

Mayor: Cr K Milne

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

Agenda

Ordinary Council Meeting Thursday 20 June 2019

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

Principles for Local Government

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

Guiding Principles for Tweed Shire Council

(1) Exercise of functions generally

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

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

(2) Decision-making

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

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

(3) Community participation

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

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CONFIRMATION OF MINUTES

1 [CONMIN-CM] Confirmation of the Minutes of the Ordinary and Confidential Council Meeting held Thursday 16 May 2019

SUBMITTED BY: Corporate Governance

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
- 2.2.4 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 16 May 2019 are attached for information and adoption by Council.

RECOMMENDATION:

That:

1. **The Minutes of the Ordinary and Confidential Council Meetings held Thursday 16 May 2019 be adopted as a true and accurate record of proceedings of that meeting.**
2. **ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
 - (f) **matters affecting the security of the council, councillors, council staff or council property.**

2 [CONMIN-CM] Confirmation of the Minutes of the Ordinary and Confidential Council Meeting held Thursday 6 June 2019

SUBMITTED BY: Corporate Governance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.2	Engagement
2.2.4	Councillor and Civic Business - To 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 6 June 2019 are attached for information and adoption by Council.

RECOMMENDATION:

That:

- 1. The Minutes of the Ordinary and Confidential Council Meetings held Thursday 6 June 2019 be adopted as a true and accurate record of proceedings of that meeting.**
- 2. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
 - (f) matters affecting the security of the council, councillors, council staff or council property.**

SCHEDULE OF OUTSTANDING RESOLUTIONS

3 [SOR-CM] Schedule of Outstanding Resolutions at 20 June 2019

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

CODE OF MEETING PRACTICE:

Section 2.8 Outstanding Resolutions

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

15 SEPTEMBER 2016

REPORTS FROM THE GENERAL MANAGER IN COMMITTEE

C1 [GM-CM] Murwillumbah Railway Station

C 29

That Council:

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

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

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

1 MARCH 2018

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

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

REASON FOR CONFIDENTIALITY:

This is subject to current legal investigations.

Local Government Act

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

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

C 9

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

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

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

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

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

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

Council's solicitors have actioned the above resolution through forwarding correspondence to Mr Fish who provided a response which was reported to the Confidential Council meeting of 17 April 2019.

At its meeting of 2 May 2019 Council resolved that Council:

1. *Continues to negotiate with Hickey Lawyers in regard to Items C1 and C2 of this Council agenda for an agreed outcome within 21 days.*
 2. *Provides delegated authority to the General Manager, Mayor and Cr Polglase to negotiate and agree a satisfactory outcome with Hickey Lawyers on Council's behalf. Failing an agreed position between the delegates the matter be brought back to a Council meeting for decision.*
 3. *Failing an agreed outcome Council pursues legal action on Items C1 and C2.*
-

22 MARCH 2018

ORDERS OF THE DAY

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

99

**Cr K Milne
Cr R Byrnes**

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

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

17 MAY 2018

ORDERS OF THE DAY

12 [NOM] Landscaping - South Tweed

235

**Cr K Milne
Cr C Cherry**

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

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

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

15 [NOM] Options for Improved Land Management

238

Cr K Milne
Cr C Cherry

RESOLVED that:

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

Current Status: Discussions have occurred at a regional level at both the General Manager and Natural Resource Manager levels to consider a regional approach to offsetting. A report prepared by Natural Resource Management Group members was presented to the July 2018 Northern Rivers Joint Organisation (NRJO) General Managers' Group meeting where it was resolved that:

- NRJO identify a cost share arrangement for the estimated cost of \$41,500, to engage a fixed term staff person (or consultant) to be hosted at an NRJO council;
- This person completes a regional assessment of the needs of each council to adapt development assessment processes to meet the new legislation and report this assessment with recommendations for specific requirements.

- This person complete an assessment of the unavoidable biodiversity offset requirements likely to be generated from land already identified for development across the NRJO and report this assessment with recommendations for specific further requirements, including whether a second stage analysis of potentially available stewardship sites is required.

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

The project and ongoing adaptation to the new biodiversity legislation continues to be undertaken in consultation and with the support of the North Coast Local Government Support Officer (Biodiversity Reforms).

A consultant was engaged in January 2019 through the NRJO to undertake the works and has completed approximately 40% of the project to date. The works completed include the regional needs assessment of all member councils and the preparation of a summary report. The methods for analysis of the potential unavoidable biodiversity offset requirements has also been completed, including collation of all relevant data required to perform the analysis.

The project has been on hold since April 2019 with the endorsement of council to address a significant family health matter faced by the consultant working on the project that has unfortunately resulted in the consultant having to withdraw from the contract. The company that was placed second in the procurement process has been approached and negotiations commenced regarding completion of the project.

21 JUNE 2018

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

295

**Cr J Owen
Cr P Allsop**

RESOLVED that Council endorse:

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

Current Status: Following Council's resolution of the Strategic Planning and Urban Development Work Program this is now a priority 3 project and is currently on public exhibition closing 19 June 2019.

16 AUGUST 2018

ORDERS OF THE DAY

6 [NOM] Environmental Land Purchases

422

Cr K Milne
Cr C Cherry

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

Current Status: Preliminary analysis and scope to provide meaningful brief to Council completed. Expressions of Interest were sought from a list of suitable consultants to respond to the brief and inform the report preparation.

One quote only was received that was in excess of \$60,000 and with a scope well beyond what was required to address the immediate requirement. This quote was taken to the General Managers' Group meeting of the Northern Rivers Joint Organisation in December 2018 to assess the interest of other member councils in considering a regional collaboration given the potential broader application of the scope offered. The outcome of this consideration was that no other member councils wished to participate at this time.

A revised scope of works, now limited to reference to one specific site as a case study analysis, was issued to a further 2 consultants in March 2019. The brief requested a quotation to undertake the development of a business case and options paper to evaluate and report on the economic and environmental viability of council: purchasing land; using

rezoning and/or covenants to protect high conservation value areas; re-selling; and the administration and governance of such a program. Only one response was received which did not holistically address the requirements of the scope.

Council has now approached other relevant organisations including Bond University and the City of Gold Coast to investigate other options to conduct the viability analysis and provide the necessary specialist technical advice required to respond to the resolution.

REPORTS FROM DIRECTOR PLANNING AND REGULATION

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

419

Cr K Milne
Cr R Cooper

RESOLVED that Council:

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

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

REPORTS FROM DIRECTOR COMMUNITY AND NATURAL RESOURCES

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

409

Cr K Milne
Cr C Cherry

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

1. Records of people impacted by dog attacks;
 2. Records of wildlife impacted;
 3. Areas where threatened species occur; and
-

4. Options for alternative management strategies.

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

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

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

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

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

The coastal team have recorded numbers and locations for signs to go up on each of the beach exit and entry points for the different dog zones. Erection of the signage will commence before end of June.

15 NOVEMBER 2018

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

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

REASON FOR CONFIDENTIALITY:

Local Government Act

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

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

C 87

That:

1. Council defers this item to seek the following further investigations and provide updated advice including on:
 - a) the North East Forest Alliance Audit report,
 - b) previous complaints to Council from the neighbours in the immediate vicinity,
 - c) further investigation of the recent activities in question and the history of logging on the property including:
 - i) interviews with the neighbouring complainants,
 - ii) more detailed historical aerial imagery if available,

- iii) other relevant documents that may practically assist in establishing the extent of historical logging on the property, such as tax and transaction records of the parties involved including the transport and receiving parties.
 - iv) other relevant documents that may practically assist in establishing the extent of the recent level of logging activity in question on the property, such as tax and transaction records of the parties involved including the transport and receiving parties.
2. A further report be brought back to Council once these additional investigations and advice have been completed.

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

At its meeting of 2 May 2019 Council resolved that Council:

1. *Continues to negotiate with Hickey Lawyers in regard to Items C1 and C2 of this Council agenda for an agreed outcome within 21 days.*
2. *Provides delegated authority to the General Manager, Mayor and Cr Polglase to negotiate and agree a satisfactory outcome with Hickey Lawyers on Council's behalf. Failing an agreed position between the delegates the matter be brought back to a Council meeting for decision.*
3. *Failing an agreed outcome Council pursues legal action on Items C1 and C2.*

Further to a meeting held on 21 May 2019 between representatives of Council and the owner seeking to negotiate an out-of-court settlement, a 3 month adjournment of the current Class 5 prosecution proceedings was granted on by the Land and Environment Court on 23 May 2019, to enable both parties to advance possible points of settlement.

The owner and his planning consultant have since organised to meet with Council staff in upcoming weeks to discuss options for the Crown Road restoration and lodgement of a subdivision DA.

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

C2 [CNR-CM] Management of Chronic Acid Sulfate Soil Pollution, Christies Creek REASON FOR CONFIDENTIALITY:

Local Government Act

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

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

C 88

That Council:

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

Current Status: Points 1 and 2 complete. It should be noted that whilst a letter was sent to Sunshine Sugar it was not received and has subsequently provided via email. Sunshine Sugar prior to receipt of the letter had proactively contacted Council to express its commitment to work with Council and the industry to find a suitable resolution. As such, Sunshine Sugar will be actively involved with points 4 and 5 below.

Point 3 - Legal advice has been received and Council has written to the landowner to request a meeting to resolve the issue. Meeting has been scheduled for late May 2019.

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

General Manager has authorised response letter to be drafted to Hardy's and Copy Sunshine Sugar, attention Malcolm Warren outlining those aspects of the letter we concur with and those that we do not. Letter to also reiterate that works as per original; agreement need to be completed and council invoiced and that until resolution to problem, pumping to the creek should not occur

21 FEBRUARY 2019

REPORTS FROM THE GENERAL MANAGER

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

23

**Cr K Milne
Cr C Cherry**

RESOLVED that:

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

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

Several attempts have been made to seek a response from Learn to Skydive so this matter can be addressed. No responses have been received to date.

21 MARCH 2019

REPORTS FROM THE GENERAL MANAGER

12 [GM-CM] Destination Management Plan

89

**Cr K Milne
Cr C Cherry**

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

Current Status: Council officers have met with the Tweed Tourism Company (TTC) and advised Council's position. The General Manager of the TTC has subsequently met with the Mayor and Deputy Mayor to request consideration for a broader review led by them including the above two parties.

A letter from Council has been forwarded to Destination North Coast, Destination NSW, Northern Rivers Food and National Parks and Wildlife Service notifying that Council and TTC are in the process of finalising the draft Destination Management Plan and seek their review and feedback of the Draft document tabled with Council. Council's Senior Economic Development Officer will bring a subsequent report forward when the feedback and consultation with each entity is complete.

REPORTS FROM DIRECTOR PLANNING AND REGULATION

a4 [MM-CM] Draft Rural Land Strategy Review

76

Cr K Milne

RESOLVED that:

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

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

8 [NOM-Cr K Milne] Electric Vehicles

80

Cr K Milne
Cr C Cherry

RESOLVED that:

1. Council writes to Tesla and to shopping centre management in the Shire to encourage the installation of electric charge stations for patrons;
2. Council to consider installing electric outlets for staff use;
3. A report be brought back on the potential for the Planning Policy to require new Development Applications for service stations to include fast charging stations.

Current Status: Point 1 - Letters sent in accordance with the resolution.
Point 2 - Feasibility assessment has commenced.
Point 3 - Report will be bought back to a future Council meeting.

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

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

81

Cr K Milne
Cr R Byrnes

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

Current Status: Letters have been forwarded to Tomra and Return and Earn. No responses have been received at the time of finalising this agenda.

17 APRIL 2019

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

11 [PR-CM] Helipads and Heliports - Management of Noise

146

Cr C Cherry
Cr R Cooper

RESOLVED that Council defers this item for a Councillor Workshop to discuss key issues surrounding the assessment and regulation of noise associated with helipads and heliports;

Current Status: A Workshop is to be held on 13 June 2019.

MAYORAL MINUTE

4 [MM-CM] Mayoral Minute for May 2019

SUBMITTED BY: Cr K Milne, Mayor

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

SUMMARY OF REPORT:

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

RECOMMENDATION:

That the Mayoral Minute for the month of May 2019 be received and noted.

REPORT:

Councillors

COMMITTEE MEETINGS

Attended by the Mayor

- 3 May Northern Rivers Joint Organisation Meeting – Richmond Valley Council, 10 Graham Place, Casino.
 - 10 May Richmond Tweed Regional Library Committee – Tweed Heads Library, Corner Wharf and Brett Street, Tweed Heads.
 - 10 May Coolangatta Tweed Cross Border Homelessness Issues Meeting – Kirra Hill Community Centre, 1 Garrick Street, Coolangatta.
-

INVITATIONS / MAYORAL REPRESENTATION:

Attended by the Mayor

- 1 May Resident Industry and Environment Group Stakeholder Forum – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 1 May Fingal Head Locality Plan Community Conversation – Fingal Rovers Surf Life Saving Club, 1 Marine Parade, Fingal Head.
- 8 May UTS Strategic Planning Statement Short Course – Ballina Byron Islander Resort and Conference Centre, 1 Ronan Place, Ballina.
- 14 May Fingal Head Locality Plan Community Conversation – Fingal Rovers Surf Life Saving Club, 1 Marine Parade, Fingal Head.
- 22 May Water Strategies Review Project Reference Group – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 23 May NSW Crown Lands for Jack Evans Boat Harbour Plan Of Management – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 24 May Citizenship Ceremony – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 27 May Community Development Strategy Consultation Focus Group – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 28 May Community Development Strategy Consultation Focus Group – South Tweed Community Hall, Heffron Street, South Tweed Heads.
- 29 May National Reconciliation Week Myth Busters and Comedy Night – Tweed Community Centre, 18 Heffron Street, Tweed Heads. Cr Cooper also attended.

- 30 May Community Sponsorship Presentation Event – Murwillumbah Civic Centre 10 Tumbulgum Road, Murwillumbah. Crs Cherry and Owen also attended.

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

- 22 May Twin Towns Friends Association Volunteers Certificate of Appreciation Ceremony – Tweed Heads Community Hall, Heffron Street, South Tweed Heads. Cr Owen attended.

Inability to Attend by or on behalf of the Mayor

- 18 May Australian Navy Cadets Annual Inspection and Ceremonial Parade – TS Vampire, Dry Dock Road, South Tweed Heads. All Councillors invited, none available.
- 23 May Tweed Byron Police District and NSW Firearms Registry Awards Day – Tweed Heads Bowls Club, Corner Wharf and Florence Streets, Tweed Heads. Invitation to Mayor only and Mayor unavailable.

REQUESTS FOR WORKSHOPS:

Councillors did not request any additional workshops during May 2019.

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

- 15-17 May Farm2Plate Exchange – Mantra on Salt, Gunnamatta Avenue, Kingscliff. Crs Milne, Cherry and Cooper attended.
- 16-17 May Planning Institute of Australia Congress – Gold Coast Convention Centre, 2684-2690 Gold Coast Highway, Broadbeach QLD. Cr Milne attended.
- 23-24 May Future of Local Government National Summit – The Angliss Conference Centre, 555 Latrobe Street, Melbourne VIC. Cr Cooper attended.
- 28-29 May World Business Forum – International Convention Centre, Darling Harbour, Sydney. Cr Allsop attended.

Information on Conferences to be held

There was no information received on pending conferences during May 2019.

SIGNING OF DOCUMENTS BY THE MAYOR:

- 1 May Variation to Lease – Communications Tower, Casuarina Sports Field.
 - 1 May Contract to Purchase High Hazard Flood Land – 42 River Street, South Murwillumbah.
 - 1 May Licence Agreement – Tweed and Gold Coast South Sea Islander Community for use of South Sea Islander Room.
 - 22 May Deed of General Security Arrangement - Husk Industries.
 - 22 May Granting of 20 Year Lease – Pottsville Community Pre-School.
 - 30 May Deposited Plan for Clarrie Hall Dam Land Acquisition – 2009 Kyogle Road, Terragon.
 - 30 May Deposited Plan for Road Closure Application – Settlement Road, Numinbah.
-

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 20 June 2019

SUBMITTED BY: Corporate Governance



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Collaborator**

SUMMARY OF REPORT:

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

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

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

RECOMMENDATION:

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

- **Petition received on 3 June 2019 containing 323 signatures in relation to the Kunghur Community Hall advising:**

"We the undersigned hereby respectfully request the Tweed Shire Council to:

1. *Recognise the history and intent for which the Kunghur Community Hall was built.*
2. *Reinstate the hall as a shared community space and help develop community resources in this remote western corner of the Tweed Shire.*

- 3 *Allow a new Kunghur Community Hall Committee to form, with the purpose of managing the hall, as other halls are similarly managed within the Tweed Shire.*
4. *Give back control of building maintenance to the Kunghur Community Hall Committee and help release frozen funds, that can be used for this purpose.*
5. *Allow the Kunghur Community Hall Committee and the Kunghur Preschool to work collaboratively to manage the hall. This could include systems and rules for the efficient moving of preschool equipment, so that the burden in sharing the space is reduced."*

There was reference to 512 signatures, however, given that there were no details of the online petition only the 323 signatories can be admitted. This figure also includes letters of support from various local organisations and individuals.

- **Petition received on 5 June 2019 containing 23 signatures in relation to DA 17/0564.01 125 River Street, South Murwillumbah advising:**

"I would like to show my support for the construction at 125 River St, South Murwillumbah on the following grounds:

This is a flood prone area where the majority of houses have been raised to a similar height and therefore height variation is justified.

The property and particularly the roof has significant architectural merit."

REPORT:

As per Summary

OPTIONS:

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

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

CONCLUSION:

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

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

ORDERS OF THE DAY



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

6 [NOM-Cr K Milne] Expansion of the existing Mt Nullum Nature Reserve

NOTICE OF MOTION:

Councillor K Milne moves that:

1. Council liaise with NSW National Parks and Wildlife Service (NPWS) on opportunities for the exchange of land that would best suit their interest as an owner of National Parks and Council's operational and community interests. Specifically the operational land listed below which Council owns in and around Mt Nullum and adjoining NSW NPWS, Mt Nullum Nature Reserve:

Lot 2 DP 600298
Lot 102 DP 755702
Lot 87 DP 755702
Lot 92 DP 755702

2. Following discussion with NSW NPWS, a report be brought back to Council on any opportunities for the exchange of land to the mutual benefit of both parties to enable ratification under the Common Seal of Council.

Councillor's Background Notes

Recommended Priority:

The opportunity for NSW National Parks and Wildlife Service (NPWS) to expand the Mt Nullum Nature Reserve could be realised to the benefit of the community, the State and Council through a negotiated land exchange to reflect the importance of these parcels of land due to the geological, environmental and cultural significance of these lands, whilst also realising some important land for Council's operational and community needs.

Mt Warning/Wollumbin is the most significant remnant volcanic feeder plug of the Tweed Caldera with Mt Nullum being the second most significant of these remnant geological

forms. The presence of threatened species flora and fauna, significant geological features and areas of cultural significance could be best realised through an expansion of the Mt Nullum Nature Reserve.

Description of Project:

Nil.

Management Comments:

Delivery Program:

nhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

Council has owned the various parcels which make up the Mt Nullum land since the early 1980's. Whilst there have been various proposals to undertake activities on this land there are no current plans embedded in the Delivery Program or any of Councils Strategic Plans.

Budget/Long Term Financial Plan:

Mt Nullum is currently classified as "Operational" land but is being managed by the Natural Resource Management Unit through the Bushland Management, Fire Hazard Reduction and Pest Management budgets and programs as per the remainder of community land parcels that make up council's bushland reserve estate.

Externally funded grants have also been used to resource management actions at Mt Nullum, including the recently awarded NSW Environmental Trust project *Lowland Lyrebird Links in the Tweed Caldera*. This project involves ecological monitoring, threatened species habitat improvement and threat mitigation actions over the next five years.

Legal Implications:

Nil.

Policy Implications:

Nil.

7 [NOM-Cr R Byrnes] Anti-Dumping Measures - McAllisters Road, Bilambil Heights and other applicable areas

NOTICE OF MOTION:

Councillor R Byrnes moves that Council:

- 1 Places anti-dumping signs along McAllisters Road, Bilambil Heights as a deterring measure against further illegal rubbish dumping.**
- 2 Looks at past hot spots of illegal dumping and considers placing signage and surveillance cameras where such measures have yet to be enacted.**

Councillor's Background Notes

Recommended Priority:

Several residents along McAllisters Road, Bilambil Heights have reported to me that they continue to face illegal dumping on their properties. They state Council once considered signage but have not received follow up. Further concern is that other areas in the Shire face the same predicament and investigation is needed.

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 |
| 3.1 | People |
| 3.1.6 | Environmental Health - To support public health and environmental safety through education, inspections and enforcement of government rules and regulations. |

ROLE: **Leader**

Background

Council has more recently established an internal Illegal Dumping Working Group to more effectively manage illegal dumping in the Tweed Shire.

The draft Illegal Dumping Strategy is currently on public exhibition until the 18 June 2019 and an evaluation and review of submissions will be undertaken and reported back to Council in August, 2019.

Council has commenced the collection of illegal dumping data through the success of the \$20,000 baseline data collection grant received from the Environmental Protection Agency (EPA). This project is helping establish data on the types and quantity of waste being dumped and establishing any trends or hotspots in the Tweed.

Work is underway to define an illegal dumping hot spot for Tweed Shire Council (this could be a volume of waste or a number of dumping incidents over 12 months).

It is envisaged that we may have two or three levels of hotspot that will have a different level of signage and surveillance:

Level 1: No dumping sign at the location;

Level 2: Larger sign in a general location and a no dumping sign at the location; and

Level 3: Signs (as above) and surveillance cameras.

New behavioural change signage is being developed in addition to EPA branded "Report Illegal Dumping" signage funded through the grant. Northern Rivers Councils are also sharing ideas on what illegal dumping strategies work and what doesn't.

Specific Response to the Notice of Motion:

Council officers will place anti-dumping signs along McAllisters Road Bilambil Heights as a deterring measure against further illegal rubbish dumping.

As part of the Illegal Dumping Strategy new signage is being development and can be trialled at any illegal dumping hotspots, including McAllisters Road.

Council looks at past hot spots of illegal dumping and considers placing signage and surveillance camera where such measures have yet to be enacted.

Officers from the Environmental Health Section are able to visit any reported hotspots such as McAllisters Road, in order to determine the extent of the illegal dumping and find suitable locations to trial illegal dumping signage.

Some Northern Rivers Councils have found surveillance cameras to be ineffective and very time consuming in remote locations. There has been some success and some fines issued from cameras in locations with very frequent illegal dumping.

Budget/Long Term Financial Plan:

The proposed actions involve minimal costs and can be accommodated within the existing program budget.

Legal Implications:

Any action involving new signage and compliance investigations will be undertaken in accordance with relevant legislation.

Policy Implications:

The proposed actions are consistent with the Draft Illegal Dumping Strategy which is currently on public exhibition.

8 [NOM-Cr R Byrnes] Traffic Speeding Concerns - Casuarina

NOTICE OF MOTION:

Councillor R Byrnes moves that:

- 1 A report be generated by Council advising of options focussing on 'awareness' and 'Smiley Signage' to reduce vehicle speeding in Casuarina, with special emphasis on Casuarina Way, south of Santai Resort.
- 2 Council staff work in collaboration with the Casuarina Seaside Salt Residents Association (CASSRA) on this report and options contained therein.

Councillor's Background Notes

Recommended Priority:

At a recent meeting held with Casuarina Seaside Salt Residents Association (CASSRA) it became evident many residents in the Casuarina area are extremely concerned with excessive speeding and would welcome measures such as a 'smiley' sign to alert drivers to their speeding.

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: Advocate

“Smiley Signage” refers to courtesy speed boards, which are portable speed awareness devices that could be temporarily installed at locations around the Shire. The boards use inbuilt radar to monitor passing vehicle speeds and display messages according to whether the motorists are travelling at or below the posted speed limit (with a green smiley face and a “thank you” message), over the speed limit by less than 10km/h (vehicle speed is displayed with a “slow down” message), or by more than 10km/h (“slow down” message only). They

have been successfully deployed across Brisbane, with measurable reductions in average speeds. Example photos provided below:



Unfortunately speeding is not just a matter for Casuarina Way. Other examples where speeding is frequently reported to Council include Kingscliff Street, McPhail Avenue, Overall Drive, Hastings Road and Byangum Road. Accordingly it is recommended that the report be provided with a broader approach to driver awareness and speed reduction techniques across all urban areas. Casuarina Way could be used as a pilot, through consultation with CASSRA and Council's Local Traffic Committee.

The report would explore costings for the boards, and detail previous unsuccessful efforts to attract State Government funding for the project.

Budget/Long Term Financial Plan:

Funding for the courtesy speed boards would be sought from grant funding. However to date the project has not been eligible under existing road safety programs.

Legal Implications:

Nil.

Policy Implications:

Nil.

9 [NOM-Cr R Byrnes] Bus Stop Adequacy Audit

NOTICE OF MOTION:

Councillor R Byrnes moves that:

- 1 A report be generated by Council advising of the current adequacy of design, construction and maintenance of our current bus stops in the Tweed Shire - The report is to contain options to improve these shelters where applicable, and where possible to increase shelters on bus stops that do not currently have seating or shelter.
- 2 A separate report be brought back to Council on the feasibility to include a short survey on Councils website, to be promoted on social media platforms, asking shire residents on where new bus stops are needed, or how current stops can be improved along current routes.

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: Advocate

The report in part (1) would provide Council with information on existing public transport infrastructure, maintenance arrangements and funding. Council provides infrastructure to support public transport, but is not a provider of the service, which falls to the State Government and their contractors.

The report will also explore the criteria to be considered when undertaking or prioritising new public transport infrastructure projects, including:

- Connectivity with the pedestrian network
- Accessibility for a range of users
- Road safety considerations (buses, cars, pedestrians)
- Number of customers at a location (demand)
- School bus services versus commercial bus services
- Consultation with the public transport provider
- Future route changes
- Safety, public surveillance, lighting
- Resident acceptance

The Roads and Stormwater Unit has recently awarded a contract to carry out 20 bus shelter upgrades to improve accessibility and install 8 new shelters under the Country Passenger Transport Infrastructure Grants Scheme (CPTIGS), worth approximately \$150,000 for 2018/19. As previously reported, a further \$60,000 has been allocated to Council under CPTIGS for 2019/20. Applications open soon for the following year's program, and the community input from part (2) would be very valuable in informing that application.

Due to these application timeframes, it is recommended that the community survey and social media (or whatever format the consultation eventually takes) be undertaken without the need for a further report.

Historically it has been difficult to achieve support for new bus shelters, seats and signage due to strong objections by adjacent residents. This aspect also needs to be considered when Council embarks on projects of this nature.

Budget/Long Term Financial Plan:

The proposed report and consultation can be prepared by staff with any costs borne by existing budgets.

Legal Implications:

Nil.

Policy Implications:

Nil.

10 [NOM-Cr J Owen] Funding Request for "Smiley Face" Speed Signs

NOTICE OF MOTION:

Councillor J Owen moves that Council immediately writes to the Member for Tweed, Geoff Provest, and Member for Lismore, Janelle Saffin, to follow up Council's previous request for funding for 'Smiley Face' speed signs to raise the profile of road safety in our community and reduce speeds on local roads.

Councillor's Background Notes

Recommended Priority:

Councillor James Owen was, and continues to be, in receipt of correspondence from Community members concerned with speeding drivers on Casuarina Way, Kingscliff and Casuarina and other roads in Tweed Shire.

