minutes of the Ordinary and Confidential Council Meeting held Thursday 21 November 2019 are attached for information and adoption by Council.

RECOMMENDATION:

That:

- 1. The Minutes of the Ordinary and Confidential Council Meetings held Thursday 21 November 2019 be adopted as a true and accurate record of proceedings of that meeting, with the inclusion of the following underlined amendments:**

"19 [E-CM] RFO2019136 Provision of Ground Maintenance Services at Water & Wastewater Facilities

RESOLVED that in respect to Contract RFO2019136 Provision of Ground Maintenance Services at Water and Wastewater Facilities:

- Council awards the Contract to Jamie Russell Godfrey (ABN 66 434 822) at the rates listed in the Confidential Attachment 1 RFO2019136 Offer Evaluation Report for a period of 24 months and the General Manager be given delegated authority to extend the contract for a further possible 2 x 12 month periods. The estimated value of the Contract over the initial 2 year Contract period is \$176,227 (incl GST).*
- 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."

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:

The Minutes of the Ordinary and Confidential Council Meeting held Thursday 21 November 2019 are attached for information and adoption by Council.

Following this meeting it was noted that Item 19 [E-CM] RFO2019036 Provision of Ground Maintenance Services at Water & Wastewater Facilities referenced the incorrect Contract Number. It should have referred to RFO2019136 not RFO2019036.

The resolved minute is reproduced below including amendments (highlighted in red) for adoption alongside the Minutes from the 21 November 2019 Council meeting:

"19 [E-CM] RFO2019136 Provision of Ground Maintenance Services at Water & Wastewater Facilities

RESOLVED that in respect to Contract RFO2019136 Provision of Ground Maintenance Services at Water and Wastewater Facilities:

1. Council awards the Contract to Jamie Russell Godfrey (ABN 66 434 822) at the rates listed in the Confidential Attachment 1 - RFO2019136 Offer Evaluation Report for a period of 24 months and the General Manager be given delegated authority to extend the contract for a further possible 2 x 12 month periods. The estimated value of the Contract over the initial 2 year Contract period is \$176,227 (incl GST).
2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at finalisation of the contract.
3. **ATTACHMENTS 1 and 2 are CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret."

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.

SCHEDULE OF OUTSTANDING RESOLUTIONS

3 [SOR-CM] Schedule of Outstanding Resolutions at 5 December 2019

SUBMITTED BY: Corporate Governance

nhm



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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

SUMMARY OF REPORT:

This report details the outstanding resolutions from both Council and Planning Committee meetings for the information of Councillors.

CODE OF MEETING PRACTICE:

- 10.11 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.

(Adopted by Council 4 August 2004)

RECOMMENDATION:

That the Schedule of Outstanding Resolutions are received and noted.

REPORT:

As per Summary.

OPTIONS:

1. That Council receives and notes the Schedule of Outstanding Council Resolutions as at 5 December 2019.

CONCLUSION:

The Schedule of Outstanding Council Resolutions are updated following each Council Meeting and are updated by Council officers until each resolution has been satisfactorily actioned. Councillors and staff are able to ascertain the status of outstanding resolutions as each progresses to resolutions.

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:

Attachment 1.

Report on Outstanding Council Resolutions as included in this report (ECM6145936)

MAYORAL MINUTE

4 [MM-CM] Mayoral Minute for November 2019

SUBMITTED BY: Cr K Milne, Mayor

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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

SUMMARY OF REPORT:

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

RECOMMENDATION:

That:

1. The Mayoral Minute for the month of November 2019 be received and noted.
2. The attendance of Councillors at nominated Conferences be authorised .

REPORT:

Councillors

COMMITTEE MEETINGS

Attended by the Mayor

- 8 November Northern Rivers Joint Organisation Meeting – Lismore City Council, 48 Oliver Avenue, Goonellabah.
 - 13 November Youth Council Meeting – Tweed Heads Administration Office, Corner Brett and Wharf Streets, Tweed Heads.
-

INVITATIONS / MAYORAL REPRESENTATION:

Attended by the Mayor

- 1 November Citizenship Ceremony – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 4 November Friendship Force – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 12 November Crisis Management Group Meeting – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 12 November Resident and Environment Group Stakeholder Forum – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah. Crs Cherry and Cooper also attended.
- 15 November Tweed Sustainability Awards Showcase – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah. Crs Cherry, and Cooper also attended.
- 18 November Tweed Shire Upper Waterways Tour – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 18 November Crisis Management Group Meeting – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 20 November Rural Fire Service Community Meeting – Uki Hall, 1462 Kyogle Road, Uki.
- 20 November Climate Awareness Forum – All Saints Anglican Church, Byangum Road, Murwillumbah.

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

- 5 November Pottsville Beach Community Hall Committee thank you event – Pottsville Beach Community Hall, 1 Tweed Coast Road, Pottsville. Cr Cherry attended.

- 10 November Rotary Duck Race – Ed Parker Rotary Park, Sutherland Street, Kingscliff. Cr Cooper attended.
- 11 November Remembrance Day Service – Chris Cunningham Park War Memorial, Wharf Street, Tweed Heads. Cr Cherry attended.
- 12 November The Tweed Tourism Networking Function – Babalou, 102 Marine Parade, Kingscliff. Cr Owen attended.
- 15 November Mt St Patrick College Year 12 Formal – Mt St Patrick College, 143 Murwillumbah Street, Murwillumbah. Cr Cherry attended.
- 24 November Kingscliff Triathlon – Faulks Park, Corner Marine Parade and Moss Street, Kingscliff. Cr Owen attended.

Inability to Attend by or on behalf of the Mayor

- 13 November Local Health District Community and Stakeholder Meeting and AGM – Kingscliff Bowling Club, Marine Parade, Kingscliff. Mayor unavailable to attend.
- 17 November Commissioning Service for Reverent Dway Goon Chew – St Cuthbert's Anglican Church, 13 Powell Street, Tweed Heads. Mayor unavailable to attend.
- 18 November Twin Towns Friends Association Christmas Luncheon – Tweed Heads Bowls Club, Florence Street, Tweed Heads. All Councillors invited, none available to attend.

REQUESTS FOR WORKSHOPS:

Councillors did not request any additional workshops during November 2019.

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

- 20 November Social and Affordable Housing Forum – Swissotel, 68 Market Street, Sydney. Cr Cooper attended.
- 24-26 Nov Australia and New Zealand Society of Ecological Economics Conference – RMIT University, 445 Swanston Street, Melbourne VIC. Cr Milne attended.

Information on Conferences to be held

- 2-3 March 2020 AICD Australian Governance Summit – International Convention Centre, 14 Darling Street, Sydney.

The Australian Governance Summit attracts over 1400 attendees and continues to grow in influence and importance. The program will

explore the issues boards grapple with day to day as well as the 'over the horizon' challenges that lay ahead, providing clarity boards need – a new line of sight. Sessions include Digital transformation in the not for profit sector, Remuneration and how to get it right, Shifting regulatory landscape and Critical discussions about key governance issues across all sectors and industries.

Registration member \$1649, non member \$2059, two flights, two night's accommodation, transfers.

<https://aicd.companydirectors.com.au/events/australian-governance-summit>

SIGNING OF DOCUMENTS BY THE MAYOR:

- 21 November Transfer of Closed Land as Compensation – Tumbulgum Road.
-

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

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

c. Legal:

Not applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

RECEIPT OF PETITIONS

5 [ROP-CM] Receipt of Petitions at 5 December 2019

SUBMITTED BY: Corporate Governance



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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Collaborator**

SUMMARY OF REPORT:

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

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

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

RECOMMENDATION:

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

REPORT:

As per Summary

OPTIONS:

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

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

CONCLUSION:

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

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

ORDERS OF THE DAY



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LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

6 [NOM-Cr C Cherry] Streetlighting - Phillip Street, Pottsville

NOTICE OF MOTION:

Councillor C Cherry moves that Council fund the installation of two LED streetlights in Phillip Street, Pottsville from the general streetlighting fund and place these lights on Phillip Street in consultation with the local community.

Councillor's Background Notes

Recommended Priority:

At its meeting on 15 November 2018, it was resolved that:

"Council prepares a grant proposal and seeks alternate funding opportunities for two solar street lights in Philip Street, Pottsville near Philip Street Reserve, Pottsville, trim the tree above the walkway immediately north of the Pottsville Community Hall where the post sits in the middle of the walkway, to increase pedestrian safety in both locations."

As Council has not been successful in a grant application for this lighting task, Council staff have now identified money saved in the current streetlighting program which may be able to be directed to this outcome. The community need for perception of safety in this area is high.

The business community on Phillip St have asked for street lights for a long time and due to it being expensive to bring the infrastructure there Council funding has not been available. LED lighting would allow the lighting to be directed exactly where it is needed and reduce the possibility that any lighting spill would interfere with neighbouring properties.

Description of Project:

Nil.

Management Comments:

Delivery Program:

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.3 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**

The streetlighting budget is primarily used to fund the energy supply and maintenance of the streetlighting network. Due to increases in those costs over recent years funding has not been available to fund the many outstanding requests for the installation of additional streetlights in older areas throughout the Shire.

Essential Energy has this financial year changed its tariff system for the maintenance costs which have resulted in cost savings to Council. Also the uptake of Light Emitting Diode (LED) lights in newer subdivisions and the recent upgrade in the Salt/Casuarina areas have also reduced power and maintenance costs. These savings are expected to be applied to the proposed upgrade to LED lights, replacing the majority of our lights which use a Compact Fluorescent bulb. This will provide further savings in maintenance and power usage resulting in environmental benefits.

Officers are also prioritising the list of outstanding requests for lighting and this could be addressed through the LED upgrade which is expected to be done in a bulk replacement program next financial year.

Budget/Long Term Financial Plan:

The proposed installation of two solar lights in Phillip Street Pottsville is estimated to cost \$10,000 and can be funded through the existing 2019/2020 Streetlighting Budget.

Legal Implications:

Nil.

Policy Implications:

Nil.

7 [NOM-Cr J Owen] Tweed Heads CCTV - Grant Funding

NOTICE OF MOTION:

Councillor J Owen moves that Council makes an application to the Federal Government's Safer Communities Fund Round 5 for the purchase and installation of a CCTV system in Bay Street and Jack Evans Boat Harbour at Tweed Heads.

Councillor's Background Notes

Recommended Priority:

Round 5 of the Federal Government's Safer Communities Fund opened 29 October 2019 and closes on 10 December 2019. This fund provides for local governments to apply for grant funding crime prevention and security infrastructure. Specifically this includes the installation of CCTV systems.

Description of Project:

Jack Evans Boat Harbour and the intersection of Wharf and Bay Streets have recently been the subject of several requests for CCTV images by both NSW and Queensland Police. These requests have been connected with highly publicised crimes with connections to both sides of the border.

When upgrades occurred to the public infrastructure in Jack Evans Boat Harbour and Bay Street locality, conduit and pits were installed to accommodate future CCTV systems.

The capital cost associated with a systems in this areas would be considerable and beyond the current budget which could be directed to crime prevention.

Currently Council owns and operates three CCTV systems in public places specifically for crime prevention. These systems are Murwillumbah CBD, Kingscliff CBD and Tweed Heads South Skate Park.

Management Comments:

Delivery Program:



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 Compliance Services - To support a safe and healthy built and natural environment through the enforcement of local government rules and regulations.

ROLE: **Leader**

Budget/Long Term Financial Plan:

The capital cost associated with a systems in this areas would be considerable and beyond the current budget which could be directed to crime prevention.

Therefore seeking funding through a grant application is supported.

Legal Implications:

The NSW Government encourages all agencies considering the development of CCTV schemes to use as a basis the *NSW Government Policy Statement and Guidelines for the Establishment and Implementation of Closed Circuit Television (CCTV) in Public Places* as well as to seek independent legal advice where appropriate.

The guidelines include nine guiding principles that should be considered when establishing a public area CCTV schemes:

1. Integrated approaches to crime prevention.
2. Scheme ownership and its responsibilities.
3. Community consultation.
4. Setting clear objectives.
5. Police involvement in public area CCTV schemes.
6. Managing and operating CCTV schemes.
7. Evaluation.
8. Complaints.
9. Monitoring and auditing.

Policy Implications:

Council's CCTV - Murwillumbah and Kingscliff CBD and Tweed Heads South Policy will need to be updated if Council resolves to install a CCTV system in Bay Street and Jack Evans Boat Harbour at Tweed Heads.

8 [NOM-Cr J Owen] Beach Viewing Platform in Partnership with Casuarina Town Centre

NOTICE OF MOTION:

Councillor J Owen moves that Council negotiates with the proponents of the Casuarina Town Centre to investigate whether a viewing platform that provides access for all would be feasible at one of the current beach access points and, if so, a report be brought back to Council on a possible funding arrangement with the proponent to construct a viewing platform to Council's specifications.

Councillor's Background Notes

Recommended Priority:

Nil.

Description of Project:

Nil.

Management Comments:

Delivery Program:

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- | | |
|-------|---|
| 1 | Leaving a Legacy |
| 1.1 | Natural Resource Management |
| 1.1.3 | Coastal Management - To protect and manage the use and quality of the Tweed's beaches and foreshores. |

ROLE: **Leader**

Additional coastal access infrastructure is always welcomed and well used by the community.

Issues to be considered in the siting and construction include:

- Topography of the site;
 - Minimal clearing of existing vegetation including future need for pruning trees to maintain views;
 - Ability for construction to enable access for all;
 - Capital cost neutral to Council; and
 - Designed and constructed for minimal maintenance (e.g. recycled plastic materials and marine grade steel fittings).
-

Budget/Long Term Financial Plan:

There is currently no budget allocated for new coastal access infrastructure. The Asset Management Plan for coast and waterways assets, currently in development, highlights that there is a significant shortfall for the ongoing maintenance of existing assets.

Legal Implications:

Not applicable.

Policy Implications:

Access and Inclusion Policy.
Open Space Infrastructure Policy.

9 [NOM-Cr J Owen] Study of Light Rail Extension

NOTICE OF MOTION:

Councillor J Owen moves that, given the recent announcement by the Prime Minister on Economic Stimulus Projects, the Mayor writes to the State Member for Tweed and request an update on the proposed study of the Light Rail extension from Gold Coast airport to Tweed Heads.

Councillor's Background Notes

Recommended Priority:

Nil.

Description of Project:

Nil.

Management Comments:

Delivery Program:

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

In 2018/2019 Council officers were part of a steering committee led by Transport for NSW and Roads and Maritime Services in the preparation of the draft Tweed Transport Network Plan (TTNP). The scope of the TTNP included the potential extension of light rail from Coolangatta to Tweed Heads. Due to this and other cross-border public transport issues City of Gold Coast and Queensland Transport and Main Roads were included on the Steering Committee. A briefing on the draft report was provided to a Councillor workshop on 18 October 2018. The draft report was then finalised prior to the State election in early 2019, but is yet to be released by the State Government.

Gold Coast City Council is currently working on Stage 3A of their light rail project to extend from Broadbeach to Burleigh Heads. While the intent may be for further stages to extend the light rail network to Gold Coast Airport and possibly to Coolangatta, this is many years, or even several decades away from fruition. As such, the current grant packages would not be of relevance to a Tweed stage of the light rail.

Budget/Long Term Financial Plan:

There is no Council budget allocation for further work on light rail projects in Tweed.

Legal Implications:

Nil.

Policy Implications:

The TTNP will inform Council's Public Transport Strategy, as well as various town planning strategies for Tweed Heads.

10 [NOM-Cr R Cooper] Introduction of Plain English

NOTICE OF MOTION:

Councillor R Cooper moves that:

- 1. Council uses Plain English for all documents created by Council for internal circulation.**
- 2. Council uses Plain English for all consultation with the community verbal and written.**
- 3. In the spirit of Plain English, Council ensure all maps and diagrams are easy to read and interpret.**
- 4. Council implements quality control measures to ensure that a high standard of Plain English is maintained.**

Councillor's Background Notes

Recommended Priority:

1. The sooner Plain English is in use, the sooner staff time producing documents will be reduced and the sooner staff time ready and understanding documents will be reduced.
2. The sooner Plain English is in use the sooner the community will be able to make a more meaningful contribution to Council decision making.

Description of Project:

A means of breaking down organisation silos and creating a better inter-connection between staff members.

A means of enhancing engagement with the community.

Management Comments:

Delivery Program:

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- | | |
|-------|---|
| 2 | Making decisions with you |
| 2.2 | Engagement |
| 2.2.2 | Communications - To inform, educate and engage the public about Council and community activities. |

ROLE: **Leader**

Plain language is the main principle guiding our writing and communicating across the wide range of methods Council uses.

Council has more than 25 different communication channels that range from digital websites and social media, traditional documents such as strategies and publications and other more formal options such as the Tweed Link and business papers. Each of these require a particular writing style that is relevant to the required format and to the audience.

The commitment to the use of plain language also needs to be balanced against legislative requirements. These may require specific wording that must be used and is likely applicable to a large amount of Council's advertising, notifications or document naming requirements. Where there is a legislative requirement for specific wording, in such cases the wording cannot be altered.

There are a number of initiatives and internal improvements underway or completed to improve the use of plain language across the organisation. Some of these include:

Projects

1. Council adopted the latest version of the **Community Engagement and Participation Plan** in November. This document advocates for the use of plain language as a commitment to the Tweed community. This will now be communicated and implemented throughout Council services during the first quarter of 2020.
2. A recent example of the successful use of plain language was the **Service Experience Standards**, which was transformed from a 16-page Policy into a two-page infographic document. Council adopted the latest **Service Experience Standards** which identifies one of our six service principles as '**Be Accessible: We will make our spaces, services and documents accessible, and our information available in plain English.**'
3. The Communication and Customer Experience unit has recently appointed a short term role of Web Content Specialist and Copywriter. This role will **re-write content into plain language across all Council websites.**
4. Council currently has an adopted Writing Style Guide that sets out our communication standards. It is due for a major review to be followed by training in its use. A revised **Communication Style Guide** is due to be delivered by March 2020. This is a comprehensive desktop resource that guides staff on expected communication standards of writing, correspondence and Council reports. This will feature a dedicated Business Paper section clearly guiding staff on expectations.
5. A **Web Standards and Digital Publishing Guide** to set minimum standards across web, social and online publishing will be developed to ensure Council's content and documents are accessible and consistent across digital platforms.
6. A panel of professional services, including **copywriting providers**, was recently finalised. This will provide access to external providers to review documentation, including for plain language. This and can be budgeted as part of key projects.

Staff training

1. **Improving Your Report Writing (completed in August 2019):** Four full day sessions trained 57 staff as they completed the recent Report Writing Training from Local Government NSW. This one-day course was provided to enable staff to improve their report writing and had a very strong focus on plain language. The learnings from this will be incorporated into the Communication Style Guide mentioned above.
2. **Media and Communication Skills Training (completed in early 2019):** Councillors and senior staff completed the Media and Communication training from Local Government NSW to assist plain, clear and concise communications and messaging.
3. All new employees complete a mandatory **Communication and Customer Experience e-learning module as part of their induction.** This module touches on the importance of plain language. Once the above new resources are completed, this will be a more prominent focus.
4. The Human Resources team delivers an optional **Business Skills Writing Course** as part of the learning and development program. This will need to be reviewed and integrated with other key documents, such as the guides referred to above, to ensure it is consistent with the plain language standard.

Further opportunities could be considered through an extension of the web content specialist and copywriting project role, on an as-needs basis, once the web project is complete. This would focus on increasing the use of plain language across the organisation. This will have a budget and resourcing impact.

The above examples of Council's documents and projects highlights the importance of plain language and provides a commitment to the community of the use of plain language. Council is turning its efforts into the internal improvements needed to implement this change and support staff in this change. The proposed Framework to support staff with guidance on the use of plain language is:



In summary, there is a concerted effort across Council to improve the use of plain language. However, this change will take time as these projects, staff training and the associated cultural change takes place.

Budget/Long Term Financial Plan:

Depending on the recommendations considered by Council and the extent thereof, this could result in significant budget and resourcing implications to fully implement recommendation 1 and 2 across the organisation.

Legal Implications:

Statutory and specific wording must be used for a large amount of Council's advertising, notifications or document naming requirements. Where there is a legislative requirement for specific wording, in such cases the wording cannot be altered.

Policy Implications:

Recently adopted **Community Engagement and Participation Plan** acknowledges and makes several references to the use of plain language in Council's engagement with the community.

Council adopted the latest **Service Experience Standards** which identifies one of our six service principles as *"Be Accessible: We will make our spaces, services and documents accessible, and our information available in plain English"*.

The adopted **Communications Policy** does not currently refer to the use of plain language. This could certainly be considered in the next review of the Policy which will be within 12 months of the new Council.

QUESTIONS ON NOTICE

11 [QoN-Cr P Allsop] Zero Waste and Plastic Recycling

QUESTION ON NOTICE:

Councillor P Allsop asked:

1. Have we looked into the potential of plastic waste and if it has potential for use with 3D printing?
 2. What are other councils or other countries doing with their plastic waste, are there any leads for us to follow?
-

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

12 [GM-CM] Provision of Future Wastewater Services to Areas West of Pottsville including Dunloe Park

SUBMITTED BY: General Manager

mbm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Provider**

SUMMARY OF REPORT:

Council has received a combined request from the proprietors' of the Dunloe Park Urban Release Area and a proposed 'Food Hub' precinct, which are located to the south and west of Pottsville village, for master-planned employment and residential developments.

While there are complimentary synergies between these developments and a potentially significant cumulative net public benefit to the Tweed, they share the same infrastructure constraints preventing their development. Currently, the development of these lands is reliant on the development of a private wastewater scheme under the *Water Industry Competition Act 2006* (NSW), as per the endorsed position of Council and as proposed by the owners of these reliant lands.

There are however several possible options for the provision of wastewater services and these include:

- Private Wastewater Scheme with no discharge to Council's sewerage (current strategy).
- Private Wastewater Scheme with discharge to Council's sewerage.
- Council provision of wastewater services.

In light of the challenges presenting with the provision of private wastewater schemes and the potential wider benefits of developing a public scheme, the proprietors of those development

sites have requested that Council reconsider its position on the provision of wastewater services.

Similarly, there would be implications to consider if a private wastewater scheme discharged to Council's wastewater system.

If Council was to provide the wastewater services, the risk to Council would need to be managed and mitigated. This could be undertaken through developing risk sharing agreements and including hold points in the project where a Council resolution would be required to progress to the next phase in the project.

Council is heavily committed to many other high level strategies and projects and the addition of this project will place a resource burden on the Water and Wastewater Unit.

The project could be commenced by Council undertaking the first phase, being the Options Development and Assessment at an estimated cost of \$500,000. This would inform Council and allow Council to make a determination on whether the project should progress.

RECOMMENDATION:

That Council:

- 1. Undertakes Phase 1 Options Development and Assessment, as detailed in this report, for the provision of wastewater services to the proposed employment and residential development lands in the West Pottsville area of Dunloe Park and if required, the proposed Food Hub, west of the Pacific Motorway.**
- 2. Officers bring forward a report subsequent to the completion of Phase 1 to determine if the project is to proceed to Phase 2.**
- 3. Votes expenditure of \$500,000 for the above from the Sewerage Fund Reserve.**
- 4. Amends the Delivery Program to include Phase 1 of this project.**

REPORT:

Background

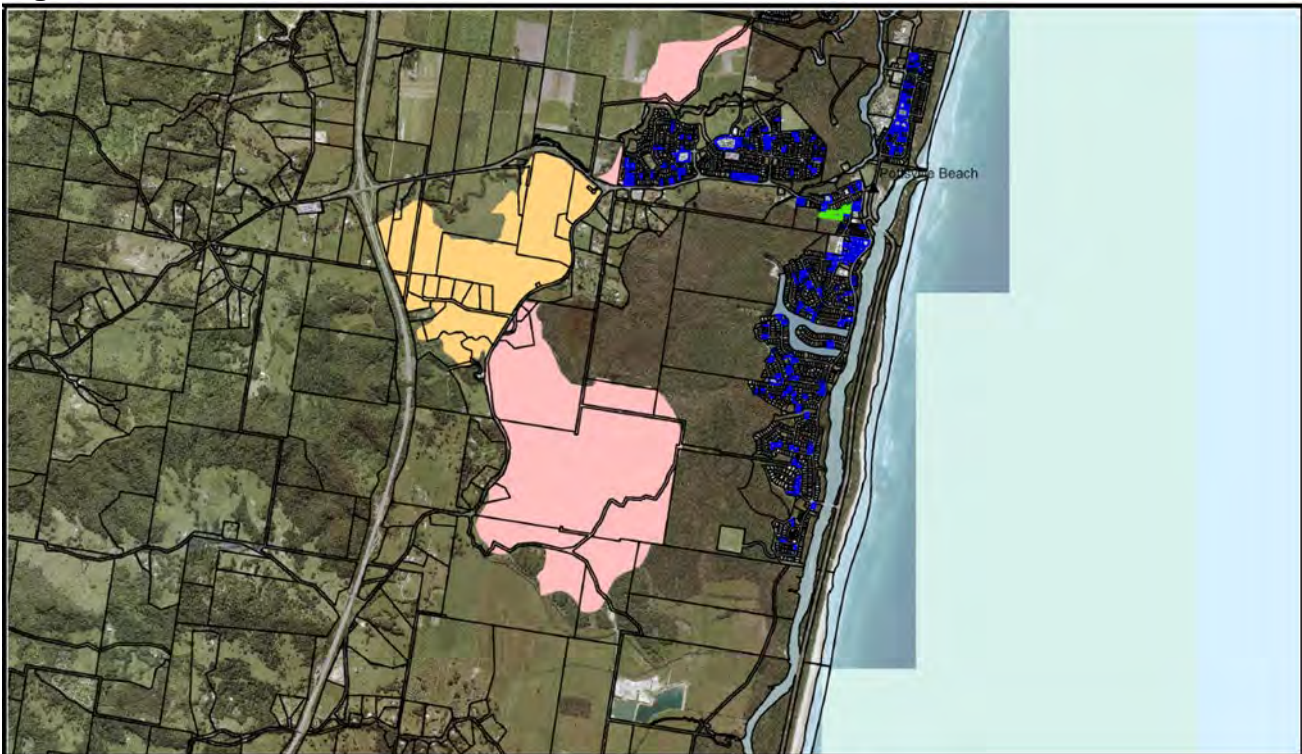
Tweed Shire currently has land zoned for residential development in the Cobaki, Bilambil Heights, Terranora (Area E), and Kings Forest areas. The land has a capacity of around 30,000 persons. Council is planning the staged augmentation of the Banora Point and Kingscliff Wastewater Treatment Plants and associated wastewater transport systems to support the development and release of this land.

With the exception of the Tanglewood area, most zoned land in the catchment of Hastings Point Wastewater Treatment Plant (WWTP) has been developed and existing unallocated capacity of that plant is for anticipated infill development. Further, it is unlikely that any expansion of the Hastings Point WWTP, to cater for new development areas, could gain approval without development of an alternate effluent disposal and re-use system.

The Tweed Urban and Employment Land Release Strategy identified a number of areas west of Pottsville for development as both urban and employment lands. The development of these areas requires a rezoning. A prerequisite for rezoning is there is certainty as to the treatment and disposal of wastewater from subsequent development.

These areas are shown in figure 1 below.

Figure1



Given the quantity of existing zoned land and the financial resources required to provide wastewater services, Council had not planned to service these lands in the short to medium term. If the developer wished to have these lands serviced in the short to medium term, the developer could service the lands through services provided by the developer under the Water Industry Competition (WIC) Act (a WIC Scheme).

As a consequence a Wastewater Servicing Strategy for this area was developed in conjunction with private proponents and was reported to Council on 24 January 2013. It was resolved that Council endorses the Tweed Coast Wastewater Strategy - Servicing Future Urban and Employment Lands, which proposed a WIC Scheme for wastewater, as a feasible approach to the provision of wastewater services for developments identified in the Strategy.

Current Situation

Council continues to receive requests to develop these areas and support opportunities for employment generating activities. One of the major issues is the provision of wastewater services to the areas.

At present the only commitment to service these areas is contained within a Voluntary Planning Agreement with Pottsville Development Corporation (PDC) which provides PDC 125 ET for pressure sewerage system with a maximum flow rate of 5L/sec for the development of employment lands.

Present development proposals in this area include:

Short Term Development:

- Pottsville Development Corporation (PDC) has a Voluntary Planning Agreement (VPA) relating to a small portion of land proposed as employment lands, 125 ET.
- The development of employment opportunities on rural lands west of the motorway (Food Hub) 80 ET.

Medium Term Development 15 to 20 years

- PDC also wishes to develop residential lands, estimated 620 resident lots.
- PDC's remaining portions of identified employment lands for planning purposes estimated at 250 ET.
- Ramtech lands, estimated 900 residential lots.
- Consideration of a Government Special Activation Precinct, expect a large ET requirement.