Speeding is a major problem on our roads and is a contributing factor in 63 per cent of fatal crashes and 32 per cent of serious injury crashes in the Tweed. Council regularly receive complaints about speeding on local roads, particularly on school bus routes and on local collector roads with high traffic volumes.

To address these community concerns and improve safety, Council could install solar powered speed awareness devices that can be rotated around roads experiencing speeding issues. These signs would display the speed of approaching vehicles and then a smiling face or a reminder to slow down.

Councillor Owen has raised this issue at a Local Traffic Committee meeting and asked Council Officers to provide information on 'smiley face' speed signs, regarding their effectiveness at reducing speeding on Tweed Roads, including but not limited to: but not be limited to:

- Casuarina Way, Casuarina/Kingscliff, McPhail Avenue, Kingscliff, Byangum Road, Murwillumbah, Kingscliff Street, Kingscliff The Quarterdeck, Tweed Heads, Tumbulgum Road, Murwillumbah, Sandalwood Drive, Bogangar, Clunes Street, Tyalgum, Broadway, Burringbar, Overall Drive, Pottsville.

As a result of Councillor Owen's request Council Officers produced a report, on the effectiveness of the signs, the benefits and disadvantages, costs and Suggested Criteria for locations in Tweed.

In February 2018, after consultation with the Local Traffic Committee, The General Manager wrote to Member for Tweed, Geoff Provest, and then Member for Lismore, Thomas George, requesting NSW Government funding for these signs that display the speed of approaching vehicles and then a smiling face or a reminder to slow down.

Trials by Brisbane City Council and Gold Coast Council were very successful, often reducing speeds by over 10km/h while the boards were in place.

Unfortunately, Council is unable to allocate funds or find suitable funding opportunities through State or Federal Programs. Hence, we have sought NSW Government funding for these signs.

Courtesy Speed Boards on local roads

Background

Council Officers regularly receive complaints about speeding on local roads, particularly in the vicinity of school bus stops and on local collector roads where traffic volumes are higher.

To address these community concerns and improve safety, other Councils have trialled Courtesy Speed Boards to reduce speeds on their local roads. The trials were successful, often reducing speeds by over 10km/h while the boards were in place.

Even a small reduction in speed can greatly reduce the chance and severity of a crash. Reducing the impact speed between a vehicle and a pedestrian from 60 to 50 km/h almost halves the likelihood of a fatality. Also, a car travelling at 65km/h is twice as likely to be involved in a crash as a car travelling at 60km/h.

The Courtesy Speed Boards are portable devices that could be temporarily installed at locations across the Shire.

The devices operate in the following manner:

- If the motorist is driving at or below the speed limit, a green smiley face or a 'Thank you' message is displayed.
- If the motorist is driving above the speed limit by up to 9km/h, the vehicle's speed is displayed with an amber 'SLOW DOWN' message.

If the motorist is driving 10km/h or more above the speed limit, a red 'SLOW DOWN' message is displayed but the vehicle's speed is not displayed. This way hoons won't use the device to get a 'high score'.

The project would aim to increase community awareness about safer speeds and reduce the incidence of speeding on these roads.

Similar Projects

A similar project in Brisbane identified promising results. Twenty six portable speed warning signs were rotated at 171 sites across the Council area. Fifty per cent of sites showed a reduction in speed by 10km/h or greater during the radars placement. The study also found continual effectiveness in reducing speeds, even when the radars were left in the same location for 23 weeks (full report attached).

Suggested Criteria for locations in the Tweed

We have an extensive database of speed and volume surveys that can be used to identify suitable locations. Sites could be prioritised based on:

- 85th percentile greater than 15% over speed limit
- Crash history
- Traffic volume (AADT>1000 vehicles per day)

- School bus route
- High number of vulnerable road users
- Community petitions or high number of community requests for signs.
- Nominations from Councillors
- Suitability of signage at location (Suitable sight distance to sign, no obstructions or other road signs that could be confusing and sufficient sunlight for solar power)
- Ensure radars are at midblock location where vehicles would be travelling at a maximum speed and not still accelerating from an intersection.

Project Set-up Cost Examples

The signs could be rotated approximately every 8 weeks through our existing traffic survey and radar placement program.

	Number of Sites	Unit Cost	Cost
Sign	10	6000	60 000
Footings	30	3000	90000
		TOTAL	150 000

	Number of Sites	Unit Cost	Cost
Sign	6	7000	42 000
Footings	18	3000	54 000
		TOTAL	96 000

	Number of Sites	Unit Cost	Cost
Sign	4	7000	28 000
Footings	12	3000	36 000
		TOTAL	64000

Examples of signs and footings





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: Advocate

Council previously provided the above information to the State Members Geoff Provest and Thomas George in February 2018 seeking appropriate funding opportunities for the “smiley” sign project. The project has also been submitted to Roads and Maritime Services for similar funding opportunities, to date without success.

Budget/Long Term Financial Plan:

Council currently has no budget allocation for the signage project. The Roads and Stormwater Unit intends to implement the project should a suitable grant opportunity arise.

Legal Implications:

Nil.

Policy Implications:

Nil.

11 [NOM-Cr J Owen] Kennedy Drive/Norman Street and Terranora Creek Boat Ramp

NOTICE OF MOTION:

Councillor J Owen moves that Council officers expeditiously investigate options relating to the intersection of Kennedy Drive/Norman Street and the Terranora Creek boat ramp in Tweed Heads and send a report to the Local Traffic Committee for consideration.

Councillor's Background Notes

Recommended Priority:

There have been a number of crashes in this area in recent years. This intersection has been reviewed several times by staff over the years, but as yet no satisfactory solution has been found for the issues. Councillor Owen has received recent representations from community members raising safety concerns around vehicles turning right into Norman Street from Kennedy Drive.

Description of Project:

Nil.

Management Comments:

Delivery Program:

nhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

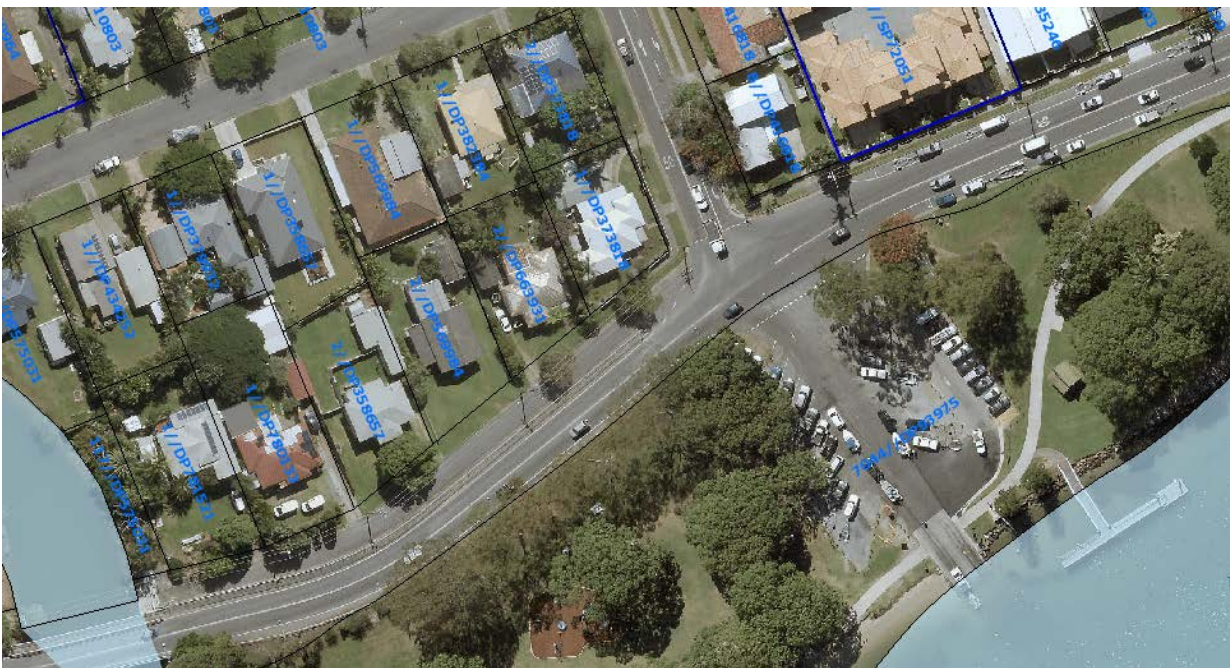
ROLE: Advocate

Over the years members of the community have raised, and officers are aware of, a crash history at the intersection of Kennedy Dr/Norman St and the Terranora Creek Boat Ramp. The intersection is further complicated as it has an additional service lane that provides access to some five properties.

The most common crash type is a rear end collision when west-bound vehicles are stopped on Kennedy Drive to turn right into Norman St. Vehicles exiting the Boat Ramp stop in an area that obstructs west bound traffic passing right turning vehicles into Norman Street.

Potential improvements and upgrades have been reviewed several times over the years and most recently the intersection was reviewed under the Tweed Road Development Strategy as to the potential impacts of constructing a roundabout or signals. The intersection was not recommended under the strategy for upgrade due to potential undesirable outcomes in traffic flow, being increased usage of local roads to access the intersection. Drivers currently tend to avoid turning right from Norman Street as there can be delays in finding appropriate gaps.

Previous attempts to design a suitable roundabout configuration or traffic signals that serviced all legs, including the service road, were unsuccessful. Currently, officers are reviewing the linemarking at the intersection and seeking advice from external consultants regarding the feasibility of creating a right turn lane into Norman St. Whilst a simple solution of installing a "No Right Turn" sign on Kennedy Drive would address the crash incidences, this would require community and stakeholder consultations and traffic modelling as to its consequences.



A view of the subject intersection.

Budget/Long Term Financial Plan:

There is currently no budget allocation in the Delivery Plan for an intersection upgrade at Kennedy Drive/Norman Street.

Should linemarking and signage improvements be the preferred option, these costs can be borne by current operational budgets.

As the intersection is not currently in the Works Program for the Tweed Road Contribution Plan, developer contributions under the Plan No.4 cannot be used on any intersection upgrades. Should a suitable design for reconstruction of the intersection be determined, this could be considered for inclusion in a future version of the contribution plan or funding sourced under the Federal Black Spot programme.

Legal Implications:

Nil.

Policy Implications:

Nil.

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

12 [GM-CM] NSW Ombudsman Review - Tweed Valley Hospital

SUBMITTED BY: General Manager

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Advocate

SUMMARY OF REPORT:

In accordance with the Council resolutions of 17 January and 21 February 2019 in relation to the Tweed Valley Hospital, Council referred to the NSW Ombudsman requesting a review of the process undertaken by Health Infrastructure for the preliminary works outside of a State Significant Development Application.

Correspondence has been received from the New South Wales Ombudsman about the outcome of its review. Following its review of the matter, the NSW Ombudsman advised that it has decided not to take any further action on Council's complaint.

RECOMMENDATION:

That Council receives and notes the correspondence from the NSW Ombudsman dated 30 May 2019.

REPORT:

Council at an Extraordinary Meeting on 17 January 2019 debated item entitled [PR-EXT] Proposed Hospital at Lot 11 DP 1246853 No. 771 Cudgen Road, Cudgen.

At the conclusion of the debate it was resolved that Council:

- “1. Notes our continuing concerns about the process undertaken for the preliminary works being utilised by Health Infrastructure as it is Council's view that these works should have been undertaken as part of a State Significant Development Application.*
- 2. Does not proceed with seeking further legal advice or pursuing legal action at this stage.*
- 3. Refers this matter to the NSW Ombudsman for review of the process undertaken by Health Infrastructure.”*

Council actioned the resolution by sending the resolution of Council to the NSW Ombudsman regarding this matter and received a response dated 1 February 2019 from the Ombudsman seeking further information from Council.

At an Ordinary Meeting on 21 February 2019, Council debated item entitled LATE [GM-CM] Letter to NSW Ombudsman re Tweed Valley Hospital.

At the conclusion of the debate it was resolved that Council:

- “1. Considers the complete package of reports and advices received in relation to the Tweed Valley Hospital should be provided to the NSW Ombudsman in order to satisfy the Extraordinary Council Resolution of 17 January 2019.*
- 2. In providing these documents notes that they contain material subject to client legal privilege, and that it is provided on a confidential basis, and for the limited purpose of assisting the Ombudsman's enquiries and investigations into the complaint.*
- 3. Preserves privilege over those advises.”*

In accordance with this resolution, further information was provided to the NSW Ombudsman in response to its request for further information. Council sought to preserve legal professional privilege in then relevant documentation provided to the NSW Ombudsman.

By letter dated 30 May 2019 (Attachment 1), the NSW Ombudsman advised the following outcome of its review (extracted from Attachment 1):

“After considering the information provided to our office by council and Health Infrastructure, including Health Infrastructure's response to written inquiries and a meeting with NSW Ombudsman staff, our office has decided not to take any further action on council's complaint.

From the information available it appears that Health Infrastructure considered the key issues raised by council's representations in December 2018 and sought and considered its own legal and expert advice about their position in response. Health Infrastructure is

entitled to rely on the advice they obtained. There may be a difference of opinion between council and Health Infrastructure about the issues involved here; this is not of itself a basis for the NSW Ombudsman to investigate Health Infrastructure's conduct.

This office would only consider conducting an investigation if there was strong evidence of inappropriate conduct in relation to how Health Infrastructure's advice was obtained. The evidence available to this office does not suggest this type of conduct occurred.

I appreciate this outcome may not be what council had originally expected when the initial complaint was made. I hope knowing that Health Infrastructure's conduct raised in council's complaint has been assessed by an independent and objective third party will provide some reassurance to council."

From discussions with the NSW Ombudsman, in order to make the letter publically available, the name of the officer has been redacted from Attachment 1.

OPTIONS:

That Council receives and notes the correspondence from the NSW Ombudsman dated 30 May 2019.

CONCLUSION:

In summary, the Ombudsman has decided not to take any further action on Council's complaint. The Ombudsman also noted that while this might not be the outcome Council expected, it hopes some reassurance will be found in Health Infrastructure's conduct having been assessed by an independent and objective third party.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not applicable

c. Legal:

Yes, legal advice was received prior to Council's resolution of 21 February 2019. Total legal costs for that advice were \$34,514.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Letter from NSW Ombudsman (ECM 5914085).

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - Section 4.15 Evaluation

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

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

- (a) the provisions of:
 - (i) any environmental planning instrument, and
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
 - (iii) any development control plan, and
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
 - (v) any coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*),that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations, (e) the public interest.

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

(2) **Compliance with non-discretionary development standards—development other than complying development.**

If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

- (a) is not entitled to take those standards into further consideration in determining the development application, and
- (b) must not refuse the application on the ground that the development does not comply with those standards, and
- (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

and the discretion of the consent authority under this section and section 4.16 is limited accordingly.

- (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:
- (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and
 - (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Note. The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).

(3A) **Development control plans**

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

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

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

(4) **Consent where an accreditation is in force**

A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the *Building Code of Australia* if the building product or system is accredited in respect of that requirement in accordance with the regulations.

- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).

(6) **Definitions**

In this section:

- (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
- (b) **non-discretionary development standards** means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

13 [PR-CM] Development Application DA18/0478 for the Demolition of Existing Structures, Tree Removal, Earthworks, Construction of Dwelling and Two Swimming Pools at Lot 1 SP 17328; No. 1/20 Lagoon Road ; Lot 2 SP 17328; No. 2/20 Lagoon Road

SUBMITTED BY: Development Assessment and Compliance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Provider

SUMMARY OF REPORT:

On 15 June 2018, Council received a development application for the demolition of existing structures at 1/20 Lagoon Road, 2/20 Lagoon Road and 22 Lagoon Road FINGAL HEAD and approval for tree removal, earthworks, construction of a dwelling and secondary dwelling and two (2) swimming pools. The development was to be undertaken in two (2) stages, with Stage 1 consisting of demolition and tree removal and Stage 2 comprising of construction, landscaping and rehabilitation works.

The application was later amended to remove the secondary dwelling and to incorporate the area in question into the principal dwelling. A third storey element in the original plans was removed, reducing the dwelling to two (2) storeys over a lower ground level garage. The extent of vegetation on the site to be cleared was also reduced.

The proposed dwelling is constructed across three levels with a five car parking space garage, storage and access foyer on the lower ground level, living areas on the ground floor centred round a central courtyard with a second landscaped courtyard to the Lagoon Road frontage. Six (6) bedrooms are provided on the first floor which presents as two separate blocks over the ground floor podium. A rooftop terrace is provided at roof level. Vehicular access to the site is from Lagoon Road, with pedestrian access via a gatehouse on Dune Street.

The proposed dwelling has a Gross Floor Area (GFA) of 716.49sqm and a maximum building height of 10.35m above existing ground level.

The application seeks to exceed the 9m building height standard for the site set out in the Tweed Local Environmental Plan (TLEP) 2014, and as such the application has been accompanied by Clause 4.6 variation request. The extent of the breach is limited to the rooftop terrace; namely the glass balustrade (10.35m), the planter box (10.05m) and a sliding canopy structure over the access stairs (9.4m). As the degree of variation is greater than 10%, determination by the elected Councillors is required.

As set out later in this report, the Clause 4.6 request is considered to be reasonable having regard to the minimal impact associated with the exceedance and it is recommended that Council support the request.

The site is identified as high ecological value. Vegetation representative of an Endangered Ecological Community (EEC) - Littoral Rainforest occurs across the site to the east of existing dwelling structures. Individual stems of the threatened flora species *Cryptocarya foetida* (Stinking Cryptocarya) were identified on and adjacent to the site. Fundamental changes to the original proposal have been made to minimise the impact on the sites ecological values. As a result, impact on the EEC has been reduced to an estimated 113sqm from the original 236sqm, whilst the impact upon the number of *Cryptocarya foetida* individuals has been reduced from 5 to 1.

The application has been reviewed by Council's Natural Resource Management (NRM) Unit who advise that the application can be supported subject to the imposition of appropriate conditions on any consent issued including measures to:

- Formally protect (under an 88B instrument) an area of approximately 505sqm of Littoral Rainforest on site;
- Enable the protection of trees and vegetation occurring outside the development envelope during the construction phase and life of the development;
- Translocate one *Cryptocarya foetida* occurring within the development envelope; and
- Remove all existing built form within the littoral rainforest area to be protected on site and the footprint revegetated.

The application is seeking to vary a number of the development controls in the Tweed Development Control Plan (DCP) 2008, specifically:

- Section A1, Part A, Section 3.2 Building Height, Control C1 which restricts the overall building height to 9m; and
- Section A1, Part A, Section 6.1 Fences and walls, Control C4 which restricts front and return fences to a primary or secondary street frontage to a maximum height of 1.5m with a maximum solid fence height of 600mm, above which the fence is to have a minimum openness ratio of 60%.

The applicant has included the gatehouse on the Dune Street frontage as part of the front fence and has considered it in relation to the fencing control above. However the gatehouse should also be considered as a variation to the front setback to secondary streets as set out in Section A1, Part A, Section 3.1 Setbacks – Front and rear setbacks, Control C1 which requires a setback of 5m to Dune Street.

The applicant has not addressed the rooftop terrace controls in Section A1, Part A, Section 4.7 of the DCP which restrict the area of a rooftop terrace (to a maximum of 30sqm or 15% of the floor area), the height to the height standard in the LEP and which requires the preparation

of an Amenity Impact Assessment. The application is not compliant in this regard, however these rooftop terrace controls came into effect on 20 February 2019 after the applicant submitted the amended plans. As such, the applicant cannot reasonably be expected to comply with these controls or penalised for non-compliance.

As set out later in this report, the proposed variations to the DCP Section A1 Part A are considered to be acceptable in the context of the overall proposal and can be supported. The site is identified as bushfire prone land and the application was referred to the NSW Rural Fire Service (RFS) who raised no objection to the proposal subject to the imposition of appropriate conditions.

The application was referred to Essential Energy in accordance with Section 45 of State Environmental Planning Policy (SEPP) (Infrastructure) 2008. Following much correspondence between the applicant and Essential Energy, concerns in relation to the proximity of the swimming pools to overhead power lines were resolved and Essential Energy advised that there was no objection to the proposal.

The application was notified from 18 July 2018 to 1 August 2018. During this time 16 submissions were received objecting to the development (as originally submitted). These included submissions on behalf of two (2) community groups; Community Organisations Fingal Head Coastcare and Fingal Head Community Association Inc. One (1) late submission was received after the close of the submission period, and this has also been considered.

The main issues raised in the submissions can be summarised as following:

- Bulk and scale of the proposal is excessive and out of character with the area;
- The proposed height is excessive and the 9m height standard should not be exceeded;
- The impact on biodiversity is unacceptable;
- Variations to the DCP controls should not be supported, particularly the fencing controls and setback controls;
- Pedestrian access should be from Lagoon Road not Dune Street as proposed and
- Concern with construction impacts including potential damage to trees on Dune Street and Lagoon Road, water quality impacts on Wommin Lagoon and damage to Council roads.

The applicant has submitted amended plans which reduce the height and bulk of the proposal and has amended the layout to reduce the tree and vegetation disturbance. However, a number of issues raised above have not been fully resolved in the amended plans or the further information response, namely the exceedance of the 9m height control, increased setbacks to Lagoon Road, height of fencing to Lagoon Road and Dune Street and the pedestrian access to Dune Street via a gatehouse. While the extent of vegetation/tree removal has been reduced, it is likely that the tree and vegetation removal proposed may remain a concern for the objectors.

However, the assessment of the proposal concludes that the proposal has merit and that the variation requested, including the height exceedance resulting from the rooftop terrace and the requested variations to the DCP controls can be supported.

Council's NRM unit support the proposal subject to the imposition of appropriate conditions on any consent issued.

RECOMMENDATION:

That Development Application DA18/0478 for the demolition of existing structures, tree removal, earthworks, construction of dwelling and two swimming pools at Lot 1 SP 17328; No. 1/20 Lagoon Road; Lot 2 SP 17328; No. 2/20 Lagoon Road; Lot 256 DP 755740; No. 22 Lagoon Road Fingal Head be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Zone planning Group and dated May 2018, BASIX Certificate 929963M_02 and the following plans prepared by Jared Poole Design, except where varied by the conditions of this consent:

Plan	Reference	Date
Site Plan - Proposed	BP827/DA1.03 - Issue L	27 Mar 2019
Site Plan - Development	BP827/DA1.04 - Issue K	27 Mar 2019
Basement Floor Plan	BP827/DA2.01 - Issue J	4 Dec 2018
Basement Floor Dimension Plan	BP827/DA2.02 - Issue J	4 Dec 2018
Ground Floor Plan	BP827/DA2.03 - Issue K	27 Mar 2019
Ground Floor Dimension Plan	BP827/DA2.04 - Issue J	4 Dec 2018
First Floor Plan	BP827/DA2.05 - Issue J	4 Dec 2018
First Floor Dimension Plan	BP827/DA2.06 - Issue J	4 Dec 2018
Roof Plan	BP827/DA2.07 - Issue J	4 Dec 2018
Roof Dimension Plan	BP827/DA2.08 - Issue J	4 Dec 2018
Elevations	BP827/DA3.01 - Issue J	4 Dec 2018
Elevations	BP827/DA3.02 - Issue J	4 Dec 2018
Sections	BP827/DA4.01 - Issue J	4 Dec 2018
Sections	BP827/DA4.02 - Issue J	4 Dec 2018
Sections	BP827/DA4.03 - Issue B	4 Mar 2019
Flood Gate Details	BP827/DA5.01 - Issue J	4 Dec 2018

[GEN0005]

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

[GEN0115]

3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the Developer's expense.

[GEN0135]

4. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]

5. **Bushfire Asset Protection Zones**

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

- (a) At the commencement of building works and in perpetuity the property around the dwellings as indicated below, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':

- (i) North, south and west to the property boundary; and
- (ii) East for a minimum distance of 4.9 metres.

[GEN0320]

6. **Bushfire Water and Utilities**

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

- (a) Electricity and/or gas services are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

[GEN0325]

7. **Bushfire Landscaping**

- (a) Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

[GEN0340]

8. Prior to the commencement of construction of the new structure or use of the site a 'clearance inspection' shall be conducted for the site and a 'clearance certificate' issued by a licensed asbestos assessor or competent person which states that the site 'does not pose a risk to health and safety from exposure to asbestos' in accordance with Clause 474 of the Work Health and Safety Regulation 2017. A copy of this certificate shall be forwarded to the [Principal Certifying Authority](#) and Council within 7 days of completion of the 'clearance inspection'.

[GEN0350]

9. All works shall comply with AS2601-2001 Demolition of Structures and the Work Health and Safety Regulation 2017.

[GEN0360]

10. Prior to demolition of the structure is commenced all asbestos material shall be identified and removed from the site by an asbestos removalist who is licensed to carry out the work by WorkCover NSW. All asbestos waste shall be disposed at a facility that is licensed to receive asbestos waste (all receipts related to disposal

must be kept on site and provided to a Council Authorised Officer upon request).

[GEN0365]

11. The development shall be undertaken in the following stages (unless agreed otherwise by Council).

Stage 1:

Demolition of the existing dual occupancy and associated ancillary structures at 20 Lagoon Road;
Demolition of the existing dwelling house and associated ancillary structures at 22 Lagoon Road; and
Tree removal.

Stage 2:

Construction of proposed dwelling house;
Construction of two (2) swimming pools;
Construction/installation of ancillary structures;
Provision of site landscaping and undertaking rehabilitation works; and
Establishment of an Asset Protection Zone (APZ).

12. After lot consolidation, the lot is to only have one water and sewerage reticulation connection to Council's public water and sewer infrastructure.

13. The Applicant shall submit an 'Application for Sewer Junction Installation/Alteration' form to Council's Water Unit to facilitate the removal of one sewer junction that currently services Lot 256 DP 755740 and SP 17328. The sewer junction works shall be completed by Council's Water & Wastewater Unit before a S68 approval to Connect to Sewer (SEW) can be issued by Council's Building and Environmental Health Unit.

14. Should the driveway be located over the sewer inspection opening of the consolidated lot, the inspection opening shall be replaced with a trafficable lid to be constructed flush with the proposed driveway surface.

[GENNS01]

15. The importation of waste (including fill or soil) to the site must be in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the Office of Environment and Heritage "*Waste Classification Guidelines*". The only fill material that may be received at the development is virgin excavated natural material or waste-derived fill material the subject of a resource recovery exemption. Any virgin excavated natural material or waste-derived fill material the subject of a resource recovery exemption must be accompanied by documentation as to the material's compliance and must be provided to the Principal Certifying Authority or Council on request.

[GENNS02]

16. Vegetation removal shall be limited to non-local native species and/or vegetation identified to be removed in an approved Arboricultural Impact Assessment Report prepared for each stage of the development unless otherwise approved by Council's General Manager or delegate.

17. The following features shall be retained and afforded protection during all construction stages and for the life of the development (the latter term is applicable to all referenced trees occurring on the subject site):

- (a) All trees shown as 'Trees to Remain' on Dwg. No. BP827/DA1.06 Issue K Site Plan - Existing Tree Impact dated 27 March 2019 prepared by Jared Poole Design. Note: Reference to Dwg BP827/DA1.06 Issue K does not assume approval of the plan with respect to tree works; and
 - (b) All trees identified to be retained in the approved Arboricultural Impact Assessment Report for each respective stage of the development.
- 18. The entire area onsite to the east of the 4.9m asset protection zone as depicted on Dwg. No. BP827/DA1.03 Issue L Site Plan - Proposed dated 27 March 2019 prepared by Jared Poole Design to include 'Tall closed Littoral rainforest (*Cryptocarya triplinervis* var. *triplinervis* +/- *Cupaniopsis anacardioides*, *Banksia integrifolia* and *Lophostemon confertus*) littoral rainforest community' as depicted on Figure 8 Vegetation Communities in Ecological Assessment 20-22 Lagoon Road, Fingal Head dated May 2018 prepared by JWA Ecological Consultants shall be retained, afforded adequate protection and managed for conservation purposes in perpetuity under a statutory protection instrument. The area aforementioned is estimated at a 505sqm and shall be described as the 'Conservation Area' for the purposes of this consent.
- 19. All existing built form (i.e. timber boardwalk and platforms, yet excluding boundary fences) occurring within the Conservation Area shall be removed and the area revegetated in accordance with an approved Habitat Restoration Plan as part of Stage 1 works.
- 20. A positive covenant and restrictions as to user applicable under Section 88B of the *Conveyancing Act 1919* shall be registered for the benefit of the Tweed Shire Council within 90 days of issue of a construction certificate or of the commencement of any works onsite (whichever occurs first) on the terms specified below:
 - (a) A Positive Covenant shall be registered over the area described as 'Conservation Area' in this consent. The area the subject of the positive covenant must be subject to a habitat restoration program undertaken in accordance with an approved Habitat Restoration Plan and managed as a natural area for conservation purposes in perpetuity.

Burden: Part Lot 255 DP 755740 (SP 17328) and Part Lot 256 DP 755740.
Benefit: Tweed Shire Council.
 - (b) Restriction as to User restricting the following activities within the Conservation Area referred to in this consent:
 - i. Clearing, lopping or removal of any native plants, whether existing at the date of this approval or planted pursuant to conditions of this consent;
 - ii. Erection of any fixtures or improvements, including buildings or structures;
 - iii. Construction of any trails or paths unless otherwise approved by Council;
 - iv. Depositing of any fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the Conservation Area;
 - v. Keeping or permitting the entry of domestic animals or any other animals that are not indigenous to the Conservation Area; and
 - vi. Performance of any other acts which may have detrimental impact on

the values of the Conservation Area.

Burden: Part Lot 255 DP 755740 (SP 17328) and Part Lot 256 DP 755740.

Benefit: Tweed Shire Council.

21. Primary habitat restoration works (in accordance with an approved Habitat Restoration Plan) within the Conservation Area shall commence immediately upon practical completion of Stage 1 works or within 3 months of commencement of such works whichever occurs first.

[GENNS03]

22. The development shall comply with the following:

- (a) In the event that the proposed development changes, there may be potential safety risks and Essential Energy are to be consulted.
- (b) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
- (c) Essential Energy's records indicate there is electricity infrastructure located within the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure. <https://energy.nsw.gov.au/sites/default/files/2018-09/ISSC-20-Electricity-Easements.pdf>
- (d) Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995 (NSW)*.
- (e) Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

[GENNS04]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

[PCC0945]

24. For developments containing less than four attached or detached strata dwellings having a Building Code classification of 1a, each premises must be connected by means of a separate water service pipe, each of which is connected to an individual Council water meter to allow individual metering. Application for the meters shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

[PCC1175]

25. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a Construction Certificate.

[PCC1195]

26. Where any existing sewer junctions are to be disused on the site, the connection point shall be permanently removed by Council staff. Applications shall be made to Tweed Shire Council and include the payment of fees in accordance with Councils adopted fees and charges.

[PCC1235]

27. If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

Applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. The arrangements and costs associated with any adjustment to water and wastewater infrastructure shall be borne in full by the applicant/developer.

The Section 68 Application must be approved by Council prior to the associated Construction Certificate being issued.

[PCC1310]

28. Prior to issue of a Construction Certificate or prior to commencement of any works onsite (whichever occurs first) a Stage 1 Arboricultural Impact Assessment Report (AIAR) prepared by a suitably qualified Arborist with a minimum Australian Qualification Framework (AQF) Level 5 in Arboriculture and in accordance with Australian Standard AS4970-2009 Protection of trees on development sites shall be submitted to Council. The AIAR shall include the following:

- (a) Retention and protection of the following trees and vegetation onsite and within the public road reserve during demolition works (unless otherwise accepted by Council based on sound, best practice arboricultural grounds):

- i. All trees identified as 'Trees to Remain' on Dwg. No. BP827/DA1.06 Issue K Site Plan - Existing Tree Impact dated 27 March 2019 prepared by Jared Poole Design and including those trees specified in the table below:

Tree Number	Botanical Name	Common Name
24, 52, 68, 69, 70, 71, 88	<i>Cryptocarya triplinervis</i> var. <i>triplinervis</i>	Three-veined Laurel
53, 54, 62, 66, 67	<i>Cupaniopsis anacardioides</i>	Tuckeroo
65	<i>Acmena hemilampra</i>	Broad-leaved Lilly Pilly
89, 91	<i>Clerodendrum floribundum</i>	Lollybush

Tree Number	Botanical Name	Common Name
90	<i>Planchonella chartacea</i>	Thin-leaved Coondoo
102	<i>Cryptocarya foetida</i>	Stinking Cryptocarya

- ii. All native vegetation not identified on Dwg. No. BP827/DA1.06 Issue K Site Plan - Existing Tree Plan dated 27 March 2019 prepared by Jared Poole Design associated with 'Tall closed Littoral rainforest (*Cryptocarya triplinervis* var. *triplinervis* +/- *Cupaniopsis anacardioides*, *Banksia integrifolia* and *Lophostemon confertus*) littoral rainforest community as depicted on Figure 8 Vegetation Communities in Ecological Assessment 20-22 lagoon Road Fingal Head dated May 2018 prepared by JWA Ecological Consultants occurring to the east of the 4.9m asset protection zone as identified on Dwg. No. BP827/DA1.06 Issue K, and
 - iii. The entire 'Clump 2' as shown on Figure 9 Tree Survey in Ecological Assessment 20-22 Lagoon Road Fingal Head dated May 2018 prepared by JWA Ecological Consultants.
- (b) Tree removal method statement/s and management measures to ensure those trees to be retained are afforded adequate protection during Stage 1 demolition works.
 - (c) Calculations of Tree Protection Zones and Structural Roots Zones (in accordance with AS4970:2009) and extent of any acceptable encroachments as a proportion of protection zones where applicable.
 - (d) Details of all protective devices (protective fences, root curtains/barriers, pervious treatments) and any other arboricultural management measures to minimise construction impacts.

The Stage 1 AIAR shall be approved by Council's General Manager or delegate prior to issue of a Construction Certificate or commencement of any works onsite whichever occurs first.

29. Prior to issue of a Construction Certificate, a Stage 2 Arboricultural Impact Assessment Report (AIAR) prepared by a suitably qualified Arborist with a minimum Australian Qualification Framework (AQF) Level 5 in Arboriculture, in liaison with a Bushfire Planning & Design accredited professional and in accordance with *Australian Standard AS4970-2009 Protection of trees on development sites* shall be submitted to Council. The AIAR shall address management and protection of all trees and vegetation detailed in the approved Stage 1 AIAR with the exception of trees identified in the following table approved to be removed to facilitate Stage 2 development (unless otherwise accepted by Council based on sound, best practice arboricultural grounds) and include information detailed below (Corresponding Tree Numbers referenced from Dwg. No. BP827/DA1.06 Issue K Site Plan - Existing Tree Impact dated 27 March 2019 prepared by Jared Poole Design):

Tree Number	Botanical Name	Common Name
65	<i>Acmena hemilampra</i>	Broad-leaved Lilly Pilly
66	<i>Cupaniopsis anacardioides</i>	Tuckeroo
71	<i>Cryptocarya triplinervis</i> var. <i>triplinervis</i>	Three-veined Laurel
90	<i>Planchonella chartacea</i>	Thin-leaved Coondoo
102	<i>Cryptocarya foetida</i>	Stinking Cryptocarya

- (a) Tree removal method statement/s and management measures to ensure those trees to be retained are afforded adequate protection during Stage 2 construction works.
- (b) Calculations of Tree Protection Zones and Structural Roots Zones (in accordance with AS4970:2009) and extent of any acceptable encroachments as a proportion of protection zones where applicable.
- (c) Details of all protective devices (protective fences, root curtains/barriers, pervious treatments) and any other arboricultural management measures to minimise construction impacts and ensure retention of those trees specified in this consent.
- (d) Tree 102 *Cryptocarya foetida* translocation details in accordance with the approved habitat restoration plan

The Stage 2 AIAR shall be approved by Council's General Manager or delegate prior to issue of the Construction Certificate for Stage 2.

30. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or delegate prior to the issue of the Construction Certificate for Stage 2. The detailed plan of landscaping shall reflect the following:
 - (a) A minimum of 80% locally occurring Australian native species and maximum of 20% non-locally occurring Australian native species to apply to all trees.
 - (b) A minimum of 80% locally occurring Australian native species and maximum of 20% Australian native or exotic species to apply to other plants (shrubs, ground cover and similar).
 - (c) No environmental weed species.
31. A Habitat Restoration Plan (HRP) shall be submitted and approved by Council's General Manager or delegate prior to issue of any Construction Certificate associated with the development or prior to commencement of any works whichever occurs first. The HRP shall be developed for the following areas:
 - (a) The entire area onsite to the east of the 4.9m asset protection zone as depicted on Dwg. No. BP827/DA1.03 Issue L Site Plan - Proposed dated 27 March 2019 prepared by Jared Poole Design to include 'Tall closed Littoral rainforest (*Cryptocarya triplinervis* var. *triplinervis* +/- *Cupaniopsis anacardioides*, *Banksia integrifolia* and *Lophostemon confertus*) littoral rainforest community' as depicted on Figure 8 Vegetation Communities in Ecological Assessment 20-22 Lagoon Road, Fingal Head dated May 2018 prepared by JWA Ecological Consultants.

- (b) The entire 'Clump 2' as shown on Figure 9 Tree Survey in Ecological Assessment 20-22 lagoon Road Fingal Head dated May 2018 prepared by JWA Ecological Consultants.

The HRP shall be prepared generally in accordance with TSC Draft Habitat Restoration Plan Preparation Guideline - Site specific guidelines for the ecological restoration dated February 2012 by a person suitably qualified in Bushland Regeneration or Ecological Restoration and with knowledge and experience in local littoral rainforest vegetation communities to include the following:

- i. A description of those areas the subject of the HRP including area estimates and an appraisal of the present condition of remnant vegetation,
- ii. Plan overlaying an aerial photograph of the site which divides the area into zones for regeneration and zones for planting, including those areas to be revegetated following removal of existing built form within the Conservation Area (i.e. timber boardwalk and platforms),
- iii. The restoration approach, methods and techniques to be implemented i.e. assisted natural regeneration, reconstruction and/or a combination within each zone,
- iv. Schedule of local native plant species and densities to be used for planting (where required),
- v. Program of works to be undertaken to control environmental weed species,
- vi. Schedule of timing of proposed works,
- vii. Details of primary establishment phase works and maintenance phase works as follows (which may not be strictly limited to):
 - A. Primary Works - All planting, treatment of all environmental weeds, baseline monitoring and reporting,
 - B. Maintenance works - Supplementary planting (where required), continued treatment and control of environmental weeds, monitoring and reporting.
- viii. Set of performance criteria to achieve the specified restoration outcomes over a five (5) year management period,
- ix. Maintenance, monitoring and reporting schedule with developer commitment for a period of not less than five (5) years. The number of treatment rotations shall be adequate to successfully achieve site capture by completion of the five (5) year maintenance period,
- x. An adaptive management statement detailing how potential problems arising may be overcome and requiring approval of Council's General Manager or delegate for such changes,
- xi. A long-term management component to include:
 - A. A schedule of activities not permitted within the Conservation Area to be registered on title under an 88B Restriction as to User referred to in this consent,
 - B. Set of performance criteria to be achieved annually post the five (5) year maintenance period,
 - C. A schedule of annual works to achieve post five (5) year maintenance period performance criteria.

- xii. A translocation works and monitoring component for Tree No. 102 *Cryptocarya foetida* as shown on Dwg. No. BP827/DA1.06 Issue K Site Plan - Existing Tree Impact dated 27 March 2019 prepared by Jared Poole Design consistent with *Guidelines for the Translocation of Threatened Plants in Australia Second Edition Florabank Guidelines and Code of Practice 2000*.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

32. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

33. An application is to be made to Council to temporarily “cap off” the existing building sewerage house drainage from Council's sewerage system, prior to any demolition work commencing. A Plumbing and Drainage Works on Private Land <<http://www.tweed.nsw.gov.au/Controls/Forms/Documents/SewerSepticForm.pdf>> application form shall be submitted to Tweed Shire Council and payment of fees in accordance with Councils adopted fees and charges.

[PCW0045]

34. The erection of a building in accordance with a development consent must not be commenced until:
- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - i. appointed a principal certifying authority for the building work, and
 - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - i. notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - ii. notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - ii. notified the principal certifying authority of any such appointment, and

- iii. unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

- 35. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

- 36. Residential building work:

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

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

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

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

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

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

[PCW0235]

- 37. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 15 persons employed at the site. Each toilet provided must be:

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

- 38. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work

and a telephone number on which that person may be contacted outside working hours, and

- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

39. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

[PCW0985]

40. Where any existing sewer junctions are to be disused on the site, the connection point shall be permanently removed by Council staff. Applications shall be made to Tweed Shire Council and include the payment of fees in accordance with Councils adopted fees and charges prior to commencing any building works.

[PCW1135]

DURING DEMOLITION/CONSTRUCTION

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

[DUR0005]

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

[DUR0015]

43. Commencement of work, including the switching on and operation of plant, machinery and vehicles is limited to the following hours, unless otherwise permitted by Council:

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

44. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

L_{Aeq, 15 min} noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

L_{Aeq, 15 min} noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

45. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

46. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

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

[DUR0405]

48. Excavation

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

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

[DUR0425]

49. If the work involved in the erection or demolition of a building:

(a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or

(b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.

[DUR0435]

50. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Work Health and Safety Regulation 2017.

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

[DUR0645]

51. Minimum notice of five working days shall be given to Tweed Shire Council for the permanent removal of any disused sewer junctions. Tweed Shire Council staff shall undertake the works in accordance with the application lodged and upon excavation of the service by the developer.

[DUR0675]

52. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

53. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from:

- Noise, water or air pollution.
- Dust during filling operations and also from construction vehicles.
- Material removed from the site by wind.

[DUR1005]

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

[DUR1015]

55. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

56. **Swimming Pools (Building)**

(a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 - 2012 & AS 1926.3 -2010 & AS 1926.2-2007, the Swimming Pool Act 1992 and the Swimming Pool Regulation 2008.

(b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.

- (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.
- (e) Once your pool or spa is complete please register it at www.swimmingpoolregister.nsw.gov.au .

[DUR2075]

57. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR2085]

58. The proposed swimming pool is to be sited a minimum distance of 6 metres from any effluent disposal area.

[DUR2105]

59. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blown from the site.

[DUR2185]

60. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.

[DUR2425]

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

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

[DUR2485]

62. Plumbing

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

[DUR2495]

63. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR2505]

64. **Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.**

[DUR2545]

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

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

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

[DUR2555]

66. **The Applicant shall submit the appropriate 'Application for Water Service Connection' form to Council's Water Unit to facilitate the removal of one the of a property service water connections on Lot 256 DP 755740 and SP 17328 from the existing water main in Lagoon Road. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.**

[DUR2800]

67. **Swimming pool pumps, air conditioning units, heat pump water systems and the like shall be located, installed and operated so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2017.**

[DUR2835]

68. **The occupier of any premises in or on which a swimming pool (not including a spa pool) is being constructed must ensure that a sign is erected and maintained that:**

- (a) **bears a notice containing the words "This swimming pool is not to be occupied or used", and**
- (b) **is located in a prominent position in the immediate vicinity of that swimming pool, and**
- (c) **continues to be erected and maintained until a relevant occupation certificate or a certificate of compliance has been issued for that swimming pool.**

Maximum penalty: 5 penalty units.

Note. The signage requirements in subclause (3) are in addition to any signage that may be required under the *Environmental Planning and Assessment Act 1979* or any other Act.

[DURNS01]

69. **A suitably qualified ecologist who holds a fauna survey licence is required to manage wildlife onsite during any tree removal and/or disturbance to wildlife habitat. Fauna management methods employed should be generally consistent with the *Draft Queensland Code of Practice for the Welfare of Wild Animals Affected by Clearing and Other Habitat and Wildlife Spotter/Catchers* (Hangar & Nottidge 2009). Where translocation is required the proponent shall seek any relevant permits from the state regulating agency (NSW Office of Environment &**

Heritage). It is the responsibility of the proponents to ensure all relevant licences have been obtained prior to any fauna interactions.

70. All vegetation management measures detailed in the approved Arboricultural Impact Assessment Report shall be complied with for all stages of the development during the demolition and construction phases.
71. A suitably experienced and qualified Project Arborist (Minimum AQF Level 5 Arborist) must be appointed prior to commencement of any works on site. The Project Arborist is to be responsible for supervising Stage 1 and Stage 2 demolition and tree works and completing certification of tree management requirements in accordance with the approved Arboricultural Impact Assessment Report and *Australian Standard AS4970-2009 Protection of trees on development sites* through all stages of the development.
72. The applicant must comply with any directions given by the Project Arborist or Council's General Manager or delegate during the demolition and construction phases with respect to vegetation management measures employed onsite.
73. In the event that any threatened species, populations, ecological communities or their habitats are detected during operations with a high likelihood of negative impact, appropriate Plans of Management for those species must be formulated to the satisfaction of the General Manager or delegate and/or the Office of Environment and Heritage. No further site clearing or construction activity will take place until the Plan(s) of Management is/are approved.
74. All landscaping shall be carried out in accordance with the approved detailed plan of landscaping.
75. All practical measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.
76. All habitat restoration works shall be carried out in accordance with the approved Habitat Restoration Plan.
77. Within 30 days from practical completion of Stage 1 works the nominated Project Arborist shall provide to Council's General Manager or delegate a certification report that includes the following information:
 - (a) Confirmation that all works have been undertaken in accordance with the approved Stage 1 Arboricultural Impact Assessment Report as required by this consent, *Australian Standard AS4970 - 2009 Protection of trees on development sites*, industry best standards,
 - (b) Provide details of any remedial actions recommended by the Project Arborist or Council to avoid/minimise disturbance of retained vegetation, and
 - (c) Brief assessment of the condition of the trees to be retained, details of any deviations from approved essential tree protection management actions/measures and if applicable evaluation of any remedial actions undertaken to mitigate impact on existing vegetation as a result of project works.

[DURNS02]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

78. Prior to issue of an Occupation Certificate, all works/actions/inspections etc required at that stage by other conditions or any approved Management Plans or the like shall be completed in accordance with those conditions or plans.
79. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [POC0005]
80. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein). [POC0205]
81. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Land and Property Information (LPI) (formerly the Lands Titles Office), prior to issue of an Occupation Certificate. [POC0355]
82. Upon completion of the pool the builder is to submit to the Principal Certifying Authority a certificate stating that the "Water Recirculation System" has been installed in accordance with AS 1926.3-2010. [POC0855]
83. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works. [POC0905]
84. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met. [POC1045]
85. The swimming pool or spa is required to be registered at www.swimmingpoolregister.nsw.gov.au prior to the issue of any occupation certificate for the swimming pool or spa. [POC1055]
86. All approved landscaping requirements must be completed in accordance with the approved detailed plan of landscaping to the satisfaction of Council's General Manager or delegate prior to the issue of an Occupation Certificate. [POC1100]
87. Prior to the issue of an Occupation Certificate, the nominated Project Arborist shall provide to Council's General Manager or delegate a certification report that includes the following information:
- (a) Confirmation that all works have been undertaken in accordance with the approved Stage 2 Arboricultural Impact Assessment Report as required by this consent, *Australian Standard AS4970 - 2009 Protection of trees on development sites*, industry best standards,
 - (b) Provide details of any remedial actions recommended by the Project Arborist or Council to avoid/minimise disturbance of retained vegetation, and

- (c) Brief assessment of the condition of the trees, details of any deviations from approved essential tree protection management actions/measures and if applicable evaluation of any remedial actions undertaken to mitigate impact on existing vegetation as a result of project works.
88. Prior to issue of an Occupation Certificate the applicant shall provide to Council evidence that the positive covenant and restriction to user as specified in this consent has been created and registered on land title.
89. All construction works and activity shall be contained within the subject site and shall not encroach within the adjacent Council administered crown land being Lot 7075 DP1071318 to the east of the subject site.
90. A heavy duty pool cover to the satisfaction of Council's General Manager or delegate shall be installed as a permanent fixture to 'Pool 2' as shown on Dwg. No. BP827/DA1.03 Issue L Site Plan - Proposed dated 27 March 2019 prepared by Jared Poole Design prior to issue of an Occupation Certificate or commencement of use of the development whichever occurs first.
91. All environmental restoration works and activities shall be completed to a level specified in the approved Habitat Restoration Plan prior to the issue of an Occupation Certificate.

[POCNS02]

USE

92. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.
93. 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.
94. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.
95. All wastes shall be collected, stored and disposed of to the satisfaction of the General Manager or his delegate.

[USE0125]

[USE0175]

[USE0225]

[USE0875]

96. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall not be operated if it can be heard in a habitable room of a residence during restricted hours or at other times should the noise from the article be deemed to be offensive as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.

[USE1510]

97. No shade structure shall be erected or installed on the rooftop terrace without the prior written approval of the General Manager or his delegate.

[USENS01]

REPORT:

Applicant: Mr JL Fitzgerald
Owner: Mr John L Fitzgerald
Location: Lot 1 SP 17328; No. 1/20 Lagoon Road Fingal Head; Lot 2 SP 17328; No. 2/20 Lagoon Road Fingal Head; Lot 256 DP 755740; No. 22 Lagoon Road Fingal Head
Zoning: R2 - Low Density Residential
Cost: \$2,400,000

Background:

Application details

The application seeks approval for the following works to be undertaken in two (2) stages:

Stage 1

- Demolition of the existing dual occupancy and associated ancillary structures at 20 Lagoon Road;
- Demolition of the existing dwelling house and associated ancillary structures at 22 Lagoon Road; and
- Tree removal.

Stage 2

- Construction of proposed dwelling house;
- Construction of two (2) swimming pools;
- Construction/installation of ancillary structures,
- Provision of site landscaping and undertaking rehabilitation works; and
- Establishment of an Asset Protection Zone (APZ).

The application as initially submitted also sought approval for a secondary dwelling. However this area has been absorbed into the principal dwelling, with approval for a single dwelling only now sought.

The proposed dwelling has a Gross Floor Area (GFA) of 716.49sqm and a maximum building height of 10.35m above existing ground level.

The proposed dwelling is split across three (3) levels and consists of the following:

- *Lower Ground Floor* – Garage with five (5) car parking spaces, storage room, two (2) entry foyers to connect from garage to ground floor and lift;
- *Ground Floor* – Gymnasium, office/library, media/lounge, living/dining/kitchen, laundry, entry ways, central courtyard and western courtyard and roofed outdoor entertaining area and patio;
- *First Floor* – Split into two (2) separate blocks, this floor consists of six (6) bedrooms, a rumpus area and amenities; and
- *Roof level* – A rooftop terrace is proposed on the roof of the roof of the south-eastern block accessed by a sliding glass canopy over the access stairs, with solar panels and a green roof proposed for the remaining roof areas.

There is a detached gatehouse on the Dune Street frontage, a lap pool to the rear of the dwelling and a second pool to the north of the dwelling.

The application seeks to exceed the 9m building height standard for the site set out in the Tweed Local Environmental Plan (TLEP) 2014, and as such the application has been accompanied by Clause 4.6 variation request.

The extent of the breach is limited to the rooftop terrace; namely the glass balustrade (10.35m), the planter box (10.05m) and a sliding canopy structure over the access stairs (9.4m). As the degree of variation is greater than 10%, determination by the elected Councillors is required.

The general development statistics are set out in Table 1 below:

Table 1: Development Statistics

	Development Standard / Control	Proposal
Site Area	2,025.02sqm	
Maximum Building Height	9m (TLEP2014)	10.35m
Floor Space Ratio	0.8:1 (TDCP 2008)	0.35:1
Maximum Site coverage	30% (TDCP 2008)	30%
Landscape area	45% (TDCP 2008)	51.3%
Primary front setback	Based on average of dwellings within 40m – 5.22m +/- 1m	4.595m
Secondary front setback	5m	5m (with exception of gatehouse (nil))
Side setback	1.5m	
Rear setback	15m	16.28m
Car parking	2 spaces (TDCP 2008)	5 spaces

Site details

The subject site is legally described as Lots 1 & 2 SP17328 (20 Lagoon Road) and Lot 256 DP755740 (22 Lagoon Road), Fingal Head NSW 2487. The site has an area of 2,025.02sqm and is regularly shaped with frontage to Lagoon Road (32.99m) and Dune Street road reserve (64.474m) which includes a Coastal Reserve access pathway.

Levels range from 1.49m AHD to 3.56m AHD with the site generally at, or above, the centreline of Lagoon Road and Dune Street.

Lots 1 & 2 SP17328 currently accommodate a single storey dual occupancy with vehicular and pedestrian access to Dune Street and a second pedestrian access to Lagoon Road. Lot 256 DP755740 accommodates a single storey dwelling with vehicular and pedestrian access to Lagoon Road.

The site is identified as bush fire prone land. The site is flood affected with a Design Flood level of 2.6m ADH identified for the site.

The site adjoins a Crown Coastal Reserve (Council as trustee) to the east. The reserve supports important Littoral Rainforest habitat as recognised under *the State Environmental Planning Policy (SEPP) (Coastal Management) 2018*. To the west of the site beyond the Lagoon Road Reserve is Wommin Lagoon recognised as a Coastal Wetland under the *SEPP (Coastal Management) 2018*.

The predominant land use pattern within the area is low density residential living, with development in the area a mixture of single and two storey dwellings.

Site vegetation

Vegetation representative of an Endangered Ecological Community - Littoral Rainforest occurs across the site to the east of existing dwelling structures. A small copse of littoral rainforest occurs within the north-west of the site extending into the road reserve.

Individual stems of the threatened flora species *Cryptocarya foetida* (Stinking Cryptocarya) were identified on and adjacent to the site.

A number of semi-mature non-rainforest trees are interspersed across the site. It is likely these specimens were planted to form part of the landscaping. Trees include:

- *Eucalyptus crebra* (Narrow-leaved Ironbark)
- *Corymbia tessellaris* (Moreton Bay Ash)
- *Eucalyptus grandis* (Flooded Gum)
- *Eucalyptus robusta* (Swamp Mahogany)
- *Corymbia torelliana* (Cadahgi)
- *Mangifera indica* (Mango)

One (1) Preferred Koala Food Tree – *Eucalyptus robusta* (Swamp Mahogany), considered to be a planted specimen, occurs within the landscaped area of the site.

History of the application

The applicant was formally lodged on 15 June 2018. In addition to seeking a variation to the height standard to construct a dwelling with a maximum height of 11.65m, the original proposal sought to remove approximately 236smq of a Threatened Ecological Community from the site, to vary the specified setbacks to Dune Street and Lagoon Road and to reduce the required landscape area.