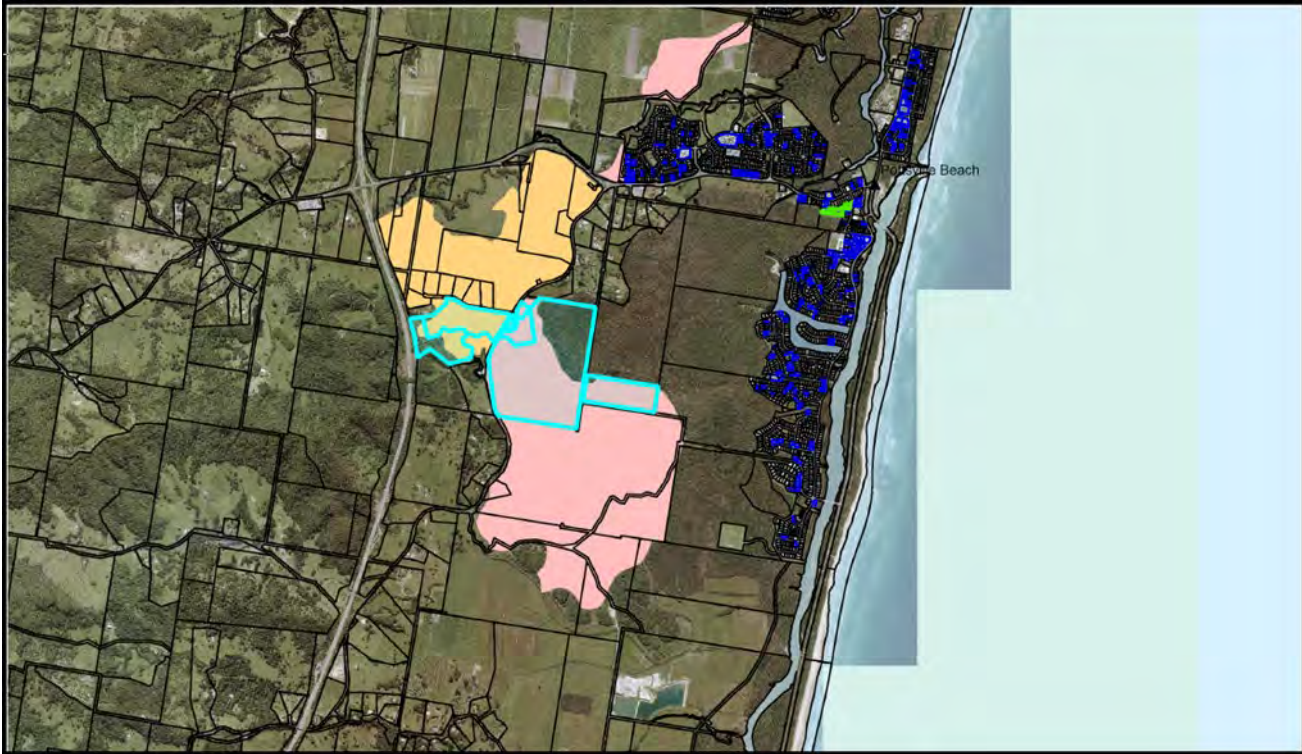
This results in a minimum of 2000 ET, plus the potential Special Activation Precinct loading.

Also note that one wet industry could easily utilise 100 ET.

It is difficult to estimate the wastewater load generated by the developments, but it is expected to be between the range of 2,000 and 4000ET (6,000 to 12,000 Equivalent Persons (EP) wastewater treatment plant load).

The area enclosed by the light blue border in Figure 2 represents the PDC land holding. The pink area to the south is the Ramtech land holding. The remaining lands in yellow have a range of land owners.

Figure 2



Provision of Wastewater Services

There is a range of options for the provision of wastewater services. Options include:

- Private Wastewater Scheme with no discharge to Council's sewerage (current strategy):
 - Developer fully funds scheme.
 - Developer gains all planning approvals and licences for scheme.
 - Limited Council involvement.
- Private Wastewater Scheme with discharge to Council's sewerage:
 - Developer fully funds scheme.
 - Developer gains all planning approvals and licences for scheme.
 - Conditions of discharge covered by Council policy "Provision of Wholesale Water Supply and Wastewater Services".
 - Involves Council providing wastewater capacity for excess wet weather flows from WIC scheme (likely not to be preferred by all parties).
- Council provision of Wastewater Services:
 - Council funds with recoupment from development.
 - Council leads and gains all planning approvals.
 - Needs to be undertaken within an overarching servicing strategy for the area including PDC lands, Ramtech lands and proposed development west of motorway plus any others.
 - Implementation needs to be managed and staged in accordance with a financial strategy to mitigate financial risk to Council.

Council Provision of Wastewater Services

For Council to undertake the provision of wastewater services a number of steps are required.

Phase 1 - Options Development and Assessment

This phase is required to determine a preferred option and will include community consultation, agency engagement, options development, options assessment, and a report to Council to determine a preferred option and Council's involvement in the proposal.

Options to be assessed could include:

- Upgrade of the Hastings Point System, including WWTP.
- Transfer equivalent flow north to Kingscliff WWTP and bring forward its upgrade.
- New WWTP to service development areas.
- Effluent reuse options - (turf farm, golf course, 3rd pipe).
- Excess effluent disposal options - (dune disposal, deep sea release etc).

Phase 2 - Development of Preferred Option and In Principle Approvals

This phase will require the development of preferred options to the level of detail required for in principal approvals for:

- Concurrence and Legal Agreements for preferred option.
- Council.
- NSW Government (EPA, others).
- Land owners.
- Developers.
- Other Stakeholders.

Phase 3 - Concept and Approvals

Preliminary Environmental Assessments

- Marine/Aquatic/Land use studies (disposal).
- Cultural Heritage.
- Bathymetric surveys.

Concept Design Phase:

- WWTP.
- Trunk infrastructure.
- Reuse schemes.
- Disposal point.
- Planning Approval pathway.

Planning Approvals:

- Cultural Heritage.
- Flora and Fauna both terrestrial and marine.
- Environmental Impact Assessment.
- Determination of EIS.

Phase 4 - Detailed Design

- WWTP.
- Trunk infrastructure.
- Effluent reuse.
- Effluent disposal.

Phase 5 - Construction

- Council Infrastructure including WWTP, and outfall or effluent reuse and trunk infrastructure.
- Land subdivision deployment.
- Individual lot development.

Preliminary Costings based on a new treatment facility:

Phase 1 - Options Development and Assessment	
	\$500,000
Phase 2 - Development of Preferred Option and In Principle Approvals	
Development of Preferred Option	\$250,000
In Principle Approvals, Concurrence, legal agreements	\$250,000
Sub Total	\$1,000,000
Phase 3 - Concept and Approvals	
Marine/Aquatic/Land use Studies (disposal); Cultural Heritage; Bathymetric Survey	\$500,000
Disposal (Water Quality, marine or aquatic)	\$400,000
Concept development and design (WWTP and Trunk)	\$1,500,000
Concept development disposal (Reuse and Outfall)	\$2,500,000
Cultural Heritage	\$250,000
Flora and Fauna	\$250,000
Environmental Impact Assessment	\$2,000,000
Determinations	\$500,000
Contingency	\$600,000
Sub Total	\$8,500,000
Phase 4 - Detailed Design	
WWTP Design (upgrade or new)	\$1,500,000
Trunk infrastructure design (including survey etc.)	\$1,000,000
Reuse systems design	\$1,000,000
Disposal design	\$1,500,000
Contingency	\$500,000
Sub Total	\$5,500,000
Phase 5 - Construction	
Outfall / disposal	\$7,000,000
12,000 ep WWTP (first stage 6000)	\$18,000,000
Trunk infrastructure	\$15,000,000
Reuse Systems	\$5,000,000
Contingency	\$10,000,000
Sub Total	\$55,000,000
TOTAL	\$69,000,000

Mitigation of Financial Risk

To mitigate both Council's and developers risk, staged hold and decision points must be included in the process as detailed below:

Hold Point 1

Consideration of the contents of this report and determine whether or not to proceed. If Council resolves to proceed Council will undertake the Option Development and Assessment phase at an estimated cost of \$500,000.

Hold Point 2

Consideration on whether to proceed with the development of a preferred option and to seek in principal approvals for the preferred option. The estimated cost of this phase is \$500,000. It is suggested that at this point risk sharing is considered. Council may wish not to progress without adequate risk mitigation.

Hold Point 3

Having a better understanding of cost and risks Council considers whether to proceed with the studies and concept design that will inform an Environmental Impact Assessment and subsequently undertake the Environmental Impact Assessment. It should be noted that in a decision to move forward from this Hold Point Council would commence high expense and high risk items and as such, risk mitigation measures should be put in place.

Moving forward will commit stakeholders to costs estimated at \$8.5 million. It would also signal Council's intention to accept the role of wastewater services provider.

Hold Point 4

On completion of planning approvals Council considers progressing the project to detailed design. This step is estimated to cost \$5.5 million. Further risk mitigation measures should be put in place.

Hold Point 5

Council considers proceeding with construction. This step is estimated to cost \$55 million. Risk mitigation measures should be put in place possibly in terms of guaranteed cash flow, bond or other financial security.

Issues

This project involves high costs and risks to Council. Council will need financial support to proceed beyond pursuing Phase 1 to mitigate those risks.

Phase 1 will be contentious and community engagement will need to be well resourced and managed to ensure issues are assessed on merit. There is a lot of uncertainty at this stage of a project and determining a preferred option/s may prove to be very difficult and potentially controversial.

Until a preferred option/s is determined costings remain very uncertain.

The Water and Wastewater Unit is currently managing many large and important strategic projects, including the raising of Clarrie Hall Dam, Water Strategies Review, Bray Park Weir - Saltwater Inundation, Murwillumbah Wastewater Treatment Plant Upgrade, Murwillumbah Sewerage Strategy, and the Water Supply Links to Seqwater and City of Gold Coast. The addition of this project will place a large resource impost on the Unit and Engineering Division.

OPTIONS:

1. Proceed with and fund Option Development and Assessment, Phase 1 and
2. Not proceed with the project.

CONCLUSION:

Given the private wastewater scheme proposals to date have not been able to adequately facilitate standalone wastewater services for this area, Council may wish to proceed with a process of determining a preferred option. This would provide Council with an opportunity to understand the viability of the project and to seek funding support and or financial guarantees to further progress the project.

COUNCIL IMPLICATIONS:

a. Policy:

Council has previously endorsed a strategy to service this development area via a private wastewater service provider under the WIC Act.

b. Budget/Long Term Financial Plan:

As per the report, funding for Phase 1 is estimated at \$500,000 and would be funded from Sewerage Fund Reserves. This cost, and others in this report are not currently included in the Sewer Fund Long Term Financial Plan.

c. Legal:

No legal advice has been obtained however, it will be required if the proposal moves into Phase 2.

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.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

13 [GM-CM] Tweed Tourism Company - September 2019 Quarterly / Annual Report

SUBMITTED BY: Land & Economic Development

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Provider

SUMMARY OF REPORT:

A requirement of the current funding and performance agreement with The Tweed Tourism Company (TTC) necessitates a quarterly progress report and a summary of financial statements be provided for Council's consideration.

This report recommends that Council receives the quarterly from The Tourism Company and endorses payment for the outstanding quarterly payment for the June 2019 quarter.

RECOMMENDATION:

That Council;

- 1. Receives and notes The Tweed Tourism Company's quarterly report for the April to June 2019 quarter,**
- 2. Pays The Tweed Tourism Company (DR Tourism Pty Ltd) October to December 2019 quarterly payment immediately on submission of an appropriate tax invoice,**
- 3. ATTACHMENT 2 is 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:

This Council report presents the Tweed Tourism Company's quarterly report for July to September 2019.

Also attached to this report are the quarterly financial summaries for the July to September 2019 quarter. Due to the nature of these financial reports they are attached as confidential. Council officers have reviewed these reports and determined that there are no anomalies or discrepancies worthy of any further attention.

This report provides The Tweed Tourism's quarterly reports for the July to September 2019 quarter and their annual performance report for the first year of their contract.

OPTIONS:

Council has two options available:

1. Receives and notes the quarterly report and approves to pay TTC's (DR Tourism Pty Ltd) quarterly payment immediately on submission of an appropriate tax invoice.

In receiving these reports Council acknowledges that the work performed by TTC is in accordance with ED-RFT 01-2017 Contract for Marketing, Promotion and Destination Management Services and agrees to process payment of the contract instalment accordingly, 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:

This report recommends that Council receives and notes the quarterly report and approves to pay The Tweed Tourism Company's (DR Tourism Pty Ltd) quarterly payment immediately on submission of an appropriate tax invoice.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

This quarterly report has been submitted by Tweed Tourism Company in accordance with their current funding and performance agreement.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Tweed Tourism Company Quarterly Report – July to September 2019 (ECM 6148270)

(Confidential) Attachment 2. Tweed Tourism Company Financial Quarterly Report July to September 2019 (ECM 6148827)

REPORTS FROM THE DIRECTOR SUSTAINABLE COMMUNITIES AND ENVIRONMENT

14 [SCE-CM] Draft Black Rocks Sports Field Master Plan

SUBMITTED BY: Parks and Active Communities

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Provider**

SUMMARY OF REPORT:

Council has resolved to prepare a master plan for the Black Rocks Sports Field in Pottsville prior to the conclusion of the 2019 calendar year. Community stakeholder consultation regarding the proposed master plan was undertaken and the draft Black Rocks Sports Field Master Plan has been developed. The Master Plan comprises of a Site Plan, Master Plan Report including a site analysis and literature review and Community Consultation Report all of which are attached to this Council Report. The draft Black Rocks Sports Field Master Plan is being presented to Council within the requested timeframe and is recommended for public exhibition.

RECOMMENDATION:

That Council adopts the draft Black Rocks Sports Field Master Plan and Master Plan Report attached to this report.

REPORT:

Background

The Black Rocks Sports Field is a 4 hectare sports field situated on Council owned community land which is surrounded by Council land dedicated as koala habitat. The subject site has an extensive planning and management history. The site is currently regularly utilised by Pottsville Beach Cricket Club, Pottsville Fun Croquet Club, Far North Coast Electric Fliers and the Pottsville and District Men's Shed. An amenities building, shelters, Men's Shed, shelters and storage exists at the site.

At its meeting held 17 April 2019, Council considered a request from the Pottsville and District Men's Shed Inc. ('Men's Shed') for Council to consider granting them a licence in perpetuity for their facility at the site or a modification of the licence to include an appropriate renewal clause. Council also considered a request from the Men's Shed for an extension to the licenced area. At the Council meetings held 17 April 2019 and 16 May 2019 Council resolved to support the proposal to grant a licence to the Men's Shed for a period of five years with an option to renew for a further five years commencing upon the expiry of the existing licence agreement in 2022. This application is currently being considered by the Minister.

As part of this consideration, Council resolved to develop a master plan for Black Rocks Sports Field prior to the conclusion of the 2019 calendar year and include *consideration of a request for an extension of the Licence area when developing a master plan for the Black Rocks Sports Field, which will be incorporated into the Plan of Management.*

Community Consultation

Council sent invitations to 12 community stakeholder user groups to nominate representatives for a Black Rocks Sports Field Master Plan Working Group.

Subsequently, Council sent questionnaires to the community stakeholder user groups seeking information in relation to the user groups' current and potential future requirements of the site and the community's vision for use of the area. The questionnaires provided a framework for written submissions and gave user groups an opportunity to provide input into the draft master plan.

Council received six nominations from the user groups towards the Working Group and seven completed questionnaires.

Following review of the completed questionnaires, a workshop was held with the Working Group on Tuesday 24 September 2019. The aim of the workshop was to obtain a level of consensus among user groups regarding the site plan and create a design brief for a shared community building using the questionnaire feedback as a foundation for discussions.

A preliminary draft Master Plan was then created for discussion which was sent to the Tweed Coast Koala Management Committee (TCKMC) with an invitation to comment.

Feedback from the TCKMC was considered and integrated into an updated draft master plan which was then presented at the second workshop with the Working Group on Wednesday 13 November 2019.

The feedback received through the questionnaires, submissions and workshops are detailed in the draft Community Consultation Report which is attached to this Council report.

Draft Black Rocks Sports Field Master Plan

The draft Black Rocks Sports Field Master Plan has been developed and comprises of the following:

- Draft Site Plan;
- Draft Master Plan Report including a site analysis, literature review and proposal discussion; and
- Draft Community Consultation Report.

These documents are attached to this Council report.

The draft Master Plan Report provides a discussion for the proposal including site analysis, site history, community input and consideration of relevant planning documents. The Report includes a literature review summarising the relevant findings and recommendations of the *Tweed Shire Open Space Strategy 2019-2029*, *Tweed Sports Fields Strategy 2014*, *Generic Plan of Management for Community land Categorised as a Sportsground 2012*, *Tweed Development Control Plan 2008 - Section B21 Pottsville Locality Based Development Code*, *Draft Community Facilities Plan 2019 – 2036* and *Black Rocks Sports Field Precinct Operational Plan*.

Many of the concerns raised by various stakeholders have been addressed through the community consultation and design process. The contentious matters that featured during the community consultation and design process primarily involved the proposed perimeter landscaping and car parking. The draft Master Plan as proposed is considered to address the requests and concerns raised by each stakeholder group.

The draft Master Plan as proposed includes a landscaped edge treatment comprising low growing vegetation (grasses and shrub species) in addition to a minimum of 15 koala food trees, as required under Development Consent DA15/0160 which approved the construction of the Men's Shed. The landscaping as proposed is not considered to compromise the use of the site as a sports ground, nor does it present any additional bush fire risk. The landscaping proposed involving mulched garden beds and rounded corners and is not considered to be 'bush regeneration' however would result in improved amenity of the development and reduced maintenance requirements with reduced mowing. The scale and arrangement of the proposed buildings and car parking are consistent with sports ground facilities provided across the Shire and are considered to be consistent with Council's plans and strategies regarding open space and sports field facility provision.

OPTIONS:

At its meeting held 16 May 2019, Council resolved that Council:

"...

2. *Includes consideration of a request for an extension of the Licence area when developing a master plan for the Black Rocks Sports Field, which will be incorporated into the Plan of Management.*
3. *Develops the master plan prior to the conclusion of the 2019 calendar year."*

There is no statutory requirement to place the draft master plan on exhibition and the stakeholder engagement process included 12 community stakeholder groups. Therefore it

may be considered that the draft master plan was developed through a robust consultation process and Council is in a position to adopt the draft plan as presented.

That:

1. Council adopts the draft Black Rocks Sports Field Master Plan and Master Plan Report attached to this report.
2. Council endorses the draft Black Rocks Sports Field Master Plan and Master Plan Report and place on public exhibition for 28 days.
3. Council does not endorse the draft Black Rocks Sports Field Master Plan Master Plan Report.

Option 1 is recommended.

CONCLUSION:

Council has resolved to prepare a master plan for the Black Rocks Sports Field in Pottsville prior to the conclusion of the 2019 calendar year. Community stakeholder consultation was undertaken regarding the current and potential future requirements of the site. A draft master plan and supporting documentation has been compiled and is being presented to Council within the requested timeframe recommended for adoption or public exhibition.

COUNCIL IMPLICATIONS:

a. Policy:

Community Engagement Strategy v2.0

b. Budget/Long Term Financial Plan:

Development of the site in accordance with the proposed draft master plan will be implemented progressively as funding is identified. Higher cost elements such as buildings will be dependent on grant funding. Other elements will be progressed through stakeholder contributions and existing Council funding sources (S94, capital works allocations) with reference to shire wide priorities.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

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.

Community consultation with community stakeholder user groups has been undertaken in the development of the draft master plan as outlined in the report and attachments. Further wider public consultation is recommended in accordance with Council's Community Engagement Strategy.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- | | |
|---------------|--|
| Attachment 1. | Draft Black Rocks Sports Field Master Plan (ECM 6143644) |
| Attachment 2. | Draft Black Rocks Sports Field Master Plan Report (ECM 6143684) |
| Attachment 3. | Draft Black Rocks Sports Field Master Plan Community Consultation Report (ECM 6143695) |
-

15 [SCE-CM] Owners Consent - Salt Surf Life Saving Club to Amend Conditions of Consent to Allow Ancillary Uses Such as Functions, Events and Conferences by Private and Community Groups at Lot 4 in LP12344959 Bells Boulevard, Kingscliff

SUBMITTED BY: Parks & Active Communities

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: Advocate

SUMMARY OF REPORT:

On Thursday 14 November 2019 the Salt Surf Life Saving Club presented to a Councillor Workshop. The Workshop focused on the status of the Salt Surf Life Saving Club, the financial position of the Club, the operational needs of the Club, the current operating restrictions of DA13/0119 which the club operates under, and the partnership opportunity with Australian Venue Company (SaltBar).

The specific purpose of the Workshop was to request Council's consideration to granting landowners' consent to the lodgement of a future modification application (which is being prepared at the moment) for ancillary use of the Salt Life Saving Club for ancillary uses such as functions, events and conferences by private and community groups.

The primary utilisation of the building would remain as the Salt Surf Life Saving Club.

DA13/0119 was approved with specific conditions of consent which limited the nature of the approval (specifically to not allow functions and the like) because the original parking assessment for the SALT village did not specifically accommodate parking for the surf life saving club. Therefore any modification application which seeks to increase the intensity of the approved use would need to be accompanied by detailed supported material (traffic and parking reports etc.) to allow this matter to be re-assessed under current conditions.

The applicant has indicated that the future application will contain a Statement of Environment Effects, a Traffic and Car Parking Impact Assessment, a Noise Impact Assessment and an Operational Management Plan

The subject site and building is owned by Tweed Shire Council (Community Land) where the Salt Surf Life Saving Club have the benefit of a lease over the building. The permitted use of the lease is "Surf Life Saving Activities".

Any owner's consent arising from this report would entitle the applicant to lodge a development application over Council owned land only. Owner's Consent does not provide an approval to the Development Application and as such this report is not a planning merit assessment of the proposal in accordance with the provisions of the Environmental Planning and Assessment Act 1979. Instead it is to allow landowners' consent to be granted so as to enable a planning assessment of the proposal to be undertaken by Council's Planning and Regulation Division.

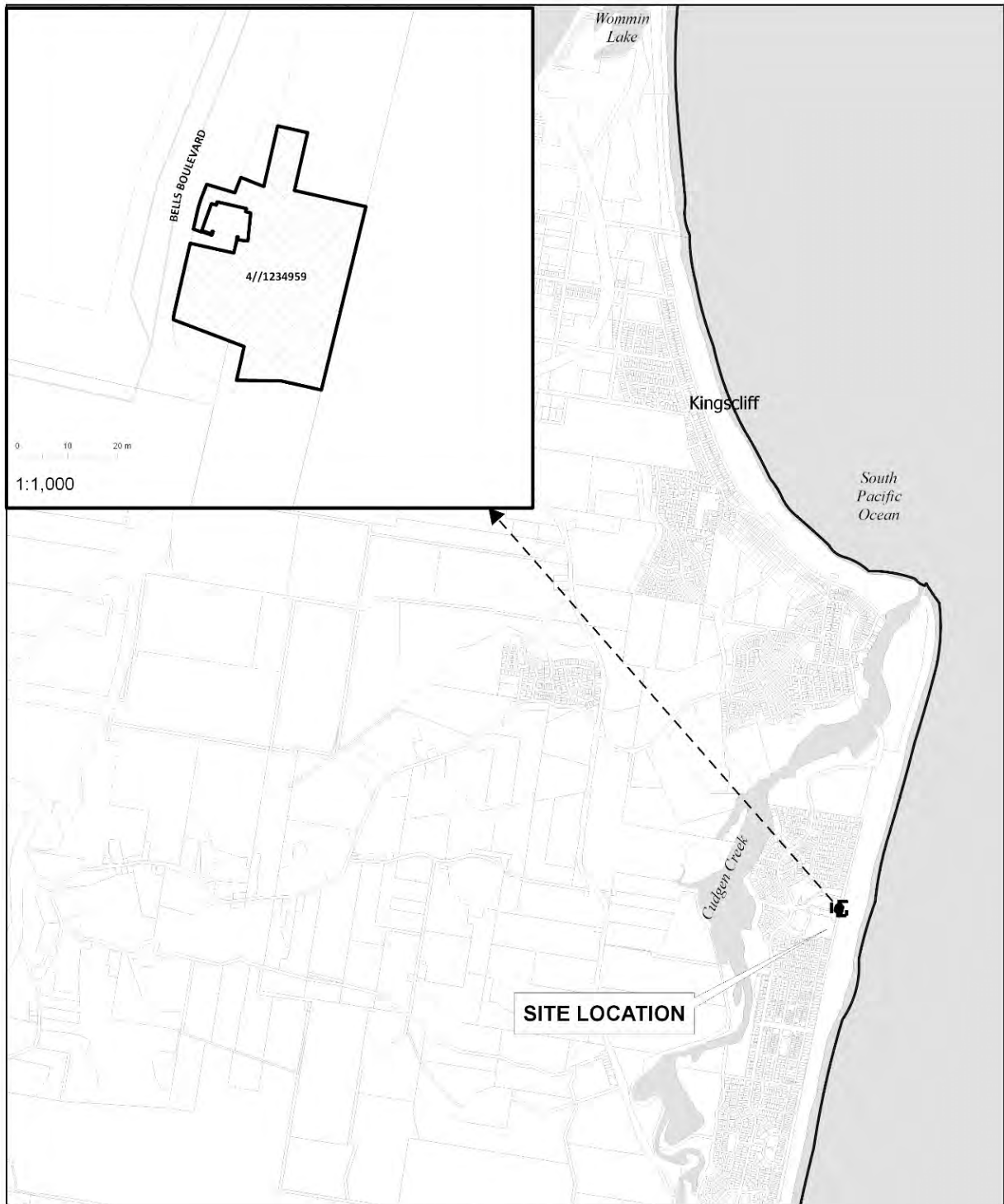
It is recommended that the elected Council resolve to issue landowners' consent to enable a full merit assessment of the Development Application be undertaken.



RECOMMENDATION:

That Council endorses the General Manager to provide landowners' consent to Salt Surf Life Saving Club to lodge a Modification to DA13/0119 to amend conditions of consent to allow ancillary uses such as functions, events and conferences by private and community groups at Lot 4 in LP12344959 Bells Boulevard, Kingscliff

SITE PLAN



Site Plan

Lot 4 LP 1234959
Salt Surf Club

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Coordinate System - MGA Zone 56
Datum - GDA 94

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Tweed Shire Council

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Civic and Cultural Centre
3 Tumbulgum Road
Murwillumbah NSW 2484
PO Box 216
Murwillumbah NSW 2484

T: (02) 6670 2400 / 1300 252 872
F: (02) 6670 2463
W: www.tweed.nsw.gov.au
E: planningreforms@tweed.nsw.gov.au



TWEED
SHIRE COUNCIL

Date Printed: 20 November, 2019

AERIAL



Aerial Photography April 2018

Lot 4 LP 1234959
Salt Surf Club

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Boundaries shown should be considered approximate only. Imagery can have parallel misalignment due to the angle of the plane when captured

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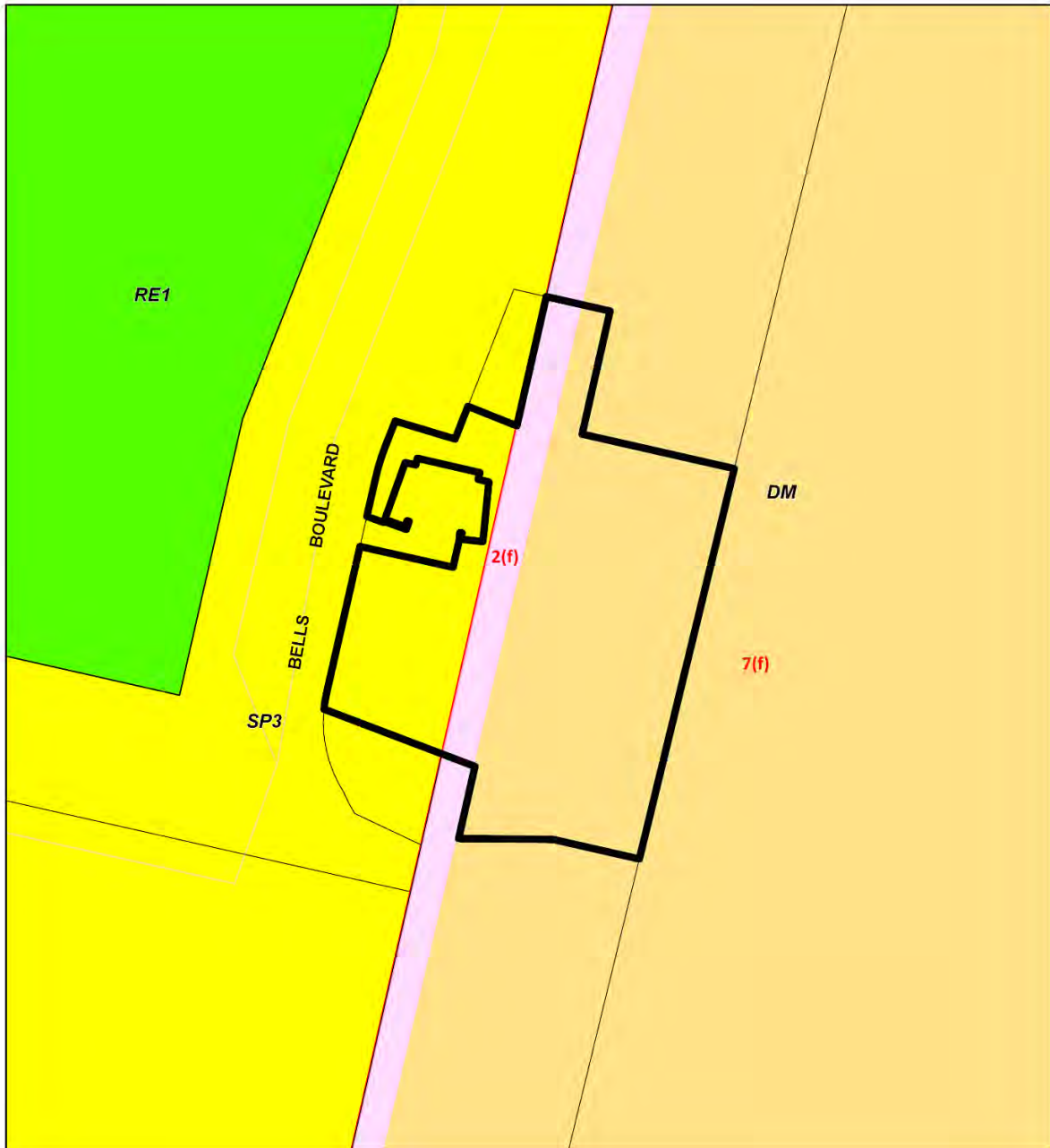
Map Projection: Universal Transverse Mercator
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Author: S.Scott - GIS
Date Printed: 20 November, 2019

ZONING



Subject Land	Tweed Local Environmental Plan 2014	LEP 2000 (as at 2014)
Subject Land	RE1 Public Recreation	2(f) Tourism
SP3 Tourist	DM, Deferred Matter	7(f) Environmental Protection (Coastal Lands)

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 Map Projections: Universal Transverse Mercator
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Site Plan - Local Environmental Plan

Lot 4 LP 1234959
 Salt Surf Club

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 Date Printed: 20 November 2019

COASTAL HAZARD LINES



2014 Coastal Hazard Lines

Lot 4 LP 1234959
Salt Surf Club

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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geoidetic Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56



- 2014 Coastal Hazard Lines**
- Immediate Hazard Line
 - Minimum 2050 Hazard Line
 - Best Estimated 2050 Hazard Line
 - Maximum 2050 Hazard Line
 - Minimum 2100 Hazard Line
 - Best Estimated 2100 Hazard Line
 - Maximum 2100 Hazard Line

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Author: G. Scahy, GIS Date Printed: 20 November, 2018

REPORT:

Salt Surf Life Saving Club has submitted the following letter seeking owner's consent:



SALT SURF LIFE SAVING CLUB INC.