The application was notified from 18 July 2018 to 1 August 2018, with 16 submissions received in this time and one (1) late submission.

On 29 August 2018, the applicant was issued with correspondence advising that Council did not support the proposal as submitted in terms of the excessive height, bulk and scale of the development, the proposed loss of vegetation, the proposed variations to the primary and secondary street setbacks and the incompatibility of the proposal with the low density residential zoning and the 'village' character of the area.

The applicant was advised that should they wish to proceed with the application, revised proposals were required which complies with the maximum height of building control of 9m which applies to the site, to maintain a setback of 6m to Lagoon Road and 5m to Dune Street, to significantly reduce the proposed vegetation removal and to reduce the height of the fences to Lagoon Road and Dune Street. The applicant was also advised that further ecological surveying was considered warranted.

On 22 January 2019, the applicant submitted a response to the Request for Further Information which included the following:

- Amended architectural plans incorporating the following amendments:
 - Removal of the secondary dwelling;
 - Changes relating to the setbacks, building height, site coverage and landscaped area resulting in a reduced development footprint;
 - Removal of one of the proposed gatehouses on the Dune Street frontage; and
 - Retention of littoral rainforest identified as Clump 2 on survey plans and its associated bank.

Notwithstanding the modifications which included the removal of the third storey, the proposed development still exceeds the 9m height standard (though the extent of the breach is reduced) with a number of variations to the DCP controls still required:

- Section A1, Part A, Section 3.1 Setbacks – Front and rear setbacks, Control C1 (as it relates to gatehouse);
 - Section A1, Part A, Section 3.2 Building height – Control C1 (9m); and
 - Section A1, Part A, Section 6.0 Ancillary Development, 6.1 Fences and Walls, Control – C6.
- Updated Clause 4.6 variation request;
 - Updated Compliance Table for DCP Controls;
 - Response letter from the Ecological Consultant addressing the Request for Further Information;
 - An arborist report;
 - Acid Sulfate Soils Investigation report;
 - Preliminary site investigation report;
 - Pre-demolition underslab soil contamination investigation report;
 - Updated level and detail study;
 - Amended BASIX Certificate; and
 - Response to issues raised in submissions.

On 7 February 2019, Essential Energy requested further information in relation to the potential impact of the development on exposed overhead power lines. The applicant responded on 4 March 2019, though the issues were not resolved to the satisfaction of Essential Energy until 16 May 2019.

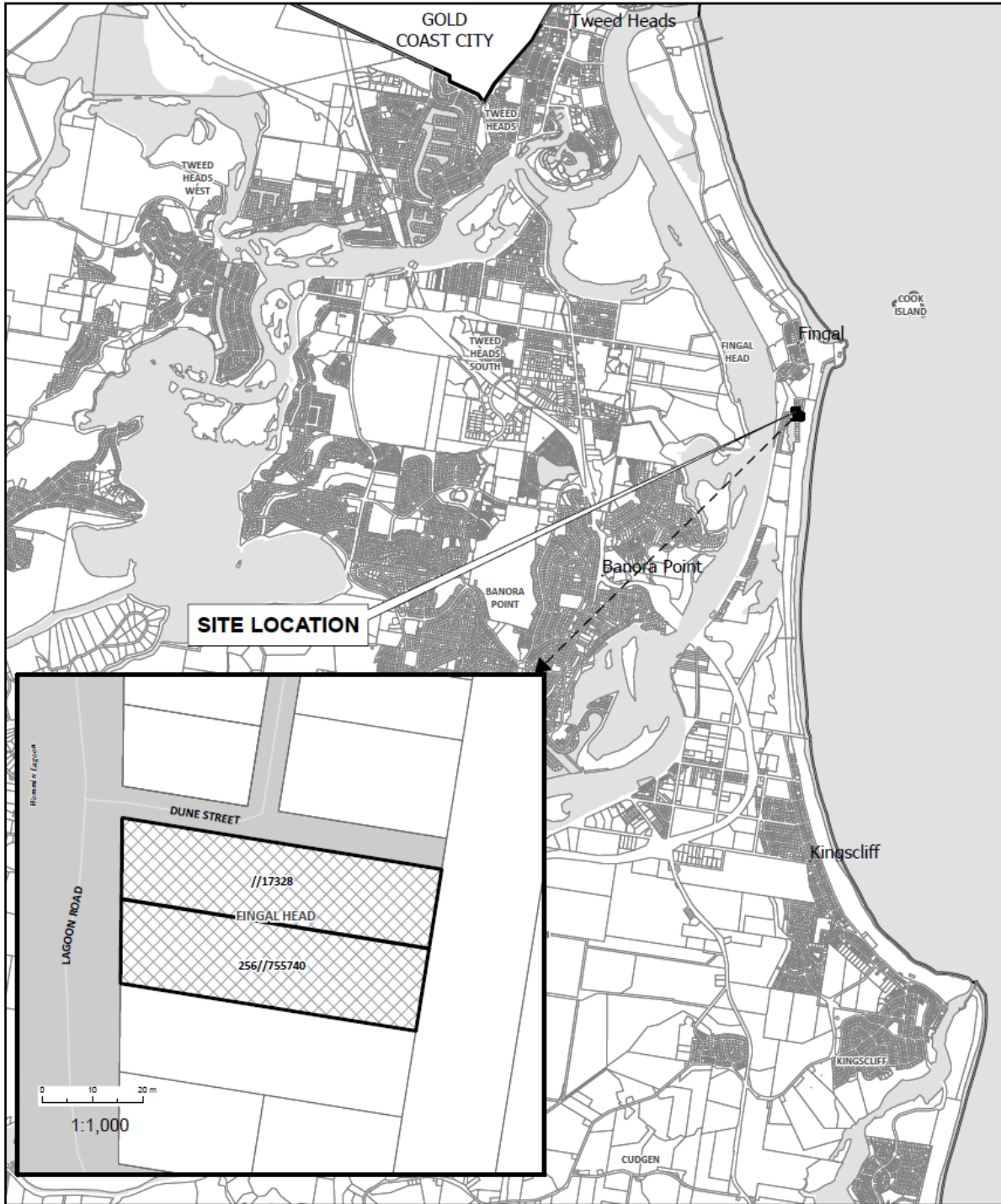
On 20 March 2019, following a review of the amended plans, the applicant was requested to consider modifying the development design to reduce direct impact on the state and federally listed ecological values on site being *Cryptocarya foetida* (Stinking Cryptocarya) and Littoral Rainforest - Threatened Ecological Community (EEC).

The applicant was requested to consider modifying the proposal as following:

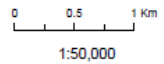
- Repositioning the rear lap pool (Pool 2) further to the north of the site to the extent that it occurs outside the tree protection zone of *C. foetida* (Tree No. 93);
- Redesigning the western stairs and landing leading into the Laundry on the Ground Floor to avoid disturbance of *C. foetida* (Tree No. 63);
- Reconfiguration of the proposed fence 'Lightweight Fence' in the north-western corner of the site (Dune Street/Lagoon Road junction) to avoid disturbance of trees occurring within Copse 2 (Tree Nos. 2-10); and
- Reconfigure the 1.8 m fence to the site's frontage to avoid removal of Tree No. 1.

The applicant subsequently submitted amended plans addressing the above. The most recent modifications reduced the number of *C. foetida* impacted by the proposed development from 5 (five) individuals to (one) 1 individual and allows for retention of additional canopy trees forming part of the units of EEC – Littoral Rainforest.

SITE DIAGRAM:



Site Plan



DA18/0478 – Dwelling, secondary dwelling and 2 swimming pools
1/20, 2/20 and 22 Lagoon Road, Fingal Head

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Datum - GDA 94

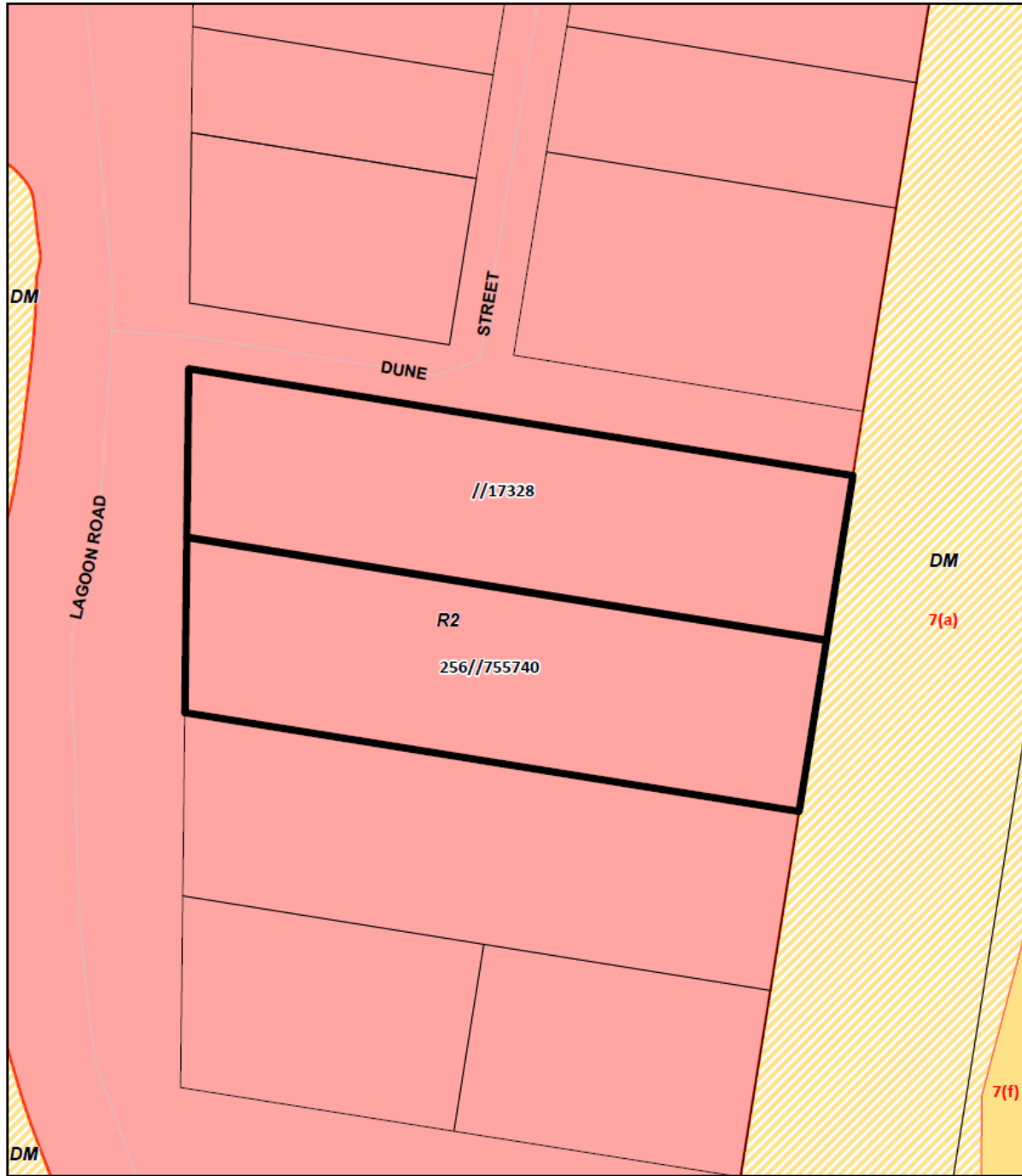
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Civic and Cultural Centre
3 Tumbulgum Road
Murwillumbah NSW 2484
PO Box 816
Murwillumbah NSW 2484
T: (02) 6670 2400 / 1300 292 872
F: (02) 6670 2483
W: www.tweed.nsw.gov.au
E: planningreform@tweed.nsw.gov.au



Date Printed: 11 March, 2019

ZONING MAP:



Subject Land

Subject Land

7(f) Environmental Protection (Coastal Lands)

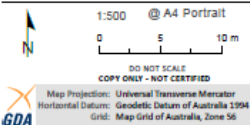
Tweed Local Environmental Plan 2014

R2 Low Density Residential

DM, Deferred Matter

LEP 2000 (as at 2014)

7(a) Environmental Protection (Wetlands and Littoral Rainforest)



Site Plan - Local Environmental Plan

DA18/0478 – Dwelling, secondary dwelling and 2 swimming pools
1/20, 2/20 and 22 Lagoon Road, Fingal Head

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Date Printed: 11 March, 2019

AERIAL PHOTOGRAPH:



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 GDA
 Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geodetic Datum of Australia 1984
 Grid: Map Grid of Australia, Zone 56

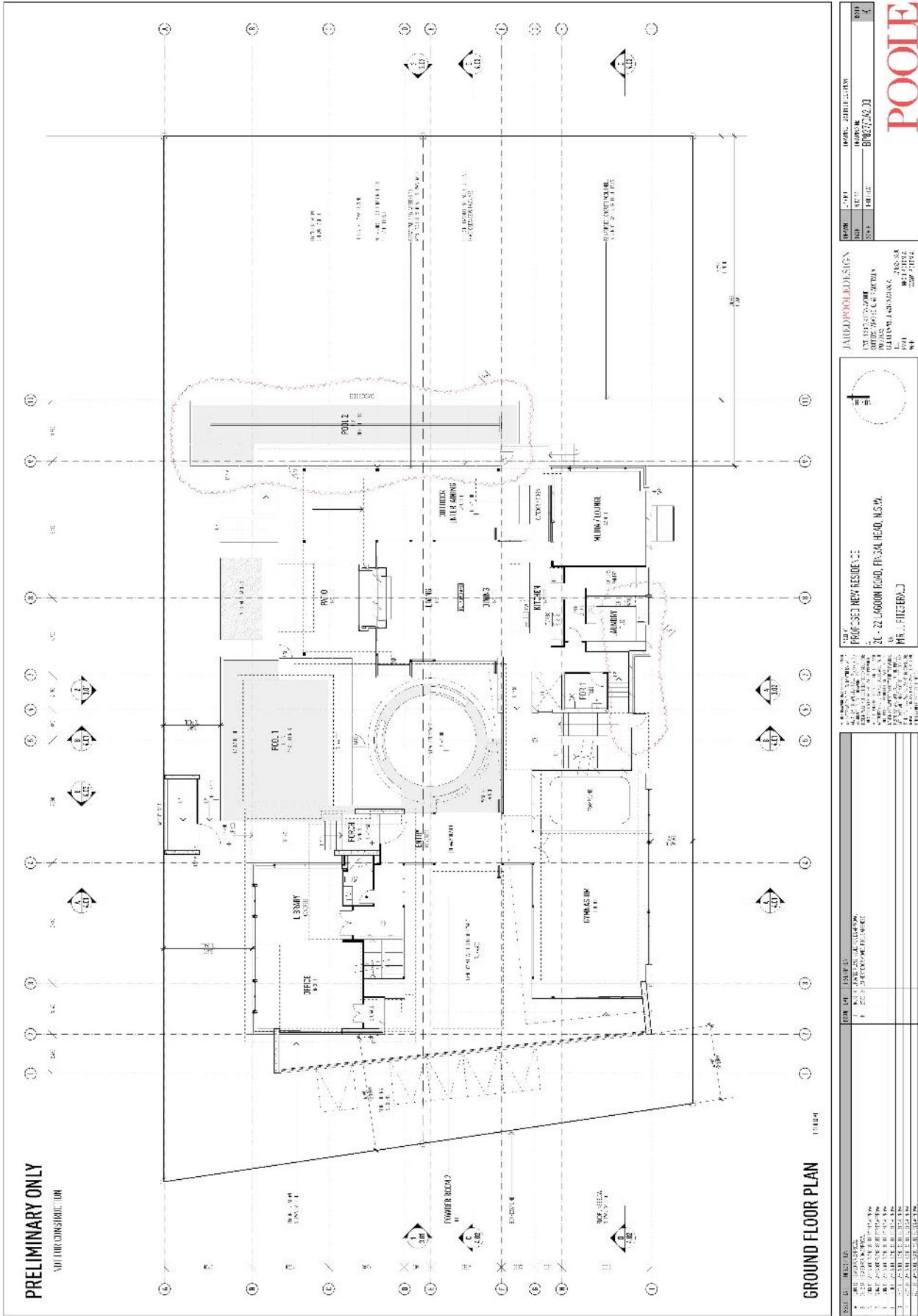
TWEED
 CIVIC AND CULTURAL CENTRE
 3 TUMBUKUM ROAD
 MURRUMBIDGI NSW 2484
 PO BOX 515
 MURRUMBIDGI NSW 2484
 T | (02) 9570 2400 | 1300 292 872
 F | (02) 9570 2429
 W | www.tweed.nsw.gov.au
 E | planning@tweed.nsw.gov.au

Aerial Photography April 2018
 DA18/0478
 Dwelling, secondary dwelling and 2 swimming pools
 1/20, 2/20 and 22 Lagoon Road, Fingal Head

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Author: G Lark - GIS Date Printed: 13 March, 2019

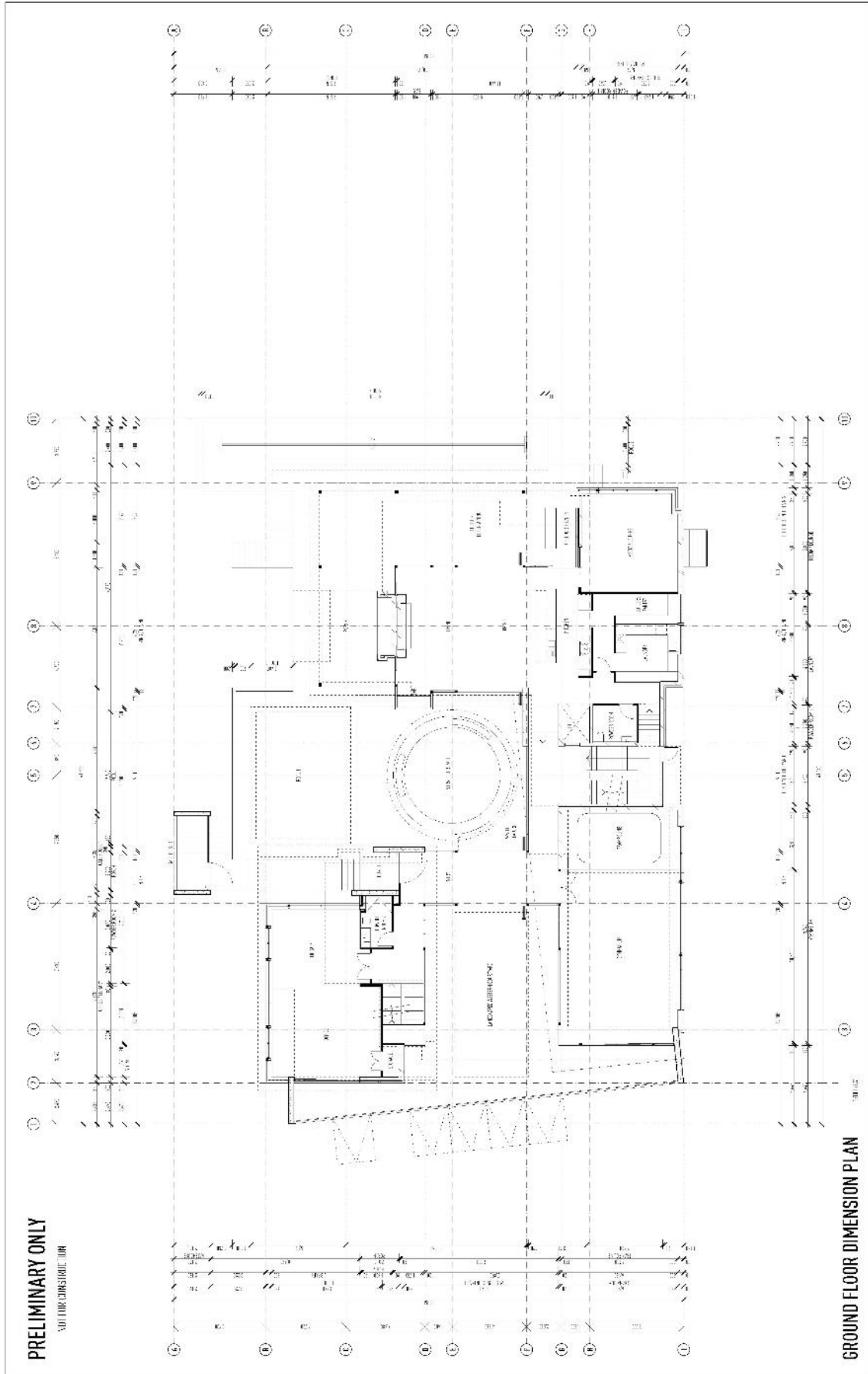


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JARROLD DESIGN
 100/100 STANLEY STREET
 SYDNEY NSW 2000
 TEL: 02 9550 1234
 FAX: 02 9550 1235
 WWW.JARROLDDESIGN.COM.AU

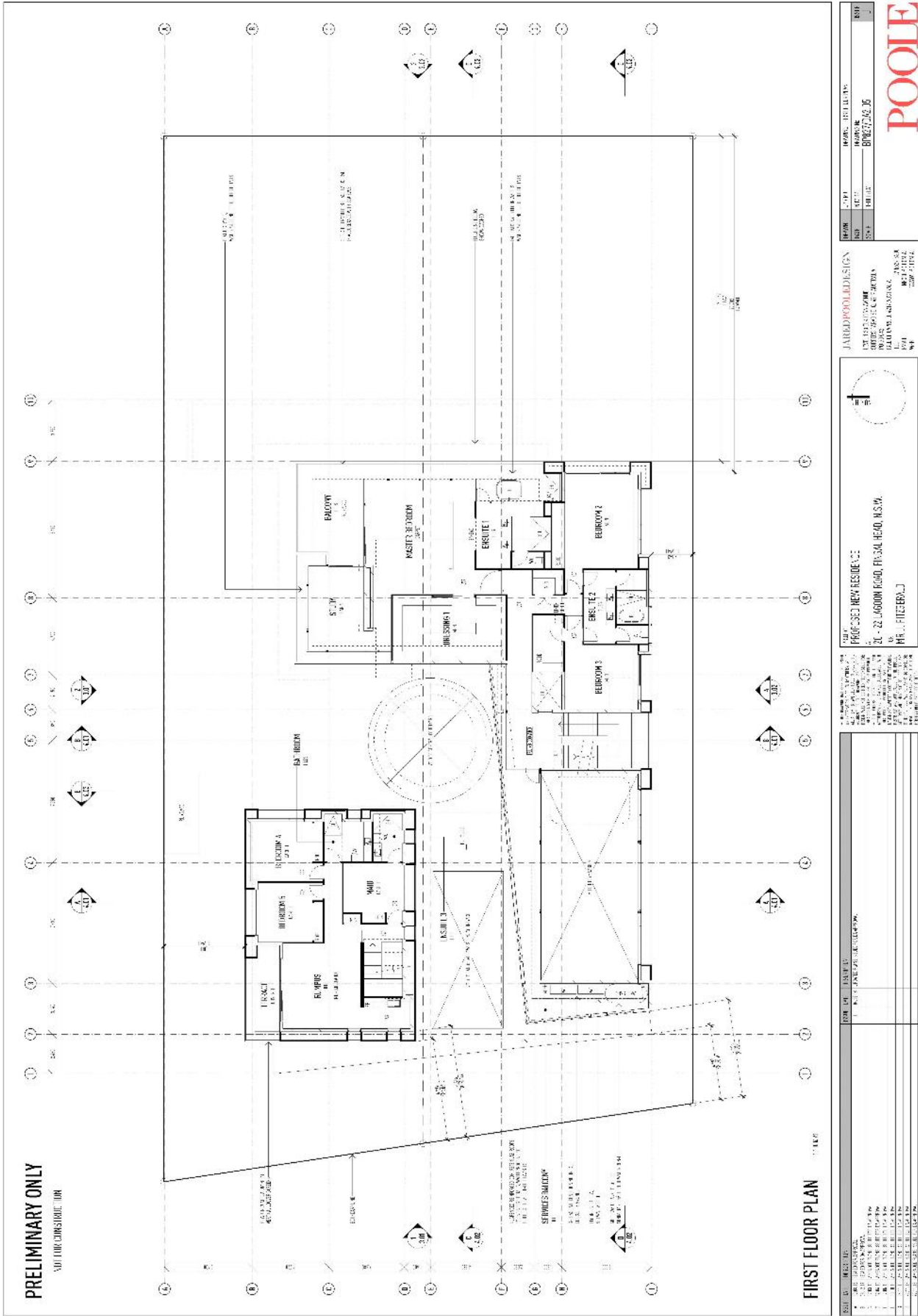
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 MR. J. FINEBAJ

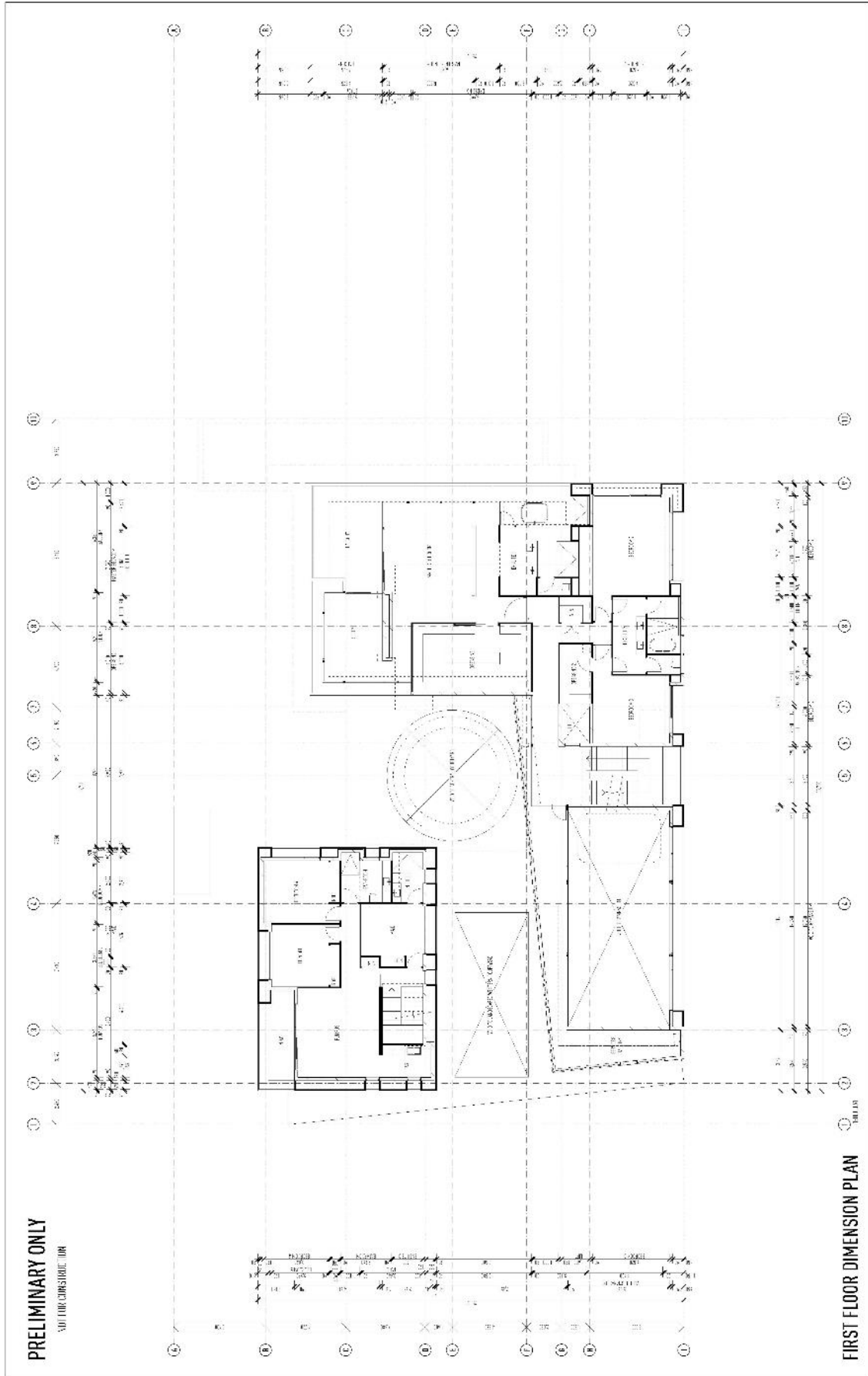
POOLE
 ARCHITECTS
 100/100 STANLEY STREET
 SYDNEY NSW 2000
 TEL: 02 9550 1234
 FAX: 02 9550 1235
 WWW.POOLEARCHITECTS.COM.AU



GROUND FLOOR DIMENSION PLAN

<p>PROPOSED NEW RESIDENCE 32 - 22 LAGOON ROAD, FISAL HEND, N.S.W. PROJECT NO. 19000000000000000000</p>		<p>JAMES POOLE DESIGN 1/111 BROADWAY SYDNEY NSW 2009 TEL: 02 9550 0000 WWW.JAMESPOOLED.COM</p>	<p>POOLE</p>
<p>DATE: 15/06/2019 DRAWN BY: JAMES POOLE CHECKED BY: JAMES POOLE PROJECT NO: 19000000000000000000</p>	<p>DATE: 15/06/2019 DRAWN BY: JAMES POOLE CHECKED BY: JAMES POOLE PROJECT NO: 19000000000000000000</p>	<p>DATE: 15/06/2019 DRAWN BY: JAMES POOLE CHECKED BY: JAMES POOLE PROJECT NO: 19000000000000000000</p>	<p>DATE: 15/06/2019 DRAWN BY: JAMES POOLE CHECKED BY: JAMES POOLE PROJECT NO: 19000000000000000000</p>





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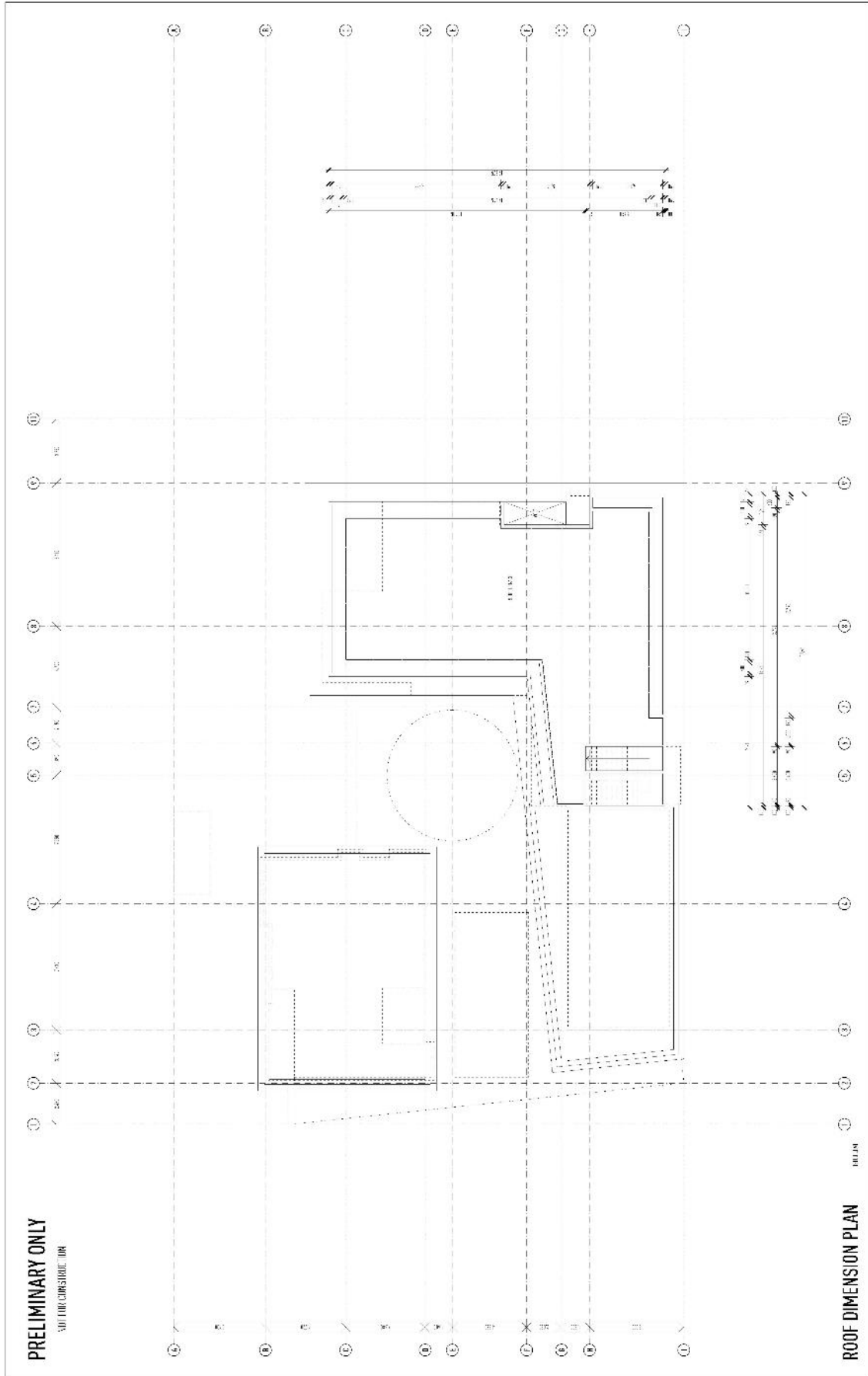
FIRST FLOOR DIMENSION PLAN

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POOLE
 JAMES POOLE DESIGN
 100 BROADWAY
 SUITE 200
 NEW YORK, NY 10038
 TEL: 212 512 1000
 WWW.POOLEDESIGN.COM

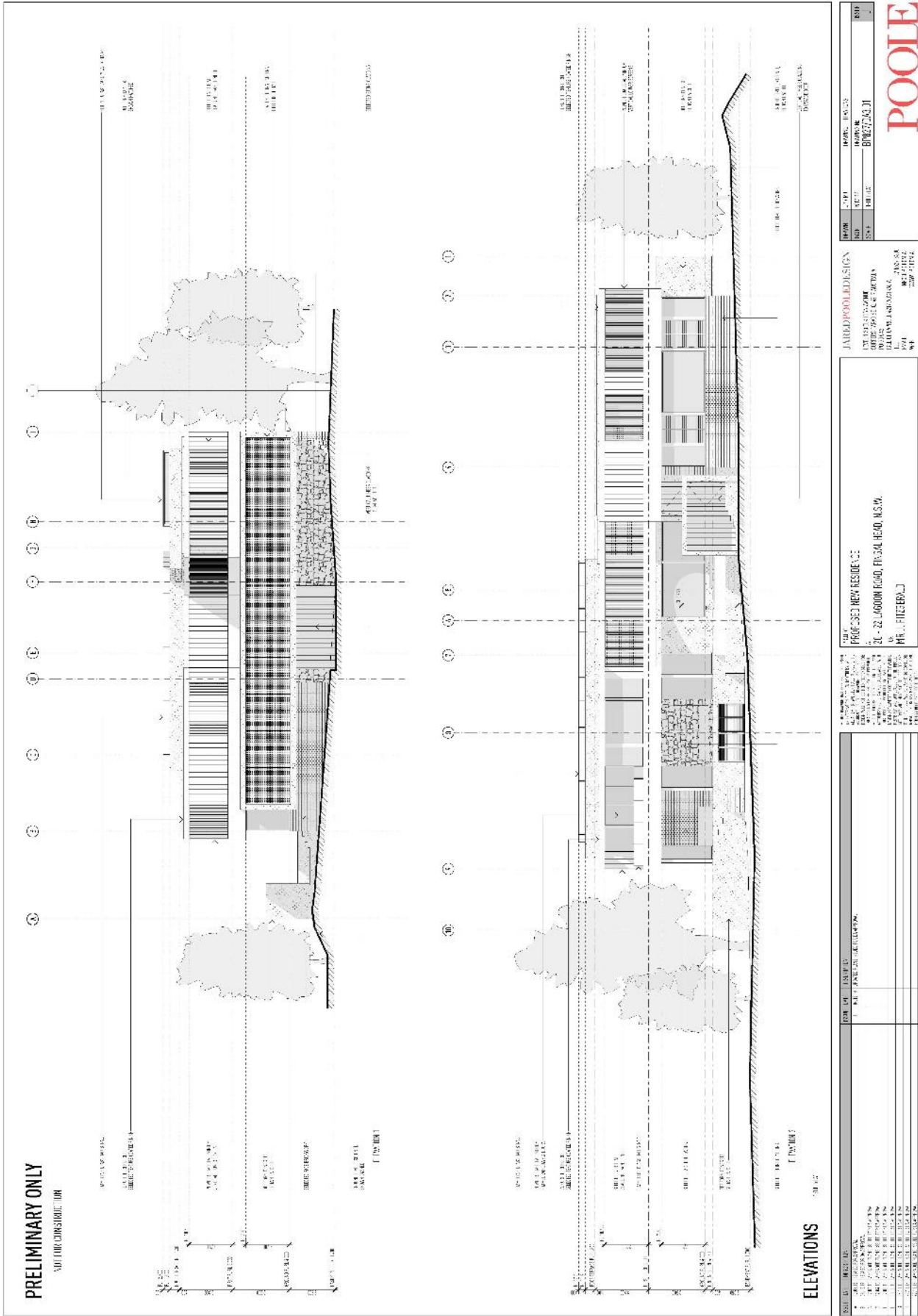
PROJECT NEW RESIDENCE
 30-22 LAGOON ROAD, FISH KILL, N.Y.
 MR. FITZGERALD

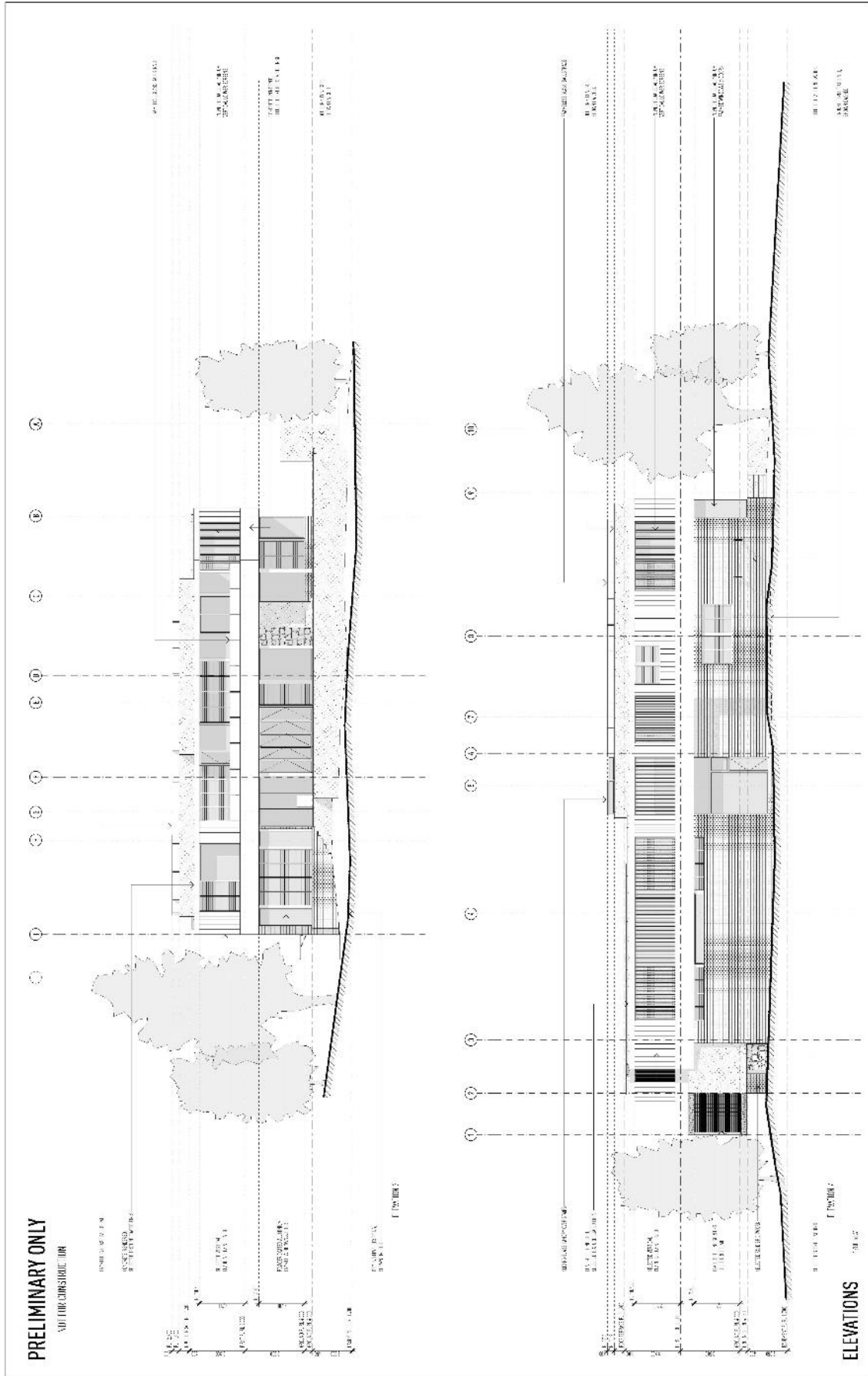
DRAWN BY: JAMES POOLE
 CHECKED BY: JAMES POOLE
 DATE: 11/11/18



SHEET NO. 1001-01 PROJECT NAME 30 - 22 LAGOON ROAD, FISAL HADD, N.S.W. PROJECT ARCHITECT M. FITZGERALD	DATE 10/06/19	DRAWN BY M. FITZGERALD	CHECKED BY M. FITZGERALD	PROJECT NO. BR027402-01	DRAWING NO. 1001-01
JAMES POOLE DESIGN 107 BISHOPSCOTE ROAD SOUTH AUSTIN, VIC 3088 TEL: 03 9497 1234 WWW.JAMESPOOLED.COM.AU					
JAMES POOLE DESIGN 107 BISHOPSCOTE ROAD SOUTH AUSTIN, VIC 3088 TEL: 03 9497 1234 WWW.JAMESPOOLED.COM.AU					

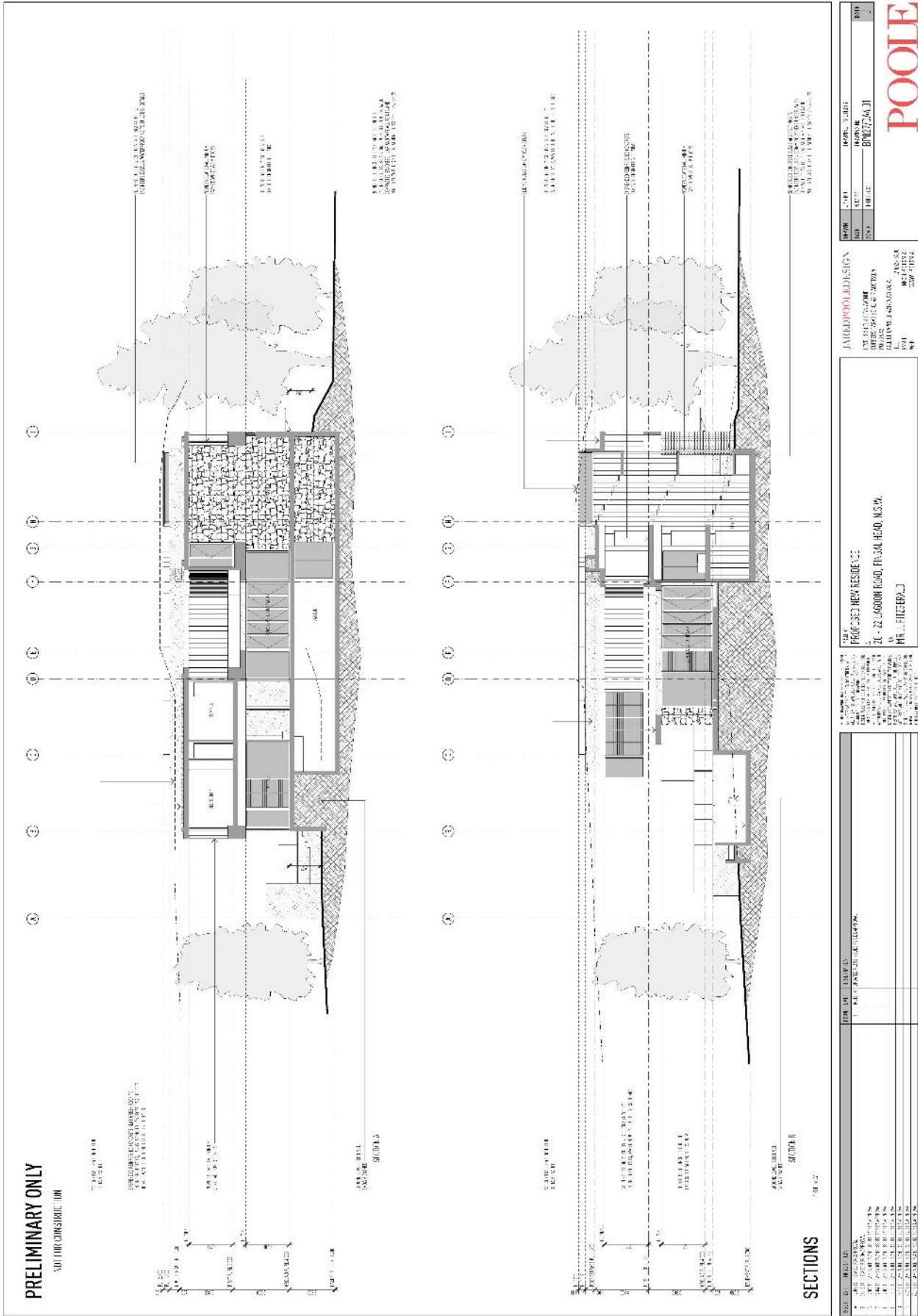


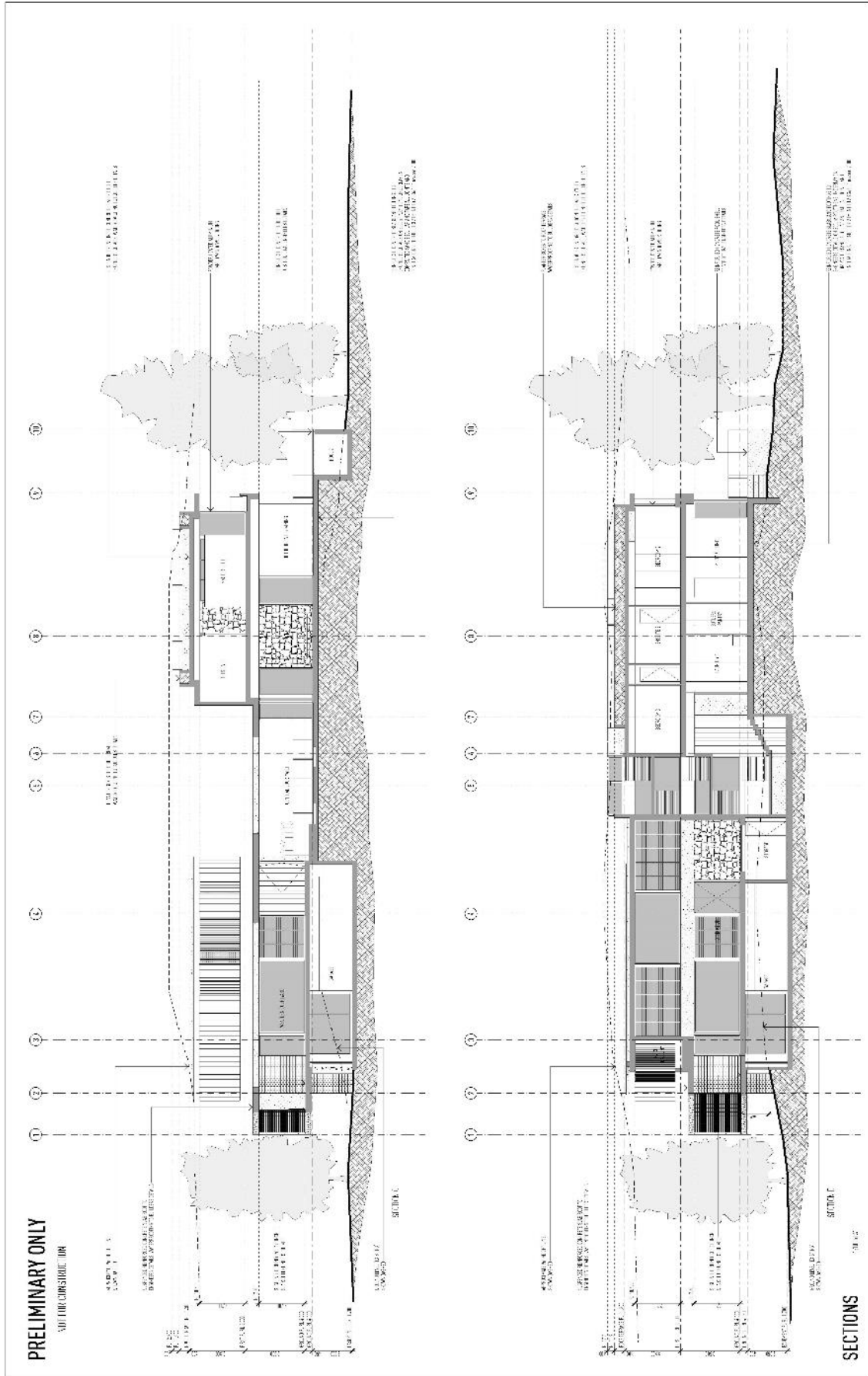




<p>DATE: 08/01/18 DRAWN BY: JAMES FITZGERALD CHECKED BY: JAMES FITZGERALD PROJECT: 22 LAGOON ROAD, FRASER HILLS, Q.L.D. CLIENT: MR. FITZGERALD</p>	<p>PROJECT: NEW RESIDENCE 22 LAGOON ROAD, FRASER HILLS, Q.L.D. CLIENT: MR. FITZGERALD</p>	<p>JAMES FITZGERALD ARCHITECTURE 1/111 WILSON STREET, FRASER HILLS, Q.L.D. 4552 PHONE: 07 5522 1111 WWW: JAMESFITZGERALD.COM.AU</p>	<p>DATE: 08/01/18 DRAWN BY: JAMES FITZGERALD CHECKED BY: JAMES FITZGERALD PROJECT: 22 LAGOON ROAD, FRASER HILLS, Q.L.D. CLIENT: MR. FITZGERALD</p>
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SECTIONS

DATE	NO.	DESCRIPTION
15/06/19	01	ISSUE FOR PERMIT
15/06/19	02	ISSUE FOR PERMIT
15/06/19	03	ISSUE FOR PERMIT
15/06/19	04	ISSUE FOR PERMIT
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15/06/19	07	ISSUE FOR PERMIT
15/06/19	08	ISSUE FOR PERMIT
15/06/19	09	ISSUE FOR PERMIT
15/06/19	10	ISSUE FOR PERMIT

JAMES POOLE DESIGN
 100 BROADWAY
 SUITE 205
 BRIGHTON VIC 3186
 PH: 03 9594 1111
 WWW.JAMESPOOLED.COM

PROPOSED NEW RESIDENCE
 30-32 LAGOON ROAD, FRASER HILLS, Q.L.D.
 PROJECT NO. JPD/19/001

MR. FITZGERALD

NO.	DATE	DESCRIPTION
1	15/06/19	ISSUE FOR PERMIT
2	15/06/19	ISSUE FOR PERMIT
3	15/06/19	ISSUE FOR PERMIT
4	15/06/19	ISSUE FOR PERMIT
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Environment Protection & Biodiversity Conservation Act 1999 (C'wealth)

A vegetation community map was prepared as part of the Ecological Assessment (EA) for the proposal identifying a remnant unit of Littoral Rainforest extending across the east of the site. The unit of vegetation forms part of a contiguous 4.5 ha tract of littoral rainforest that extends across the adjacent coastal crown reserve network.

This vegetation is considered representative of a Threatened Ecological Community (TEC) – Littoral rainforests and coastal vine thickets of eastern Australia (Critically Endangered) listed under the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*.

A small copse of littoral rainforest occurs within the north-western corner of Lot 255 (referred to as 'Clump 2'). Nineteen (19) stems of *Cryptocarya foetida* (Stinking Cryptocarya - Vulnerable) also occur on the subject site.

The proposal (as modified) involves the removal of approximately 113sqm of the TEC and the translocation of one *C. foetida*.

On the basis of a previous assessment by the Department of Environment at 40 Queen Street, Fingal Head (DA13/0654), which involved a similar scaled impact, the proposal is not considered to be of a scale to warrant referral to the Commonwealth Department of the Environment under the *Environment Protection & Biodiversity Conservation Act 1999*.

Considerations under Section 1.7 of the Environmental Planning and Assessment Act 1979:

In accordance with Section 1.7, the *Environmental Planning and Assessment Act* has effect subject to the provisions of Part 7 of the *Biodiversity Conservation Act 2016* that relate to the operation of this Act in connection with the terrestrial and aquatic environment.

Biodiversity Conservation Act 2016

The Littoral Rainforest community as mapped onsite is representative of an Endangered Ecological Community - Littoral Rainforest in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions listed under the *Biodiversity Conservation (BC) Act 2016*, conforming to the NSW Scientific Community – Final Determination.

Direct Impact on Littoral Rainforest, individual trees (prescribed vegetation under DCP Part A16) and *Cryptocarya foetida* stems based on the final design with implementation of recommended conditions of consent is as follows:

- Impact on individual surveyed trees – 12 trees;
- Approximate EEC Impact Area including Asset Protection Zone (APZ) (subject to arborist and bushfire assessment) – 113sqm;
- Approximate EEC Impact Area excluding APZ – 113sqm; and
- Impact on *Cryptocarya foetida* individuals – 1.

Note 1: The local occurrence of the EEC Littoral Rainforest is estimated at 4.5ha. The proportional extent of the EEC to be impacted locally based on the revised layout and imposition of recommended conditions of consent equates to 0.2%

Note 2: The local population of *Cryptocarya foetida* is estimated at 38 based on targeted site based search and NSW Bionet Records. The potential loss of one individual equates to a 2.6% reduction in local population size.

The applicant prepared a Biodiversity Development Assessment Report (BDAR) which was submitted to Council with the original application due to the impact area extending into a high conservation value area (HCVA) mapped on the NSW Biodiversity Values Map.

Following modification of the development footprint to avoid the HCVA, changes to the mapping during the assessment period (removing the HCVA from the subject site) and application of Clause 7.3(4) of the *Biodiversity Conservation Regulation 2017* (which excludes development on R2 zoned land from exceeding the threshold solely based on the BV Map trigger), a BDAR is not required for assessment of the application.