Bells Boulevard, Salt Village
Kingscliff NSW 2487

P O Box 1891
Kingscliff NSW 2487

T 0433355563

E secretary@saltsurfclub.com.au

W www.saltsurfclub.com.au

A.B.N 20 435 851 012

19th November 2019

General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

Dear Troy,

Re: Tweed Shire Council Landowners Consent Request
SALT SLSC – Lot 4 in DP 1234959 – DA13/0119

Salt SLSC seeks landowners' consent from Tweed Shire Council to permit the lodgement of an application to modify the existing conditions of consent of Development Application 13/0119 to permit the Club to be utilised by non-members for private and community events.

In this respect, the application seeks amendments to the current consent to permit a full service SLSC facility as primary use as outlined in Point B below and ancillary uses such as functions, events, conferences and the like by private and community groups as outlined in point A.. The primary utilisation of the building remains for Surf Life Saving activities.

The proposed modification will seek Council's consent to permit the following utilisation of the Salt SLSC building;

- A. Venue for hire to Non-Members, 7 days a week, between the hours of 8.00am and 10pm for private or community use. Use of the building may be for activities including seminars, workshops, wedding, birthdays, community group meetings, government agency meetings and the alike.
- B. Access to be also permitted to Non-Member Groups in line with Surf Life Saving Activities, including but not limited to
 - Members of the Public seeking medical treatment and assistance
 - Dignitaries performing ceremonial duties
 - Emergency Services Officers performing required duties
 - Members of other Surf Lifesaving faculties attending Education and Training Planning and Briefing Meetings
 - SLS Events, such as Carnival, Award Presentation, Sponsorship and Fund-Raising Events
 - Junior Nippers Programs

The application to be lodged with Tweed Shire Council will require a thorough demonstration that the surf lifesaving facility remains the dominant use and the proposed uses are ancillary to the core SLSC function. In this respect, bookings by community or private groups are only permitted when Salt SLSC is not utilising the building for recognised surf life saving activities, as these activities take precedents and continue to be the primary function of the building.

We advise Council, in addition to undertaking a public consultation process with the local businesses, the application to amend Development Application 13/0119 will be accompanied by the following key technical reports which will inform Council's assessment of the proposed modification.

- Statement of Environmental Effects;
- Traffic and Car Parking Assessment;
- Noise Impact Assessment; and
- Operational Management Plan.

As outlined during the workshop with the Councillors and Executive Staff, Salt SLSC raise no objection to Council issuing landowners consent subject to a condition prohibiting any gaming machines. In this respect, we advise Council the Club is not proposing to install gaming machines, whilst it is also noted gaming machines are prohibited under our operating charter with Surf Lifesaving NSW.

With the surf club building located on land owned by Tweed Shire Council we respectfully seek Council's agreement to provide landowners consent to permit the lodgement of the required application to amend Development Application 13/0119 as outlined in this letter

Please let me know if you require any further information or clarification.

Sincerely

Greg Lovett
President – Salt Surf Lifesaving Club

DA13/0199

DA13/0199 has a long history and any modification will need to have regard to the previous reports and recommendations that lead to the following conditions of consent which are deemed to form the restrictive nature of the existing consent:

- 1.3. No commercial sublet arrangements are permitted for any part of the building. The building and associated function areas including the kiosk are to be wholly managed and staffed by Salt Surf lifesaving members.*
- 1.4. No outdoor dining/tables are permitted in the foreground of the kiosk.*
- 1.5. No temporary, casual or social club membership is permitted to be granted on site or at the entry door to the club. No temporary means of public access to the building for the purposes of food and drink services is to be granted at any time.*
- 1.6. A lockable gate is to be installed at the base of the southern staircase subject to approval under DA13/0119.04. The intent of this condition is to prevent public access to the upper level of the club and to ensure that there is no opportunity for entrapment in enclosed areas so to protect the safety and security of the club and the general public.*
- 5A. Public access to the development (except the ground floor kiosk and public amenities) is not permitted. The north deck and public surf surveillance deck as shows on the plans are not to provide public access into any of the first floor facilities. The deck in both these areas is to be constructed so as to physically prevent public access (except for*

members) into this part of the facility (by permanent screen or similar). To this extent all facilities within the first floor of the club (including function rooms, bar areas and food and drink service) are to be restricted to the general public and shall not be used for private commercial venture by way of sublet or public hire. The use of the first floor of the club is approved by Council for members and club activity use only. No public hire or casual leasing of the approved first floor functions rooms is to occur at any time.

60. The $L_{Aeq, 15 \text{ min}}$ noise level emitted from the premises shall not exceed the background noise level (L_{Aeq}) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, 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 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

[USE0165]

61. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]

63. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.

[USE0245]

66. All activities associated with the use of the facilities, external to the clubhouse, shall not be conducted prior to 7am nor after 8:30pm on any day.

67. All deliveries and servicing relating to the facility shall occur between 8am and 5pm Monday to Saturday.

68. All activities associated with the use of the facilities, internal to the clubhouse, shall not be conducted prior to 6am nor after 10pm on any day. Variation after 10pm until 12pm is permissible on Friday and Saturday evenings for up to 6 occasions in any 12 month period.

69. Use of the development (excluding kiosk and public amenities) is restricted to members only.

70. Waste generated by the operation of the facility shall be managed in accordance with the Waste Management Plan of HMC Pty Ltd (HMC Pty Ltd Waste Management Plan Report No. 2012.077 WMP February 2013), except where modified by this consent.

[USENS01]

Any modification will need to clearly list which conditions of consent are proposed to be deleted and which conditions are proposed to be modified and in what form.

OPTIONS:

1. That Council endorses the General Manager to provide landowners' consent to Salt Surf Life Saving Club to lodge a Modification to DA13/0119 to amend conditions of consent to allow ancillary uses such as functions, events and conferences by private and community groups at Bells Boulevard Lot 4 in LP12344959, Kingscliff.
2. That Council does not endorse the General Manager to provide landowners' consent to Salt Surf Life Saving Club to lodge a Modification to DA13/0119 to amend conditions of consent to allow ancillary uses such as functions, events and conferences by private and community groups at Bells Boulevard Lot 4 in LP12344959, Kingscliff.

Council officers recommend Option 1

CONCLUSION:

Having regard to the matters outlined in this report, it is considered appropriate that Council resolve to issue landowners' consent to enable the lodgement of a Development Application to be assessed on its merits.

COUNCIL IMPLICATIONS:

a. 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:

Nil.

16 [SCE-CM] Youth Council Evaluation

SUBMITTED BY: Community and Cultural Services

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.1 People
- 3.1.2 Community and Cultural Development - To provide community and cultural development services to foster and improve social and cultural well-being.

ROLE: **Leader**

SUMMARY OF REPORT:

A review of the Youth Council program has been undertaken during its fourth year of operation. The review highlighted the original intent was for the program to be used to identify youth issues; as an educational and communication program for Council to engage with young people; and to reflect and make recommendations on issues that Council is considering.

Although the feedback was generally positive it was noted that the scope of the Terms of Reference placed high expectations on young people participating in the program. It is therefore recommended that the Terms of Reference be amended to limit the scope to six committee and council selected issues per year. This would provide the Youth Council with the capacity to learn about the various levels of government, the mechanisms to affect change and provide considered comment on the preselected matters.

In addition the school based projects are delivered not as a Youth Council initiative, but instead offered to a wider cohort of young people through the Community Development Strategy. These projects were found to be valuable along with other suggested opportunities to facilitate engagement with both Youth Council and other young people. These include attendance at Community access and Council meetings, community youth events, conferences and external workshops.

RECOMMENDATION:

That Council adopts the revised Terms of Reference of the Tweed Shire Youth Council to reflect its status as an advisory committee and Council focused educational program.

REPORT:

Background

The commitment to establish a Youth Council was undertaken in the Youth Strategy and Action Plan (2013-2017) [Youth Strategy] under Strategic Outcome 1, Young People are Valued Members of the Community and Engaged in Decisions That Affect Them.

The original intent was for the Youth Council to identify youth issues; as an educational and communication program for Council to engage with young people; and to reflect and make recommendations on issues that Council are considering.

The inaugural Youth Council meeting was held 24 February 2016, and since then has continued to operate each year during school term.

Youth Council review

Now in its fourth year, an evaluation of the program was undertaken comparing the current structure of the program to delivered outcomes and their alignment with the Terms of Reference v 1.0, adopted by Council on 22 October 2015.

The Youth Council Student Handbook, Information Pack, and agendas and minutes were reviewed and the evaluation of the program has been based on stakeholder feedback including past and current Youth Council participants, school representatives, Councillors and Council staff. Feedback was obtained utilising a written survey format, along with face to face discussions, a Councillor workshop and a report of findings was delivered (Attachment 1).

Feedback from all stakeholder groups was generally positive about the content and delivery of the program. There was particular praise for the Community Development Officer, Families and Youth, for her commitment and support to the students with their school-based projects.

The review highlighted the Terms of Reference provides an expectation that the Youth Council would as an advisory committee to Council on youth issues, however the main practical outcomes of the program became school-based projects led by Youth Council members, with assistance from Council staff where needed.

After considering the review and expectations of participants (Attachment 2) it is recommend that the Terms of Reference for the Youth Council (Attachment 3) be amended to concentrate on a Council focused advisory committee with an educational component, include a standalone induction session and strengthen the role of young people in the committee. This includes ensuring that young people are empowered to have their say and encouraged to take a lead role through being the only voting members of the committee. All other guests and observers will provide advice and act as observers.

It is important not to facilitate an unintentional power imbalance by having councillors and or staff leading the Youth Council. The pre-selection of a discrete number of relevant issues chosen by the Youth Council at the beginning of the year will help to minimise this risk.

It is proposed the school based projects be delivered outside of the Youth Council format to a wider cohort of young people through the Community Development Strategy. This will allow Youth Council to remain an advisory committee but focus on just six pre-selected issues per year. This would provide the Youth Council with the capacity to learn about the various levels of government, the mechanisms to affect change and provide considered comment on the pre-selected matters.

Other suggested opportunities to facilitate engagement with both Youth Council and other young people more broadly include attendance at community access and council meetings, community youth events, conferences and external workshops.

OPTIONS:

1. That Council adopts the revised Terms of Reference of the Tweed Shire Youth Council to reflect its status as a advisory committee and council focused educational program.
2. That Council seek further information regarding the Youth Council Program.

CONCLUSION:

The Youth Council review highlighted a small cohort of young people each year was being expected to deliver on a wide range of issues. This report recommends that the Terms of Reference be amended to support the advisory and council focused elements of the existing program and deliver project initiatives outside of the Youth Council cohort through the Community Development Strategy.

COUNCIL IMPLICATIONS:

a. Policy:

Youth v 1.0

b. Budget/Long Term Financial Plan:

For the 2019/20 financial year budget A2431 Youth Council has an allocation of \$11,824.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

Youth Council received an update on the proposed changes at its meeting on Wednesday 13 November 2019 and there was general support for this revised Terms of Reference and scope.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.	Tweed Shire Council Evaluation Report (ECM6144454)
Attachment 2	Response to recommendations of the Youth Council review (ECM6144039)
Attachment 3	Draft Terms of Reference (ECM6144038)

17 [SCE-CM] Wyuna Road Foreshore Reserve

SUBMITTED BY: Sustainability and Environment

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.1 Natural Resource Management
- 1.1.3 Coastal Management - To protect and manage the use and quality of the Tweed's beaches and foreshores.

ROLE: **Provider**

SUMMARY OF REPORT:

Council has been in negotiations with some residents from Wyuna Road, Tweed Heads West, regarding a proposal to fund and construct up to ten sets of boat ramps, stairs and foreshore stabilisation structures along the foreshore of Community Land, Lot 108 DP 238224, on the bank of Terranora Creek.

The Terranora Creek foreshore of Lot 108 DP 238224 is characterised by the presence of numerous structures installed for the purpose of accessing the creek (stairs, jetties, boat ramps) and stabilising erosion (seawalls). In many cases the structures that currently exist on the foreshore are in poor condition, and in some cases present a risk to public safety. In all cases but one, the structures have been built without Council or NSW Government approval. There are also a number of private structures within the community land (parkland as opposed to foreshore), predominantly comprised of landscaping embellishments such as hedges and furniture.

Residents wish to privately fund and undertake works to increase foreshore safety, access and amenity adjacent to their properties.

Any works undertaken on foreshore land require assessment and approval under the *Environmental Planning and Assessment Act 1996* (EP&A Act), as well as consent from NSW Government Agencies including Crown Lands and Department of Primary Industries-Fisheries. Council must be the applicant for any planning approvals sought in this area, however does not currently have a budget to undertake the range of foreshore rehabilitation works required.

Given the residents' proposal to fund works in the area, Council staff have worked with a group of four resident delegates to develop a plan for rehabilitation of the foreshore land. Issues to be addressed by foreshore works include the removal of dilapidated and unapproved

structures, management of erosion, provision of safe access and protection of marine vegetation.

Council staff developed a plan for foreshore works that seeks to accommodate the interests of residents and comply with Council and NSW Government policy regarding development on public foreshores.

This plan was presented to the resident group for wider discussion with effected residents. The resident group does not support the foreshore rehabilitation design plan proposed by Council staff and have provided alternative plans to Council, proposing that their approach be submitted for assessment by Council and NSW State Agencies. The resident group has advised that they would not fund the plan proposed by staff, but would be willing to fund works to their specification. There has also been discussion on methods for the residents to provide ongoing funds for maintenance of structures.

Staff have spent considerable time explaining the constraints of relevant Council and NSW Agency policy to the resident group, encouraging adoption of an approach to foreshore rehabilitation more consistent with public policy.

The purpose of this report is to confirm the approach that Council will take in finalising a development application for foreshore rehabilitation works on the Terranora Creek foreshore, Lot 108 DP 238224.

RECOMMENDATION:

That Council:

- 1. Submits a Development Application for foreshore rehabilitation works at Lot 108 DP 238224 Terranora Creek based on the Council master plan considered to be consistent with relevant Council and NSW Government Policy.**
- 2. Commits to staged implementation of the master plan in order to resolve the issues of erosion, public access, and the presence of unauthorised or hazardous structures on the public foreshore.**
- 3. Considers the establishment of a cash reserve to accomplish staged implementation of the master plan over five years, prioritising removal and replacement of any dilapidated, dangerous or unauthorised structures in the intertidal foreshore of Lot 108 DP 238224, in the next budget cycle.**
- 4. Serves notice on residents to remove unauthorised items (landscaping, seating, decks) from the park component of Lot 108 DP 238224, and failing their removal within the specified time period, Council removes items. Upon completion of removal of all private items, Council resumes normal maintenance of the reserve consistent with levels of service in equivalent public reserves.**

REPORT

Council has been approached by a number of residents from Wyuna Road, West Tweed, who are seeking approval for privately funded construction of domestic waterfront facilities on the foreshore of Terranora Creek, on Council Community Land, Lot 108 DP 238224.

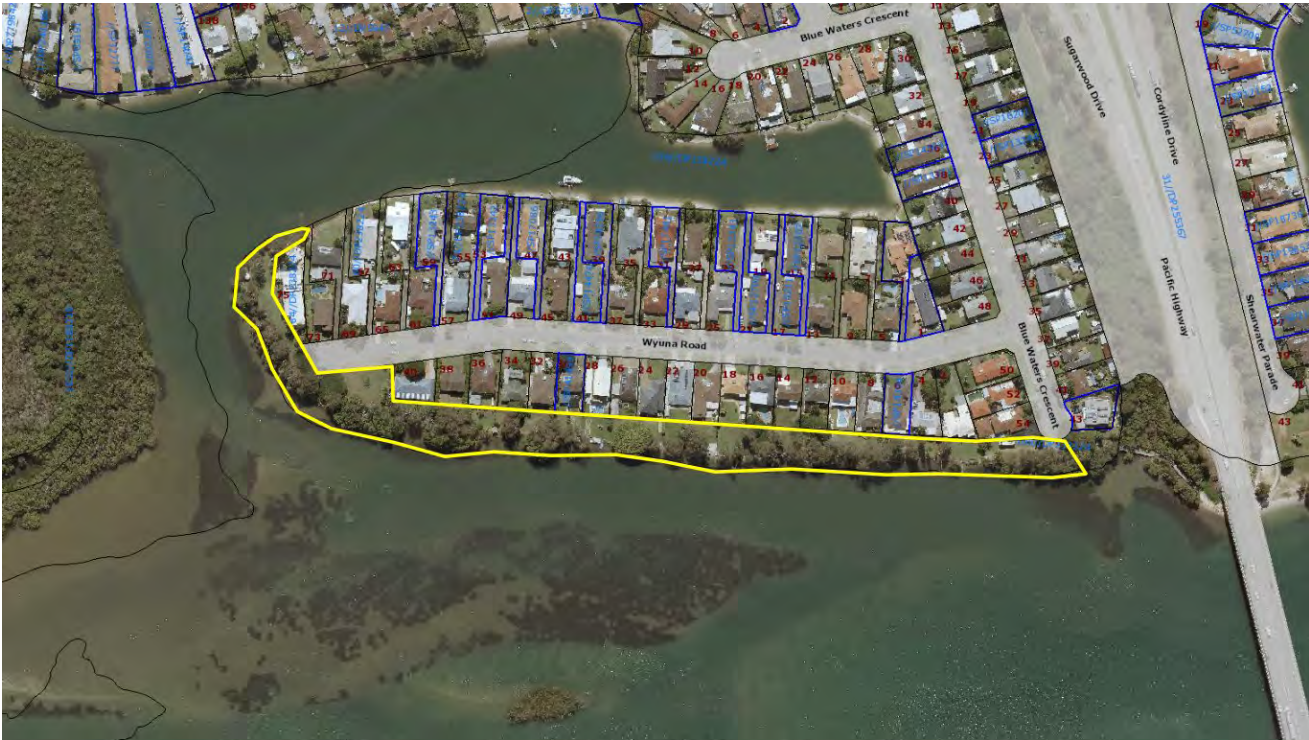


Figure 1. Terranora Creek foreshore with Lot 108 DP 238224 in yellow.

The Terranora Creek foreshore of Lot 108 DP 238224 is characterised by the presence of numerous structures installed for the purpose of accessing the creek (stairs, jetties, boat ramps) and stabilising erosion (seawalls). In some cases the foreshore structures are in poor condition and present a risk to public safety. In all cases but one, the structures have been built without Council or NSW Government approval. The balance of the Council land has also been embellished with a significant number of private items including seating and landscaping. The presence of multiple private items and extensions of landscaping from the rear boundary of several properties may give an impression that the area is not accessible to the public.

A group of up to ten individual property owners wish to increase safety and amenity in the public reserve and are willing to fund construction of domestic foreshore structures of their preferred design. Council does not currently have a budget to undertake works in the area.

As the land in question is owned by Council, any Development Application should be made by Council. Furthermore, it was resolved on 27 April 2017, that Council:

“Does not provide Owners Consent to the lodgement of any further applications for upgrades, improvements and additional private structures within public reserve Lot 108 DP 238224.”

It was determined, following a Councillor workshop with representations from residents of Wyuna Road that staff would work with a group of four residents to find a design approach to foreshore works that would be acceptable to residents, and comply with relevant policies relating to the area.

Council staff met with the resident group on 4 October and 1 November 2018, and 1 February 2019 to discuss a design approach for the area. A meeting was also arranged on site on 28 March 2019 with a NSW Department of Fisheries officer. This allowed the Fisheries officer to hear the resident's concerns and view the site firsthand.

A further workshop with Councillors, Wyuna resident group and staff was held 12 September 2019 to further allow representations by the resident group. At this workshop it was suggested that the adjacent landowners could contribute to an annual maintenance fee to Council. Options for Council to collect ongoing maintenance funds from ratepayers is discussed in the Budget Section below.

Council staff prepared a master plan for the area which was presented to the resident group. The plan prepared by Council staff (Attachment 1) was based on an acknowledgement of residents' wishes for improvement of access to the river and stabilisation of the foreshore, but cognisant of policy and best management practice for public land. Preliminary cost estimates suggest that to remove existing dilapidated structures, stabilise erosion and provide sufficient public access over the length of the foreshore (400m) would cost in the order of \$350,000.

The resident group advised that they do not support the plan for the foreshore prepared by Council staff, and have submitted an alternative plan for the area, which includes works of scope and design that they would be willing to individually fund (Attachment 2).

The major differences between the staff plan and residents proposal for the area are summarised as follows:

Residents	Council
Rock and concrete, near-vertical retaining seawall proposed across a significant length of the foreshore (adjacent to 10 of 21 properties).	Various foreshore treatments, including structural and non-structural measures, ranging from vegetation enhancement to boulder retaining wall.
Installation/upgrade/repair of approximately 10 individual access structures and boat ramps, located adjacent to the corresponding funding residence.	Three public access facilities along length of reserve foreshore.
Projection of Lot boundaries onto the foreshore to distinguish which facilities would be funded by each adjacent land owner.	Plan treats community land and foreshore as a single unit.
No planting.	Use of vegetation in some areas to improve foreshore stability without structural works.

Council staff do not consider that the plans proposed by the residents are consistent with either Council or NSW Government Agency policy. The primary reasons are as follows:

Management of Public Foreshore Land

The intertidal land comprising the foreshore of Lot 108 DP 238224 Terranora Creek is Crown Land. The residents' proposal may be perceived as a de facto privatisation of public foreshore and Crown Land

Council must lodge an application for foreshore works under Part 5 of the EP&A Act. Land owners consent is required from Crown Lands (NSW Department of Planning, Industry and Environment). As such, works included in an application must be consistent with Crown Lands policy.

Domestic Waterfront Licences Guidelines 2018

Crown Lands released *Domestic Waterfront Licences Guidelines (May 2018)* that establishes the criteria and requirements of the department when considering an application to develop, occupy and/or use domestic waterfront facilities on Crown Land.

“Domestic waterfront facility” means jetties, boatsheds, boat ramps, slipways, pontoons, reclaimed land, and seawalls for private usage.

Crown Lands have advised that all structures associated with freehold land that are not of a commercial nature, are a domestic waterfront facility. It is considered that a resident funded structure, sited adjacent to the residence, despite being on public land, would be defined as a domestic waterfront facility. This interpretation is strengthened by the residents’ proposal to build up to ten individual sets of boat ramps, stairs and seawalls, adjacent to ten individual Lots. Given proposed funding and siting arrangements there is a clear link between the adjacent resident and the facility.

Two clauses from the guidelines apply:

Waterfront structures that are not acceptable on Crown land

New applications for the following types of structures will not receive approval from the department:

- *Structures where the adjoining foreshore land is reserved Crown land, Crown road or other public land. (p.3)*

Reserve front waterfront occupations

The department will not authorise any new domestic waterfront facilities that adjoin reserved foreshore land due to the impediment of the public use and enjoyment of the land. This may include adjoining foreshore land that is reserved Crown land, Crown road or other public land. (p.4)

The guidelines define ‘reserve front’ as:

“Where a crown reserve, council reserve or road reserve directly adjoin a waterway and separates a person’s private land from the waterway.”

Crown Lands *Domestic Waterfront Licences Guidelines* also makes reference to ‘Waterway Strategies’ as per below.

“The department may utilise waterway strategy documents to provide a strategic approach to domestic waterfront facility development in particular waterways. These strategies may identify areas where domestic waterfront facilities are not appropriate, where shared facility usage is required, or how unauthorised structures are managed. Where a waterway strategy exists, it will apply in addition to these guidelines. (p.2).”

Tweed River Domestic Structures Strategy 2008

The Tweed River Domestic Structures Strategy was prepared by Council, Department of Lands, DPI Fisheries and NSW Maritime. The strategy is considered by Crown Lands to be a ‘waterway strategy’ as per the description above.

The aim of the Tweed River Domestic Structure Strategy is, in part, to:

Consolidate existing development assessment requirements for the various consent agencies to provide a consistent approach for domestic foreshore infrastructure development (p.3).

The strategy is a decision making tool that includes an assessment of the capability and suitability of the Tweed River to support domestic foreshore structures. The whole Tweed River foreshore has been mapped as red, amber or green. Red sectors indicate that an area is not suitable for domestic foreshore structures. The foreshore of Lot 108 DP 238224 on Terranora Creek is mapped red in the strategy (p.17). The strategy includes the statement, “To protect the environmental values of this area Terranora Creek is identified as unsuitable for domestic foreshore structures.” (p.18).

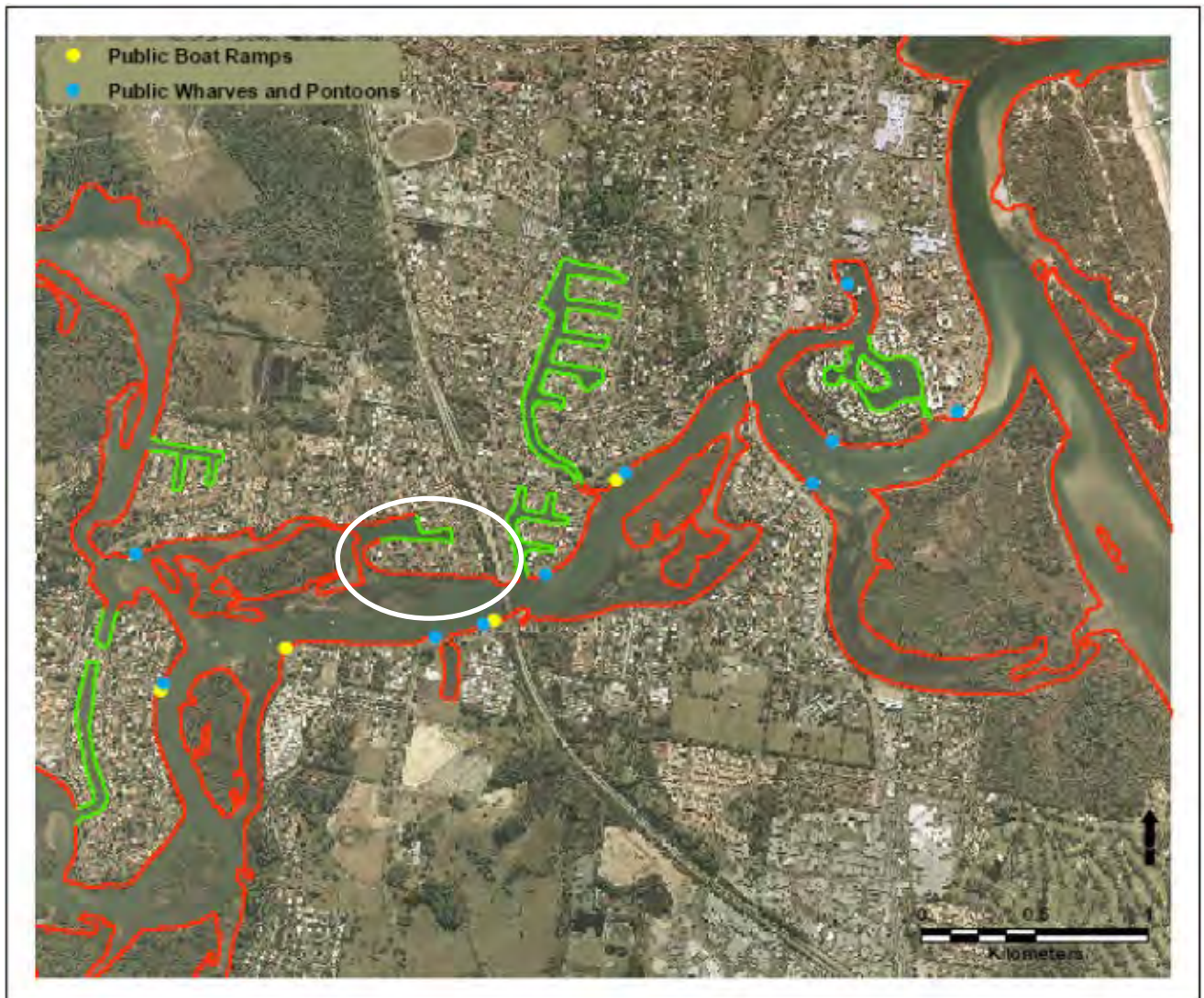


Figure 2. Terranora Creek mapping in Tweed River Domestic Structure Strategy (p17) with the Wyuna Road location highlighted in the white circle.