For the purposes of Section 7.3 of the *Biodiversity Conservation Act 2016*, an assessment of significance has been performed on those species and vegetation communities known or likely to occur within the study area. Council's NRM unit are satisfied that with implementation of amelioration and management measures (as imposed by conditions) the proposal would not have a significant impact on threatened species when considering all factors of the 5-part test.

It was concluded that on the basis of the Revision 3 Layout Plan being Dwg. No. BP827/DA1.03 Issue L Site Plan – Proposed dated 27 March 2019 prepared by Jared Poole Design, the proposal is considered unlikely to have a significant effect on those species and ecological community or their habitats listed above where appropriate management measures are employed. Subsequently the preparation of a Biodiversity Assessment Report was not considered necessary under Section 7.4 of the Biodiversity Conservation Act 2016.

Based on the above-mentioned determination the Biodiversity Offsets Scheme threshold is not exceeded.

Notwithstanding the above determination, NRM consider it necessary to impose conditions of consent to further limit the impact of the development on the sites ecological values to satisfy Section 4.15 of the Environmental Planning and Assessment Act 1979 and provisions of the SEPP (Coastal Management) 2018. Such conditions are to involve the following:

- Retention of canopy vegetation forming part of the littoral rainforest unit onsite reducing the loss of EEC in the context of the communities local occurrence;
- Retention of additional prescribed vegetation onsite following liaison with an accredited Bushfire Planning & Design accredited professional;
- Arboricultural impact assessment to provide confidence works may proceed in an appropriate manner affording adequate protection to those trees nominated for retention;
- Statutory protection of onsite littoral rainforest EEC and commencement of a 5 year habitat restoration program;
- Removal of all existing built form within the littoral rainforest area to be protected on site and the footprint revegetated; and
- Translocation of one *Cryptocarya foetida* individual.

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

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

Tweed Local Environmental Plan 2014

Clause 1.2 – Aims of the Plan

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

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

The proposal is generally consistent with the aims of the plan.

Clause 2.3 – Zone objectives and Land use table

The site is zoned R2 Low Density Residential. A dwelling house is permitted with consent in this zone. The objectives of Zone R2 are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposal is consistent with these objectives.

Clause 4.3 - Height of Buildings

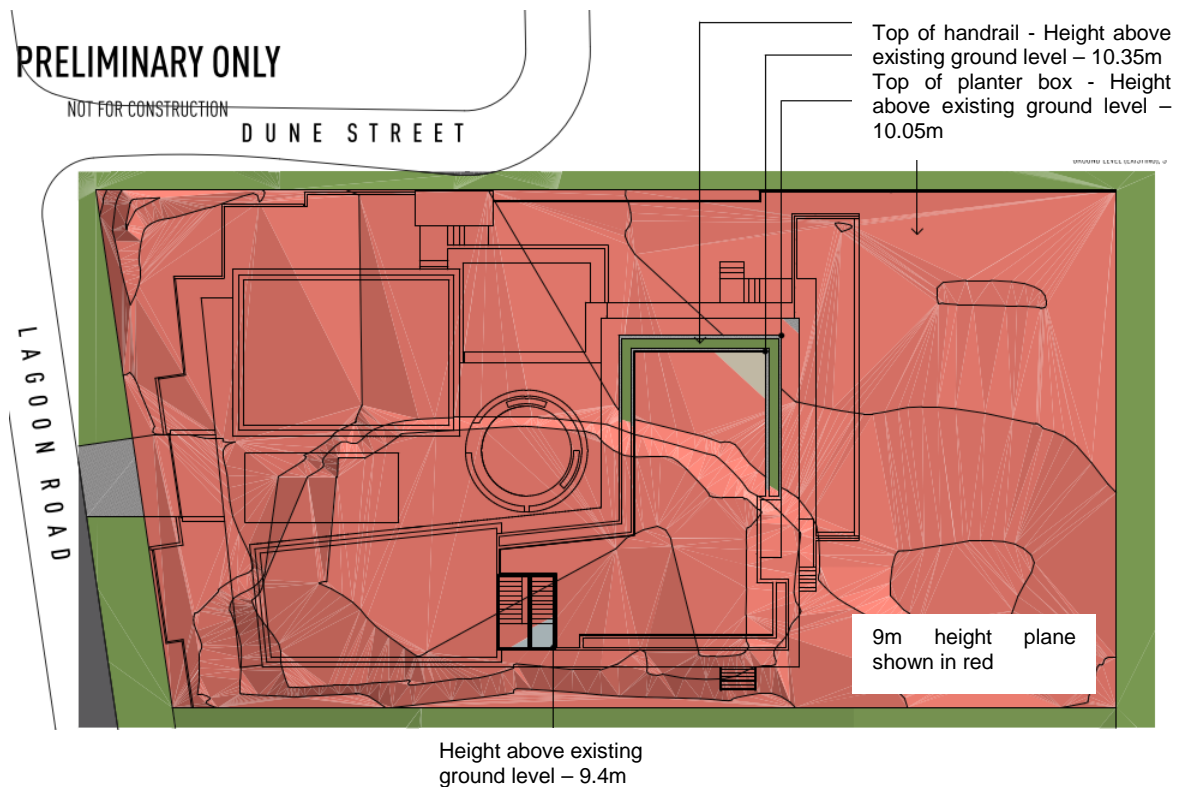
This clause states that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum building height specified for the site is 9m.

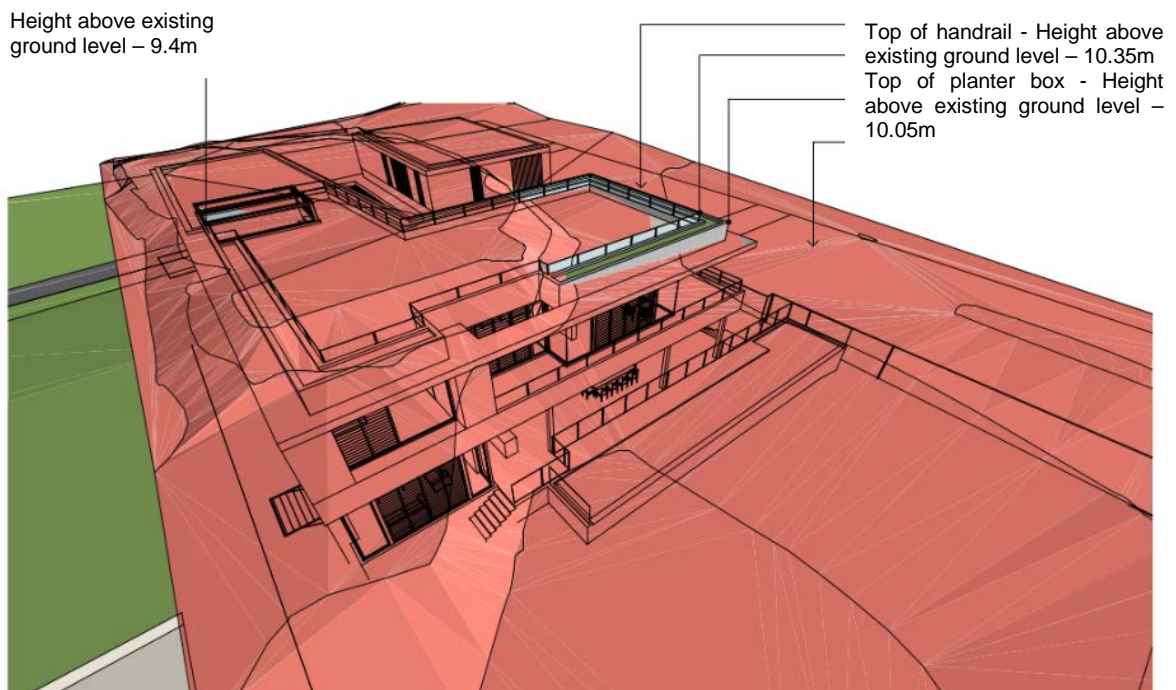
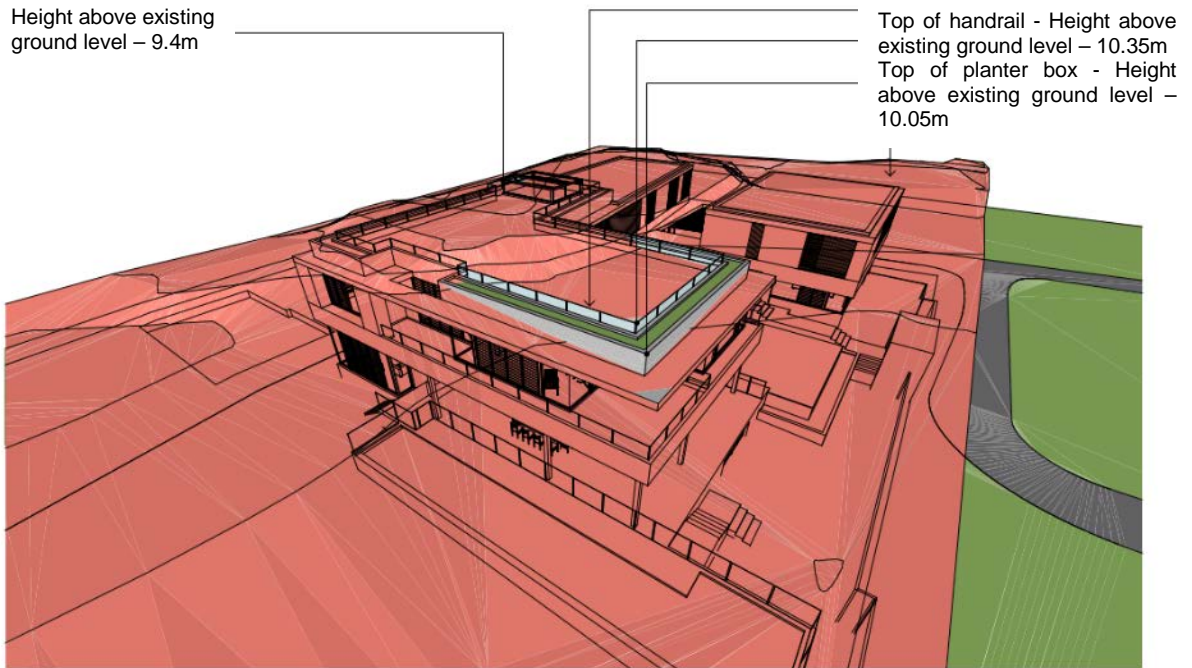
The plan defines **building height (or height of building)** as meaning:

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

The proposal seeks a maximum building height of 10.35m to the top of the frameless glass balustrade on the roof top terrace, 10.05m to the top of the of top planter, and 9.4m to the south eastern corner of the glass sliding canopy access to the roof top terrace. The maximum extent of the variation is 1.35m (15%).

A number of 3D images of the development relative to the 9m height plane is shown below:





An example image of the sliding glass canopy access is also provided:



As set out below, the applicant is seeks to vary this development standard in accordance with Clause 4.6.

Clause 4.4 – Floor Space Ratio

The Floor Space Ratio specified for the site is 0.8:1. With a Gross Floor Area (GFA) of 716.49sqm and a site area of 2,025.02sqm, the proposed FSR is 0.35:1.

Clause 4.6 - Exception to development standards

The applicant is seeking to rely on this clause to vary the height of 9m specified for the site in accordance with Clause 4.3. The applicant's Clause 4.6 request is attached in full in **Attachment A**.

In accordance with subclause 3:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

The applicant has responded as follows:

Compliance with the development standard is unreasonable in this instance. The maximum height of buildings for the site under the TLEP 2014 is 9.0m. The proposed Dwelling House has building height of 10.35m to the top of glass balustrade. This equates to an additional 1.35m of building height. The elements which exceed the height limit is a small area and consist of either 'decorative' elements on the roof (planter Boxes) or clear transparent element (frameless glass balustrade and roof access canopy). Refer **Figure 1** of this request.

In preparing the proposals design, a key consideration was avoiding and minimising impact upon the ecological features of the site and that adjoining the site as much as practical. Given the adjoining area of coastal wetland and rainforest areas impact upon the water table and major ground level changes have been avoided. Importantly the proposals design uses existing topographic features of the site, minimises the extent of land forming and avoids dewatering in construction. The need to avoid and minimise impact to the ecological features has resulted in the proposed building height variation.

However, despite the additional building height, the proposed development complies with all of Council overshadowing and privacy requirements, as demonstrated by the Shadow diagrams; and through clever design and placement is either not visible from the street or where visible the height variation will be indistinguishable from a compliant 9.0m building height. Effectively the proposal continues to meet the objectives of the Clause despite the non-compliance. Refer **Figure 2** below demonstrating the building from Dune Street



Figure 2: Building Montage – Dune Street

While the proposal could be amended to 'sink' the building into the ground, this would result in a significant direct impact upon to the ecological communities on and adjoining the site, noting an exponential increase in land forming and the introduction of dewatering. Given the proposal continues with meeting the objectives of Clause 4.3, complying with the development standard is unreasonable in the instance given the additional impact and compliance issues this would place upon the proposal.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has responded as follows:

There are sufficient environmental planning grounds to justify the contravention of the standards and that compliance with the standard is therefore unreasonable. While the proposal could be amended to 'sink' the building into the ground this would result in a significant direct impact upon to the ecological communities on and adjoining the site, noting an exponential increase in land forming and the introduction of dewatering. There is a significant body of Environmental Planning Instruments and indeed the EP&A Act itself, that requires environmental harm to be avoided or minimised where possible. Through the process of avoiding / minimising where possible the proposal exceeds the height limit in a very minor way.

Importantly, the elements which exceed the height limit is a small area and consist of either 'decorative' elements on the roof (planter Boxes) or clear transparent element (frameless glass balustrade). Refer Figure 1 of this request.

Effectively the proposal continues to meet the objectives of the Clause despite the non-compliance, while achieving higher order development controls to avoid and minimise environmental harm.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

It is considered that the applicant's response above is reasonable and addresses the matters identified in subclause (3).

The breaches of the 9m height plane are located in the rear half of the dwelling and will not be visible from Lagoon Road.

The glass balustrade is frameless and as such will not be highly visible when viewed from the Dune Street or adjoining properties.

The planter box will be visible from the formed portion of Dune Street, however this should be considered in the context that planting will soften the visual impact and that the omission of the planter box would not result in a 'better' development. The access canopy will not be visible from Dune Street.

It is acknowledged that the proposed dwelling has a substantial GFA (716.49sqm), however with a site area of 2,025.02sqm, the proposed FSR is only 0.35:1 where a maximum of 0.8:1 is allowed under Clause 4.4.

Vegetation on the site is a constraint to development, and though applicant has not avoided vegetation removal (by remaining within the existing building footprint), it is considered that the proposal represents a balanced outcome between optimising the potential of a site of this size and retaining significant vegetation.

It is considered that there are environmental planning grounds to justify contravening the development standard, namely the need to minimise vegetation removal on the site which has an impact in terms of the building footprint and the avoidance of further excavation/earthworks to which could necessitate dewatering of the basement.

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

The objectives of Clause 4.3 are as follows:

- (a) *to establish the maximum height for which a building can be designed,*
- (b) *to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,*
- (c) *to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,*
- (d) *to encourage greater population density in less car-dependant urban areas,*
- (e) *to enable a transition in building heights between urban areas comprised of different characteristics,*
- (f) *to limit the impact of the height of a building on the existing natural and built environment,*
- (g) *to prevent gross overshadowing impacts on the natural and built environment.*

The applicant has submitted that the provided the following response to this matter addressing the objectives of Clause 4.3:

- The proposal achieves a high-quality visual appearance which is broken up using building articulation, colour, balconies, vertical landscaping and feature walls and windows;
- The elements which exceed the height limit is a small area and consist of either 'decorative' elements on the roof (planter Boxes) or clear transparent element (frameless glass balustrade). Refer Figure 1 of this request;
- Through clever design and placement, the height exceedance is either not visible from the street or where visible the height variation will be indistinguishable from a compliant 9.0m building height;
- The proposal design achieves a building scale at the perimeter of the proposal that fully complies with the building height requirement;
- The additional building height allows the proposal to minimise direct impacts upon the natural environment as discussed above; and
- Despite the additional building height, the proposal is fully compliant with Councils overshadowing and privacy controls.

The applicant's response has merit, and it is considered that the proposal is consistent with the objectives for the height standard:

- The main structure of the dwelling, including all habitable rooms and roof structure is below the 9m height plane. It is not considered that a 1.35m breach of the height standard by an unframed glass balustrade, 1.05m encroachment by a planter box or 0.4m protrusion by the glass sliding canopy access will result in a development which is out of character with the area or which impacts on the amenity of either the subject site or adjoining properties;
- The proposal cannot be considered as a 'taller development' which would be more appropriately located in an urbanised area;
- It is not considered that the proposal height exceedance would adversely impact on either the natural or built environment. The provision of the roof top planter bed will facilitate the provision of rooftop planting;
- The applicant has submitted shadow diagrams, specifically addressing the potential for overshadowing of the adjoining property at 24 Lagoon Road:
 - In summer (December), there will be no overshadowing of adjoining properties;
 - At equinox (March), there will be minimal overshadowing of the side setback of 24 Lagoon Road, however this is related to the terrace roof, with all overshadowing associated with the balustrade and access canopy confined to the proposed roof terrace, with the exception of a minor encroachment of the planter box shadow onto the adjoining site at 3pm; and
 - In winter (June), the shadow diagram from the canopy access and the planter box is discernable on the adjoining property at 24 Lagoon Road at 9am and 12 noon with the shadow diagram from the planter box distinguishable at 3pm. Refer to extracts from the shadow diagrams below.

The extent of the overshadowing resulting from the planter box and canopy access is limited, and the impact associated with same is considered to be negligible in the context of the overshadowing resulting from the structure under 9m. It is further noted that the total overshadowing of 24 Lagoon Road resulting from the proposal development is considered to be acceptable. A minimum of 50% of the garden areas will maintain two (2) hours solar access, as will the external living area (deck) fronting the neighbouring property. The

proposal will not result in overshadowing of principal windows of living area in this property (the solar access to which is predominantly restricted by the dwelling's own deep eaves).



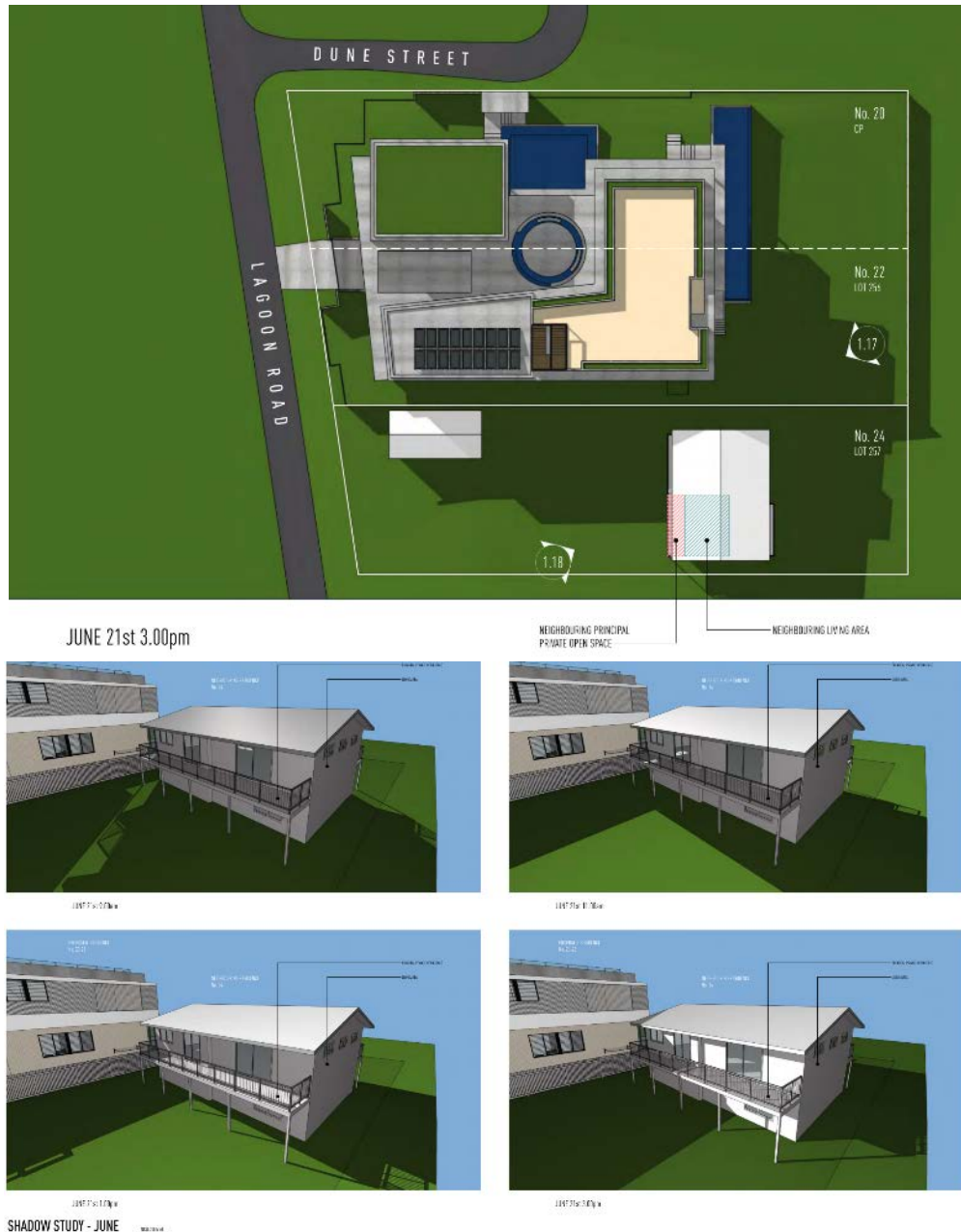
JUNE 21st 9.00am

NEIGHBOURING PRINCIPAL PRIVATE OPEN SPACE
NEIGHBOURING LIVING AREA



JUNE 21st 12.00pm

NEIGHBOURING PRINCIPAL PRIVATE OPEN SPACE
NEIGHBOURING LIVING AREA



The objectives of Zone R2 are as follows:

- To provide for the housing needs of the community within a low density residential environment; and
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

A dwelling is permitted with consent in this zone. Though the GFA of the dwelling is substantial at 716.49sqm, the site has a total area of 2,025.02sqm and will accommodate a single dwelling and as such represents low density development.

(b) the concurrence of the Secretary has been obtained.

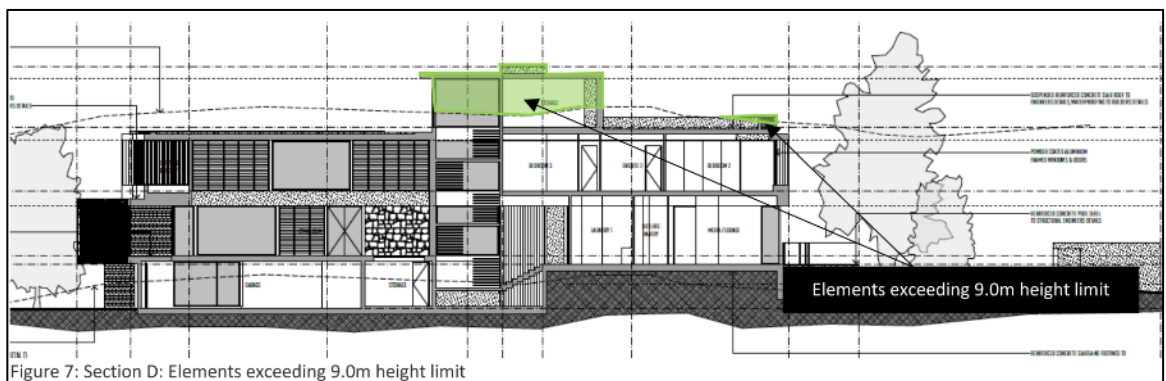
As set out in Planning Circular PS18-003 whether the variation to a development standard is greater than 10%, the concurrence of the secretary may be assumed by the consent authority (being the elected members but not a delegate of Council).

(5) In deciding whether to grant concurrence, the Secretary must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

It is not considered that a breach of the 9m height plane by the glass balustrade, the planter box and the access canopy raises any matter of significance for State or regional environmental planning.

A number of the submissions raised concerns with the height, bulk and scale of the development as originally submitted. The amended plans have removed the third storey element and reduced the maximum building height from 11.65m (refer to Figure below to illustrates original proposal) to a maximum of 10.35m with the breaches now limited to section of the planter boxes and glass balustrades and the roof canopy.



Enforcing the 9m height standard by either requiring the removal of the balustrade/planter box/canopy access or reducing the floor levels of the structure to reduce the overall height to comply would serve no public benefit, as the impacts (visual, overshadowing, etc.) associated with the breaches are negligible.

As set out in the applicant's Clause 4.6 variation request and in accordance with the Department of Planning and Environmental 'Varying Development Standards: A Guide, 2011', written applications may also address matters set out in the 'Five-Part Test' established by the NSW Land and Environment Court.

Court cases dealing with applications to vary development standards resulted in the Land and Environment Court setting out a five part test for consent authorities to consider when assessing an application to vary a standard to determine whether the objection to the development standards is well founded:

1. *the objectives of the standard are achieved notwithstanding noncompliance with the standard;*

As discussed above, it is considered that the objectives of Clause 4.3 are met.

2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

N/A – The underlying objectives and purpose of the standard are largely relevant to the development.

3. *the underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The applicant submits that *'compliance with the development standard would defeat the underlying object or purpose of the clause, precluding high quality residential development on the site that is compatible with the surrounding environment, consistent with the existing and future intended residential character and that the proposal is well founded on this test.'*

It is not accepted that a high quality dwelling of architectural merit at or below 9m is not possible (as submitted by the applicant); it may just not be the development which the applicant envisages with a roof top terrace. However, it is considered that this test is not relevant, as the objectives of clause 4.3 would not be defeated if compliance was required.

4. *the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

N/A – This standard has not been abandoned.

5. *the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

N/A – The site is zoned R2 and currently accommodates a single dwelling and dual occupancy with 9m being the standard height limit applied in this zone.

Based on the above and considered the applicant's Clause 4.6 written request, it is considered that there are sufficient environmental planning grounds to support the variation and that the objectives of both the zone and Clause 4.3 can be met. In this regard it is recommended that the Clause 4.6 request can be supported.

Clause 5.10 - Heritage Conservation

The site does not contain a heritage item, is not located in a heritage conservation area or is it located in the vicinity of either. A review of Council's Aboriginal Cultural Heritage Mapping and Aboriginal Cultural Heritage Management mapping (predictive and confirmed locations) does not identify any constraints on or adjacent to the site.

In this regard the proposal is not considered to impact negatively on the provisions of this clause.

Clause 7.1 – Acid Sulfate Soils

The site is identified as Class 3 Acid Sulfate soils. In accordance with this clause, development consent is required for the carrying out of the following works on land shown as Class 3 on the Acid Sulfate Soils Map:

- Works more than 1 metre below the natural ground surface.
- Works by which the water table is likely to be lowered more than 1 metre below the natural ground surface.

A Preliminary Acid Sulfate Soil Investigation Report prepared by HMC Environmental, and dated November 2018 (HMC2018.211.01) has been submitted for consideration. Soils were sampled to 2.5m depth and results were below relevant action thresholds. No further consideration of this issue was required.

Clause 7.2 - Earthworks

The proposal includes earthworks associated with the excavation for the basement garage and the pools. Council is required to consider:

- the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- the effect of the development on the likely future use or redevelopment of the land,*
- the quality of the fill or the soil to be excavated, or both,*
- the effect of the development on the existing and likely amenity of adjoining properties,*
- the source of any fill material and the destination of any excavated material,*
- the likelihood of disturbing relics,*
- the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*
- the proximity to, and potential for adverse impacts on, any heritage item, archaeological site, or heritage conservation area.*

It is not considered that the proposed earthworks will impact on drainage patterns of the stability of adjoining properties, the future use of redevelopment of the site, the amenity of adjoining properties or any adverse impacts on heritage items or archaeological sites. It is considered that potential impacts associated with excavation during construction can be managed by condition of any consent issued.

Clause 7.3 – Flood Planning

The site is affected by the 1 in 100 year flood where the design flood level is RL 2.6m AHD, requiring a finished floor level of RL 3.1m AHD.

The proposal provides for all habitable floor space above this level with the finished floor level of the ground floor at RL 4.5m AHD. The garage is below the flood design level (RL 1.7m AHD) with the applicant proposing the installation of floodgates to the garage access.

There is limited fill outside of the building footprint, the fencing will not impede water flow and there are no concerns in relation to the displacement of flood waters to adjoining sites.

Clause 7.6 - Stormwater Management

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters. This clause outlines that consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
- (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and
- (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

Standard conditions of consent can be provided in this regard. The proposal is considered to be acceptable with respect to the requirements of this clause.

Clause 7.10 - Essential Services

This clause requires development to connect to essential services. All essential services are available to service the proposed dwelling.

Other Specific Clauses

There are no other relevant clauses.

State Environmental Planning Policies

SEPP No. 55 - Remediation of Land

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

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

A Preliminary Site Investigation Report prepared by HMC Environmental, and November 2018 (HMC2018.211.03) has been submitted. Four discrete samples were taken from the site fill materials and analysed for heavy metals, Btex, TRH, PAH and organochlorines. Council's Environmental Health Section reviewed the report and advised that the results did not exceed relevant HILs, EILs and HSLs, and that the report indicates the land is suitable for residential use.

A Pre-demolition Underslab Soil Contamination Investigation prepared by HMC Environmental, and dated November 2018 (HMC2018.211.01) was also submitted. Four (4) samples were taken from below the dwelling slab on 22 Lagoon Road and two (2) from below the dual occupancy slab on 20 Lagoon Road, and analysed as composites. Council's Environmental Health Section reviewed the report and advised that while Deildrin and Aldrin were present below the dual occupancy slab, they were below adjusted HIL A levels, and the report indicates the land is suitable for residential use.

On review of the above documents, Council's Environmental Health Section advise that there was no objection to the proposal from a contamination perspective.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted with the application.

SEPP (Coastal Management) 2018

The subject site is mapped as being within the Coastal Environment Area, Coastal Use Area and in proximity to both Coastal Wetlands and Littoral Rainforest Area.

The objectives of each clause are as follows:

11 Development on land in proximity to coastal wetlands or littoral rainforest

Note. The Coastal Wetlands and Littoral Rainforests Area Map identifies certain land that is inside the coastal wetlands and littoral rainforests area as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" or both.

- (1) *Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
 - (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*
- (2) *This clause does not apply to land that is identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map.*

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of*

- the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) Aboriginal cultural heritage, practices and places,*
 - (g) the use of the surf zone.*
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

14 Development on land within the coastal use area

- (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) Aboriginal cultural heritage, practices and places,*
 - (v) cultural and built environment heritage, and*
 - (b) is satisfied that:*
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*
- (2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

Council's NRM Unit have reviewed the application and advised that subject to conditions of consent the proposed development satisfies Clause 11, 13 and 14 of the SEPP. An assessment of the ecological impacts of the proposal are set out later in this report.

SEPP No. 44 – Koala Habitat Protection

This SEPP does not apply as the site is less than 1ha.

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

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

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

Fingal Head Building Heights Review

The Fingal Head Building Height Review (FHBHR) was undertaken from 2016 to 2018 in response to a resolution of Council to explore concerns raised by the local community concerning the height of buildings, the appearance of new and recent development and its perceived impact on Fingal Head's character and amenity.

The review comprised a desktop study of the key features of the locality and review of the planning controls in force at the time. Community consultation was also undertaken to identify the extent of community concern around the building height issues as well as informing the selection of planning solutions. The community generally supported flexibility in design to allow 2 habitable stories above the design flood level, and at the same time acknowledged that reducing building height to 8m would place unreasonable constraint on those sites.

The outcome of the FHBHR, based on community consensus, was an amendment to planning controls to introduce a 2 storey 'character' design height limit into the Tweed Development Control Plan 2008 for residential development within the R2 Low Density and B4 Local Centre zones in Fingal Head and to incorporate Shire wide development requirements for rooftop terraces.

The existing 9 metre height of building limit under the Tweed LEP 2014 was retained.

DCP Amendment resulting from FHBHR

As a result of the FHBHR, Draft DCP Section A1 Residential and Tourist Code amendments were exhibited from 31 October 2018 to 30 November 2018.

The purpose of the draft amendment was to provide guidelines for rooftop terraces in Section A1 Part A and to insert two storey character design guidelines for Fingal Head in Section A1 Part D. The Part A preliminaries were also updated to reflect these changes.

The amendments included the following:

- Define 'rooftop terrace' in DCP Section A1 Part A as '*unenclosed spaces located above the upper storey of a building or within a building's roof plane designed and used as private open space*';
- Include annotation in DCP Section A1 Part A Section 3.2 to refer to additional controls for Fingal Head in Part D2;
- Introduce new planning and design principles, objectives and controls for rooftop terraces (rooftop decks) in DCP Section A1 Part A Section 4.7; and
- Introduce new part in DCP Section A1 Part D Section 2 for Fingal Head which introduces a maximum two storey character design limit to all dwellings and that dwellings on flood affected lots are designed so as not to present as three storey buildings.

At their meeting of 7 February 2019 Council resolved to adopt the amendments. The amendment formally took effect, under Clause 21(4) of the Environmental Planning and Assessment Regulation 2000, from 20 February 2019 when notice was published in the Tweed Link.

While the assessment below considers the proposal against the new controls for rooftop terraces and the two storey height limit in Fingal Head, it is important to note that these amendments came into effect subsequent to the lodgement of the original application (June 2018), the issue of the Request for Further Information (29 August 2018) and the applicant's submission of amended plans (22 January 2019).

Tweed Development Control Plan 2008

Section A1 - Residential and Tourist Development Code

The proposal is generally compliant with the development controls in this part though a variation is required to the development controls relating to building height and fencing. Though not requested, it is considered that a variation to the setback to Dune Street is warranted to approve a gatehouse on this street frontage.

The applicant has also not addressed the controls in Part A, Section 4.7 (Rooftop terraces) and Part D, Section 2 Fingal Head which came into effect after the lodgement of the amendment plans.

Set out below are the key considerations in the assessment of the proposal against the controls in Section A1.

1. Part A, Section 2.2 Landscaping, deep soil zones and external living area, Control C4

Existing landscape elements on sites such as natural rock outcrops, watercourses, dune vegetation, indigenous vegetation and mature trees should be retained and integrated with the design of the buildings.

The ecological surveys on the site identified 104 trees, with 33 individual surveyed trees initially proposed for removal as they were either assessed as structurally

poor/hazardous or to facilitate the development. Following the modification of the plans, 12 individual surveyed trees are now proposed for removal.

A more detailed assessment of the vegetation and tree removal has been undertaken by Council's Natural Resource Management Unit and is included in the Council report.

2. Part A, Section 3.1 Setbacks – Front and rear setbacks, Control C1, C2 and C3

Control C1 specifies a minimum front setback to the secondary street frontage (Dune Street) of 5m.

Control C2 relates to the front setback in established areas and infill sites and specifies that dwelling houses are to be consistent with the front setback distance of neighbouring buildings and are to be the average of the setbacks of neighbouring dwellings within 40 metres or a variation justified under a streetscape analysis. This setback may be varied up to 1 metre where justified through a streetscape analysis.

Control C3 specifies that an articulation zone may permit some elements of a buildings front façade to intrude within the front setback to a maximum of 1.5 metres and not exceeding 25% of the frontage width.

The site has primary frontage to Lagoon Road with Dune Street identified as the secondary street frontage.

The applicable front setback control for Lagoon Road is C2 - development in established areas and on infill sites. The applicant has identified the average setback of adjoining buildings within 40m to be 5.22m.

The proposal is set back 6.001m from Lagoon Road to the basement /garage level front wall, 4.595m to the ground floor level and 6.005m to the first floor level. This satisfies C2.

Feature tilting screens at ground floor level are shown inset 2.7m into the front setback area. This represents the feature screens in an 'open position' and is not a permanent fixed feature. If required a condition could be attached to the consent restricting the screens from opening into the articulation zone by more than 1.5m, however this would be an onerous interpretation of Control C3.

The dwelling is setback 5.45m from the Dune Street frontage at ground floor and 5m at first floor.

The applicant has removed one of the two gatehouses originally proposed, but has retained the other on the Dune Street frontage (nil setback). This could be considered as an entry feature or portico, with Control C3 allowing for such elements of a buildings to encroach into the front setback to a maximum of 1.5 metres (articulation zone) where they do not exceeding 25% of the frontage width.



The applicant has indicated in their DCP compliance table that the proposal is compliant with the setback controls, addressing the gatehouse under the fencing controls in Section 6.1, indicating that the gatehouse could be considered as part of the fencing. In support of the gatehouse the applicant submits that this element is not out of character with Dune Street which contains an eclectic mix of elements at or near zero setback from the Dune Street frontage including garages, carports, fencing and outbuildings.

Assessing the gatehouse proposal against Control C3, it is noted that while the structure has a nil setback, it is detached from the dwelling (3.2m separation) and as such presents as a discrete structure. The structure is open on three sides and has been incorporated into the fencing. As noted by the applicant, there are a number of carports and garage door structures with a zero or near zero setback to Dune Street.

The provision of a gatehouse on the Dune Street boundary is consistent with the objectives for the setbacks controls – it does not restrict natural ventilation around the dwelling, result in overshadowing of any adjoining properties or result in any visual or acoustic privacy impacts. No vegetation or tree removal is required for this element.

Based on the above, a variation to control C3 to allow for the gatehouse on the boundary is supported.

3. Part A, Section 3.2 Building Height, Control C1

The overall building height is 9 metres, except on slopes of greater than 12 degrees (21.25%) where the building height may be a maximum of 10 metres.

The applicant is seeking to vary the height under Clause 4.6 of the LEP. This is addressed earlier in this report.

4. Part A, Section 3.3 Site Coverage, Control C1

The maximum site coverage is specified as 30%.

The DCP states that as a guide the calculation of site coverage generally does not include access ramps, awnings, eaves, unenclosed balconies, decks, pergolas, terraces, verandahs, driveways, paths, swimming pools and spas.

The site coverage definition within the LEP refers to the proportion of a site area covered by buildings, noting that the following are not included for the purpose of calculating site coverage:

- (a) any basement,
- (b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- (c) any eaves,
- (d) unenclosed balconies, decks, pergolas and the like.

Accordingly, the applicant has excluded the pool areas, external entertainment areas, gatehouses and the covered and uncovered access ways, but included the garage (which is not technically a basement). The amended plans indicated that the site coverage is 608.29sqm or 30%.

5. Part A, Section 4.3 Solar Access and Natural Ventilation, Control C4

For neighbouring properties ensure:

- i. Sunlight to at least 50% of the principle area of private open space of adjacent properties is not reduced to less than 2 hours between 9am and 3pm on June 21, and*
- ii. Windows to living areas must receive at least 3 hours of sunlight between 9am and 3pm on 21 June.*
- iii. Where existing overshadowing by buildings is greater than this, sunlight is not to be further reduced by more than 20%.*

The applicant initially submitted plan shadow diagrams for winter, summer, autumn and spring showing shadows at 9am, 12 noon, 3pm and 6pm with both existing and proposed overshadowing. However they were difficult to interpret and included existing tree cover in existing diagrams. They do not identify overshadowing impacts on 24 Lagoon Road in terms of windows on the north facing elevations and there was no indication of the use of the rooms affected.

The applicant submitted updated shadow diagrams for the amended plans as part of the Further Information response. This included plan and elevations. From the amended plans the following can be ascertained:

- In summer (December), there will be no overshadowing of adjoining properties;
- At equinox (March), there will be minimal overshadowing of the side setback of 24 Lagoon Road (slightly more than results from the boundary fence). Sunlight will be maintained to in excess of 50% of the principle area of private open space between 9am and 3pm. There will be no impact on the dwelling at 24 Lagoon Road; and
- In winter (June 21), the plan shadow diagrams illustrate that sunlight will be maintained to the rear garden area for not less than 2 hours between 9am and 3pm. At present this area is substantially overshadowed as a result of

existing tree cover, however the diagrams indicate that the overshadowing will not be significantly impacted by the proposal.

The applicant has identified an external covered living area to the front of the dwelling on 24 Lagoon Road which adjoins the principal living area and has submitted elevations to demonstrate that in excess of 50% of this area will receive solar access between 1pm and 3pm.

The principal windows to the internal living area are west facing and overshadowed for much of the day as a result of the wide eaves on the dwelling. The proposal will not impact on this window

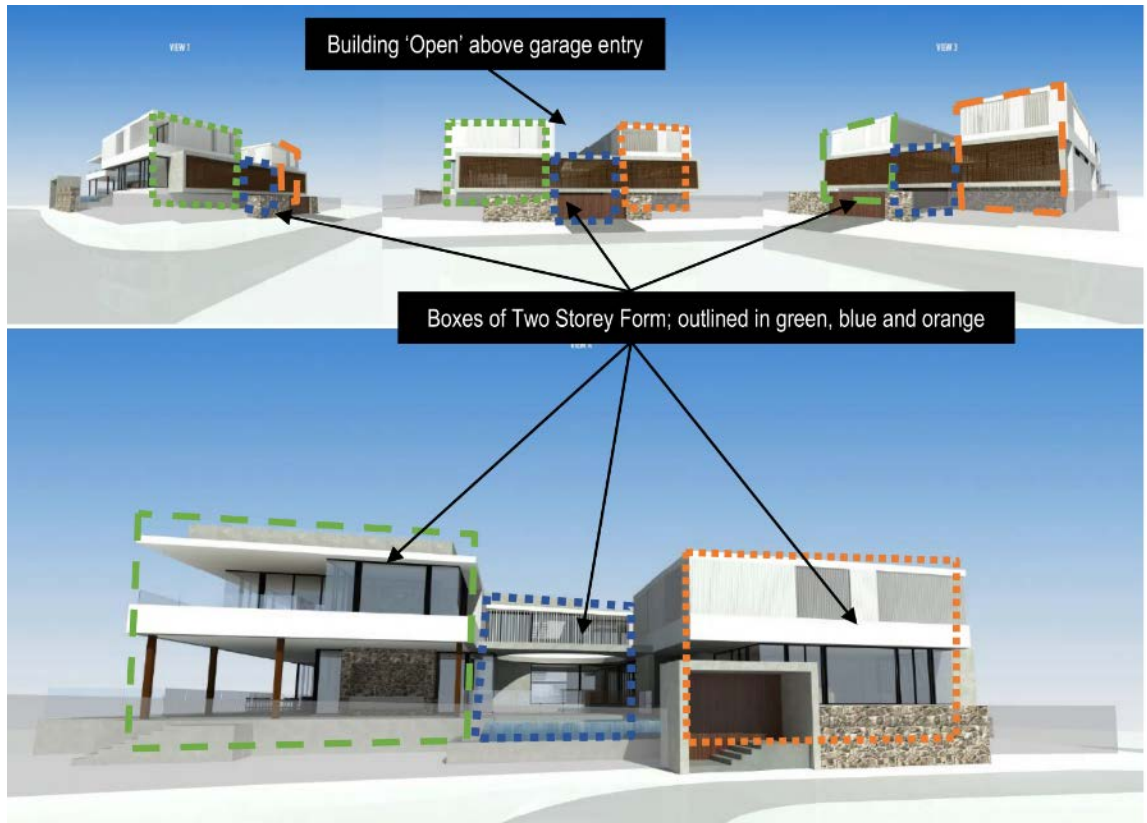
As such the proposal is considered acceptable in this regard. An impact of the overshadowing associated with the extent of the structure which breaches the 9m height standard is included earlier in this report. A condition should be imposed on any consent issued that no shade structures are to be erected on the rooftop terrace without the prior written approval of Council to ensure that there are not any further overshadowing impacts.

6. Part A, Section 4.4 Building Form, Control C1

Building siting, height, scale, and roof form must relate to the surrounding development, topography and the existing site conditions.

The original plans submitted were not supported, with building siting and height raised as concerns. The applicant has submitted amended plans to remove the third storey and to reduce the height such that the exceedances of the 9m height standard are limited to a glass balustrade, planter box and canopy access on the rooftop terrace.

Notwithstanding the lower ground level garage, the dwelling presents as two storeys. Refer to the montage below submitted by the applicant.



The applicant has relocated the rear lap pool to minimise on tree removals. With the exception of the gatehouse, the plans comply with the setback controls. The site coverage and landscape controls are also met.

It is recognised that there is a diversity of dwelling designs in the area and while the proposal is contemporary in design, it is not considered to be out of character with the area.

7. Part A, Section 4.7 Rooftop terraces (rooftop decks)

As set out above, this section only came into effect on 20 February 2019, after the applicant had submitted amended plans to address the Request for Further Information. It would be unreasonable and unjust to apply these controls or to penalise the applicant for non-compliance.

8. Part A, Section 6.1 Fences and walls, Control C6

Front and return fences to a primary or secondary street frontage can be up to maximum height of 1.5 metres high with a maximum solid fence height of 600mm. Above the solid wall the fence is to have a minimum openness ratio of 60%. These height may be varied where topography necessitates a retaining wall as demonstrated on a site analysis.

The applicant is seeking to construct 1.8m high fences on the Lagoon Road and Dune Street frontages, consisting of a mix of materials include:

- 1.8m high vertical sleeper screen fencing at the corner of Dune Street and Lagoon Road;

- 1.8m high feature stone walling panels to either side of the vehicular access and on portions of the Dune Street frontage; and
- 1.8m high timber batten screening on portions of the Dune Street and Lagoon Road frontages.

To address concerns from Council's Natural Resource Management Unit in relation to the impact of fencing at the corner of Dune Street and Lagoon Road on vegetation, the proposed fencing has been set back behind the bank.

The applicant in their assessment against these controls include the gatehouse as part of the fencing proposal. In support of 1.8m high fencing (and integrated gatehouse) the applicant has submitted the following:

- Both Lagoon Road and Dune Street (primarily Dune Street) have examples of existing fencing at a height of 1.8m and in many cases completely solid;
- With the exception of feature stone wall sections, all fencing is set back off the Lagoon Road and Dune Street boundaries and is to be provided with landscaping as a buffer to the street; and
- The proposed fencing is consistent with the underlying objectives of the controls.

O1. To define the boundaries between public and private land and between neighbouring properties.

The applicant submits that the proposal inclusive of the 1.8m high fencing defines the boundary between the public and private realm.

O2. To integrate with the streetscape appearance.

The applicant points to the corner of Dune Street and Lagoon Road being virtually fully screened by vegetation. The applicant also submits that the feature stone wall panelling is used to highlight key features such as the driveway and pedestrian access, and that the timber batten screening is located and designed such that it blends into the retained vegetation.

O3. To enhance the usability of private open space.

The applicant submits that the proposal provides high quality usable private open space with the 1.8m high fencing on Dune Street providing additional privacy.

O4. To offer acoustic and visual privacy on busy roads.

It is noted that this objective is not relevant with neither Lagoon Road or Dune Street classified as a busy road.

Considering the applicant's justification above and the following, a variation to the height restriction and openness ratio is supported:

- The mix of materials and articulation of the fence, the stepped alignment and street landscaping reduces the visual impact;
- The vertical timber sleeper fencing and timber batten fencing is not solid; and
- The fencing will provide privacy to the two swimming pools which are located to the north of the site.

9. Part D, Section 2 Fingal Head, Section 2.4 Building Height, Control C1 and C2

Control C1 specifies that a maximum two storey character design limit applies to all residential dwellings within Fingal Head.

Control C2 states that dwellings on flood affected lots shall be designed to ensure design features on any street elevation do not lead to a visual perception of a three storey building.

For the purposes of this site specific Part, on flood affected lots in Fingal Head, any sacrificial area below the design flood level shall not be regarded as a storey, so long as the first habitable level is no higher than 2m above existing ground level, and there are no design elements on the front elevation that could result in a perceived three storey character when viewed from the street e.g. windows, pedestrian entry doors or the like.

Buildings on flood affected lots and steep sites must still meet the 9m LEP maximum building height standard.

As above, these controls came into effect on 20 February 2019. As such, the applicant cannot reasonably be expected to comply with these controls or penalised for non-compliance.

The applicant has submitted a Clause 4.6 variation to address the proposed breach of the LEP height standard.

The site is flood affected with a design flood level of 2.6m and a minimum habitable floor level of 3.1m. As such the garage level can be considered as sacrificial area and is not considered as a storey. There are also no elements on the Lagoon Road façade that would result in the garage level being interpreted as a 'ground floor'. As such the proposal presents as two storeys. This is highlighted in 3D images submitted by the applicant which are included earlier in this report.

Section A2-Site Access and Parking Code

The applicant is proposing to remove the existing crossovers to Dune Street and Lagoon Road and to open a new vehicular access to Lagoon Road. Any consent issued will require the submission and approval of a Section 138 application for this access.

The car parking requirements for a single dwelling house is 2 carparking spaces. The applicant is making provision for car parking in the garage for 5 cars.

Section A3-Development of Flood Liable Land

Flooding in this locality has been identified as comprising low and high hazard flood storage areas and floodways. The Design Flood level for the site is RL 2.6m AHD with a minimum habitable floor level of RL 3.1m AHD. All habitable space is provided above this level.

The DCP states that car parking in the form of basement parking will not be approved below the design flood level unless it is protected against the inflow of water to a level of 500 mm above the design flood level. The applicant is proposing to install flood gates to address with requirements.

The DCP also states that the area below Council's design flood level is not to be totally enclosed. Consideration will be given on application, to permitting the enclosure of laundry, stairway entry and double garage space, provided that such an enclosure does not significantly restrict flood flows. It is submitted that an area of 50sqm will generally encompass these facilities. Any larger enclosures will only be considered when the application can demonstrate that the additional area enclosed will not provide any greater restriction to flood flow.

The site is a brownfield site which currently accommodates a dual occupancy on 20 Lagoon Road (footprint of approximately 304sqm) and a single dwelling on 22 Lagoon Road (footprint of approximately 230sqm) equating to an enclosed area of approximately 534sqm. The applicant submits that with filling, the site currently has an area that is filled above or enclosed below the Design Flood level of 932.1sqm.

The proposal dwelling has a building footprint of approximately 913sqm, which includes the lower ground level, enclosed subfloor areas and swimming pools and planter boxes. As such the proposal will result in no worsening of the existing situation.

Any consent issued should be subject to standard flooding conditions in relation to building materials and electricity supply.

Section A11-Public Notification of Development Proposals

The application was advertised for a period of 14 days from 18 July 2018 to 1 August 2018. During this time, 16 submissions were received, all objecting to the proposal. Two of these submissions were from community groups being Fingal Head Coastcare Inc. and Fingal Head Community Association. One (1) late submission objecting to the proposal was received on 13 August 2018.

An assessment of the submissions is set out later in this report.

Section A15-Waste Minimisation and Management

The proposal is generally compliant with the provisions of this part.

Section A16 - Preservation of trees or vegetation

Vegetation prescribed in Section A16 is proposed to be removed to facilitate the development. Council's NRM Unit have advised that habitat restoration and long term protection of the littoral rainforest occurring onsite is considered appropriate as a compensatory measure. Additional prescribed vegetation is to be retained in accordance with condition of consent subject to an arboricultural impact assessment report.

Tweed Coast Comprehensive Koala Plan of Management 2015

The site occurs within the Tweed Heads Koala Management Area. A tree survey was submitted with the application and it is acknowledged that the site does not support Preferred Koala Habitat and no evidence of koala activity was recorded.

The proposal involves the removal of one planted Preferred Koala Food Tree – *Eucalyptus robusta*, however given the tree's landscape planting origin, poor condition, and lack of Koala habitat within the immediate locale, offsetting of the tree is not considered warranted.

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

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

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

Clause 92(1)(b) Applications for demolition

The application seeks to demolish the existing structures on the site. Standard conditions in relation to demolition can be imposed on any consent issued.

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

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The site is approximately 24km from the coast and not located within a specific area identified under that Plan. The site is not located adjacent to any coastal estuaries covered by this plan.

Tweed Coast Estuaries Management Plan 2004

The site is not located adjacent to any coastal estuaries covered by this plan.

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

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

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

Context and Setting

The site is zoned R2 low density residential with the proposed dwelling replacing an existing dual occupancy and a single dwelling.

The proposal is seeking to vary the height standard for the site to support the inclusion of the rooftop terrace. The remainder of the dwelling is below the 9m height limit.

With the lower ground floor partially below the finished ground level and with minimal articulation at this level and no first floor over, the dwelling will present as two storeys.

The inclusion of a central courtyard and western courtyard and the open entertainment area/patio add to the perception of bulk on the plans, however controls in relation to site coverage, landscape area and setbacks (with the exception of the gatehouse) are met.

Access, Transport and Traffic

The proposal provides acceptable access to Lagoon Road. Provision is made for 5 car parking spaces in the garage, which is more than is required for a single dwelling.

Flora and Fauna

A summary of ecological features and values following desktop analysis, multiple site inspections and review of the Ecological Assessment (EA) 20-22 Lagoon Road Fingal Head dated May 2018 prepared by JWA Ecological Consultants is provided below.