Design of Structures

Land owners have expressed their preference to construct seawalls as shown in figure 3 below.



Figure 3: Existing near-vertical rock and concrete retaining wall, stairs and boat ramp adjacent to 20 Wyuna Road.

This seawall presently exists at the location, is approved, and was funded and constructed privately. Despite this wall having been approved, Council staff do not support the construction of numerous additional walls with this design.

The structure and its embellishments may create a perception that the area is not a public foreshore, and that the facility is for the benefit of the adjoining land owner, not the public. Adding a significant number of additional structures with the same characteristics along the foreshore may increasingly discourage the public from using the reserve.

A significant number of additional foreshore structures in this location will also increase liability for Council. The level of foreshore embellishment proposed by residents would be far greater than that provided by Council in other public foreshores in the Shire. While it is acknowledged that private investment in the foreshore may mitigate some safety concerns associated with existing unapproved structures, Council will effectively become the asset owner and responsible for future maintenance of all additional privately funded foreshore structures. Discussion on methods for adjoining landholders to potentially contribute to an ongoing maintenance fund is discussed in the Budget section below.

NSW Department of Primary Industries - Fisheries Policy

NSW Department of Primary Industries - Fisheries (DPI Fisheries) are a determining authority for development that requires a permit under the *Fisheries Management Act 1994* (FM Act). Foreshore works at Lot 108 DP 238224 on Terranora Creek will require such permits. When

assessing applications DPI Fisheries acts in accordance with the FM Act, and its Policy and Guidelines for Fish Habitat Conservation and Management (2013). Section 5 (pp. 45-52) of the guidelines provides advice on foreshore stabilisation works and seawalls that will be considered by DPI Fisheries. Fisheries give consideration to a large range of factors in considering applications for works on foreshores, including the tenure of land and the design of structures. Council staff do not consider the residents proposal for ten (10) sets of boat ramps, seawalls and stairs to be consistent with DPI Fisheries Policy. While DPI Fisheries will not advise their position on a development proposal until it has been formally submitted to them for assessment, Council staff have been advised that the designs proposed by residents do not comply with their policy.

In the case of resident proposed seawall designs for the Wyuna Road foreshore, advice from NSW DPI Fisheries, relating specifically to the structure shown in Figure 3 above is:

“NSW DPI Fisheries will generally not support the use of vertical retaining walls, particularly in cases where options of lesser impact are viable, as would be the case for this location. The design of the existing vertical seawall at the site would not be supported for use along the entire section of foreshore. If a gently sloping rock revetment structure was proposed for the site, any existing seawalls along the foreshore, such as the one that you have described, could potentially be covered / incorporated into the new revetment by constructing the new revetment immediately in front of them.”

A DPI Fisheries officer has visited the site with Council staff and the resident group and confirmed that the principals of the advice above apply.

Council staff have been unsuccessful in negotiating a mutually acceptable proposal from the resident group that also complies with current policies. The resident group has insisted that if they are to fund construction of structures along the foreshore that such structures are to be to their scope and design.

Council staff cannot recommend that the designs being promoted by the resident group be lodged under the EP&A Act Part 5 assessment process, as it is considered that they do not meet with Council and State Government Policy and best practice requirements.

It is acknowledged that Council does not currently have a budget allocation to rehabilitate the foreshore of Lot 108 DP 238224 and implement a comprehensive plan of management that deals with all existing issues. It would however be possible to address the highest priority issues of removing and replacing unsafe structures progressively, if additional funding was allocated to the area.

As such, this report recommends that Council lodges an application for foreshore rehabilitation works at Lot 108 DP 238224 that uses a staged approach to deal with erosion and unsafe structures, and includes a limited number of public access facilities commensurate with its status as community land on a public foreshore reserve.

OPTIONS:

Council could either:

Option 1

1. Submit a Development Application for foreshore rehabilitation works at Lot 108 DP 238224 Terranora Creek based on the Council master plan considered to be consistent with relevant Council and NSW Government Policy.
2. Commit to staged implementation of the master plan in order to resolve the issues of erosion, public access, and the presence of unauthorised or hazardous structures on the public foreshore.
3. Consider the establishment of a cash reserve to accomplish staged implementation of the master plan over five years, prioritising removal and replacement of any dilapidated, dangerous or unauthorised structures in the intertidal foreshore of Lot 108 DP 238224, in the next budget cycle.
4. Serve notice on residents to remove unauthorised items (landscaping, seating, decks) from the park component of Lot 108 DP 238224, and failing their removal within the specified time period, Council removes items. Upon completion of removal of all private items, Council resumes normal maintenance of the reserve consistent with levels of service in equivalent public reserves.

or

Option 2

1. Adopt plans prepared by residents and proceed with the Part 5 approval process based on these plans.
2. If the residents group plans are approved and privately funded structures installed, fund the balance of works required along the foreshore, beyond areas treated with private funds, to resolve the remaining issues of erosion, safe public access, and the presence of unauthorised or hazardous structures on the public foreshore.
3. Determine the appropriate mechanism to provide for ongoing maintenance of privately-built structures on public land noting that this process may set a precedent for other public land in the Shire.
4. Serve notice on residents to remove unauthorised items (landscaping, seating, decks) from the park component of Lot 108 DP 238224, and failing their removal within the specified time period, Council removes items. Upon completion of removal of all private items, Council resumes normal maintenance of the reserve consistent with levels of service in equivalent public reserves.

CONCLUSION:

The existing character of the community land and foreshore in Lot 108 DP 238224 reflects that residents from the south side of Wyuna Road have become the stewards of this public land, undertaking regular routine maintenance such as mowing and debris removal. Over the years, creek bank erosion has led to residents constructing foreshore stabilisation structures and adding individual access facilities such as stairs and boat ramps.

Within the reserve itself, residents have added landscaping, seating and in some cases fittings such as a deck, lighting and water supply. Council and State Government agencies have not

taken action on these matters of unapproved development. The structures that now exist in the reserve and on its foreshore are for the most part unauthorised, poorly designed and built, and in several cases, unsafe.

Council must now determine ongoing management options for Lot 108 DP 238224.

For any works to occur in the reserve foreshore, approval must be sought through the Part 5 process under the EP&A Act, with assessment and determination by NSW Government agencies.

There has been significant attempts by staff to negotiate with members of the Wyuna Road resident group given that the scope and design they have pursued for the foreshore reserve does not comply with relevant Council and NSW Government agency policy. The resident group remains resolute that their proposal for the reserve be adopted, and they be permitted to fund construction of foreshore structures to their desired scope and design.

To finalise this matter it is necessary for Council to confirm the design approach that it wishes to submit for assessment under the planning process.

COUNCIL IMPLICATIONS:

a. Policy:

- Tweed River Domestic Structures Strategy 2008
- *Domestic Waterfront Licences Guidelines*, Department of Industry – Land and Water, May 2018
- *Fisheries Management Act 1994*

b. Budget/Long Term Financial Plan:

No funding is provided for Wyuna Road Reserve master plan in the 2019/20 budget or Long Term Financial Plan. Consideration of the establishment of a cash reserve to accomplish staged implementation of the master plan over five years and the ongoing maintenance funding could be included in the next budget cycle.

If Council were to consider Option 2, a special rate may be levied on such rateable land that in Council's opinion benefits from the works. A special rate provides ongoing funding options should any properties be sold.

The special rate does pose a number of issues:-

- What is the private benefit enjoyed by the residents considering the foreshore is Council community land for the enjoyment of the public?
- Do certain residents enjoy a greater benefit as compared to other residents along the foreshore?
- Are all residents in agreement and/or in a position to pay for a special rate?

Any special rate would also need approval from IPART and the NSW Office of Local Government who may consider the minor nature of the special rate inappropriate.

Under the Local Government Act (Chapter 15 – Part 1 A496B and Part 9) another option may be a 'Coastal protection service charge'. Coastal protection works include any revetment works in tidal waters. The levy allows for ongoing maintenance but not construction. This option may not be achievable because there is no immediate threat to homes from a coastal hazard.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

Council staff met with the resident group on 4 October and 1 November 2018, and 1 February 2019 to discuss a design approach for the area. A meeting was also arranged on site on 28 March 2019 with a NSW Department of Fisheries officer. This allowed the Fisheries officer to hear the resident's concerns and view the site firsthand.

A further workshop with Councillors, Wyuna resident group and staff was held 12 September 2019 to further allow representations by the resident group.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Council master plan for Wyuna Road foreshore reserve Lot 108 DP 238224 (ECM 5914959)

Attachment 2. Resident group plan for Wyuna Road foreshore reserve Lot 108 DP 238224 (ECM 5914963)

REPORTS FROM THE DIRECTOR ENGINEERING

18 [E-CM] Dulguigan Road Heavy Vehicle Route Assessment - Road Manager's Consent

SUBMITTED BY: Roads and Stormwater

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Provider**

SUMMARY OF REPORT:

Council has previously considered two reports and a notice of motion concerning heavy vehicle operation on Dulguigan Road, primarily involved in servicing the Hy-Tec Quarry in North Tumbulgum.

In April 2019 Council considered a Heavy Vehicle Route Assessment (HVRA) report provided by consultants RoadNet and resolved 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.”

Council officers have been working towards implementing the recommendations of the HVRA. This has included industry consultation and a live demonstration of heavy vehicles operating on the road, in order to verify design information.

While permanent improvements to Dulguigan Road will take some time to implement, various road and travel conditions have been identified that reduce the risk of heavy vehicle operation on Dulguigan Road as it is currently configured. In accordance with the legal advice provided to Council in August 2019, Council must consider such road and travel conditions in the assessment of permits referred by the National Heavy Vehicle Regulator.

Council is requested to review whether these road and travel conditions are sufficient in order to reconsider the issuing of road manager's consent for new heavy vehicle permits on Dulguigan Road, and overturn the April 2019 resolution.

RECOMMENDATION:

That Council:

- 1. Continues to pursue permanent road upgrades to Dulguigan Road east of Hy-Tec quarry as identified in this report.**
- 2. Accepts and implements the road and travel conditions on Dulguigan Road as outlined in this report.**
- 3. On the basis of the implemented road and travel conditions, allows the Manager Roads and Stormwater to issue road manager's consent to new permit applications received from the National Heavy Vehicle Regulator for Dulguigan Road, subject to satisfactory assessment.**
- 4. Does not pursue the construction of an alternate heavy vehicle route between North Tumbulgum and Tweed Valley Way as proposed by the Tumbulgum Community Association.**

REPORT:

Background

At the 17 April 2019 meeting Council considered a Heavy Vehicle Route Assessment (HVRA) report prepared by RoadNet Pty Ltd for Dulguigan Road. This report was commissioned by the Roads and Stormwater Unit in response to ongoing community concerns from North Tumbulgum residents and the Tumbulgum Community Association (TCA) regarding the safe passage of heavy vehicles on Dulguigan Road, particularly those associated with the Hy-Tec Quarry.

Council resolved 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.”

At the 16 May 2019 meeting Council resolved the following in response to a Notice of Motion concerning the same matter:

“RESOLVED that Council:

- 1. Provides the ‘Dulguigan Rd Heavy Vehicle Route Assessment Report’ to the existing heavy vehicle permit holders using Dulguigan Road.*
- 2. Invites the existing permit holders to a meeting to discuss safety measures that could be implemented to enable permits to be reissued.*
- 3. Requests the consultant review the Tumbulgum Community Association’s response to the report, as well as the comments from the heavy vehicle operators, and provide a response to the issues raised.*
- 4. Seeks legal advice on Council’s responsibilities and options in regard to the Dulguigan Road Heavy Vehicle Route Assessment Report.*
- 5. Provides a report to Council on the estimated cost of the recommended measures and an estimated time frame for the works.*
- 6. Brings forward a report on a cost estimate for the alternate route proposed by the Tumbulgum Community Association.”*

Following receipt of risk and legal advice in accordance with point 4 above, a report was provided to the 15 August 2019 meeting, where it was resolved that Council:

- 1. Notes and accepts the preliminary risk and legal advice provided by Mills Oakley regarding the Heavy Vehicle Route Assessment for Dulguigan Road.*
- 2. Provides advice to the Tumbulgum Community Association limited to the recommendations of the preliminary risk and legal advice by Mills Oakley regarding the Heavy Vehicle Route Assessment for Dulguigan Road and the commentary provided within this report on those recommendations*

3. *In accordance with the Recommendations made in the Mills Oakley Advice:*
 - a) *Obtains peer review from RoadNet regarding road or travel conditions for Dulguigan Road, which could be imposed to avoid or significantly minimise the risks identified in the Heavy Vehicle Route Assessment based on options prepared by Council's Design Unit.*
 - b) *Requests the consultant to provide further information detailing the maximum length vehicle which can safely negotiate each intersection on the relevant section of Dulguigan Road.*
 - c) *Provides a copy of the Heavy Vehicle Route Assessment for Dulguigan Road to the Heavy Vehicle Regulator."*

The purpose of this report is to update Council on progress made in satisfying the above resolutions. Based on these outcomes, Council is requested to review whether appropriate road and travel conditions can be applied to Dulguigan Road in order to reconsider the issuing of road manager's consent to the National Heavy Vehicle Regulator (NHVR) for new heavy vehicle permits on Dulguigan Road.

Impacts of the April 2019 Resolution

At the time of the resolution, 24 companies held NHVR permits for 56 vehicles to operate on Dulguigan Road between Tumbulgum and the Hy-Tec quarry. These were permits for class 2 Performance-Based Standards (PBS) truck and trailer configurations at Higher Mass Limits (HML). These vehicles are limited to 20m in length and a mass of 57.5 tonnes. Council officers are advised by industry representatives that these PBS trucks are the most economical mode of high-volume haulage for quarry product, due to their capacity and manoeuvrability on tight sites.

The restrictions imposed by the April 2019 Council resolution mean that Council's Manager Roads and Stormwater (at the time of writing) has withheld consent for 6 applications for permits to operate PBS trucks on Dulguigan Road. These have all been permit applications through the NHVR made by existing permit holders (i.e. additional truck purchases, expiry of old permits). For those operators, this means that they are unable to run their PBS trucks at their maximum capacity (HML, 57.5 tonnes). 20m PBS trucks under General Mass Limits (GML) can operate without a permit up to 50.5 tonnes.

While the Heavy Vehicle Route Assessment (HVRA) highlighted risks on Dulguigan Road based on a worst case 19m semi-trailer (operating up to 50 tonnes), these trucks are class 1 general access vehicles, so do not require permits.

It is widely accepted in the freight industry that PBS trucks, despite their additional mass and length, are designed and configured in such a way that their performance is superior to the 19m general access vehicles. This is reflected in the National Heavy Vehicle Law governing their use. Each truck must be certified through the PBS process against a range of infrastructure standards (vertical and horizontal loads, tyre pressures, pavement and bridge loadings) and safety standards (acceleration, tracking, ride quality, swept paths, front and rear swing, handling and braking). Meeting PBS standards adds considerably to the cost of a new truck and trailer combination. They are generally newer than other heavy vehicles on the

roads, and are subject to regular maintenance and inspections schedules to maintain their certification.

So somewhat perversely, the Council resolution has restricted access to the quarry for the more modern, better equipped vehicles, while imposing no restrictions on general access vehicles. It has not resulted in any significant change in the number of heavy vehicles servicing the quarry while the recommendations of the HVRA have been progressed.

As discussed in the August 2019 report, from a liability view the resolution of Council to withhold road manager's consent was a lawful and reasonable reaction to the high risks identified in the HVRA, provided that Council then progresses to respond to the recommendations to address these risks, or until such time as Council is satisfied that road or travel conditions can be imposed to reduce risk to acceptable levels. As outlined below, through a range of actions responding to the multiple Council resolutions, Council officers and the consultant who carried out the HVRA have identified road and travel conditions in order for Council to reconsider its position on the April 2019 resolution.

Responses to Council Resolutions

For clarity and to avoid duplication, many parts of the above Council resolutions can be grouped together as follows:

a) Provision of Information

As required by Council, the HVRA has been provided to all permit holders, and the NHVR. Recommendations from the legal and risk advice and commentary have been provided to the Tumbulgum Community Association. (May Part 1, August Parts 2 and 3c completed).

b) Consult Stakeholders

A meeting was held on 1 October 2019 with several permit holders (all were invited), a representative of Hy-Tec Quarry, the Mayor and Deputy Mayor (Cr Allsop was an apology), Council staff, and the consultant who prepared the HVRA. This was a productive discussion focussed on understanding the capabilities of the PBS fleet on Dulguigan Road, what difficulties operators experience day to day on this route, what measures are already in place to limit risk on the route, and consultation on the proposed solutions.

This meeting led to an on-road demonstration of a PBS vehicle on Dulguigan Road on 9 October 2019. This was attended by Council staff and the consultant, with the truck and driver provided by the local firm Col Moore & Sons. Councillors were invited however none were able to attend. An unladen truck was observed travelling east and west on Dulguigan Road between the quarry and McAuleys Road, with a focus on actual performance at the "high risk" areas, being the entry/exit to the quarry, the Hogans Road intersection, and the curves east of Mayes Hill Road. Observations were taken from the truck cabin, from a vehicle following the truck, and from roadside locations. Footage was taken to record the events.

This exercise was also useful in comparing real life operations to the "desktop" assessments of heavy vehicle performance when making these turning movements. The observed truck was shown to have few if any issues negotiating the route and did not cross the double centrelines. This showed a high level of conservatism in the design program used by Council and the consultant. (May Part 2 completed).

c) *Seek Advice*

Legal advice was sought and has been reported to Council, where it was accepted. (May Part 4 and August Part 1 completed).

Council officers have extended the engagement of RoadNet Pty Ltd to review the TCA and industry submissions and the works carried out by Council's Design Unit in the preparation of plans for road upgrades. RoadNet has provided an addendum to the HVRA providing this further advice (refer attachment). These revised recommendations are discussed in (d) and (e) below.

In the addendum, the consultant discusses the risk levels for the maximum length vehicles that can use the road (19 Semi-trailer and 20m PBS). The proposed widening will also better cater for a 12.5m school bus which currently uses the road. While the bus company has provided advice that their buses do not cross the centrelines when navigating Dulguigan Road, our templates that it is touching the centreline and grass verge at Hogan's Road. Works already undertaken such as the removal of vegetation and the installation of enhanced signage have improved safety for buses. The consultant has confirmed that the proposed upgrades have been reviewed to ensure they also cater for the 12.5m bus. (May Part 3, August Part 3a and 3b completed).

d) *Determine Road and Travel Conditions*

The following road and travel conditions already applied to Dulguigan Road at the time of receipt of the HVRA report:

- 60km/h truck speed limit – imposed with quarry DA approval;
- Double centre line marking – lane delineation.

The following additional road and travel conditions have been implemented since receipt of the HVRA report:

- Vegetation clearing to remove overhanging branches;
- Vegetation removal at the Hogans Road intersection to improve sight distance – remove palm tree, shrubs and overhanging branches;
- Request for speed zone review by Roads and Maritime Services - potential reduction of truck speed limit from 60km/h to 50km/h, other traffic from 100km/h to 80km/h, noting that Council cannot impose speed changes;
- Road signage audit – reviewed by consultant for implementation when resources permit;
- Additional truck warning signage installed (see Figure 1 below):



Figure 1. New truck warning signs.

Council officers are also aware of the following operational requirements imposed by Hy-Tec on all heavy vehicles servicing the quarry:

- Use of common radio channel on entry, loading and exit from the quarry;
- Random audits of driver behaviour on Dulguigan Road;
- GPS tracking and availability of speed and location data, particularly for PBS trucks;
- Truck driver induction processes and tool box talks – Hy-Tec are happy to incorporate any messages from Council to all drivers.

The RoadNet HVRA addendum has included a revised risk assessment based on the actions already taken by Council. All of the “high” risk locations have been now been reduced to “medium” risk. These risks will be further reduced once the following additional road and travel conditions are implemented:

- Selection of a common radio channel for all heavy vehicles using Dulguigan Road, with accompanying signage – to assist drivers identify road hazards (e.g. debris, animals, potholes), oncoming traffic (e.g. school buses, speeding motorcyclists) and other issues;
- Engineering assessment of minor road repairs e.g. maintenance of edge breaks;
- Active reporting of any road or travel related issues from Hy-Tec to Council.

The RoadNet HVRA addendum recommends that Hy-Tec formalise their protocols and the following actions should be required before permits are re-issued:

- Hy-Tec develops a formal protocol for trucks entering and exiting the quarry;
- Hy-Tec develops a formal protocol requiring all truck drivers to use common UHF channel and details of its intended use;
- Hy-Tec develops a formal protocol relating to the daily audits of truck driving behaviour and keep a registers of audits including feedback to drivers

e) *Determine Permanent Road Improvements*

The following road improvements are proposed. These have been developed by Council’s Design Unit, and have been reviewed by the consultant:

Line-marking upgrade at quarry entrance

The line-marking upgrade (Figures 2 and 3) will allow trucks to extend further into Dulguigan Road before entering the through traffic lanes which will provide greater sight distance for truck drivers. Trucks exiting the quarry have more space to turn and will be less likely to cross into the oncoming traffic lane.

The changes remove the designated right turn lane for westbound traffic, however this is appropriate, given that there is 380m approach sight distance for westbound traffic to a vehicle propped to turn right into the quarry and low volumes of eastbound oncoming traffic that would delay a right turn into the quarry (1 vehicle every two minutes in peak hour). This has been reviewed as an acceptable treatment by Council's consultant in these circumstances.



Figure 2. Existing linemarking at quarry entrance

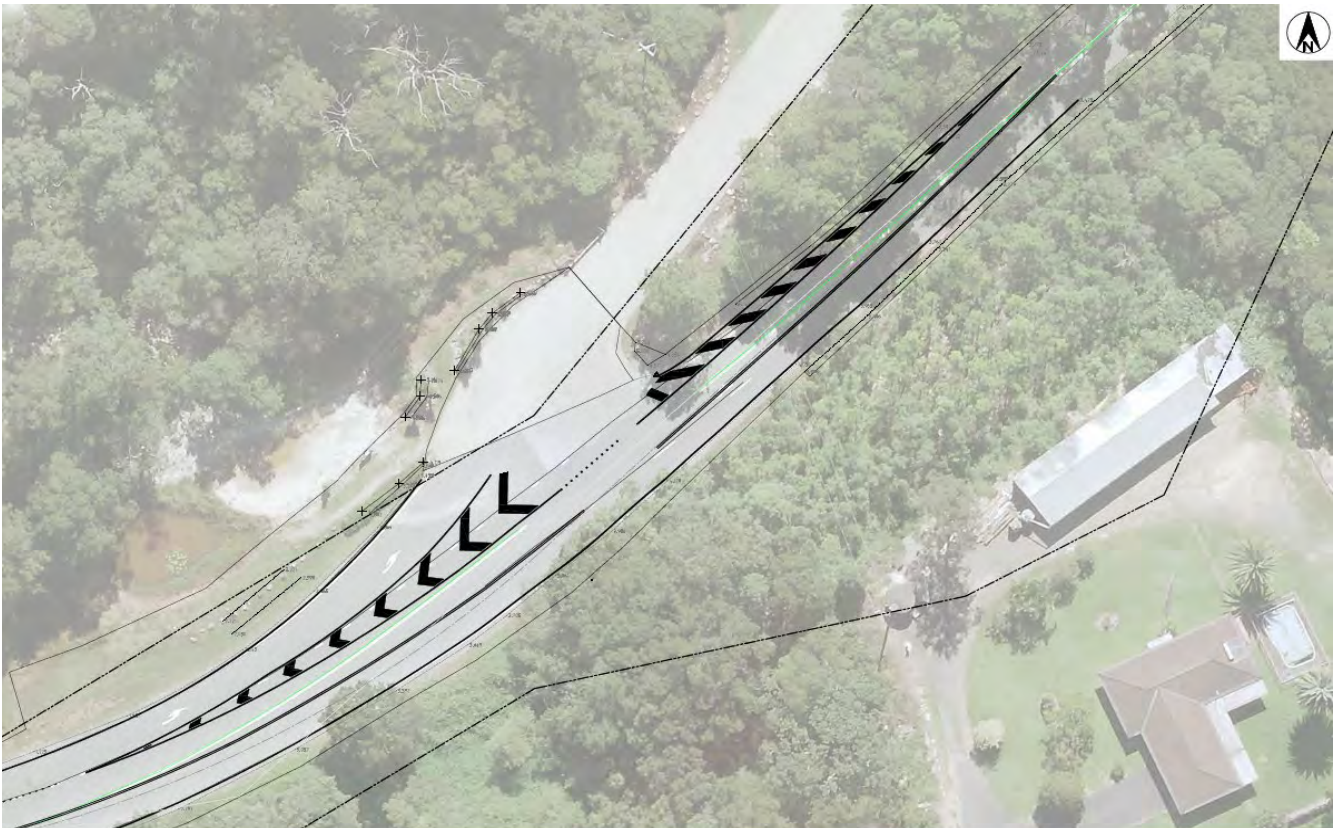


Figure 3. Proposed line-marking upgrade to improve safety at quarry access

Widening of curve at Hogans Road intersection

The widening proposed (Figure 4) will allow 19m semi-trailers and 20m PBS vehicles to navigate the curves without crossing the centrelines or leaving their travel lane. This can be achieved without additional land acquisition.

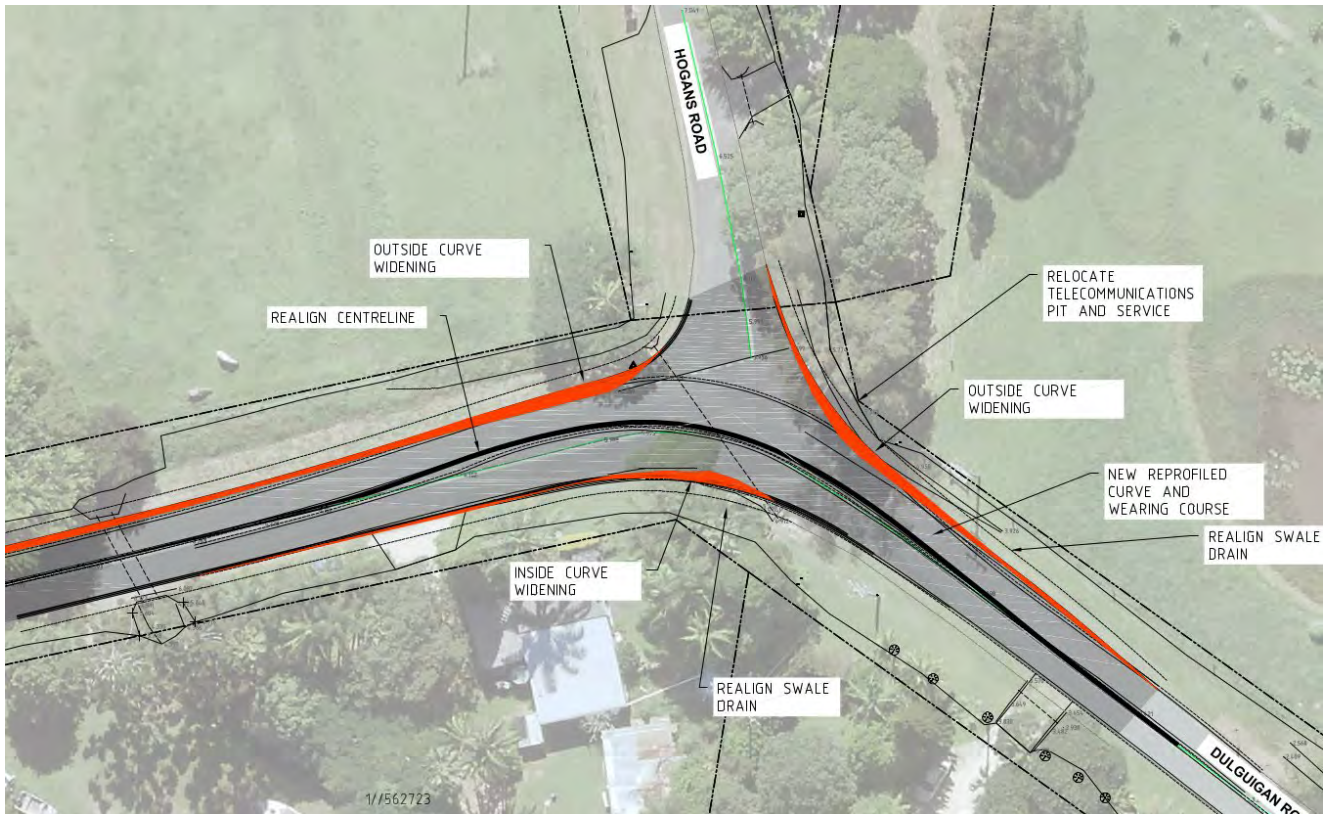


Figure 4. Lane and shoulder widening at Hogans Road

Widening of curves east of Mayes Hill Road

The widening proposed will allow 19m semi-trailers and 20m PBS vehicles to navigate the curves without crossing the centrelines or leaving the travel lane. The proposed concept design (Figure 5) includes up to 1m of widening to provide consistent travel lanes and shoulders. Based on initial design and inspection, these works can generally be contained within the existing road formation, and should not impact on private land or riverbank stability. This will be confirmed through detailed design and environmental assessment, with scope to modify the design, if necessary.

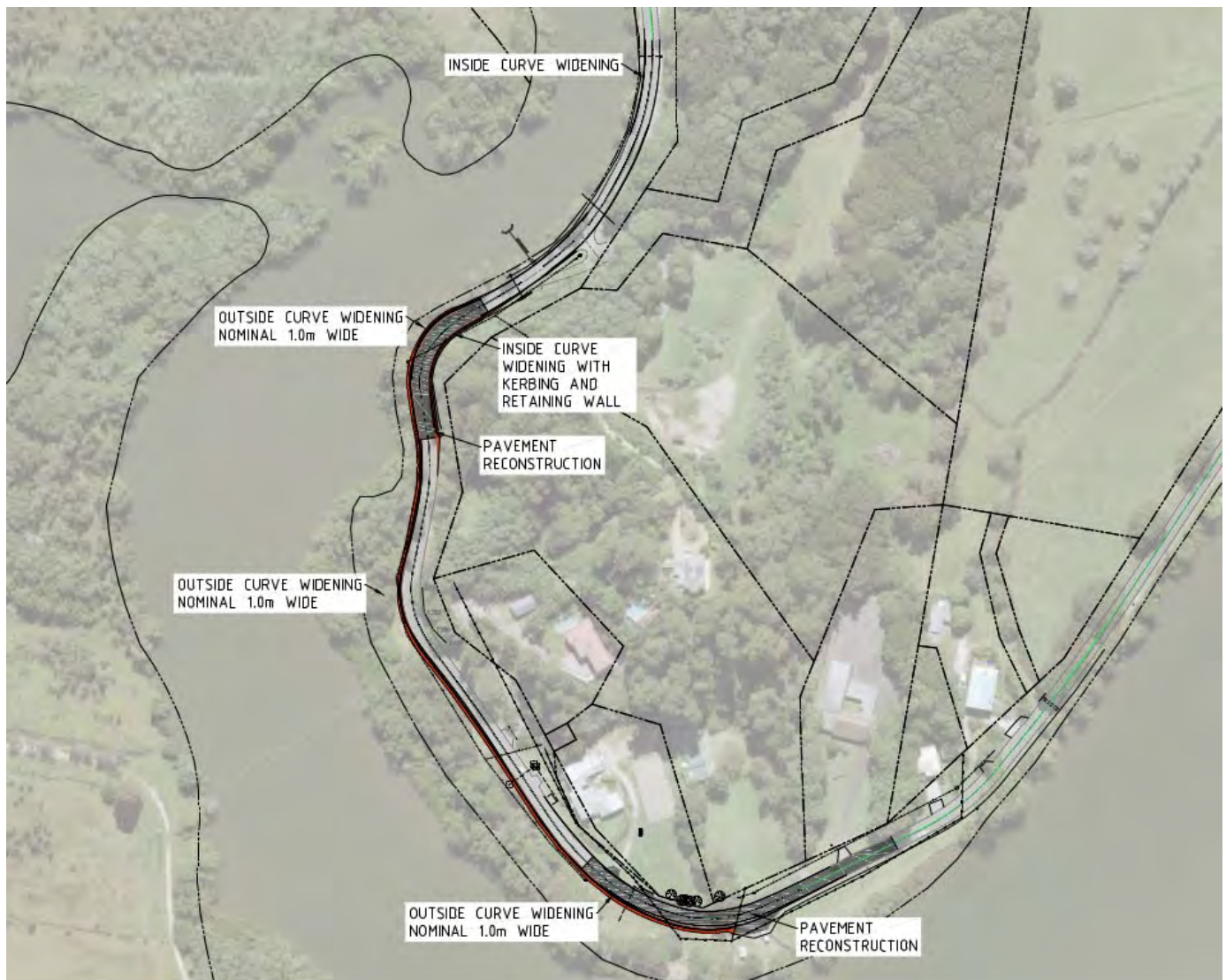


Figure 5. Widening east of Mayes Hill Road.

Estimated costs for the works at the three high risk locations is \$794,000. Funding has been allocated from Roads to Recovery grant funding for implementation of these works in 2019/20.

The works are currently programmed for March - April 2020 (May Part 5 completed)

f) *Determine Alternatives*

As part of their submission regarding the HVRA and its recommendations, the TCA have proposed an alternate route (Figure 6) between the Hy-Tec Quarry and Tumbulgum Road Condong, to divert heavy traffic to/from Tweed Valley Way away from the northern section of Dulguigan Road.

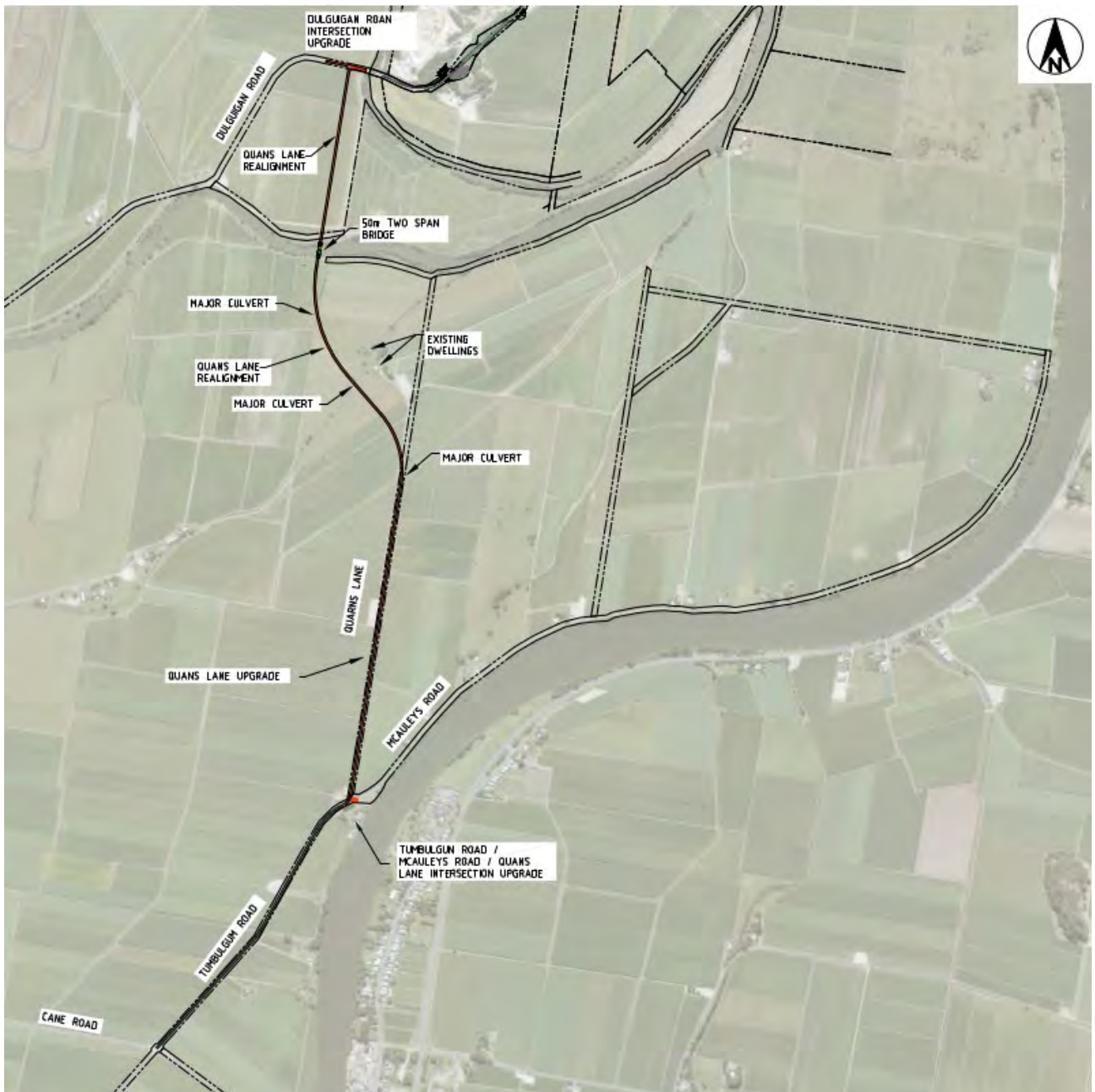


Figure 6. Alternate route to access quarry

Establishing this route requires land acquisition, construction of road pavements, construction of a bridge crossing of the Rous River, several agricultural drain crossings, and intersection works. These works have been estimated based on concept design to cost \$18.7M. A breakdown of the costs is provided in Table 1.

Table 1. Cost Breakdown for alternate route

Direct Costs	
Road construction (including intersections and culverts)	\$3,717,007
Other Works (including land acquisition, alterations to access and services)	\$2,100,000
Bridges	\$4,000,000
Total Direct Costs	\$9,817,007
Indirect costs	
Survey, design, geotech 10%	\$981,700
Environmental 3%	\$294,510
Project Management and supervision 7.5%	\$736,275
Contingency 70%*	\$6,871,905
Total Indirect Costs	\$8,884,392
Total	\$18,701,399

* Contingency based on NSW Roads and Traffic Authority's (now RMS) Project Estimating Manual, consistent with the works program estimating approach adopted by the Tweed Road Contribution Plan. For estimating purposes, this project is considered "high risk" as the route is currently poorly defined, the route impacts on private land, there has been no geotechnical or environmental assessment, and no public consultation on the route.

Aside from the high cost in implementing this alternate option (10 x that of the proposed Dulguigan Road upgrade), there will be adverse impacts on residents of Condong and its northern surrounds, as well as contributing to heavy vehicle volumes on Tweed Valley Way between Condong and Tumbulgum. While there would be benefits to North Tumbulgum and Tumbulgum village, it is at the expense of other residents. The road may also impact on rural landholders, however no consultation on the proposal has occurred.

It is recommended that Council takes no further action on the alternate heavy vehicle route proposal, and communicates same to the TCA. (May Part 6 completed).

OPTIONS:

Option 1 – accept the proposed road and travel conditions and resolve to support the issuing of road manager's consent for NHVR permit applications on Dulguigan Road, subject to completion of proposed works on the identified high risk areas. This overrides the April 2019 resolution. Council officers continue to develop and implement permanent risk reduction measures on Dulguigan Road as identified in this report.

Option 2 – continue to withhold road manager's consent for NHVR permit applications on Dulguigan Road, in accordance with the April 2019 resolution, on the basis that the proposed

road and travel conditions fail to adequately address risks identified in the Heavy Vehicle Route Assessment. Council officers continue to develop and implement permanent risk reduction measures on Dulguigan Road as identified in this report, and support new permits on satisfactory completion of the works.

Option 1 is the recommendation of this report.

Option 2 maintains the current arrangements concerning NHVR permits on Dulguigan Road, It will result in additional permits expiring prior to completion of the permanent works on Dulguigan Road. These operators will be required to use alternate general access vehicles, or operate their PBS vehicles at a limit of 50.5 tonnes. Based on industry consultation, this will result in adverse financial impacts on these operators.

CONCLUSION:

Since Council first considered the Dulguigan Road Heavy Vehicle Route Assessment in April 2019 and imposed restrictions on NHVR permits, various road and travel conditions have been identified in consultation with the industry in order to reduce risk until such time as permanent road improvements can be implemented. Council officers and the consultant recommend the April 2019 resolution be reconsidered in light of the nominated road and travel conditions.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Break down of costs to date

Vegetation maintenance	\$55,000
Truck warning and advisory signage	\$1,000
Survey and concept designs	\$10,000
Total	\$66,000

Breakdown of proposed works

New advisory signage	\$9,000
Curve widening at Hogans Road	\$300,000
Curve widening east of Mayes Hill Road	\$480,000
Line-marking changes at quarry access	\$5,000

Total cost **\$794,000**

Up to \$1,000,000 of 2019/2020 Roads to Recovery grant money has been allocated to the Dulguigan Road safety upgrades.

c. Legal:

Legal advice was discussed in the August 2019 report.

d. Communication/Engagement:

19 [E-CM] 5859 Tweed Valley Way - On Site Sewage Management

SUBMITTED BY: Director Engineering

mhm



Leaving a Legacy
Looking out for future generations

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

SUMMARY OF REPORT:

At its meeting of 7 November 2019, Council resolved the following in respect of this matter:

“RESOLVED that:

1. *This item be deferred for further information from the owners of Lot B DP 419641 in the form of the report they have commissioned.*
2. *ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.”*

Further to this resolution, on 20 November 2019, Council received a report prepared on behalf of the owners of the subject site by the consulting firm HMC Environmental Consulting Pty Ltd. A copy of this report is provided in Attachment 2.

The Conclusion of the HMC report states:

“Suitable effluent disposal area is limited to approximately 65m² on the site and this assumes prior clearing of the large mature trees. This is significantly less than the required 135m² area HMC recommends should be provided as a minimum for effluent disposal to minimise risk.

Based on the above information, it is my professional opinion that on-site sewage management to achieve protection of public health and the environment is not feasible within the property boundary.

I strongly recommend that the property be connected to the Council's reticulated sewerage scheme to enable the occupancy of the existing dwelling to remain legal and safe in the long term."

Council's Environmental Health officers have reviewed the HMC report and made the following comments:

"The reporting standards, soil investigation and sustainability modelling appear to be consistent with the performance objectives, requirements and criteria of Australian Standard AS1547/2012 'On-site domestic wastewater management'.

HMC identify that land for a suitable effluent disposal area within the property boundary is limited (inadequate) and connection to Council sewer is recommended.

A possible option that may be suitable for on-site sewage management would be to create an 88b "restriction on use". The 88b would need to specify that an adequate and suitable land area within the proposed buffer around the Chapman property be set aside for the disposal of treated domestic onsite sewage effluent. This option would need the consent of the owner of the surrounding property."

As a broader response, the additional report prepared by HMC on behalf of the owners is considered to be generally consistent in terms of the previous concerns raised by the officers regarding the lack of sufficient and suitable site conditions to accommodate an on site sewerage management system, particularly on the basis of the property's connection to Council's water supply.

For the reasons outlined in the original report, Council officers do not support the alternative option recommended by HMC, to connect the site to Council's reticulated sewerage scheme, as it will likely require Council to use its powers under s59A of the Local Government Act, which is not considered reasonable in this instance.

ORIGINAL REPORT:

The owners of Lot B DP 419641 (5859 Tweed Valley Way) have been in discussions with Council for several years in an attempt to resolve the land tenure issues associated with their On Site Sewage Management system (OSSM). The transpiration trenches for the OSSM are located on the adjoining property and the lot has various constraints which limit the viability of on-site treatment.

This report sets out a number of options and the implications of the same. The report also includes legal advice which articulates previously unknown powers of Council's to construct water supply and sewerage systems on private property without compensation for the benefit of another party.

This report cautions Council on the use of this power and suggests various options in an attempt to rectify the issue.

RECOMMENDATION:

That:

- 1. Council at this point in time takes no action in regards to the water connection and On-Site Sewage Management system of Lot B DP 419641 and waits for the development approval process to proceed on the adjoining land Lot 7 DP 593200 which will provide an opportunity for the land tenure issues to be resolved.**

- 2. ATTACHMENT 3 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.**

REPORT:

Lot B DP 419641 (5859 Tweed Valley Way) was created in 1960 over an existing farm house on a large rural property adjoining Mooball village. The property is approximately 719m² in size and has access to the road network via two rights of way which exist over lot 7 DP 593200 and lot 1 DP 231846. The property was not considered for connection to the Burringbar Mooball Sewerage Scheme as it sits outside the village zoning. The scheme was completed in 2008. The property is connected to the Tweed District water supply via a rural connection and private service over the adjoining property, Lot 7 DP 593200.

The previous owners of the house and property, in all probability, would have had an OSSM operating since the 1950s with the transpiration trenches located in the same position as they are today. The below aerial map illustrates the subject property, Lot B, in blue and its proximity to Tweed Valley Way, the sewerage system (dotted red line) and water supply system (light Blue line) of Council. The dark blue line is the private water service traversing Lot 7.



within the Chapman's property. This option is described by the author as the best practical option (other than connection to the sewerage system).

It is considered the report does not adequately demonstrate the construction of effluent disposal beds within the property boundaries will provide an acceptable level of environmental impact for the development when assessed in accordance with AS 1547/2012 and NSW Environment and Health Protection Guidelines "On-site Sewage Management for Single Households". In addition the loss of land within the property boundaries for recreational amenity of occupants has not been addressed in the report.

Other solutions which have subsequently been explored include the purchase of the property (Lot B) by the adjoining owners (Lot 7), and the negotiation of an easement by the owners of Lot B over Lot 7 to allow them to construct and operate a pipeline connected to Council's sewerage system. The advice received to date indicates that the negotiations have not resulted in a suitable outcome.

More recently a request was received from Cr Cherry for officers to explore Council's powers under s59A of the Local Government Act 1993. The officer's advice prior had been:

1. That the development application of the adjoining land would need to address the access, water pipe, and effluent area of the owners land.
2. If consent for the adjoining development was forthcoming, it is likely there would be conditions imposed, for the perpetual tenure of access, water and effluent to be satisfied prior to release of the subdivision certificate.
3. Council as the Local Water Utility does not have the power to extend the sewerage or water supply systems to service Lot B without the owners of lot 7 granting an easement. Council's powers of Compulsory Acquisition would not provide the ability to extend the public sewerage system.

Legal advice was therefore sought on Council's powers under s59A of the Local Government Act 1993 and was subsequently provided by Lindsay Taylor Lawyers on 28 August 2019. See Confidential Attachment 2. In summary the advice is contrary to that of the officers and concludes that Council does have the power to extend the sewer system to service Lot B across Lot 7 without agreement and compensation or the need to create an easement. Council officers are not aware of instances of this part of the act being used in the circumstances that exist in this situation and Lindsay Taylor Lawyers have advised the same.

The powers provided by the Act are understandable for situations where there is broader public benefit from the construction of a pipe across a person's land however in this instance there is no public benefit only the benefit of a single party. It is the officer's view that the use of the Act in this situation is not reasonable and would set an undesirable precedent that could have unknown and unpredictable consequences in other dealings Council may have in the future. For further reference the Department of Local Government Circular 06-01 dated 4 January 2006 is provided as Attachment 1 and within this the use of Council's powers under the Act are cautioned.

The secondary issue for the owners of Lot B is that their private water supply service line is located on Lot 7 without any form of land tenure. This service line is not unlike many across the Shire which are historic in nature, exist opportunistically in rural areas and are there at the

sole discretion of the land owner on which land they traverse. Given the nature of these connections Council is unable to provide the full level of service which exists in urban areas of the Shire in terms of flow, pressure and fire-fighting. The use of the Act in this situation not only raises issues around not providing broader public benefit it also sets a precedent for many other private lines such as this that exist around the Shire and the potential for Council to extend the public system across private land to service them.

OPTIONS:

The following sets out the various options available to Council.

1. That Council requires the owners of Lot B DP 419641 (5859 Tweed Valley Way) to pursue an On Site Sewage Management System contained wholly within the property which will include removal of trees and vegetation or a reduction in the tree canopy, and disconnection from the Tweed District Water supply.

Discussion

There are a number of new and emerging technologies which could be utilised to improve the treatment and disposal of wastewater from the site. Disconnection from the Council water supply would significantly reduce the load on the OSSM and therefore improve the reliability of the disposal system. Removal of trees along the Northern boundary of the property and / or a reduction of the tree canopy would also greatly enhance the performance of the disposal system.

There is a risk of failure with this system as it would require a greater level of management and attention to ongoing maintenance given the smaller lot size.

The cost to the owner of this system is estimated at \$40,000 including a consultant report, system design and installation, vegetation removal, and the installation of water tanks and associated plumbing.

Council costs for OSSM approvals and water disconnection would be borne by the owner.

2. That Council requires the owners of Lot B DP 419641 (5859 Tweed Valley Way) to pursue an On Site Sewage Management System contained wholly within the property which will include removal of trees and vegetation or a reduction in the tree canopy.

Discussion

As per option 1 however as the property would still be connected to the District Water Supply the reliability of the disposal system would not be as good. The private water service would still be located on the Lot 7 and therefore could only remain at the discretion of that owner. There are many such instances of this across the Shire.

There is an increased risk of failure with this system as it would require a greater level of management and attention to ongoing maintenance given the smaller lot size and there is a risk that the owner of Lot 7 could unilaterally decide to require the private water service to be removed.

The cost to the owner of this system is estimated at \$25,000 including a consultant report, system design and installation, and vegetation removal.

Council costs for OSSM approvals would be borne by the owner.

3. That in the following order:
 - A. Council requests the owners of Lot B DP 419641 to formally request connection at their property boundary to Council's sewerage system on the basis that they pay all associated costs of the connection.
 - B. Council signals its intention to the owners to use its powers under section 59A and section 191A of the Local Government Act 1993 to extend the sewerage system across Lot 7 DP 593200 to service Lot B DP 419641 (5859 Tweed Valley Way).
 - C. Council negotiates with the owners of Lot 7 DP 593200 to extend the sewerage system across their land to service Lot B DP 419641 on the basis that, notwithstanding the provisions of s59A and s191A of the Local Government Act the Council intends to create an easement over their land and compensate them for the easement and pipeline, and that if requested Council is prepared to provide them with a connection point for their property.
 - D. If the owners of Lot 7 DP 593200 are not willing to negotiate then a report will be prepared for Council to consider its use or otherwise of s59A and s191A of the Local Government Act.
 - E. If the owners of Lot 7 DP 593200 reach a negotiated agreement with the Council then a report be prepared to Council recommending the adoption of the agreement and extension of the Burringbar Mooball Sewerage Scheme.

Discussion

The powers provided to Council under s59A and s191A would allow extension of the sewer across Lot 7 DP 593200 to service Lot B DP 419641 without agreement and compensation to the owner. This power has not been used by Council previously and whilst the legal advice considers it to be "within" Council's powers and "appropriate" it is the officer's view that as there is one party that would benefit from the extension at the detriment of another then it is not a reasonable use. The Officers of Council and Lindsay Taylor Lawyers are not aware of the Act being used in a situation such as this.

As it is located outside of the village zone the pump station servicing the property would be the responsibility of the owner to maintain. This is the position of Council on all other similar low pressure pump systems. Those pump stations within the village zone are maintained by Council.

This solution provides the lowest risk of system failure.

Council direct costs including pipeline and s64 headworks would range between \$10,700 and \$15,000 depending on the route selected. The cost to the owner including Council costs is estimated between \$31,500 and \$36,000 depending on the selected option. This includes s64 headworks, pump station, pipeline, decommissioning of septic and other associated works. The unknown costs at this point is the cost of compensation and creation of an easement over Lot 7, which will also need to be met by the owner of Lot B DP 419641.

4. That in the following order:
 - A. Council requests the owners of Lot B DP 419641 to formally request connection at their property boundary to Councils sewerage and water supply system on the basis that they pay all associated costs of the connections.
 - B. Council signals its intention to the owners to use its powers under section 59A and section 191A of the Local government Act 1993 to extend the sewerage and water supply system across Lot 7 DP 593200 to service Lot B DP 419641 (5859 Tweed Valley Way).
 - C. Council negotiates with the owners of Lot 7 DP 593200 to extend the sewerage and water supply system across their land to service Lot B DP 419641 on the basis that, notwithstanding the provisions of s59A and S191A of the Local Government Act the Council intends to create an easement over their land and compensate them for the easement and pipeline, and that if requested Council is prepared to provide them with connection points for their property.
 - D. If the owners of Lot 7 DP 593200 are not willing to negotiate then a report will be prepared for Council to consider it's use or otherwise of s59A and s191A of the Local Government Act.
 - E. If the owners of Lot 7 DP 593200 reach a negotiated agreement with the Council then a report be prepared to Council recommending the adoption of the agreement and extension of the Burringbar Mooball Sewerage Scheme and Tweed District Water Supply.

Discussion

The option is the same as Option 3 but with the connection to the water supply extended to the property boundary. As previously stated there are many such instances of these opportunistic connections in the shire and they exist at the discretion of the land owner on whose property the pipeline traverses. The extension of the water supply to the property boundary would set a precedent for all such connections and a maintenance and service liability for Council.

This solution provides the lowest risk of system failure.

Council direct costs including pipeline and s64 headworks would range between \$12,000 and \$17,500 depending on the route selected. The cost to the owner including Council costs is estimated between \$33,000 and \$40,000 depending on the selected option. This includes s64 headworks, pump station, pipeline, decommissioning of septic and other associated works. The unknown costs at this point is the cost of compensation and creation of an easement over Lot 7, which will also need to be met by the owner of Lot B DP 419641.

The plan below is a schematic of the connection options.



5. That Council at this point in time takes no action in regards to the water connection and On-Site Sewage Management System of Lot B DP 419641 and waits for the development approval process to proceed on the adjoining land Lot 7 DP 593200 which will provide an opportunity for the land tenure issues to be resolved.

Discussion

The water supply connection and OSSM have been in existence for several decades in their current form. Whilst the owners of Lot B are anxious to have the land tenure issue resolved the owners of Lot 7 have not indicated that they are planning on taking action for the removal of either service. The next available opportunity for the issues to be resolved would be at the time of approval of the development application of Lot 7 whereby it would be likely that a condition would be imposed that the development application of the adjoining land would need to address the access, water pipe, and effluent area of the owners of Lot B. If consent was forthcoming, it is likely there would be conditions imposed, for the perpetual tenure of access, water and effluent to be satisfied prior to release of the subdivision certificate.

This option is relatively low risk however if the owners of Lot 7 demand rectification of the encroachment then alternative action would be required.

There is nil cost to Council and the property owners of Lot B apart from ongoing maintenance of the OSSM.

CONCLUSION:

Option 5 above, which allows the existing status quo to remain, is preferred. There is some risk that the owners of Lot 7 will require rectification of the encroachment at which point the preferred option of officers would be Option 1 which requires the disconnection from Council's

water supply and the design and installation of a suitable OSSM by the owners of Lot B. Options 3 and 4 require Council utilising its powers under Section 59A and 191A of the Local Government Act and in this instance it is not considered reasonable.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The costs associated with the various options are detailed above. It is envisaged that there would be no additional costs to Council under any of the proposed options.

c. Legal:

Yes, legal advice is attached.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Department of Local Government Circular to Councils No. 06-01 dated 4 January 2006 (ECM6109225).

Attachment 2. HMC Environmental Consulting Pty Ltd - Sewage Management Report dated 20 November 2019 (ECM6147652)

(Confidential) Attachment 3. Letter dated 26 August 2019 from Lindsay Taylor Lawyers (ECM6099776).

20 [E-CM] Northern Rivers Rail Trail (Tweed) - Tender Procurement and NSW Government Funding Deed

SUBMITTED BY: Development Engineering

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Provider

SUMMARY OF REPORT:

This report seeks Council's approval for the General Manager to execute a funding agreement (deed) between Tweed Shire Council and the NSW Government when received, and once concluded, to recommence the procurement processes for the rail trail project, utilising the short list of companies previously accepted by Council on 7 March 2019.

The NSW Department of Premier and Cabinet has advised that a grant funding agreement for the \$6.518 million reserved under the NSW Regional Tourism Infrastructure Fund, as announced by the Hon. Adam Marshall MP in August 2017, is being finalised and offered to Council in December.

The absence of a funding agreement to-date has prevented the assessment and award of a contract to a design and construction company and as such has been the cause of significant project delay. Execution of a funding agreement will allow the procurement processes to recommence and will assist with minimising further project cost escalation and inefficiencies.

Council has consistently demonstrated its support for the rail trail project through affirmative resolutions at each critical stage and this most recent news presents a significant opportunity to progress the rail trail into the next critical stage of detailed design and evaluation, ahead of its construction.

RECOMMENDATION:

That:

- 1. The General Manager be authorised to execute under the Common Seal of Council a funding agreement between the Council and NSW Government for the \$6.518 million grant funding reserved under the NSW Regional Tourism Infrastructure Fund and any additional rail trail project funding the State Government may offer in response to additional project funding requests made by the Council project staff.**
- 2. Following execution of a funding agreement, the General Manager is to recommence the project procurement processes with the Council's shortlist of companies, as detailed in the Council resolution of 7 March 2019.**

REPORT:

The Business Paper to the Council Meeting of 7 March 2019 included a report detailing the first of three planned phases in the procurement process for the rail trail project, comprising an Expression of Interest (EOI) for Design and Construction (“D&C”) Contractors with suitable qualifications, experience and the capability to deliver both the detailed design and construction of the rail trail.

Following a comprehensive appraisal process of the twelve tendering companies the Report recommended a short-listing of 4 companies to go forward into the phase 2 Early Tenderer Involvement (ETI) process which is the step prior to phase 3 - the invitation to submit a tender for the project D&C contract. Two further companies were recommended to be held in reserve.

While Council ultimately resolved to accept the Officers’ recommendation regarding the shortlisted companies, the Council amended the recommended resolutions to include a further resolution that had the effect of the phase 2 procurement process (ETI) being held in abeyance until a funding agreement (deed) had been executed:

- 3. The ETI process is to be held in abeyance until a Funding Deed between the NSW State Government and Tweed Shire Council is formally executed and a further report be reported to Council.*

This report seeks the delegation of the Council to the General Manager of the authority to execute a funding agreement between Tweed Shire Council and the NSW Government when it is received and provided it is for the full committed amount of not less than \$6.518 million. The phrase “not less than” is used to indicate that the funding agreement may be for a higher value, as the Project Manager has sought additional project funding from the NSW Government to offset delay costs, which are currently being assessed by the relevant government agency.

On the information above, this report therefore seeks to vary the terms of the Council’s earlier resolution. The rationale for doing so is that the rail trail project has been consistently supported by the Council at every critical stage: inception, Federal funding acceptance, shortlisting of the design/construction companies, acceptance of the statutory Crown land manager appointment, engagement with adjoining landowners and the like. Authorising the General Manager to execute the funding agreement and allowing the project team to recommence the procurement process with the shortlisted companies is consistent with Council’s level of support for the rail trail.

Notably, while every effort has been made by Council to abide by the commitment to deliver the project by June 2020, events have arisen beyond the Council’s control that have brought about significant delay. Countering that impact, the project staff have been in vigorous consultation with the Government’s various agencies, Council’s rail trail project committee and key NSW State parliamentarians for almost 12 months during which the project has periodically teetered on the brink of being written-off. This persistence has not gone unrewarded, and now progress is being made.

The NSW Government through the Department of Premier and Cabinet (DPC) has provided advice that a funding agreement will be offered to Council in December 2019, and have advised further that model legislation is being finalised for introduction to the first sitting of Parliament in February 2020. Meanwhile, discussions between the DPC and AusIndustry

(Australian Government's grant funding administrator) have been occurring around the surety of the Federal grant funding, with the DPC advising that the funding is secure for the project.

It is expected the NSW funding agreement will have a progressive payment schedule with the Transport Administration (Amendment) Bill 2020 being a key milestone. This will enable the next 2 phases of procurement to recommence and these are expected to take approximately 12 to 16 weeks to complete, depending on the Council's level of involvement or acceptance of the recommended preferred tenderer (comprising final design, price and delivery timeframe), which will be reported at the end of that process for endorsement. With the extended duration of the procurement process chosen for this project it is highly likely that Parliament will consider the Amendment Bill prior to Council considering the award of a contract to the successful tenderer, which will have the benefit of removing the need for an otherwise more complex/sophisticated contract.

In addition to this advice, the DPC has also confirmed that the future maintenance funding will be redirected from the railway corridor's lease and licence revenue to Council along with the existing railway corridor maintenance budget presently used to pay the Government's contractor, John Holland Group. This affirms the financial surety needed regarding the long-term maintenance of the corridor.

More broadly, expediting the recommencement of the procurement process for the rail trail project is considered highly desirable because:

- The extended period of delay that has been incurred to-date and which has the potential to continue should these opportunities not be taken is likely to erode the value of the funding received as construction, design and labour costs increase over time.
- Receiving a funding agreement in December without the General Manager's authority to execute it would effectively negate the benefit of receiving it at that time, particularly given the February timeframe for the first meeting of Council in 2020. Delaying execution of the funding agreement and recommencement of the procurement process would add a further substantial delay to the project with no foreseeable benefit. Given Council's continuous support for the rail trail project, its acceptance and ongoing capital expenditure of the Federal grant funding, there is no apparent reason for incurring further delay through deferral of these matters.
- Delay in project delivery is impacting the cost of the project overall, increasing project management costs and exposing the project to higher construction costs and hence increasing the likelihood of needing to make cost savings in the design. This could impact the way in which Council addresses the adjoining landowner concerns through the design with an effective smaller budget potentially leading to an 'adequate' design impact response over a 'preferred' one, on a case by case basis. The project team will continue to lobby for the recovery of any 'lost' costs to offset rising construction costs over time however this is not guaranteed and further emphasises the desirability of expediting the project procurement at the earliest time.
- Presently, the project staff are unable to answer many of the concerns raised by the adjoining landowners surrounding the final design and consequently it is impossible for either party to fully comprehend what the impact or benefits might be.

- Similarly to the above, there are specific, individual design requests or necessities that can be incorporated into the final design, but the quality and extent of which is impossible to quantify without a proper baseline costing of the ultimate trail design.
- In parallel with those landowner matters above it is important also to acknowledge that the duration of uncertainty surrounding the design and timing of the project is having an adverse impact on the wellbeing of those landowners adjoining the railway corridor and is a point of great frustration with the wider public, irrespective of their personal views about the project one way or other because there is an overwhelming desire for finality.
- The project was scheduled to commence construction works in March 2019 and on the current trajectory ongoing delay has added about 14 months to this deadline, however the key delay items (funding agreement, procurement and legislative amendment) are now clearly within sight and the opportunities available, if taken, would assist to minimise further lost time and cost inefficiencies. Executing the NSW funding agreement in December to parallel the Federal funding agreement (executed in March 2018) and recommencing the procurement process presents significant time savings compared to waiting for the legislative amendment in February or simply deferring matters until the Council reconvenes in February.

Given the current situation and Council's ongoing support to deliver the rail trail project the best way of eliminating further unnecessary costs and delay is to allow the project to move into the next stage of delivery, which is long overdue, and to accept the funding agreement and recommence the procurement process so that the rail trail design options can be tabled, vetted and priced.

OPTIONS:

- Option 1 Resolve to delegate to the General Manager the execution of a funding agreement between Tweed Shire Council and the NSW Government for the full amount of the committed NSW funding and recommence the procurement processes.
- Option 2 Defer consideration of the matter to a later time and nominate the time. This reflects the situation whereby resolving to take one action without the other has the effect of taking no action at all, as it will not allow the project to progress. It will further add to the delay in the delivery of the project and add to the ultimate cost of delivering the project.

CONCLUSION:

As highlighted within the report, the project has experienced substantial delay, has incurred unnecessary costs, has been near the brink of failure and is the cause of much personal concern and anxiety among certain members of the community. It is also a point of frustration for a seemingly growing sector of the community who want the rail trail delivered either because they are eager to use the trail or there is a local / related business opportunity.

A pattern of Council support for the rail trail is abundantly evident and whilst there are some matters of contention surrounding the project these largely relate to the on/off formation

design and the location of the trail surface. These matters will best be explored and supported with a detailed options study by the shortlisted prospective tenderers.

It is recommended that the Council responds to the presenting opportunities by resolving as recommended by the project staff.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy not applicable

b. Budget/Long Term Financial Plan:

The cost of providing and operating the rail trail has been examined using various scenarios, as reported to Council in June 2019, and this has not foreshadowed an impact on Council's long-term financial plan.

c. Legal:

Not applicable.

d. Communication/Engagement:

Further detailed engagement with project stakeholders and the community in general is not possible until the funding agreement, as a pre-requisite for the procurement phase for a D&C contract, can proceed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

21 [E-CM] Classification of Land - 45 Wardrop Street, South Murwillumbah

SUBMITTED BY: Design

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Leader

SUMMARY OF REPORT:

On 20 June 2019, Council resolved to purchase Lots 6-10 Section 12 DP 2974, 45 Wardrop Street, South Murwillumbah.

The resolution was made in consideration of the then draft Interim Policy for High Flood Hazard Areas, a proposal limiting further residential development in high hazard flood areas.

Settlement of the purchase occurred on 3 October 2019, the transfer of the land was finalised on 8 October 2019.

Section 31 of the *Local Government Act 1993* requires Council to classify all land held by it.

Prior to resolving to classify the land, Council must publish a notice of its intention to classify the land in a locally circulated publication. Such notice was published in the Tweed Link on 22 October 2019, with no submissions received in response.

It is recommended that Council approve the classification of the subject land as "Operational Land" in accordance with its obligations under the *Local Government Act 1993*.

RECOMMENDATION:

That Council:

1. In accordance with Section 31 of the *Local Government Act 1993*, classifies Lots 6-10 Section 12 DP 2974, 45 Wardrop Street, South Murwillumbah, as "Operational Land".
2. Authorises the General Manager to surrender DA15/0627.

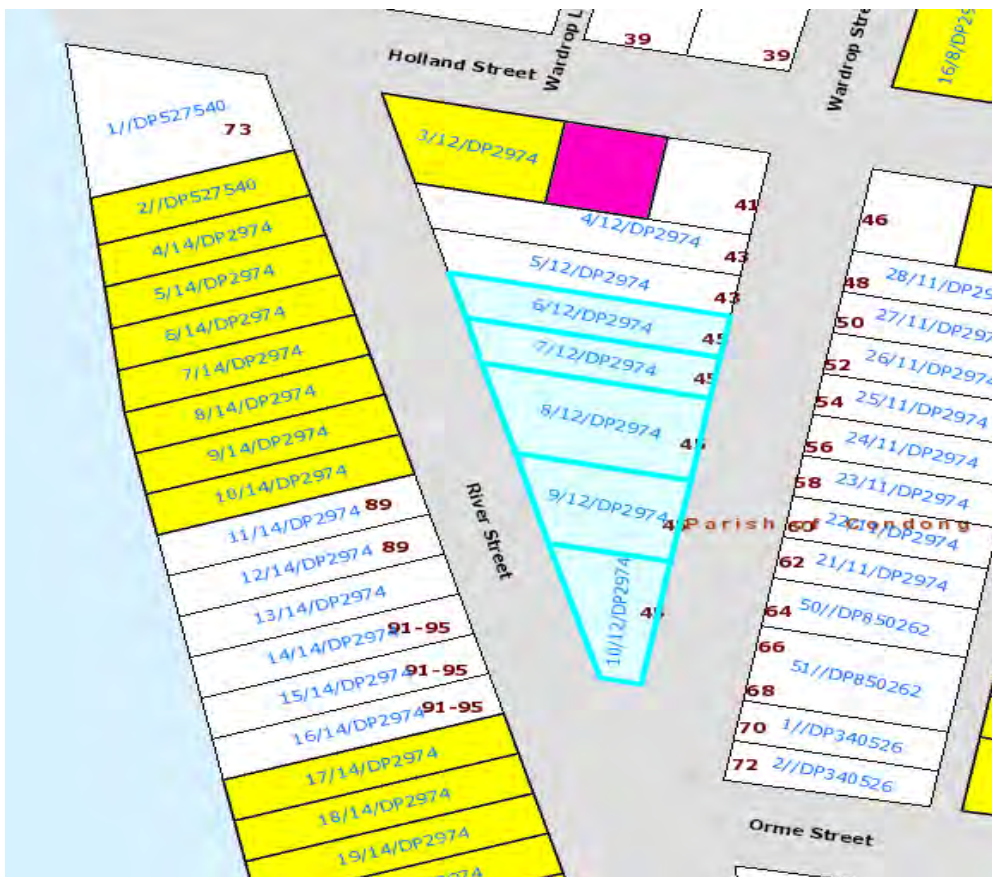
REPORT:

On 20 June 2019, Council resolved to purchase Lots 6-10 Section 12 DP 2974, 45 Wardrop Street, South Murwillumbah.

The resolution was made in consideration of the then draft Interim Policy for High Flood Hazard Areas, a proposal limiting further residential development in high hazard flood areas.

Diagram 1 below shows the location of the property.

Diagram 1 – 45 Wardrop Street, South Murwillumbah



Settlement of the purchase occurred on 3 October 2019, the transfer of the land was finalised on 8 October 2019.

Section 31 of the *Local Government Act 1993* (LG Act), requires Council to classify all land held by it within three (3) months of the date of transfer to Council. Failure to classify land intended to be classified as "Operational Land" will result in the land being automatically classified as "Community Land", and will limit the use of the land pursuant to Section 35 of the LG Act.

It is intended to classify 45 Wardrop Street, South Murwillumbah, as "Operational Land" to reflect the operational nature of the land and to enable its use for operational purposes associated with the High Flood Hazard Areas.

Prior to resolving to classify the land, Council must publish a notice of its intention to classify the land in a locally circulated publication. Such notice was published in the Tweed Link on

22 October 2019, with a submission period of 4 weeks. This period expired on 19 November 2019. No submissions were received.

OPTIONS:

As the classification of land is a statutory obligation under Section 31 of the LG Act, there are no alternative options available regarding this matter. The property is to be utilised for operational purposes associated with the High Flood Hazard Area, and as such, is required to be classified as "Operational Land".

CONCLUSION:

Council is required to classify all land held by it pursuant to Section 31 of the LG Act. The intention of this report is to satisfy that statutory obligation.

It is recommended that Council approves the classification of 45 Wardrop Street, South Murwillumbah, as "Operational Land" and surrenders Development Consent DA15/0627.

COUNCIL IMPLICATIONS:

a. Policy:

Classification of Land pursuant to Section 31 of the LG Act.

b. Budget/Long Term Financial Plan:

No future budget implications arise from this report.

c. Legal:

Section 31 of the LG Act sets out the statutory requirement to classify land as "Operational Land".

d. Communication/Engagement:

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

Advertised in the Tweed Link on 22 October 2019 seeking written submissions from the public.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

22 [E-CM] RFO2019158 Road Stabilisation Program 2019/2020

SUBMITTED BY: Infrastructure Delivery

Valid



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.3 Moving around
- 3.3.2 Construction Services - To manage the construction of Council assets such as transport, drainage, water supply and other infrastructure.

ROLE: **Provider**

SUMMARY OF REPORT:

Request for Offer RFO2019158 Road Stabilisation Program 2019/2020 was called to engage a suitably qualified Principal Contractor to carry out profiling of existing bitumen pavements, pavement stabilisation, re-compaction and trimming of stabilised pavements, application of 10mm primer seal and asphalt wearing surface in accordance with the Road Pavement Stabilisation Program for 2019 - 2020.

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 RFO2019158 Road Stabilisation Program 2019/2020:

1. Council awards the offer to Stabilised Pavements of Australia Pty Ltd ABN 90 002 900 736 for \$870,218.42 (exclusive of GST);
2. the General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at finalisation of the contract; and

3. **ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.**

REPORT:

Offer Background

Offer RFO2019158 Road Stabilisation Program 2019/2020 was called to engage a suitably qualified Principal Contractor to carry out profiling of existing bitumen pavements, pavement stabilisation, re-compaction and trimming of stabilised pavements, application of 10mm primer seal and asphalt wearing surface in accordance with the Road Pavement Stabilisation Program for 2019 - 2020.

Request for Offer Advertising

Offers were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. The Request for Offers was advertised from 19th October in Brisbane Courier Mail. The Offer was also advertised in The Sydney Morning Herald and on Council's website.

Offer submissions closed at 4.00pm (local time) on Wednesday 13 November 2019 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

Offer Addendums

There was one (Notice to Bidders) issued before close of Offer.

Addendum No.1 was issued to advise Bidders that the offer document uploaded in PDF format was not complete and that the full version was then uploaded.

Offer Submissions

At the closing time for Offer Submissions, the Tender Box was opened and four Offers were recorded as below:

Bidder	ABN
Downer EDI Works Pty Ltd	66 008 709 608
Ellis Profiling Pty Ltd	96 144 885 334
Hiway Stabilizers Australia Pty Ltd	40 150 650 150
Stabilized Pavements of Australia	90 002 900 736

Offer Evaluation

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

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

Position
Engineer Construction - Chair
Engineer Construction
Engineer Assets & Maintenance

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 3	70
Quality Management & WHS and Risk Management	Schedule 7 & 8	5
Previous Contract Experience	Nil	7
Program & Methodology	Nil	8
Local Content		10
	Total	100

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

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

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

OPTIONS:

That Council:

1. Council awards the offer to Stabilised Pavements of Australia Pty Ltd ABN 90 002 900 736 for \$870,218.42 (exclusive of GST).
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:

Request for Offer 2019158 Road Stabilisation Program 2019/2020 was called to engage a suitably qualified Principal Contractor to carry out the 2019/2020 road stabilisation program on roads located within Kingscliff, Banora Point and Tweed Heads.

Stabilised Pavements of Australia Pty Ltd achieved the highest overall assessment score and is therefore deemed as the most advantageous option for Council.

It is recommended that the Offer from Stabilised Pavements of Australia ABN 90 002 900 736 be accepted to the value of \$870,218.42 GST Exclusive.

COUNCIL IMPLICATIONS:

a. Policy:

Asset Management Strategy v1.2

In accordance with Local Government (General) Regulations 2005.

b. Budget/Long Term Financial Plan:

Provision for RFO2019158 is included in the 2019/2020 Budget.

c. Legal:

Not applicable.

d. Communication/Engagement:

Not applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. RFO2019158 - Offer Evaluation Report (ECM6147446).

(Confidential) Attachment 2. RFO2019158 - Offer Evaluation Scoring Sheet (ECM6147499).

23 [E-CM] RFO2019121 Pavement Linemarking Services

SUBMITTED BY: Contracts

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Provider

SUMMARY OF REPORT:

Council is seeking to engage the services of a single, suitably-qualified contractor to provide a competent and timely Pavement Linemarking Service on Council's road and pavement network for a two-year period from the date of award approximately December 2019 – December 2021.

The value of these Services can vary between \$300,000 - \$600,000 but is estimated to be in the order of \$500,000 per year.

RECOMMENDATION:

That, in respect to Contract RFO2019121 Pavement Linemarking Services:

- 1. Council awards the offer to Allstate Linemarking Services Pty Ltd (ABN 98 109 627 652) for the Schedule of Rates Contract**
- 2. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret**

REPORT:

Offer Background

The Linemarking contractor will be required to set out, supply and apply pavement marking paint, thermoplastic pavement marking material, pavement marking tape and raised pavement markers and carry out other associated activities, in a professional and efficient manner in accordance with Council's Development Construction Specification C261 - Pavement Markings.

Due to the nature of the requirement, the Linemarking contractor will be required to have a base of operations, including suitable staff and equipment, located in sufficient proximity to the Tweed Shire to facilitate a responsive supply of Services which meets Council's operational requirements.

Request for Offer Advertising

Offers were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. The Request for Offers was advertised from Tuesday 1/10/2019 in The Sydney Morning Herald and made available on Council's website on the same date. The Offer was also advertised in the TweedLink on 30/09/2019

Offer submissions closed at 4:00pm (local time) on Wednesday 23 October 2019 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

Offer Addendums

There was one Notice to Bidders issued before close of Offer.

Addendum No. 1 was issued to advise Bidders that typically only 1 coat of paint is required for re-coating existing linemarking.

Offer Submissions

At the closing time for Offer Submissions, the Tender Box was opened and two offers were received. Offers were recorded as below:

Bidder	ABN
Allstate Linemarking Services Pty Ltd	98 109 627 652
Global Line Marking Services Pty Ltd	57 608 182 047

Offer Evaluation

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

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

Position
Project Manager - Contracts
Engineer - Traffic
Foreman - Linemarking & Signage

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

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

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

OPTIONS:

That Council:

1. Awards the offer to Allstate Linemarking Services Pty Ltd (ABN 98 109 627 652) for the Schedule of Rates Contract.
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:

Allstate Linemarking Pty Ltd provided the most competitively priced conforming offer and is deemed as the best value option for Council for RFO2019121 Pavement Linemarking Services.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.7.

b. Budget/Long Term Financial Plan:

Provision for the RFO2019121 Pavement Linemarking Services is included in the Roads Budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. RFO2019121 Pavement Linemarking Services - Offer Evaluation Report (ECM 6131464).

(Confidential) Attachment 2. RFO2019121 Pavement Linemarking Services - Offer Evaluation Scoring Sheet (ECM 6139431).

REPORTS FROM THE DIRECTOR CORPORATE SERVICES

24 [CS-CM] Financial Statements as at 30 June 2019

SUBMITTED BY: Financial Services

nhm



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: **Provider**

SUMMARY OF REPORT:

Council's Statutory General Purpose and Special Purpose Financial Reports for the financial year ended 30 June 2019, have been completed and audited in accordance with Section 413 of the Local Government Act, 1993. The reports and associated independent Audit Reports from Audit Office of New South Wales, presents Council with a financial overview of its operations for the year 2018/2019.

The financial result for the year reveals that Council's finances are in a strong position and that the internal financial management practices are sound.

The financial reports for 2018/2019 are now presented to Council for adoption. The Audit Office of New South Wales, through their contract auditors Thomas, Noble and Russell, provided an overview at the November 2019 Council meeting with respect to Council's financial position.

RECOMMENDATION:

That Council adopts the 2018/2019 Statutory General Purpose and Special Purpose Financial Reports.

REPORT:

Background

Council's General Purpose Financial Report for year ended 30 June 2019 has now been completed and the auditor's report received.

These reports were completed by Council and audited by the Audit Office of New South Wales.

Legislation Requirements:

The Local Government Act, 1993 ("the Act") relating to the preparation of Council's annual financial reports requires that:

1. Section 413 – A council must prepare financial reports for each year, and must refer them for audit as soon as practicable after the end of that year.
2. Section 413 (2) – A council's financial reports must include:
 - (a) a general purpose financial report;
 - (b) any other matter prescribed by the regulations; and
 - (c) a statement in the approved form by the council as to its opinion on the general purpose financial report.
3. Section 413 (3) – The general purpose financial report must be prepared in accordance with the Act and the regulations and the requirements of:
 - (a) the publications issued by the Australian Accounting Standards Board, as in force for the time being, subject to regulations; and
 - (b) such other standards as may be prescribed by the regulations.
4. Section 416 – A council's financial reports for a year must be prepared and audited within the period of 4 months after the end of that year.

Note: On 25 October 2019, following a request from Council, the Office of Local Government formally advised that due to ongoing issues and complexities associated with the valuation of land and the determination of restrictions on these assets, an extension of time (to 30 November, 2019) has been granted for Council to complete the preparation and audit of its annual financial statements.

5. Section 418 – Upon receiving the Auditor's Report, the Act requires the Council to give at least 7 days public notice of the meeting at which it proposes to present its audited financial reports, together with the Auditor's Report, to the public.
6. Section 420 – Any person may make a submission to the Council with respect to the Council's audited financial reports or with respect to the Auditor's Report within 7 days of the reports being presented to the public.
7. Section 428(4)(a) – The audited financial reports must be included in the Council's annual report.

8. Clause 215 of the Local Government (General) Regulation, 2005 requires that the Statement under Section 413 (2) (c) on the annual financial report must be made by resolution of the Council and signed by the Mayor, at least one (1) other member of Council, the General Manager and the Responsible Accounting Officer.
9. It is a requirement of the Office of Local Government that lodgement of the Audited Financial Statements and the Auditors Report be submitted to the Chief Executive by 31 October of each year. (**Note:** Due to the extension of time mentioned in point 4 above, this requirement has been met with Council submitting the Financial Statements by 30 November 2019).

Council's responsibility

Council is responsible for the preparation of the financial reports and adequate disclosures. This includes the maintenance of adequate accounting records and internal controls, the selection and application of accounting policies, and the safeguarding of the assets of Council. As the Responsible Accounting Officer, the Manager Financial Services, Mr Michael Chorlton, has stated the accounting records have been maintained in accordance with Section 412 of the Act and in a manner that permitted the preparation of the General and Special Purpose Financial Reports for the year ended 30 June 2019.

Update No. 27 to the Local Government Code of Accounting Practice and Financial Reporting was issued in April of this year and is relevant to accounting periods ending 30 June 2019.

Purpose of Annual Financial Reporting

The purpose of financial reporting, or the preparation of annual financial statements, is to communicate information about the financial position and operating results of Council to those who need to know or have an interest in Council operations.

Parties who have an interest in, or need to know financial reporting information include:

- councillors and management;
- residents/ratepayers;
- government departments and public authorities;
- community groups; and
- financial institutions

The users of financial reporting information are varied and financial statements must, therefore, be structured to meet all their respective requirements. This is achieved through conformity with the Australian Accounting Standards, which apply to the majority of business operations in Australia.

Annual Financial Reporting System

General Purpose Financial Reports

Under the requirements of Australian Accounting Standards, Council is required to prepare the following reports for each financial year:

Income Statement

Summarises Council's financial performance for the year, listing all income and expenses. This statement also displays Council's original adopted budget to provide a comparison between what was projected and what actually occurred.

Statement of Comprehensive Income

Primarily records changes in the fair value of Council's Infrastructure, property, plant and equipment.

Statement of Financial Position

A 30 June snapshot of Council's financial position indicating its assets, liabilities and "net wealth".

Statement of Changes in Equity

The overall change for the year (in dollars) of Council's "net wealth".

Statement of Cash Flow

Indicates where Council's cash came from and where it was spent. This statement also displays Council's original adopted budget to provide a comparison between what was projected and what actually occurred.

Notes to the Financial Statements

These disclose the accounting policies adopted by Council and provide additional material necessary for evaluating and interpreting the financial statements.

In addition to the General Purpose Financial Reports, Council must also submit the Auditor's Reports in accordance with Section 417(1) of the Act and Council's Statement in accordance with Section 413(2)(c) of the Act.

Special Purpose Financial Reports

The National Competition Policy requires Local Government to complete Special Purpose Financial Reports for all Council's declared business activities:- Tweed Water, Tweed Sewerage, Tweed Coast Holiday Parks and Commercial Waste.

Special Schedules

The Office of Local Government requires schedules on permissible income from general rates and a report on Infrastructure Assets.

Audit Mandate

The Audit Office of New South Wales, have completed the audit of Council's general purpose financial reports for the year ended 30 June 2019 under Section 417 of the Local Government Act 1993.

Council's auditor must prepare two reports to Council (Section 417 (1)):

- A report on the general purpose financial report, and
- A report on the conduct of the audit.

As soon as practicable after receiving the auditor's reports, Council must send a copy of the audited financial reports and the auditor's reports to the NSW Office of Local Government.

Management Responsibility - Audit

The performance of an audit or the provision of an audit report does not in any way absolve or relieve management of its responsibility in the maintenance of adequate accounting policies and the preparation of financial information such as budget preparation and the quarterly budget reviews submitted to Council. Council has strong internal management reporting practices in place that ensures all costs and income are monitored and acted upon.

Management has the responsibility to safeguard Council assets and prescribe policies and procedures that are consistent with the economic and efficient use of resources.

Performance Indicators

The key financial performance ratios and their purpose, as shown in the financial reports, are listed in the following table.

Performance Indicators	2018/19	2017/18	2016/17
Operating Performance Ratio	11.20%	11.26%	11.26%
Own Source Operating Revenue Ratio	76.56%	71.17%	74.40%
Unrestricted Current Ratio	2.76:1	1.77:1	3.52:1
Debt Service Cover Ratio	3.86	3.81	3.66
Rates and Annual Charges Outstanding	4.50%	3.99%	4.35%
Cash Expense Cover Ratio	23.43 mths	21.55 mths	20.66 mths

- Operating Performance Ratio - This ratio measures Council's achievement of containing operating expenditure within operating revenue. (*Benchmark: >= 0%*)
- Own Source Operating Revenue Ratio - This ratio measures fiscal flexibility. It is the degree of reliance on external funding sources such as operating grants and contributions. (*Benchmark: >60%*)
- Unrestricted Current Ratio - This liquidity ratio is used to assess the adequacy of working capital and its ability to satisfy obligations in the short term for the unrestricted activities of Council. (*Benchmark: >1.50:1*)
- Debt Service Cover Ratio - This ratio measures the ability of operating cash to service debt including interest, principal and lease payments. (*Benchmark: >2.0*)
- Rates, Annual Charges, Interest and Extra Charges Outstanding Percentage - This ratio is used to assess the impact of uncollected rates, annual charges, interest and extra charges on Council's liquidity and the adequacy of recovery efforts. (*Benchmark: <10%*)
- Cash Expense Cover Ratio - This liquidity ratio indicates the number of months a Council can continue paying for its immediate expenses without additional cash inflow. (*Benchmark: >3 mths*)

On a consolidated funds basis Council has achieved all the above key financial performance indicator benchmarks for 2018/2019.

OPTIONS:

Not applicable

CONCLUSION:

The financial reports for 2018/2019 are now presented to Council for adoption.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

The 2018/2019 Financial Reports will inform the Budget/Long Term Financial Plan for 2020/2021.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Statutory General Purpose and Special Purpose Financial Statements and Special Schedules for the year 2018/2019.

These documents will be provided prior to the meeting.

25 [CS-CM] Submissions - Local Government Remuneration Tribunal Categories

SUBMITTED BY: Corporate Governance

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Behind the scenes
- 4.1 Assurance
- 4.1.1 Governance - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: **Leader**

SUMMARY OF REPORT:

The NSW Local Government Remuneration Tribunal (Tribunal) wrote to Council on 29 October 2019 to advise that the Tribunal has commenced its review for the 2020 annual determination.

In accordance with section 241 of the *Local Government Act 1993* (LG Act), the Tribunal is required to make an annual determination by 1 May 2020 on the fees payable to Councillors and Mayors with effect from 1 July 2020.

The Tribunal is undertaking a review of the categories of councils and mayoral offices as part of the 2020 review, and has called for submissions on proposed changes to the categories.

The Local Government Remuneration Tribunal has changed some categories of classification, and under this proposal, Tweed's classification is proposed to change.

This report sets out proposed draft submissions for Council's review and endorsement.

RECOMMENDATION:

That Council endorses the submissions set out in this report to be provided to the Local Government Remuneration Tribunal, namely that Tweed should be reclassified as a Regional Strategic Area.

REPORT:

Existing categories

Currently, Tweed is classified in the Regional Rural category which is defined as follows:

“Councils categorised as Regional Rural will typically have a minimum population of 20,000.

Other features which distinguish them from other non-metropolitan councils include:

- a major town or towns with the largest commercial component of any location in the surrounding area*
- a significant urban population existing alongside a traditional farming sector, and are surrounded by smaller towns and villages or may be located on or close to the coast with high levels of population and tourist facilities*
- provide a full range of higher-order services including business, office and retail uses with arts, culture, recreation and entertainment centres*
- regional services to the wider community through principal referral hospitals, tertiary education services and major regional airports*
- these councils may also attract large visitor numbers to established tourism ventures.”*

Each of the 128 councils is allocated into one of the following nine categories:

Metropolitan	Non-metropolitan
Principal CBD	Regional City
Major CBD	Regional Strategic Area
Metropolitan Large	Regional Rural
Metropolitan Medium	Rural
Metropolitan Small	

Proposed categories

In reviewing the categories, the Tribunal examined a range of statistical and demographic data and considered the views of councils and Local Government NSW. The Tribunal has determined a categorisation model which differentiates councils primarily on the basis of their geographic location. Other factors which differentiate councils for the purpose of categorisation include population, the sphere of the council's economic influence and the degree of regional servicing.

The Tribunal foreshadowed in the 2019 Report and Determination that a case may exist to revise some categories and their applicable criteria:

“12. A few submissions have suggested alternative categorisation models. The Tribunal will consider this in detail in the 2020 review. The Tribunal intends to commence the 2020 annual review earlier than usual to ensure there is time to review the existing model and to examine alternatives. The Tribunal is of the preliminary view that a case may exist to revise the number of categories, and their applicable criteria, particularly for regional and rural councils.”

The Tribunal has reviewed its existing model and proposes to create a new category for Non-Metropolitan councils. The new category, if determined, is proposed to be titled Regional Centre.

Following determination of the categories, the Tribunal will determine the minimum and maximum fee levels for each category in the categorisation structure.

The Tribunal has proposed that Tweed will be re-categorised as Regional Centre which is defined as follows:

Regional Centre

Councils categorised as Regional Centre will typically have a minimum population of 40,000.

Other features may include:

- a large city or town providing a significant proportion of the region's housing and employment
- health services, tertiary education services and major regional airports which service the surrounding and wide regional community
- a full range of high-order services including business, office and retail uses with arts, culture, recreation and entertainment centres
- total operating revenue exceeding \$100M per annum
- a degree of economic activity within the Council area characterised by a Gross State Product exceeding \$2B
- the highest rates of population growth in regional NSW
- significant visitor numbers to established tourism ventures and major events that attract state and national attention
- a proximity to Sydney which generates economic opportunities.

Councils in the category of Regional Centre are often considered the geographic centre of the region providing services to their immediate and wider catchment communities.

The submissions set out in this report acknowledge that Tweed could be classified as a Regional Centre, but may be more appropriately defined as a Regional Strategic Area, which is defined as follows:

Regional Strategic Area

Councils categorised as Regional Strategic Area are differentiated from councils in the Regional Centre category on the basis of their significant population and will typically have a population above 200,000.

These councils:

- contain a mix of urban and rural settlements
- provide a range of services and activities including business, office and retail uses, along with arts, culture, recreation and entertainment facilities to service the wider community
- host tertiary education campuses and health facilities..

While councils categorised as regional Strategic Area may have populations which exceed those of Regional City, they would not typically provide the same range of regional services or have an equivalent sphere of economic influence.

Central Coast Council and Lake Macquarie Council are categorised as Regional Strategic Area.

Proposed submissions

1. Proposed classification model and criteria

Comments on the proposed classification model outlines in Attached criteria for each category.

Tweed Shire Council's classification has been changed under the proposal model. In 2018, Tweed was classified as "Regional Rural". Under the proposed re-categorisation, Tweed will be classified as a "Regional Centre".

It should be noted that with respect to the criteria for a Regional Centre, Tweed does have proximity to Sydney via the Gold Coast airport being a one hour flight, with multiple flights each day, generating economic opportunities. Further it has economic advantage bordering Gold Coast City with a population of 600,000 and less than a 2 hour drive to Brisbane.

That said, a significant portion of the Tweed is rural land. The Tribunal may be minded to include that a Regional Centre may have a large rural population and tourism industry.

2. Allocation in the proposed classification model

Comments on the appropriate allocation for their individual council model outlined in Attachment 2, having regard to the proposed criteria.

Based on our understanding that the population criteria is more heavily weighted, it may be accurate to classify Tweed as a Regional Centre. Tweed is the major population and city centre for the Northern Rivers Joint Organisation, being some two times the size of its nearest counterpart, Lismore City. Tweed could arguably be classified as a Regional Strategic Area, being the largest population centre, employer and strongest growth area in the Northern Rivers.

3. Range of fees payable in the proposed classification model

Comments on the ranges of fees for the proposed classification model, having regard to the Tribunal's obligations under section 242A of the LG Act as outlined above. Any recommendations in respect of the proposed new category of Regional Centre, if determined, should have regard to the capacity of their individual council to pay any increase in fees.

Estimating that the new *Regional Centre* category to be mid-point between the current *Rural Regional* and *Regional Strategic Area* categories would result in Councillor/Mayoral Fees increasing \$57,630 per annum. If Tweed were to be classified as a Regional Strategic Area. Councillor/Mayoral Fees would increase \$115,260 per annum in total above current remuneration.

Tweed Shire Council has a 2019/20 budget of \$230m and has the capacity to fund this estimated increase in Councillor/Mayoral Fees; this would however be at the expense of other council services. It is Officers view that Tweed should be rightly classified as a Regional Strategic Area. Tweed has the capacity to pay the additional Councillor/Mayoral Fees that would result.

4. Other matters

Councils may wish to address other matters within the Tribunal's jurisdiction

Nil.

OPTIONS:

1. Council endorses the submissions set out in this report to be provided to the Local Government Remuneration Tribunal namely that Tweed should be classified as a Regional Strategic Area for the following reasons:

Tweed Shire Council:

- contains a mix of urban and rural settlements;
- provides a range of services and activities including business, office and retail users, along with arts, culture, recreation and entertaining facilities to service the wider community; and
- hosts tertiary education campuses and health facilities.

2. Council endorses amended submissions to be provided to the Local Government Remuneration Tribunal.

CONCLUSION:

That Council determines submissions to be provided to the Local Government Remuneration Tribunal.

COUNCIL IMPLICATIONS:

a. Policy:

Local Government Act 1993

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.

Letter from Local Government Remuneration Tribunal to Council dated 29 October 2019 (ECM6120818).

26 [CS-CM] Contract for Administration of Local Government Elections

SUBMITTED BY: Corporate Governance

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Behind the scenes
- 4.1 Assurance
- 4.1.1 Governance - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: **Leader**

SUMMARY OF REPORT:

At its meeting on 21 February 2019, Council resolved to engage the Electoral Commissioner to administer the 2020 elections of Council, subject to the receipt and acceptance of a cost estimate from the NSW Electoral Commission.

An estimate of costs to administer the elections and a contract has been received from the Electoral Commission.

This report recommends that Council enters into the agreement with the Electoral Commission to conduct all elections, polls or referenda.

RECOMMENDATION:

That Council:

1. Pursuant to Section 296(2) and (3) of the Local Government Act 1993 (NSW) ("the Act") that an election arrangement be entered by contract for the Electoral Commissioner to administer all elections of the Council.
2. Pursuant to Section 296(2) and (3) of the Act, as applied and modified by Section 18, that a council poll arrangement be entered by contract for the Electoral Commissioner to administer all council polls of the Council.
3. Pursuant to Section 296(2) and (3) of the Act, as applied and modified by Section 18, that a constitutional referendum arrangement be entered by contract for the Electoral Commissioner to administer all constitutional referenda of Council.

4. **ATTACHMENT 3 is CONFIDENTIAL** in accordance with Section 10A (2) of the Local Government Act 1993, because it contains:-
- (c) *information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business*

REPORT:

Pursuant to section 296 of the Local Government Act 1993, Council is required to resolve at least 18 months before the next ordinary election of councillors as to whether to enter into an arrangement with the New South Wales Electoral Commission to conduct all elections, polls and referenda associated with the election.

No quote for service or contract had been received from the Electoral Commission by the required date. The Office of Local Government advised by way of circular 19-02 issued on 8 February 2019, that the Government had approved a review by the Independent Pricing and Regulatory Tribunal (IPART) of the costs of conducting local government elections in NSW.

In light of the IPART review, and to meet the statutory timeframe, at its meeting of 21 February 2019, Council resolved as follows:

RESOLVED that Council:

1. *Pursuant to Section 296(2) and (3) of the Local Government Act 1993 (NSW) ("the Act") that an election arrangement be entered by contract for the Electoral Commissioner to administer all elections of the Council, subject to the receipt and acceptance of a cost estimate from the NSW Electoral Commission.*
2. *Pursuant to Section 296(2) and (3) of the Act, as applied and modified by Section 18, that a council poll arrangement be entered by contract for the Electoral Commissioner to administer all council polls of the Council, subject to the receipt and acceptance of a cost estimate from the NSW Electoral Commission.*
3. *Pursuant to Section 296(2) and (3) of the Act, as applied and modified by Section 18, that a constitutional referendum arrangement be entered by contract for the Electoral Commissioner to administer all constitutional referenda of Council, subject to the receipt and acceptance of a cost estimate from the NSW Electoral Commission.*

The IPART review has been completed, and Council made submissions as part of that process. The main outcome of the review was significant increases in Council's election costs.

Following IPART's review, on 26 September 2019, Council received a service estimate for the administration of the 2020 local government elections. The total cost estimate for the conduct of the Tweed Shire Local Government Election in 2020 is \$760,323.

On 18 September 2019, the Minister for Local Government, Shelley Hancock announced that the NSW Government will provide \$20 million in funding to reduce the cost of running the 2020 elections for councils and their communities. The estimate of \$760,323, takes into account the State Government's announced contribution to the NSW Electoral Commission costs.

On 2 October 2019 the General Manager wrote to the State Member for Tweed highlighting discrepancies between the IPART Report and the quotation received by the NSW Electoral Commission. Copies were also provided to IPART, the NSW Electoral Commission and LGNSW. Copies of the correspondence are attached. No further reduction or action has been taken by any party to address the significant increase in costs, however the NSW Electoral

Commission has advised that if we can assist with accommodation and polling locations it could be reduced as the need to hire office accommodation would be reduced.

On 7 November 2019, Council received an Election Service Contract. The Electoral Commission has highlighted that the standard contract is almost identical to the contract used for the 2016 local government elections. The Electoral Commission has also highlighted the aspects of the agreement which are the same and the one change as follows:

“What’s the same:

- *the standard contract will cover all elections, polls & referenda from the September 2020 ordinary elections through until 18 months before the 2024 ordinary elections, at which time it will expire.*
- *the standard contract will be amended accordingly should councils not have included referenda and/or polls in their resolutions, or if they explicitly referenced the 2020 election event only.*
- *either party can terminate the contract after the 2020 ordinary elections by providing 4 weeks written notice.*
- *schedule 1 lists the services to be provided in the conduct of the elections.*
- *schedule 2 lists the estimated cost of the service provision (as per the estimates already provided to councils).*

What’s changed:

- *inclusion of references to Postal Only and Countback elections (these options are available for councils to decide by resolution after the 2020 elections event).”*

Council is required to adopt specific resolutions in relation to this engagement and it is the intent of these resolutions to retain the New South Wales Electoral Commission to conduct all elections, polls and referenda.

In accordance with section 296(5A)(b) of the *Local Government Act*, agreements must be entered into on or before 1 January 2020. Given the Christmas shutdown period, the Electoral Commission has requested that contracts be approved and returned before 20 December 2019.

OPTIONS:

1. Council resolves to engage the New South Wales Electoral Commission to conduct all elections, polls and referenda, associated with the 2020 Council election.
3. Council resolves not to engage the New South Wales Electoral Commission to conduct all elections, polls and referenda associated with the 2020 council election.

CONCLUSION:

That, in accordance with Section 296 of the Local Government Act 1993, Council engage the New South Wales Electoral Commission to conduct all elections, polls and referenda.

COUNCIL IMPLICATIONS:

a. Policy:

Local Government Act 1993

b. Budget/Long Term Financial Plan:

Council has budgeted \$486,000 in the Long Term Financial Plan for the election cost based on the 2016 election and possible efficiency improvements.

The \$274,000 shortfall will be addressed in the preparation of the 2020/2021 budget.

Costs associated with the election, including advertising, candidate sessions and councillor induction are not included in the Electoral Commission costs and investigation will need to occur as whether these costs can be funded.

The amount paid to the New South Wales Electoral Commission for the conduct of the 2016 election was \$536,162. These costs were higher than would normally be expected due to the passing of a candidate and the subsequent delay of the election as well as the inclusion of a constitutional referendum question.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. NSW Electoral Commission and Service Estimate for conduct of 2020 local government elections (ECM6117878).

Attachment 2. Letter to Geoff Provest MP and Northern Rivers Cost Comparison following IPART Report and Government subsidy announcement (ECM6117878).

(Confidential) Attachment 3. Service Contract from NSW Electoral Commission (ECM6136105).

27 [CS-CM] Audit, Risk and Improvement Committee Framework Submissions

SUBMITTED BY: Corporate Governance

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Behind the scenes
- 4.1 Assurance
- 4.1.1 Governance - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: **Leader**

SUMMARY OF REPORT:

The Office of Local Government has released a discussion paper on a draft internal audit and risk management framework to support and inform the operation of Audit Risk and Improvement Committees.

This report sets out Council's draft submissions in response to the discussion paper.

RECOMMENDATION:

That Council receives and notes the submissions to be provided to the Office of Local Government.

REPORT:

Background

The *Local Government Act 1993* was amended in August 2016 to require each council and joint organisation in NSW to appoint an Audit, Risk and Improvement Committee (ARIC). This requirement will take effect from March 2021 at the earliest.

The Office of Local Government (OLG) has developed a draft internal audit and risk management framework to support and inform the operations of ARICs. The proposed framework is based on international standards and the experience of Australian and NSW Government public sector agencies who have already implemented risk management, and internal audit but has been adapted to reflect the unique needs and structure of NSW councils and joint organisations.

The proposed framework has been developed in consultation with NSW Treasury, the NSW Audit Office, the then Department of Finance, Services and Innovation, the Institute of Internal Auditors and the Local Government Internal Auditors Network.

OLG is now seeking feedback on the proposed framework from the local government sector. To this end, OLG has issued a discussion paper, "*A New Risk Management and Internal Audit Framework for Local Councils in NSW*" which sets out the proposed framework in detail and a "snapshot" guide that summarises its key elements.

In the opinion of officers, Council has made progress in this space with established internal audit and risk management functions. Some adjustments would be required to comply with the framework if it is implemented as drafted.

Draft Submissions

Draft submissions are to be made by 31 December 2019.

Council officers have drafted the following submissions in relation to the proposed framework:

Core requirement 1(c) – Adequacy of Council's financial position

Section 428A (control framework) indicates the responsibilities of ARIC regarding Council's financial management, financial position and financial statements which creates some ambiguity between the role of ARIC and the role of Responsible Accounting Officer. Further clarity is required to ensure the role of ARIC vis-à-vis the Responsible Accounting Officer is clear and free from overlap.

Core requirement 1(c) – Composition of ARIC

In relation to the composition of the Audit Risk and Improvement Committee, currently council appoints two councillors to act as voting members. The move to a committee wholly comprised of independent members would lose an important communication link between the Committee and Council, and for councillors to better understand ARIC and vice versa.

In addition, the fact that council must resolve to appoint the independents in any case, blurs the true independence argument the OLG is seeking to make.

Core requirement 1(c) – Prequalification

Council has concerns around the practical effectiveness of the prequalification scheme. The need for all councils to recruit three to five independent members at the same time, is likely to create a shortage in talent supply. In addition, Tweed being one of the furthest shires from Sydney City, may see a low level of interest and quality of applicants. Proximity to the Queensland border results in many experts for our council being based

in Queensland. For example, two of three current ARIC members have experience in Queensland local government. Professionals based in Queensland may not be aware of the need to pre-qualify and therefore reduce Tweed's ability to access more proximate talent for independent membership.

In addition, the requirement for independents not to have been employed in local government or have been councillors for the previous three years may limit the talent pool or prequalification. Tweed proposes that these employees/Councillors should be able to sit on the ARIC of councils where there is no pre-existing relationship but excluded from sitting on an ARIC for a council they have been an employee/councillor for, within the three year period. This exception could alleviate any potential talent pool shortage. Current knowledge of ARICs, and the framework would be material to success in an ARIC role.

Core requirement 1(d) – Term of ARIC members

The requirement that ARIC members and chairs have maximum term appointments is sensible, however it may be challenging for small and/or regional councils to obtain prequalified replacements. A solution may be to allow small and/or regional councils to apply to the OLG for consent to extend terms beyond the prescribed limits.

Core requirement 1(e) – Professional advice

The committee's independence may be impaired where a resolution of council is required for the ARIC to seek independent external legal or professional advice to meet its responsibilities. A budget allocation should be resolved for the ARIC to use as it requires to meet its responsibilities.

Core requirement 1(h) – External review

The introduction of the requirement to conduct an external assurance review every four years, is not objected to, however, current budgets do not allow for the cost of an external consultant. Council's preference is that a panel of preferred suppliers be available through a tender and contract administration service which can be utilised by local government such as Local Government Procurement. It is foreshadowed this review will be costly, e.g. the less proximate to Sydney the higher the costs associated with travel, if a suitable consultant is not able to be sourced locally.

An alternative may be a formal review process by an internal group comprised of the proposed interviewees (management and council) and the internal and external auditors, with a formal report to be issued and reported to council.

Core requirement 2(b) – Resourcing of risk management

Further guidance is required on what the OLG considers sufficient resources and what this comprises.

Core requirement 2(e) – Resourcing of risk management

In relation to the role of the Risk Management Coordinator, are any particular qualifications required? Are qualifications from the Risk Management Institute of Australasia, equivalent to a Chief Risk Officer, required?

Core requirement 2(h) – Attestation

Further guidance is required to inform the ARIC how it can be satisfied to sign the attestation certificate.

OPTIONS:

1. Council receives and notes the submissions to be provided to the Office of Local Government.
2. Council adds its submissions to be provided to the Office of Local Government.

CONCLUSION:

That Council provides submissions on the discussion paper to the Office of Local Government.

COUNCIL IMPLICATIONS:

a. Policy:

Local Government Act 1993

Audit Risk and Improvement Committee Charter

Internal Audit Charter

Enterprise Risk Management Policy

b. Budget/Long Term Financial Plan:

If the proposed framework is implemented without amendment, there will be budgetary implications, in the form of increased resourcing costs, including the four yearly external review requirement. Additional resourcing costs have not been factored into the Long Term Financial Plan.

c. Legal:

Not Applicable.

d. Communication/Engagement:

The Chair of the Audit Risk and Improvement Committee has been consulted in relation to Council's submissions and commentary from that consultation has been incorporated into the submissions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- | | |
|---------------|---|
| Attachment 1. | Office of Local Government " <i>A new risk management and internal audit framework for local councils in NSW - discussion paper</i> " (ECM6152169). |
| Attachment 2. | Office of Local Government " <i>A new risk management and internal audit framework for local councils in NSW - snapshot guide</i> " (ECM6152180). |
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28 [CS-CM] Legal Services Register Report for the Period 1 July to 30 September 2019

SUBMITTED BY: Corporate Governance

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

SUMMARY OF REPORT:

The Legal Services Register Report for 1 July to 30 September 2019 provides the status of legal instructions for the current or recently completed matters which have been issued to legal panel providers. This Report includes payments to various legal providers, as well as payments for barristers and legal consultants where applicable.

The amount paid for legal services for the period 1 July to 30 September 2019 is \$174,169 and described as follows:

Legal Matter	Amount
• 2797 – DA18/0133 – Seabreeze Boulevard Pottsville – Class 1 Appeal	\$2,201
• 2822 – DA16/0355 – 26 Tringa Street Tweed Heads West – 60 lot subdivision	\$4,542
• 2824 – Crown Road off Zara Road Limpinwood – Unauthorised Works	\$7,386
• 2825 – 1110 Urliup Road Urliup – Unauthorised Works	\$111
• 2832 – DA17/0383 – 355 Tomewin Road Dungay – Class 1 Appeal	\$909
• 2835 – DA03/0445.03 – 447 Urliup Road – Class 1 Appeal	\$1,260
• 2849 – 656 Upper Crystal Creek Road Crustal Creek – Legal Advice on Use of Property and Compliance Action	\$21,341
• 2859 – 2574 Kyogle Road Kunghur – DA05/0995 and DA16/0579 Compliance Update and DA19/0346 Alterations and additions to existing facility.	\$18,842
• 2863 – Represent Council at a Local Court Hearing – Dangerous Dog Declaration	\$226
• 2867 – DA18/0637 – 477 Urliup Road Urliup – Class 1 Appeal	\$10,417
• 2868 – DA16/0660 – 268 Dungay Road Dungay – Class 1 Appeal	\$12,268

Legal Matter	Amount
• 2871 – DA03/0445 and DA18/0910 – 477 Urliup Road Urliup – Class 1 Appeal	\$56,214
• 2872 – 115 Murwillumbah Street Murwillumbah – Unauthorised Earthworks	\$3,341
• 2874 – DA18/0001 – 54 Wallum Court Clothiers Creek – Class 1 Appeal	\$6,087
• 2881 – DA19/0265 – 520-522 Bakers Rd Byangum	\$2,773
• 2887 – DA18/0485 141 Byangum Rd Murwillumbah – Multi-Dwelling Development Permissibility Advice	\$2,947
• 2889 – DA18/0486 26 George St Murwillumbah – Permissibility of Group Homes in RU2	\$2,000
• 2890 – 18/83 Gollan Drive Tweed Heads West – Illegal Land Use (short term accommodation)	\$3,645
• 5859 Tweed Valley Way Mooball – Subdivision Legal Advice	\$2,589
• Water Extraction Investigation Probitry Advice	\$5,498
• Exemption of Rates - Legal Advice	\$6,230
• Use of Drones – Legal Advice	\$2500
• Governance Matters - Legal Advice	\$842

The total amount paid for legal services for the period 1 July 2019 to 30 September 2019 is \$174,169.

RECOMMENDATION:

That Council receives and notes the Legal Services Register Report for the period 1 July to 30 September 2019.

REPORT:

Expenditure incurred on legal instructions for the period 1 June to 30 September 2019 follows:

Category 1 Planning and Environmental Law	Category 2 Local Government Law	Category 3 Commercial/Property Law	Category 4 District/Local Court
\$158,873	\$15,070	NIL	\$226

A summary of payments to each of the Legal Service Providers including barristers and legal consultants where applicable, for current or recently completed matters is as follows:

Category 1 Planning and Environmental Law	Year to Date	Current Period 1 July to 30 September 2019
Bartier Perry Lawyers	\$3,341	\$3,341
HWL Ebsworth Lawyers	\$9,943	\$9,943
Hall & Wilcox Lawyers	\$18,842	\$18,842
Lindsay Taylor Lawyers	\$10,270	\$10,270
Maddocks Lawyers	\$6,743	\$6,743
Marsdens Law Group	\$84,748	\$84,748
Sparke Helmore Lawyers	\$24,986	\$24,986
Wilshire Webb Staunton Beattie Lawyers	NIL	NIL
Sub Total	\$158,873	\$158,873

Category 2 Local Government Law (litigation and advice)	Year to Date	Current Period 1 July to 30 September 2019
Hall & Wilcox Lawyers	NIL	NIL
Maddocks Lawyers	NIL	NIL
Marsdens Law Group	\$8,730	\$8,730
Prevention Partners	\$5,498	\$5,498
Swaab Attorneys	NIL	NIL
Lindsay Taylor Lawyers	\$842	\$842
Sub Total	\$15,070	\$15,070

Category 3 Commercial/Property Law	Year to Date	Current Period 1 July to 30 September 2019
Bartier Perry Lawyers	NIL	NIL
Hall & Wilcox Lawyers	NIL	NIL
HWL Ebsworth Lawyers	NIL	NIL
Lindsay Taylor Lawyers	NIL	NIL
Maddocks Lawyers	NIL	NIL
Sub Total	NIL	NIL

Category 4 District/Local Court	Year to Date	Current Period 1 April to 30 June 2019
Minter Ellison – Gold Coast	\$226	\$226
Sub Total	\$226	\$226
Total	\$174,169	\$174,169

LEGAL SERVICES MATTERS INITIATED PRIOR TO 1 NOVEMBER 2016

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
Marsdens Law Group	7 Year Special Rate Variation.	Class 4 Appeal Land and Environment Court.	<p><i>Prev. Years</i> \$493,120</p> <p><i>2019/20</i> \$0</p> <p>TOTAL \$493,120</p>	<p>Appeal dismissed by Land and Environment Court 30/12/08. Court of Appeal dismissed 5/2/10 part costs awarded. Application to High Court for special leave dismissed with costs, not assessed.</p>	In Progress. Recovery of assessed costs of \$134,058 being pursued.
Sparke Helmore Lawyers (2802)	3222 Kyogle Road, Mt Burrell – Unauthorised activities.	Council at its Meeting held on 7 April 2016 resolved to engage solicitors to commence proceedings pertaining to unauthorised activities and seek legal advice regarding options for punitive action.	<p><i>Prev. Years</i> \$123,491</p> <p><i>2019/20</i> \$0</p> <p>TOTAL \$123,491</p>	<p>Compliance action requiring the removal of all unauthorised dwellings and structures completed through the Land and Environment Court against the property owner for breaches of the Environment and Assessment Act 1979. Delays have occurred in Council's efforts to seek costs as a result of liquidation action taken by owners, and various Federal Court actions. Council is awaiting the outcomes of these actions and is a listed creditor as part of the</p>	In Progress The Registrar of the Land and Environment Court on 7 April 2017, made "consent orders" to resolve the unlawful occupation of the property- now completed. Council awarded costs of \$101,257, have not been paid, property owner has now been placed into Administration. Federal Court Judgement decision is that the property be sold to satisfy land owner debts, however this is subject to further challenge and court action is expected to continue in early 2020.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
				liquidation action.	
LEGAL SERVICES MATTERS INITIATED PRIOR TO 1 NOVEMBER 2016					
TOTAL 2019/2020			\$0		

COUNCIL INITIATED LEGAL SERVICES AFTER 1 NOVEMBER 2016

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
Maddocks Lawyers (2797)	DA18/0133 Seabreeze Boulevard, Pottsville 72 Lot Subdivision.	Council at its meeting held on 7 March 2019 resolved that solicitors be engaged (and consultants as required) to defend the Class 1 Appeal in the Land and Environment Court.	<i>Prev. Years</i> \$14,006 <i>2019/20</i> \$2,201 TOTAL \$16,207	Solicitors engaged. Applicant sought leave to rely on amended plans.	In Progress Directions hearing was held on 3 May 2019, where hearing dates of 2, 3 and 4 December 2019 were set.
Maddocks Lawyers (2822)	DA16/0355 26 Tringa Street, Tweed Heads West -60 Lot subdivision.	Council at its Meeting held on 16 March 2017 resolved that it instructs solicitors to defend the refusal. Class 1 Appeal in the Land and Environment Court.	<i>Prev. Years</i> \$417,206 <i>2019/20</i> \$4,542 TOTAL \$421,748	Solicitors engaged to defend the appeal. Appeal commenced, documentation filed with the court. Court approved subdivision. Court ordered the applicant to pay council's costs of \$6,000. On 6 March 2018, Court directed the applicant to file and serve by 30 March 2018, settled documentation to reflect the Commissioner's determinations.	Completed Documentation now filed. 19 April 2018, appeal was upheld DA approved subject to conditions of consent, however there was a requirement to pay the legal costs of the consent authority that were unnecessary as a result of the assessment of the amended application. The costs have been assessed and a request has

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
					been sent to the applicant to make payment.
Lindsay Taylor Lawyers (2824)	Unauthorised Works at the Crown Road off Zara Road, Limpinwood.	Council at its Planning Committee Meeting held on 6 April 2017, resolved that it engages solicitors to provide advice regarding the continuing investigation of the unauthorised works.	<p><i>Prev. Years</i> \$258,152</p> <p>2019/20 \$7,386</p> <p>TOTAL \$265,538</p>	Council on 20 August 2019, following a request made by Council's solicitors, the Land and Environment Court, approved a further 6 month deferral of the current prosecution actions, and the terms of a corresponding revised agreement between Council and Mr Fish have been agreed to. Council is currently awaiting the lodgement of a development application by the owner in order to advance Council's resolved position.	In Progress In the last month, Crown Lands has been in dialogue with the land owner's representative.
Lindsay Taylor Lawyers (2825)	Unauthorised Works at 1110 Urliup Road, Urliup.	Council at its Planning Committee Meeting held on 6 April 2017, resolved that it engages solicitors to provide advice regarding the continuing investigation of the unauthorised works.	<p><i>Prev. Years</i> \$55,865</p> <p>2019/20 \$111</p> <p>TOTAL \$55,976</p>	Solicitors engaged and have provided appropriate advice. Solicitor for property owner has been requested to respond to a S119J Notice under the EP &A Act 1979.	In Progress There has been various communications between Council's Solicitor and property owner's Solicitor resulting draft deed to rectify unauthorised works which has now been approved and

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
					signed by Council on 31 August 2018. Further advice is being sought in relation to the construction of the dwellings.
HWL Ebsworth Lawyers (2832)	DA17/0383 Demolition of existing Dwelling and Construction of Caravan Park in 5 Stages. 355 Tomewin Road, Dungay.	Council at its Meeting held on 7 June 2018, resolved that it engages solicitors and relevant experts (as required) to attend any necessary section 34 conference and defend the Class 1 Appeal.	<i>Prev. Years</i> \$211,135 <i>2019/20</i> \$909 TOTAL \$212,044	Solicitors engaged, a directions hearing was held in the Land and Environment Court on 25 June 2018. Further directions hearing was held is scheduled for 27 July 2018.	Completed Hearing set down for 25 February to 1 March 2019. 30 January 2019, applicant discontinued the appeal and is to pay Council costs.
Marsdens Law Group (2835)	DA03/0445.03 447 Urliup Road, Urliup. Council at its meeting held on 11 May 2017 resolved to refuse the development application for an amendment to DA03/0445.	Council at its Meeting held on 2 November 2017 resolved that it engages legal representation for the Land and Environment Court Class 1 Appeal.	<i>Prev. Years</i> \$97,171 <i>2019/20</i> \$1,260 TOTAL \$98,431	Solicitors engaged directions hearing held on 13 November 2017. Matter was heard on 22 and 23 March 2018. On 30 April 2018 the Court granted the applicant leave to amend the Class 1 Appeal application.	Completed On 2 May 2018. Amended application placed on public exhibition, matter being reviewed. Appeal heard on 12/13 September 2018. Decision reserved. On 24 October 2018 appeal was dismissed and costs were reserved.
Lindsay Taylor Lawyers (2848)	Lot 136 Boormans Road, Tyalgum.	Council at its meeting held on 1 March 2018 resolved to pursue an investigation of the apparent offence under section 76A of the EP&A Act and other actions.	<i>Prev. Years</i> \$36,297 <i>2019/20</i> \$0 TOTAL \$36,297	Council on 20 August 2019, following a request made by Council's solicitors, the Land and Environment Court, approved a further 6 month deferral	In Progress In the last month, Crown Lands has been in dialogue with the land owner's representative.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
				of the current prosecution actions, and the terms of a corresponding revised agreement between Council and Mr Fish have been agreed to. Council is currently awaiting the lodgement of a development application by the owner in order to advance Council's resolved position.	
Hall and Wilcox Lawyers (2858)	DA06/0603 101 Bryens Road, Nobbys Creek – Compliance Update.	Council at its meeting held on 2 August 2018 resolved that it seeks legal advice to guide Council on the extent of any breach of consent conditions, and any subsequent required enforcement actions.	<p><i>Prev. Years</i> \$7,348</p> <p><i>2019/20</i> \$0</p> <p>TOTAL \$7,348</p>	Solicitors engaged, review of file undertaken, reported provided to Council	<i>In Progress</i> Detailed advice received and reviewed. Council at its meeting of 4 April 2019 resolved to take 2 compliance actions. Council at its meeting of 16 May 2019 resolved to take further compliance action. Legal advice was received on 21 November 2019 and is being considered.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
Hall and Wilcox Lawyers (2859)	<p>DA05/0995 and DA16/0579, Mount Warning Spring Water 2574 Kyogle Road, Kunghur - Compliance Update.</p> <p>DA19/0346 Mount Warning Spring Water 2574 Kyogle Road, Kunghur. Alterations and additions to an existing water bottling facility.</p>	Council at its meeting held on 2 August 2018 resolved that it seeks legal advice on the interpretation of the consents and allegations to determine the prospects of prosecution or the prospects of restraining actions.	<p><i>Prev. Years</i> \$11,877</p> <p><i>2019/20</i> \$18,842</p> <p>TOTAL \$30,719</p>	Solicitors engaged, review of file undertaken, reported provided to Council.	<p>In Progress</p> <p>Detailed advice received and reviewed. Council at its meeting of 4 April 2019, resolved to take 3 compliance actions. Council at its meeting of 16 May 2019, resolved to take further compliance action. Ongoing while water extraction DA19/0346 is under assessment and needs ongoing hydrogeologist specialist advice.</p>
Marsdens Law Group (2867)	<p>DA18/0637 – Helipad 477 Urliup Road, Urliup.</p> <p>Council at its meeting held on 6 December 2018 resolved to refuse the Development Application.</p>	Council at its meeting held on 21 December 2018 resolved that it engages solicitors and relevant experts to attend any necessary section 34 conference and defend the Class 1 Appeal and delegations be provided to the General Manager and Mayor to undertake negotiations as necessary.	<p><i>Prev. Years</i> \$10,335</p> <p><i>2019/20</i> \$10,417</p> <p>TOTAL \$20,752</p>	Solicitors engaged. Directions hearing was held on 4 February 2019.	<p>Complete</p> <p>Class 1 Appeal listed for hearing on 22 August 2019. Outcome of appeal was negotiated consent orders issued 9 September 2019.</p> <p>The applicant issued a Notice of Motion for Costs. The Notice of Motion was later withdrawn.</p>

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
Marsdens Law Group (2868)	DA16/0660 Lot 3 DP1125925 Dungay Creek Road, Dungay – Water Extraction Facility.	Council at its meeting of 7 March 2019, resolved that it engages solicitors, a barrister and any relevant experts to attend any necessary s34 conference, defend appeal and provide delegation to the General Manager and the Mayor to undertake negotiations as necessary.	<i>Prev. Years</i> \$8,175 <i>2019/20</i> \$12,268 TOTAL \$20,443	Solicitor engaged. Directions hearing was held on 25 March 2019, where an s34 conference hearing date was set for 6 November 2019.	In Progress Appeal discontinued. Applicant to pay Council external costs.
Marsdens Law Group (2871)	DA18/0910 – Water Bottling Facility 477 Urliup Road, Urliup. Council at its meeting held on 6 December 2018 resolved to refuse the Development Application.	Council at its meeting held on 21 December 2018 resolved that it engages solicitors and relevant experts to attend any necessary section 34 conference and defend the Class 1 Appeal and delegations be provided to the General Manager and Mayor to undertake negotiations as necessary.	<i>Prev. Years</i> \$254,206 <i>2019/20</i> \$56,214 TOTAL \$310,420	Solicitors engaged. Directions hearing was held on 21 December 2018, stay of order was confirmed and development application appeal.	In Progress The Class 1 Appeals were partly heard on 16, 17 and 18 April 2019. Hearing completed on 5 July 2019. Final judgement orders on 1 November 2019. DA18/0910 and DA18/1044 dismissed. Order allows applicant to continue water extraction for 2.5 years at 28.5ML rates then rates drop to 5ML as per DA03/0445.
Bartier Perry Lawyers (2872)	115 Murwillumbah Street, Murwillumbah Unauthorised earthworks and vegetation clearing.	Council at its meeting held on 4 April 2019, resolved that it serve on the owner penalty notices and three Development Control Orders	<i>Prev. Years</i> \$10,689 <i>2019/20</i> \$3,341 TOTAL \$14,030	Penalty Notices served upon the owner. Proposed Development Control Order served on the owner, response	In Progress Further advice is being sought from the solicitor.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
		and endorse taking the necessary legal action to enforce the requirements of the Orders if the Orders are not complied with.		received and being assessed by Council Officers.	
HWL Ebsworth Lawyers (2874)	DA18/0001 54 Wallum Court, Clothiers Creek. Rural land sharing community development of 13 dwelling sites.	Council at its meeting held on 21 March 2019 resolved that it engages solicitors and relevant experts to attend any necessary Section 34 Conference and negotiate consent orders and provides delegation to the General Manager and Mayor to undertake negotiations as necessary.	<i>Prev. Years</i> \$10,805 <i>2019/20</i> \$6,087 TOTAL \$16,892	Solicitor engaged. Directions hearing held on 15 April 2019, matter was listed for a Section 34 Conference on Tuesday 19 November 2019.	<i>In Progress</i> On 11 November 2019, applicant moved a motion to vacate and sought orders relisting the conciliation in February 2020. The Court ordered to vacate the conciliation of 19 November, vacate the further direction hearing of 25 November, direct the applicant to serve revised reports by 15 December, direct the applicant to file and serve a motion seeking leave to rely on any revised or new material to be returnable on 20 December, and list the matter for directions on 20 January 2020.
HWL Ebsworth Lawyers (2887)	DA18/0485 141 Byangum Road, Murwillumbah Staged Development	Council at its meeting held 1 August 2019 resolved to receive legal advice regarding	<i>Prev. Years</i> \$0 <i>2019/20</i> \$2,947	Council received legal advice dated 23 August 2019, which states that Section A5	<i>Completed</i> DA18/0485 was approved subject to conditions at Council meeting

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
	Consisting of Three Dwellings over Three Stages (One Dwelling Per Stage)	the development's permissibility with regards to being a multi-dwelling development on a battle axe lot. The core of the question is whether DCP A5 applies in regard to multi-dwelling development on battle-axe lots and whether the exemption clause located in DCP A5 applies.	TOTAL \$2,947	of the Tweed Development Control Plan does not apply to the Development Application as the proposal does not involve subdivision. Therefore application of clause A5.4.2 Infill Subdivision is not applicable to the Development Application.	held 5 September 2019.
Sparke Helmore Lawyers (2890)	Alleged Unauthorised Short Term Rental Accommodation 18/83 Gollan Drive, Tweed Heads.	Council at its meeting held 15 August 2019 resolved to issue an order to the property owner of Unit 18 of 83 Gollan Drive, Tweed Heads seeking a cease of the unauthorised use. Should that Order not be complied with, instruct its Solicitors to commence appropriate legal proceedings to have the use stopped.	<i>Prev. Years \$0</i> 2019/20 \$3,645	Council has received advice from Solicitors. The matter is scheduled for 27 November 2019 at Local Court.	In Progress Awaiting the outcome of the Local Court hearing.
COUNCIL INITIATED LEGAL SERVICES AFTER 1 NOVEMBER 2016					
TOTAL 2019/2020			\$111,328		

LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
Sparke Helmore Lawyers (2849)	656 Upper Crystal Creek Road, Crystal Creek.	Provide advice in relation to demolition orders of the construction and use of a building on the property.	<p><i>Prev. Years</i> \$109,044</p> <p><i>2019/20</i> \$21,341</p> <p>TOTAL \$130,385</p>	<p>Solicitor engaged, various advices have been provided. A Development Control Order has been issued. Control order was enforced through the Land and Environment Court enforcement process. Further legal action needed to secure compliance with LEC Order and recoup Council costs.</p>	<p>In Progress</p> <p>Proceedings were heard on and on 5 April 2019 orders were that the respondents were not to use the building, to demolish and remove the building within 3 months and that they were to pay Council's costs of the proceedings. On 12 July 2019, the Court amended the time period from 3 months to 7 months. This time period elapsed on 5 November, and from a site inspection it was evident that the Order had not been entirely complied with, so Council's solicitors have been instructed to initiate contempt of Court proceedings. Recovery of costs in progress.</p>

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
Bartier Perry Lawyers (2860)	DA04/0162 Hy-Tec Quarry Dulguigan.	Audit of all Council's files relevant to the Development Application.	<p><i>Prev. Years</i> \$12,852</p> <p><i>2019/20</i> \$0</p> <p>TOTAL \$12,852</p>	Solicitor engaged. Review conducted and advice provided.	In Progress On 18 September 2019 appeal received. Appeal was heard on 12 November 2019. Judgement received 14 November 2019. Quarry limited to 200,000m3 insitu, not bulked as Council had previously interpreted.
Lindsay Taylor Lawyers (2881)	DA19/0265 520-522 Bakers Road, Byangum Two Lot Boundary Adjustment including Consolidation of 3 Closed Road Lots	Interpretation of Clause 4.1C of Tweed LEP 2014 in relation to 5 into 2 lot boundary adjustment (subdivision).	<p><i>Prev. Years</i> \$0</p> <p>2019/20 \$2,773</p>	Solicitor engaged. Review conducted and advice provided.	Completed
Marsdens Law Group (2889)	DA18/0486 26 George Street, Murwillumbah Concept Development Application for 10 Group Homes (Permanent) and Development of Stage 1 for Two Group Homes (Permanent) containing 14 Units	Advice on the permissibility of multiple Group Homes on R2 and RU2 zoned land.	<p><i>Prev. Years</i> \$0</p> <p>2019/20 \$2,000</p>	Legal advice provided in relation to an alternative option set out at the conclusion of the Council report indicates that the alternative is not a valid option.	Completed An addendum report was presented to Planning Committee meeting held 5 September 2019.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
Marsdens Law Group	5861, 5867 and 5859 Tweed Valley Way, Mooball.	Provide advice on a development application which has been lodged for a subdivision of land.	<i>Prev. Years</i> \$1,600 <i>2019/20</i> \$2,589 TOTAL \$4,189	Solicitor engaged. Detailed advice provided.	Completed
LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016					
TOTAL 2019/2020			\$28,703		

LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016

Category 2 - Local Government Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
Prevention Partners	Water Extraction Probity.	Provide probity advice on an investigation into a water extraction complaint.	<i>Prev. Years</i> \$1,613 <i>2019/20</i> \$5,498 TOTAL \$7,111	Probity advisor engaged. Advices received.	In Progress
Marsdens Law Group	Exemption of Rates under the Local Government Act.	Provide advice on the request for an exemption of rates.	<i>Prev. Years</i> \$1,650 <i>2019/20</i> \$6,230 TOTAL 7,880	Solicitor engaged. Advice provided.	Completed
Lindsay Taylor Lawyers	Governance Matters.	Provide advice on general governance matter.	<i>Prev. Years</i> \$0 <i>2019/20</i> \$842	Solicitor engaged. Advices provided.	Completed

Category 2 - Local Government Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 19 July 2019
Marsdens Law Group	Drone Usage	Provide advice on the legal framework in relation drone usage.	Prev. Years \$0 2019/20 \$2500	Solicitor engaged. Advices provided.	Completed
LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016					
TOTAL 2019/2020			\$15,070		

LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016

Category 3 - Commercial/Property Law					
Provider (Reference)	Description of Matter	General Instructions	Costs to Date	Comments	Current Status as at 19 July 2019
TOTAL 2019/2020			\$0		

LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016

Category 4 – District/Local Court					
Provider (Reference)	Description of Matter	General Instructions	Costs to Date	Comments	Current Status as at 19 July 2019
Minter Ellison (2863)	Represent Council at a hearing to defend an application against a dangerous dog declaration.		Prev. Years \$16,126 2019/20 \$226 TOTAL \$16,352	Solicitor engaged. Documents served with the Local Court.	Completed Hearing set down for 17 May 2019, now vacated. Agreement made between the parties to finalise the matter.
TOTAL 2019/2020			\$226		

OPTIONS:

1. Receive and note legal services quarterly report in accordance with the Legal Services Procedure requirements.
2. Do not receive and note legal services quarterly report.

CONCLUSION:

The report provides a summary of the external legal expenses Council incurred and was invoiced for during the period 1 July to 30 September 2019.

COUNCIL IMPLICATIONS:

a. Policy:

Legal Services Procedure

b. Budget/Long Term Financial Plan:

Total legal services budget - \$982,212.

Total legal expenditure 1 July 2019 to 30 September 2019 - \$174,169.

	Total Cost 2019/2020
Matters Initiated prior to 1 November 2016	
Category 1 -Planning and Environmental Law	NIL
Council Initiated Legal Services after 1 November 2016	
Category 1 - Planning and Environmental Law	\$130,170
Legal Services Protocol Initiated after 1 November 2016	
Category 1 - Planning and Environmental Law	\$28,703
Category 2 - Local Government Law	\$15,070
Category 3 - Commercial/Property Law	\$0
Category 4 - District/Local Court	\$226
TOTAL	<u>\$174,169</u>

c. Legal:

Solicitors engaged from the appointed Legal Services Panel, or engaged for a specific legal matter.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

29 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Tuesday 24 September 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**

SUMMARY OF REPORT:

The Minutes of the Aboriginal Advisory Committee Meeting held Tuesday 24 September 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 Tuesday 24 September 2019 be received and noted; and
2. The Executive Leadership Team's recommendations be adopted as follows:

A1. Fingal Holiday Park ACHMA

That in relation to the Fingal Holiday Park Aboriginal Cultural Heritage Management Assessment, the Aboriginal Advisory Committee requests that the successful tenderer consults with it regarding the performance and consultation requirements for the archaeologist consultant prior to the commencement of work.

REPORT:

The Minutes of the Aboriginal Advisory Committee Meeting held Tuesday 24 September 2019 are reproduced as follows for the information of Councillors.

Venue:

Minjungbal Aboriginal Museum & Cultural Centre

Time:

10.05am

Present:

Des Williams (Tweed Byron Local Aboriginal Land Council representative), Victor Slockee (Canowindra representative), Dale Williams (Bugalwena representative), Leweena Williams (Tweed Aboriginal Corporation for Sport representative) (arrived at 11.05am), Jackie McDonald (Tweed Wollumbin Aboriginal Education Consultative Group representative), Cr Chris Cherry (Tweed Shire Council).

Ex-officio:

Robyn Grigg, Chantelle Howse, Robert Appo, Gabby Arthur (Minutes) (Tweed Shire Council).

Guests (in order of arrival):

Stewart Brawley and Ian Bentley (Tweed Shire Council) (arrived at 10.00am); Suzanne Richmond (Tweed Shire Council) (arrived at 11.23am); Tim Mackney and Charlotte Neilson (Tweed Shire Council) (arrived at 11.30am).

Apologies:

Mayor Katie Milne, Tracey Stinson (Tweed Shire Council), Desrae Rotumah (Tweed Aboriginal Co-operative Society representative).

Chair: Des Williams

Moved: Victor Slockee

Seconded: Cr Chris Cherry

RESOLVED that the Chair was declared vacant and nominations were called. Des Williams was nominated and was unanimously elected to Chair the meeting.

Des 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: Victor Slockee

RESOLVED that the Minutes of the Aboriginal Advisory Committee meeting held Friday 2 August 2019 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Business Arising at meeting held on 2 August 2019 Agenda Item GB1.

BA1. Sign at Razorback

Stewart confirmed that the signage at Razorback has been replaced and that removal of the sign was reported to the Police. Jackie advised that she has been speaking with Council's signwriters regarding the sign at the corner of Hillcrest Avenue and Philp Parade which has also been removed.

Business Arising at meeting held on 2 August 2019 Agenda Item GB2.

BA2. Support for retention of dry stone walls at new Tweed Hospital site

Jackie advised that Wall 4 was dismantled on 23 September 2019 without any notice. The South Sea Islander community has been in contact with Geoff Provest MP regarding Wall 3. Ground penetrating radar was carried out but the results were not released.

Business Arising at meeting held on 2 August 2019 Agenda Item A4

BA3. Breach of conduct at Pottsville Community Association meeting on 31 July 2019

Council sent a formal letter to the Pottsville Community Association and asked that it be read out to the members. A letter has been received from the Pottsville Community Association and there will be no further action. Jackie requested that a public statement be made by Council in the Tweed Link in relation to the breach of public conduct stating that Council will not tolerate harassment, racist slurs or bad behaviour at any meetings and referring to the Statement of Commitment. Council is developing a new policy and procedure re behaviour of the public towards Council officers. Council will consider placing an article in the Tweed Link regarding the Council's Statement of Commitment, Reconciliation Action Plan (RAP) and Aboriginal Cultural Heritage Management Plan.

Action: *CDO-Aboriginal and Manager Community & Cultural Services to liaise regarding Tweed Link article about Council's Statement of Commitment, Reconciliation Action Plan (RAP) and Aboriginal Cultural Heritage Management Plan.*

Business Arising at meeting held on 2 August 2019 Agenda Item GB3

BA4. Local Government Aboriginal Network Conference (LGAN)

Rob advised that Council will be inviting a member of the Reconciliation Action Plan (RAP) Working Group to attend the LGAN conference. Victor confirmed that he will be attending the LGAN conference.

Business suspended for Agenda Item A2.

A2. Fingal Foreshore Park – Stewart Brawley and Ian Bentley (Tweed Shire Council)

(a) Fingal Foreshore Park - Update

Stewart advised that Council has received an 'Everyone Can Play' grant for upgrades to Fingal Foreshore Park and community consultation and a community open day in the park has been held. The principle of 'Everyone Can Play' is 'Can I get there, Can I play, Can I stay'. A document including feedback was tabled at the meeting and provided to the AAC members. Over 100 people attended the open day with 66 respondents. The main feedback was to keep the park as natural as possible with natural shade and natural-style play equipment. Ian tabled the master plan for the park that was circulated at the community open day. The Aboriginal Cultural Heritage Assessment for Fingal Holiday Park will include Fingal Foreshore Park and some of Queen Street, so decisions regarding the design of Fingal Foreshore Park

will be dependent on the outcome. It is important to be mindful of the timeframes for the funding. In the design, Council will be trying to incorporate play equipment with pathways, rocks for kids to climb on and garden beds so that they can create their own games in a natural playground. Des advised Eastern Brown snakes are prominent at Fingal Foreshore Park so signage should be included.

Action: *CDO-Aboriginal to liaise with Landscape Architect (Ian Bentley) to obtain a copy of the master plan for Fingal Foreshore Park for distribution to the AAC.*

(b) Jack Evans Boat Harbour and Goorimahbah upgrade

Following the site meeting with AAC members and vision for the Jack Evans Boat Harbour and Goorimahbah upgrade, the outcomes resolved by the AAC have been included in the Plan of Management. *Variety* Children's Charity will be providing \$30,000 funding for the design of the accessible park which will be carried out in consultation with schools, AAC and Council's Equal Access Advisory Committee. To acknowledge the funding, a plaque or sign will be incorporated on the edge of the playground with *Variety's* branding. Due to the significance of the park, Council is broadening the scope of how the playground fits into the park and would like to involve the AAC in the process to ensure themes are embedded in the playground. Possibility of a site visit to parks in Brisbane or Ipswich to visualise what has been done in other regions from a cultural interpretation perspective.

Action: *CDO-Aboriginal to liaise with Landscape Architect (Ian Bentley) regarding visit to accessible parks at Logan, Brisbane and Ipswich area with Dan Plumber, AAC and EAAC members and some young people in late October 2019 re co-designing the park.*

(c) Ed Parker Park, Kingscliff

Discussion in relation to risk warning signage in parks near creeks. The AAC suggested a warning sign be placed in Ed Parker Park adjacent to the Kingscliff bridge due to the water current in the creek.

(d) Koala Beach Park/Playground

Des advised that the park/playground with the fig tree at Koala Beach is a site of importance and recommended that the park/playground be closed, fenced and locked so that it can't be entered.

Leweena Williams arrived at 11.05am

Action: *TBLALC (Des Williams) to provide further information to Manager Parks & Active Communities (Stewart Brawley) regarding park/playground at Koala Beach.*

Stewart Brawley left meeting at 11.14am

Agenda Items:

A1. Fingal Holiday Park ACHMA

Rob advised that unfortunately Sally Cooper and Andrew Illingworth were unable to attend the meeting and he has been asked to update the AAC regarding discussions held by the evaluation panel for the Fingal Holiday Park Aboriginal Cultural Heritage Management

Assessment (ACHMA) consultant. Rob read the evaluation report to the AAC and advised that the panel is requesting advice from the AAC regarding appointment of the consultant.

Suzanne Richmond arrived at 11.23am

Tim Mackney and Charlotte Neilson arrived at 11.30am

It was noted that each of the nominated consultants to be used by the tenderers were assessed in the evaluation process.

As a result of the limited information available at the meeting, the Aboriginal Advisory Committee noted the recommendation of Council's evaluation panel for the appointment of the tenderer for the Fingal Holiday Park Aboriginal Cultural Heritage Management Assessment.

Moved: Victor Slockee

Seconded: Dale Williams

RECOMMENDATION:

That in relation to the Fingal Holiday Park Aboriginal Cultural Heritage Management Assessment, the Aboriginal Advisory Committee requests that the successful tenderer consults with it regarding the performance and consultation requirements for the archaeologist consultant prior to the commencement of work.

Business suspended for Agenda Item A4.

A4. Presentation on People Communication & Governance Directorate – Suzanne Richmond (Tweed Shire Council)

Suzanne provided an overview of her portfolio which includes human resources, engagement, consultation and communication with the community, governance and risk management. Suzanne advised that the structure is about to change as a new Director Corporate Services is being recruited and the two business units of People Communication & Governance and Financial Services & Information Systems will come back together.

- Council is consulting with local employment agencies regarding Council's recruitment practices with a view to being more inclusive and remove barriers for Aboriginal people. The AAC will be included in this process.
- Council has endorsed Aboriginal Cultural Awareness training.
- Implementation of an Aboriginal Planning Officer position cadetship. Leweena applauded Council for the implementation of a designated Aboriginal position and suggested that the position be provided with the opportunity to work with the AAC. Council will work with the AAC regarding best places to advertise the position to encourage local Aboriginal people to apply but cannot specify that only local Aboriginal people can apply. Leweena asked that Suzanne investigate whether Tweed is the first council to look at these opportunities and the process, and provide advice to the AAC. Suzanne advised that an Aboriginal staff member always sits on the interview panel for apprentice and traineeship positions.
- Suzanne advised that Council has signed a new contract with its labour hire organisation which includes a clause for the provider to strengthen the diversity of the staff they are employing who can then be placed at Council.

- Council's website will be redeveloped to make it more intuitive which will be a significant step forward.

Action: *CDO-Aboriginal to liaise with Acting Executive Manager People Communication & Governance (Suzanne Richmond) re whether Tweed is the first council to look at the opportunities and process for Aboriginal employment, and provide advice back to the AAC.*

Leweena Williams left the meeting at 12.45pm

A5. Indigenous Procurement – Tim Mackney and Charlotte Neilson (Tweed Shire Council)

At its meeting on 5 July 2019, the AAC enquired whether there would be any weighting and identification of local indigenous businesses in the Procurement Policy. Tim advised that indigenous procurement has been included in the updated version of the Procurement Policy as Council wishes to have a clear statement of intent to encourage as much business as possible from indigenous businesses. Due to legislative changes, some additions are being made to the policy before it is recommended to Council for adoption.

Cr Cherry asked whether Council has a policy regarding gifts offered by Council being indigenous. Cr Cherry was advised that discussions have been held with the Events Officer and a number of indigenous gifts have been given out to award recipients.

Charlotte advised that indigenous businesses are encouraged to register their interest by visiting the 'Request for Offer' tenders section of Council's website. Once the business has registered and selected its preferences, it will be added to the mailing list and invited to provide a tender for any relevant goods or services.

Tim advised that the Contracts Unit are in discussion with Supply Nation which is an organisation that evaluates Aboriginal businesses able to manage large government contracts. Council is required to pay a substantial membership fee before it can access the information and there may be no local providers.

Tim noted that Council is coming to the end of the RAP and it is time to review what has been achieved and identify the additional things it would like to see in that space.

Tim advised that Council is looking internally at the way it is managing the process for engaging archaeologists with a view to establishing consistency. The same process is being reviewed for Registered Aboriginal Parties/representatives within the Aboriginal community. Tim advised that further discussions will be held with the AAC regarding this process in the future.

Tim advised Jackie that in response to her query about unit rates for people on site and registered Aboriginal parties, he will come back to the AAC once some consistency has been established.

Tim Mackney and Charlotte Neilson left the meeting at 1.20pm

A3. Robert Appo (Tweed Shire Council)

(a) Draft Placemaking and Public Art Policy – On Exhibition

Rob tabled the Draft Placemaking and Public Art Policy on behalf of Community Development Officer-Cultural Planning, David Burgener and advised that it is on public exhibition and will be available on Council's website in the near future. Rob encouraged the AAC to provide comment or feedback and he will forward it to David Burgener.

Robyn noted that Council seeks guidance from the Aboriginal community as to how it plans and makes placemaking designs work. Given the experience the AAC has in Council officers approaching them, the AAC and Aboriginal community are encouraged to use their collective history and cultural knowledge to provide feedback to strengthen the policy.

Action: *CDO-Aboriginal to send email to AAC advising the closing date for the Draft Placemaking and Public Art Policy submissions.*

(b) Possible Create NSW Story re the Aboriginal Cultural Heritage Management Plan or 20 year AAC/TSC Anniversary

Rob advised that Council's Community Development Officer-Cultural Planning, David Burgener has been contacted by Create NSW Story which is impressed with the AAC and how it has been maintained over so many years. Create NSW has asked if the AAC has any objection to Council providing a 200 word story on the positive interaction between Council and the AAC and acknowledging the 20 year celebration. The AAC advised it has no objection, that it encouraged the positive story, and requested Rob work with David to prepare the story.

General Business:

GB1.October 2019 meeting

There will not be an AAC meeting held in October 2019 due to the Aboriginal Knock-Out Competition and the commitments of members. The next meeting will be held on 1 November 2019.

Next Meeting:

The next meeting of the Aboriginal Advisory Committee will be held Friday 22 November 2019.

The meeting closed at 1.50pm.

EXECUTIVE LEADERSHIP TEAM COMMENTS:

A1. Fingal Holiday Park ACHMA

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

A1. *Fingal Holiday Park ACHMA*

That in relation to the Fingal Holiday Park Aboriginal Cultural Heritage Management Assessment, the Aboriginal Advisory Committee requests that the successful tenderer consults with it regarding the performance and consultation requirements for the archaeologist consultant prior to the commencement of work.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Aboriginal Advisory Committee adopted 19 September 2013 (ECM 3146605).

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

CONFIDENTIAL ITEMS FOR CONSIDERATION
REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE
REPORTS FROM THE GENERAL MANAGER IN COMMITTEE

C1 [GM-CM] Acquisition of Land

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: -

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

mhm



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
- 3.1.9 Local Emergency Management - To support strong and co-ordinated emergency services for the Tweed.

ROLE: **Provider**

**REPORTS FROM THE DIRECTOR SUSTAINABLE COMMUNITIES AND ENVIRONMENT
IN COMMITTEE**

C2 [SCE-CM] Land Acquisition - Part of Lot 8 DP564356, Bartletts Road, Eviron

REASON FOR CONFIDENTIALITY:

The report includes commercial information that could influence the market for future capital expenditure works associated with Stotts Creek Master Plan.

Local Government Act

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

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

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Provider**

C3 [SCE-CM] Resource Recovery Master Plan

REASON FOR CONFIDENTIALITY:

The report includes commercial information that could influence the market for future capital expenditure works associated with Stotts Creek Master Plan.

Local Government Act

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

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

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: **Provider**