- A vegetation community map was prepared as part of the EA identifying a remnant unit of Littoral Rainforest extending across the east of the site. The unit of vegetation is described as a 'Tall closed Littoral rainforest (*Cryptocarya triplinervis* var. *triplinervis* +/- *Cupaniopsis anacardioides*, *Banksia integrifolia* and *Lophostemon confertus*) littoral rainforest community' in the EA and forms part of a contiguous 4.5 ha tract of littoral rainforest that extends across the adjacent coastal crown reserve network;
- A small copse of littoral rainforest occurs within the north-western corner of Lot 255. The isolated unit is described as 'Clump 2';
- The Littoral Rainforest community as mapped onsite is representative of:
 - o An Endangered Ecological Community - Littoral Rainforest in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions listed under the *BC Act 2016*, conforming to the NSW Scientific Community – Final Determination.
 - o Critically Endangered Threatened Ecological Community – Littoral Rainforest and Coastal Vine Thickets of Eastern Australia listed under the *EPBC Act 1999*.
- Littoral rainforest to the east of the sites boundary across Crown Land is mapped as a 'Littoral Rainforest Area' under the *SEPP (Coastal Management) 2018*;
- At the time of application lodgement the unit of littoral rainforest extending onto the site was mapped as a high conservation value area (HCVA) on the NSW

Biodiversity Values Map (BV Map) prepared under the *BC Act 2016*. During the application assessment period the BV Map was revised involving modification to the extent of the HCVA to maintain consistency with the *SEPP (Coastal Management)* mapping. As a result the contemporary BV Map excludes the HCVA from the subject site setting the boundaryline back to the rear site boundary;

- A vegetation integrity score using the NSW Biodiversity Assessment Method was calculated at 61.2 against the Vegetation Benchmark for Plant Community Type - 751 - Brush Box - Tuckeroo littoral rainforest on coastal headlands of the NSW North Coast Bioregion in the BDAR submitted with the application;
- Based on the criteria in Table 3.5 of the Tweed Vegetation Management Strategy 2004, habitat onsite would qualify as 'Very High' Ecological Status;
- A NSW Bionet database search of all valid records of threatened fauna (listed under the *BC Act* and *EPBC Act*) within a 5 km radius of the subject site (recorded since 03 June 1980 returned a total of 1336 records of 47 species;
- A NSW Bionet database search of all valid records of threatened flora (listed under the *BC Act* and *EPBC Act*) within a 5 km radius of the subject recorded since 03 June 1980 returned a total of 129 records of 15 species;
- No threatened fauna species have previously been formally recorded onsite;
- 19 stems of the threatened flora species *Cryptocarya foetida* were recorded onsite during site survey. This species is listed as Endangered under the federal *EPBC Act* and NSW *BC Act*. According to NSW Bionet Search, 33 individuals of *C.foetida* have been previously recorded within 5 km of the subject site where approximately 19 occur within the Fingal Head locality (excludes those recorded as part of contemporary site based survey); and
- Based on NSW Bionet search (5 km buffer) and habitat suitability the following threatened fauna and flora species were consider to have a moderate to high likelihood of occurrence being:

Species	Common Name	Status	No. Records Fingal Head	Notes
Fauna				
<i>Ptilinopus regina</i>	Rose-crowned Fruit-Dove	Vulnerable	-	Ukerebagh NR
<i>Pteropus poliocephalus</i>	Grey-headed Flying-fox	Vulnerable	-	Soorley Street and Elsie Street Banora Point
<i>Syconycteris australis</i>	Common Blossom Bat	Vulnerable	2/2 - SEPP Wetland	Often roosts within littoral rainforest
<i>Mormopterus beccarii</i>	Beccari's Freetail-bat	Vulnerable	1/3 - SEPP Wetland	Other records Banora, Ukerebagh NR
<i>Miniopterus australis</i>	Little Bentwing-bat	Vulnerable	-	Soorley Street Banora Point
<i>Burhinus grallarius</i>	Bush Stone-curlew	Endangered (E1)	-	Coolangatta/Tweed Heads Gold Course
Flora				
<i>Acronychia littoralis</i>	Scented Acronychia	Endangered (E1)	-	Chinderah

Species	Common Name	Status	No. Records Fingal Head	Notes
<i>Archidendron hendersonii</i>	White Lace Flower	Vulnerable	4/25	Queen Street and Lagoon Road Fingal Head
<i>Cryptocarya foetida</i>	Stinking Cryptocarya	Vulnerable	19/33	Possible duplication
<i>Geodorum densiflorum</i>	Pink Nodding Orchid	Endangered	3/9	Letitia Spit
<i>Macadamia tetraphylla</i>	Rough-shelled Bushnut	Vulnerable	1/6	Queen Street Fingal Head
<i>Syzygium morei</i>	Durobby	Vulnerable	3/7	Part of remnant Littoral Rainforest unit to the north

- Several remnant trees typically known to form part of the assemblage of Littoral Rainforest occur isolated from the mapped vegetation unit and north-western copse along the southern boundary of Lot 256 and common boundary between Lots 255 and 256 including species such as:
 - *Cupaniopsis anacardioides*,
 - *Cryptocarya triplinervis* var. *triplinervis*,
 - *Syzygium oleosum*,
 - *Pouteria australis*.
- The site based tree survey identified 104 individual trees across the subject site (including 5 trees within the Dune Street road reserve);
- The site occurs within the Coastal Environment Area and Coastal Use Area under the *SEPP (Coastal Management) 2016*. Wommin Lagoon to the west of the site is identified as a Coastal Wetland Area, given proximity to the wetland, the site occurs within the Coastal Wetland Proximity Area (100m); and
- With reference to the Tweed Coast Comprehensive Koala Plan of Management 2015 the site occurs within the Tweed Heads Koala Management Area. The littoral rainforest community occurring onsite is not regarded as Preferred Koala Habitat. One preferred Koala Food Tree - *Eucalyptus robusta* (Swamp Mahogany - 220 mm dbh) occurs within a copse of landscape plantings onsite. The tree was observed to be in poor health and form. No Koala activity was recorded on site during diurnal survey.

Council's NRM Unit have provided the following advice in terms of the assessment of ecological impacts:

- Direct Impact on Littoral Rainforest, individual trees (prescribed vegetation under DCP Part A16) and *Cryptocarya foetida* stems based on each iteration of the proposed design and final design with implementation of recommended conditions of consent is quantified in the Table 2 below.

Table 2 Impact area calculations:

	Individual Surveyed Trees	Approximate EEC Impact Area Including APZ ¹	Approximate EEC Impact Excluding APZ ¹	<i>Cryptocarya foetida</i> individuals ²
Original Layout	33 Trees	236sqm	170 m ²	5 individuals
Revision 2 Layout	32 Trees	180sqm	135 m ²	5 individuals
Revision 3 Layout	31 Trees	180sqm	113 m ²	3 individuals
Revision 3 Layout subject to Council conditions	12 Trees	113sqm *subject to arborist and bushfire assessment	113 m ²	1 individual

- The local occurrence of the EEC Littoral Rainforest is estimated at 4.5 ha and as such the proportional extent of the EEC to be impacted locally (based on the Revision 3 layout and imposition of recommended conditions of consent) equates to 0.2%;
- The local population of *Cryptocarya foetida* is estimated at 38 based on targeted site based search and NSW Bionet Records. The potential loss of one individual equates to a 2.6% reduction in local population size; and
- Given that a BDAR was not required under the BV Map trigger (and under the clearing threshold), Council has considered each relevant factor of the 5-part test for the littoral rainforest EEC, threatened species known to occur onsite and those species assigned a moderate to high likelihood of occurrence.

It was concluded that on the basis of the Revision 3 Layout Plan being Dwg. No. BP827/DA1.03 Issue L Site Plan – Proposed dated 27 March 2019 prepared by Jared Poole Design, the proposal is considered unlikely to have a significant effect on those species and ecological community or their habitats listed above where appropriate management measures are employed. Subsequently the preparation of a Biodiversity Assessment Report was not considered necessary under Section 7.4 of the *BC Act*.

Notwithstanding the above determination, NRM consider it necessary to impose conditions of consent to further limit the impact of the development on the sites ecological values to satisfy Section 4.15 of the *Environmental Planning and Assessment Act 1979* and provisions of the *SEPP (Coastal Management) 2018*. Such conditions are to involve the following:

- o Retention of canopy vegetation forming part of the littoral rainforest unit onsite reducing the loss of EEC in the context of the communities local occurrence;
- o Retention of additional prescribed vegetation onsite following liaison with an accredited Bushfire Planning & Design accredited professional;
- o Arboricultural impact assessment to provide confidence works may proceed in an appropriate manner affording adequate protection to those trees nominated for retention;
- o Statutory protection of onsite littoral rainforest EEC and commencement of a 5 year habitat restoration program;
- o Removal of all existing built form within the littoral rainforest area to be protected on site and the footprint revegetated; and

- o Translocation of one *Cryptocarya foetida* individual.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The site is zoned R2 low density residential. The proposed dwelling will replace an existing dual occupancy and a single dwelling.

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

Public Submissions

The application was advertised for a period of 14 days from 18 July 2018 to 1 August 2018. During this time, 16 submissions were received, all objecting to the proposal. Two of these submissions were from community groups being Fingal Head Coastcare Inc. and Fingal Head Community Association.

One (1) late submission objecting to the proposal was received on 13 August 2018. The issues raised in this submission were similar to those raised in the earlier submissions, though potential impacts on the adjoining property at 24 Lagoon Road are also identified:

- Overshadowing impacts on adjoining property at 24 Lagoon Road; and
- Use of the rooftop terrace for recreation will have an adverse impact on privacy at 24 Lagoon Road.

A summary of the issues raised is set out below with the applicant's response and an assessment of the issue.

Issue 1 - Bulk and Scale
<ul style="list-style-type: none">• Inconsistent with the outcomes of the Community Consultation on building height in Fingal – Maximum of 2 storeys and height of 9m – Refer to Council report of 5 October 2017
<ul style="list-style-type: none">• The proposal is contrary to the 'agreement' reached between Council and the community on building heights following extensive consultation
<ul style="list-style-type: none">• Development is out of character in terms of bulk and scale with the 'village' ambience of Fingal Head
<ul style="list-style-type: none">• Development exceeds height limit of 9m specified in the TLEP
<ul style="list-style-type: none">• Adverse impact on 24 Lagoon Road in terms of overshadowing and ventilation.
<p><u>Applicant response</u></p> <p>The applicant has responded that the character of built form in Fingal Head is an eclectic and ever evolving mix of building design exhibiting no prevailing or predominate architectural style. The built form in the locality is a mixture of old small scale development and new larger scale building. The proposal (as amended) in response to the Request for Further Information is now consistent with the scale and character of the surrounding properties, presenting as a two storey form at any location. The third storey which originally provide access to</p>

the roof top terrace has been deleted with access now via a sliding glass canopy over the access stairs.

As the site is flood prone, cues were taken from the Draft Section A1 Part D DCP on exhibition which included specific controls for establishing an appropriate built form scale in Fingal Head. The applicant submits that the proposal complies with the controls here noting that the subfloor area (garage) is either 2m or less above existing ground level or where the garage entry is provided there is nothing above this element of the design to ensure 'blocks' of two storey form are provided by the proposal.

In relation to overshadowing of 24 Lagoon Road, it is submitted that the proposal is compliant with solar access control C4 in the DCP in Section 4.0 Building Design, 4.3 Solar Access and Natural Ventilation. It is further submitted that consultation was undertaken with the owner of this property prior to the lodgement of the application.

Comment

As set out above and earlier in this report, the applicant has amended the plans to reduce the height of the structure, removing the third storey. Though the 9m height limit on the site is still exceeded, it is recommended that a variation under Clause 4.6 can reasonably be supported.

With the exception of the height, the proposal generally meets with the controls in the DCP which influence the scale and bulk of a dwelling; setbacks, site coverage and landscape area. The location of the gatehouse on the Dune Street frontage is a variation to the setback controls, however this is a discrete structure and does not necessarily add to the bulk and scale of the dwelling.

As part of the Section A1 Part A assessment, an analysis of the overshadowing impact on 24 Lagoon Street was over taken and referred to earlier in this report. It is considered that the proposal would not have an adverse impact on 24 Lagoon in terms of overshadowing.

The amended proposal was submitted to Council prior to the adoption of the controls for rooftop terraces in Section A1 part A Section 4.7 on 20 February 2019 and as such the application has not been accompanied by an Amenity Impact Assessment, Nevertheless the proposal incorporates a number of the mitigation measures identified in the controls above, including setting the rooftop terrace back from the roof edge and integrating landscape planter boxes to the rooftop terrace perimeter.

Issue 2 - Biodiversity

- Land has high environmental values
- Development will result in a significant degradation of flora both on property and adjacent nature strip
- Replacement planting is not an acceptable solution

<ul style="list-style-type: none">• Adverse impact on adjacent nationally Critically Endangered Ecological Community – Littoral Rainforest:• The mapped area of original remnant littoral rainforest on this site is approximately 681sqm and the proposed development will result in the removal of approximately 236sqm of vegetation including 29 native trees and shrubs of greater than 100mm dbh resulting in huge impacts on the area of less than 1ha of original remnant vegetation at Fingal Head
<ul style="list-style-type: none">• Important to maintain the littoral rainforest vegetation in the residential areas not specifically protected by SEPP 26 (or superceding Coastal Management SEPP)
<ul style="list-style-type: none">• The proposed destruction of the four large endangered <i>Cryptocarya foetida</i> seed trees is a significant loss to the vegetation community.
<ul style="list-style-type: none">• The threatened White Lace Flower <i>Archidendron hendersonii</i> is present and seeding on the site – this has been incorrectly identified as Laceflower Tree <i>Archidendron grandiflorum</i> in the application.
<ul style="list-style-type: none">• The large Tuckeroos and Cadaghi located between 20 and 22 Lagoon Road provide an important fauna corridor between the remnant vegetation to the east and the riparian vegetation to the west. Development will result in unnecessary fragmentation of habitat and fauna corridor.
<ul style="list-style-type: none">• Lack of understanding of ‘local provenance’ in proposed replanting with seedlings sourced from Noosa Heads.
<ul style="list-style-type: none">• 29 trees to be removed provide an essential habitat for a variety of fauna including endangered birds and bats. Removal of smaller girthed trees and understorey will also result in loss of fauna habitats
<ul style="list-style-type: none">• Mature trees cannot be translocated as suggested in the BDAR.
<ul style="list-style-type: none">• The development exceeds the BOS threshold test and requires a BDAP and compensatory measures.
<ul style="list-style-type: none">• Development of this scale will have an unacceptable impact on fragile wetlands and littoral rainforest of Fingal Head
<ul style="list-style-type: none">• An area to east of property which has been planted and maintained by Fingal Head Coastcare has been identified as degraded with a proposal for replanting as a compensatory measures. The area in questions is the site of an old sand mining settling pond and as a result of the remnant pollution, plants do not thrive.
<ul style="list-style-type: none">• Concerns that location of two pools close to littoral rainforest will result in tree pruning or removal due to leaf fall.
<ul style="list-style-type: none">• Replanting on western side of site is unlikely as setback is so small.
<ul style="list-style-type: none">• Retaining vegetation in the road reserve and mango tree is not a choice for applicant as they are not on his property– no reference to severe pruning that will be required to facilitate buildings. Severe pruning of mango tree has already left it in poor condition.
<p><u>Applicant response</u></p> <p>The applicant has submitted a response from JWA Ecological Consultants to each of the raised above. Refer to Attachment B.</p>

Comment

A detailed assessment by Council's Natural Resource Unit is set out earlier in this report. It is considered that the applicant can be supported subject to the imposition of appropriate conditions.

Issue 3 - Variations to DCP controls

- Noncompliance with setbacks should not be supported – development of this scale should have increased setbacks not reduced setbacks.
- With a site area of 2,024.65sqm and reduced setbacks, the proposal is overdevelopment.
- Site coverage of 26.6% excludes a significant number of built areas including the gatehouses
- 1.8m high fencing on Lagoon Road and Dune Street should not be supported – contrary to current less formal streetscape where natural vegetation is utilised for screening.

Applicant response

The applicant in their response to the Request for Further Information makes reference to Planning Circular PS13-003 issued by the Department of Planning and 18 March 2013 and which provided advice on the role and status of DCPs following the amendment of the Environmental Planning and Assessment Act on 1 March 2013. The Planning Circular highlights that there are instances where DCPs contain controls which are not consistent with those in the LEP. It advises that the Amendment Act returns the status of DCPs to their original purpose as a guideline and confirms the status of LEPs as the primary statutory planning document. While DCPs still retain an important role in the planning system as guidelines for development and must still be considered by councils in assessing development application, the Amendment Act reinforces that the provisions of a DCP are not statutory requirements and are for guidance purpose only.

If a development application complies with the provisions of a DCP, a consent author is not able to apply more onerous standards. Similarly, if a development application does not comply with the provisions in a DCP, a consent authority must be flexible in the way it applies the controls and also allow for reasonable alternative solutions to achieve the objectives of those standards.

The applicant submits that the proposal has been amended and is now fully compliant with the primary front, secondary front, rear and side setback controls, and that the variations that are no sought are minor in nature.

Amended site coverage plans have been submitted.

The applicant is still seeking a variation to the fencing height controls, and has submitted a justification for same which is set out earlier in the section A1 Assessment.

Comment

The applicant's comments in relation to PS18/003 and the weight to be applied to DCP provisions in the assessment of a development application is noted.

An assessment of the proposal against the DCP controls is set out earlier in this report.

Issue 4 - Design issues

- Pedestrian access should be from Lagoon Road. Dune Street was original designed as a night cart lane, and has difficult access and parking.
- Proposed gatehouse on Dune Street will increase vehicular traffic on Dune Street.
- Will applicant provide onsite visitor parking?
- Will Council ensure that existing residents of Dune Street will not have their access restricted?
- Questions need for two swimming pool so close to beach.

Applicant response

The applicant respectfully submits that none of the issues raised in relation to design issues are relevant to the consideration of the proposal. Pedestrian access to Dune Street will have no impact on the function of this low order road, with the removal of the crossover to 20 Lagoon Road resulting in a net improvement.

A dwelling house is not required to provide visitor car parking, but the proposal does provide for a garage with car parking for five vehicles which can be used to accommodate visitors. Claims that the proposal will result in parking issues or restrict access to adjoining properties are unfounded.

There is no development control that restricts the number of swimming pools, or prohibits pools close to a beach.

Comment

The proposal is compliant with the access and car parking requirements in Section A2 of the DCP. Vehicular access is restricted to Lagoon Road, and while the car parking and access controls in Section A1 may indicate a preference for access to be for secondary streets or lanes, in this instance, sightlines and road width would indicate that access from Lagoon Road is a better outcome in terms of traffic safety.

Issue 5 - Construction impacts

- Potential for damage to trees on Dune Street and Lagoon during demolition and construction stages due to limited road width large protected trees.
- Riparian vegetation and water quality of Wommin Lagoon will be impacted during construction
- Requests bond to cover damage and limit to size of vehicles accessing the site.

Applicant response

The applicant acknowledges that there are potential impacts associated with demolition and construction and that such activities have been successfully managed in the area previously. Should the application be approved, the applicant has advised that they would be happy to accept a condition of consent requiring the preparation of a demolition and construction management plan prior to the issue of a construction certificate.

The applicant advised that during construction, all appropriate sediment and erosion control measure will be installed in accordance with appropriate approvals under S68 of the Local Government Act 1992 and that water quality in Wommin Lagoon will not be impacted.

Comment

It is inevitable that demolition and construction will result in short term impacts in terms of increased traffic, noise, etc. However such impacts can be mitigated through the conditions of a consent with standard conditions imposed in relation to hours of work, sediment and erosion controls, management of noise and air pollution, etc.

Other

- Concern is raised with the accuracy of the ecological assessments – both prepared by same company would contain discrepancies and serious mistakes.
- Submitted that the photomontages are misleading in terms of the proposed height.

Applicant response

The applicant submits that the ecological assessments are considered accurate and fit for purpose.

In relation to the montages, it is submitted that these have been prepared as accurately as possible and that any claim that they are deliberately misleading is unfounded. The montages present the views from the corner of Lagoon Road and Dune Street and looking east along Dune Street, being the two vantage points that will be seen by most residents and visitor to the area.

Comment

A detailed assessment of the ecological assessments has been undertaken by Council's NRM Unit. The application as originally submitted had a number of deficiencies, however these were raised in the Request for Further Information resulting in a further response from the ecological consultants and an arborist report. A detailed assessment of the documentation submitted by Council's Natural Resource Unit is set out earlier in this report.

The montages as considered to be fit for their purpose. Any consent issued will rely on stamped plans which do not contain 3D images or montages.

A number of issues raised in the submissions have not been resolved in the amended plans and the further information response, namely the breach of the 9m height, the setbacks to Lagoon Road, the fencing and the pedestrian access from Dune Street. While the extent of vegetation/tree removal has been reduced, it is not likely that this is to the satisfaction of the objectors, and that the objection to the tree and vegetation removal remains a concern for the objectors.

However, notwithstanding these variations, it is submitted that the proposal has merit and can be supported.

Public Authorities

NSW Rural Fire Service

The application was referred to the Rural Fire Service (RFS) under Section 4.15 of the Environmental Planning and Assessment Act 1979. They provided recommended conditions in relation to Asset Protection Zones, Water and Utilities, Design and Construction and Landscaping.

Essential Energy

The proposed development is located within 5m of an exposed overhead electricity power line. As such, in accordance with Clause 45 of SEPP (Infrastructure) 2008, before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:

- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
- (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

The application was referred to Essential Energy who advised that strictly based on the documents submitted, they has no comments to make as to potential safety risks arising from the proposed development.

Essential Energy made the following general comments:

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with; and
- In addition, Essential Energy's records indicate there is electricity infrastructure located within the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within

Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure. <https://energy.nsw.gov.au/sites/default/files/2018-09/ISSC-20-Electricity-Easements.pdf>

- Prior to carrying out any works, a “Dial Before You Dig” enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).
- Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

Based on the above, there is no impediment to the approval of the application with regard to SEPP (Infrastructure) 2008.

(e) Public interest

The proposed development will provide for a new dwelling in an established low density residential area.

The applicant is seeking a variation to the height control to allow for the provision of a rooftop terrace, however it is considered that the request is reasonable and that the exceedance of the height in this instance will not result in any adverse impacts on the public realm or adjoining properties.

The applicant is also seeking to remove 12 trees and 113sqm of vegetation (as amended by modified layout and conditions of consent) from the site, including one *Cryptocarya foetida*. To compensate for this, a Habitat Restoration Plan (HRP) will be required for the following areas:

- The entire area onsite to the east of the 4.9 m asset protection zone as depicted on Dwg. No. BP827/DA1.03 Issue L Site Plan – Proposed dated 27 March 2019 prepared by Jared Poole Design to include ‘Tall closed Littoral rainforest (*Cryptocarya triplinervis* var. *triplinervis* +/- *Cupaniopsis anacardioides*, *Banksia integrifolia* and *Lophostemon confertus*) littoral rainforest community’ as depicted on Figure 8 Vegetation Communities in Ecological Assessment 20-22 Lagoon Road, Fingal Head dated May 2018 prepared by JWA Ecological Consultants; and
- The entire ‘Clump 2’ as shown on Figure 9 Tree Survey in Ecological Assessment 20-22 lagoon Road Fingal Head dated May 2018 prepared by JWA Ecological Consultants.

Section 7.11 Development Contributions

Plan No 4 (Tweed Road Contributions Plan), Plan No 5 (Local Open Space), Plan No 11 (Libraries), Plan No 12 (Bus shelters), Plan No 13 (Eviron Cemetery), Plan No 15 (Community Facilities), Plan No 18 (Council Administration offices and

Technical Support Facilities), Plan No 22 (Cycleways) and Plan No 26 (Shirewide Regional Open Space) apply to the site.

The site has credit for a dual occupancy (2 x 3 bedrooms) which equates to 7.8 trips for the purposes of Plan No 4 and 1.75ETs for the purposes of all other relevant plans and for a dwelling house which equates to 6.5 trips for the purposes of Plan No 4 and 1ETs for the purposes of all other relevant plans.

The proposed dwelling will expend 6.5 trips of the TRCP credit and 1ET of the credit available for other plans. As such there are no development contributions liable.

OPTIONS:

1. Approve the application subject to conditions for the following reasons:
 - a) The development proposal/amendment has been considered in accordance with the relevant provisions of the NSW Environmental Planning and Assessment Act 1979 and on balance is suitable to be determined by way of approval.
 - b) Community views were considered as part of the assessment in accordance with Council's Development Control Plan and the NSW Environmental Planning and Assessment Act 1979 requirements for public notification.
2. Refuse the application and provide reasons.

Option 1 is recommended

CONCLUSION:

This application seeks approval for the demolition of existing structures at 1/20 Lagoon Road, 2/20 Lagoon Road and 22 Lagoon Road Fingal Head and approval for tree removal, earthworks, construction of a dwelling and two (2) swimming pools.

The application seeks to exceed the 9m building height standard for the site set out in the Tweed Local Environmental Plan (TLEP) 2014, and as such the application has been accompanied by Clause 4.6 variation request. It is recommended that this request can be supported.

The application is also seeking to vary a number of the development controls in the Tweed Development Control Plan (DCP) 2008, in relation to building height and fencing, and the location of a gate house on the Dune Street boundary, however it is considered that these variations can also be supported.

The site is identified as high ecological value. The application has been reviewed by Council's Natural Resource Management (NRM) Unit who advised that any adverse cumulative impact on the sites ecological values as a result of the proposed development can be avoided or minimised and managed to an acceptable level through conditions of approval.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The applicant has a right of appeal in the NSW Land and Environment Court in respect of any Council determination of this application, such an appeal may have budget implications for Council.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- | | |
|---------------|--|
| Attachment 1. | Clause 4.6 request for variation to Clause 4.3 Height of Building Standard (ECM 5917974) |
| Attachment 2. | Applicant's response to public submissions – ecological issues (ECM 5917986) |
-

14 [PR-CM] Development Application DA18/1030 for the Demolition of Existing Structures and Erection of Dual Occupancy (Detached) at Lot 311 DP 246199 No. 43 The Quarterdeck, Tweed Heads

SUBMITTED BY: Development Assessment and Compliance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Provider**

SUMMARY OF REPORT:

Updated Summary

Council at its meeting of 6 June 2019 resolved to defer this item for a site visit to understand how the neighbouring objectors concerns regarding overshadowing and privacy have been adequately addressed.

A site visit is proposed to be held on Friday 14 June 2019 with Councillors, staff and the applicant/owner and their consultant.

Original Summary

The proposal is for demolition of an existing dwelling, removal of vegetation and erection of a dual occupancy (detached). The dual occupancy units will each consist of four bedrooms and double garages. Existing access via Leeward Terrace will remain for dwelling 2 and new access is proposed from The Quarterdeck for dwelling 1.

The applicant seeks variations to Council's Tweed Development Control Plan 2008 Section A1 (DCP A1) dual occupancy control for minimum area of a site of 900m² with a site area of 778.6m² and the development control relating to the level of cut permitted within the building envelope. Justification for these variations is provided within this report and is supported.

The application was referred internally to the following units: Environment Health, Building, Water, Development Engineers, and Natural Resource Management. No major concerns were raised, subject to recommended conditions.

The application was notified for a period of 14 days from Monday 28 January 2019 to Monday 11 February 2019. Council received three submissions which are detailed within this report.

This development application is referred to full Council for determination due to the proposed variation to the dual occupancy control for minimum area of a site being 900m².

RECOMMENDATION:

That Development Application DA18/1030 for the demolition of existing structures and erection of dual occupancy (detached) at Lot 311 DP 246199 No. 43 The Quarterdeck, Tweed Heads be approved subject to the following conditions:

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos DA04, DA06, DA07, DA08, DA09, DA12, DA13, DA14, DA15, DA16, DA17, prepared by Armstrong & Co architects and dated 03/04/19, except where varied by the conditions of this consent.**

[GEN0005]

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

[GEN0115]

- 3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the Developer's expense.**

[GEN0135]

- 4. Sewer manholes are present on this site. Manholes are not to be covered with soil or other material.**

Should adjustments be required to the sewer manhole, then applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. Works will not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.

[GEN0155]

- 5. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.**

[GEN0300]

- 6. If asbestos containing material is to be removed then prior to demolition work**

commencing a sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm by 300mm shall be erected in a prominent visible location on the site. The sign shall remain in place until all asbestos has been removed from the site.

[GEN0345]

7. If asbestos containing material is to be removed then prior to the commencement of construction of the new structure or use of the site a ‘clearance inspection’ shall be conducted for the site and a ‘clearance certificate’ issued by a licensed asbestos assessor or competent person which states that the site ‘does not pose a risk to health and safety from exposure to asbestos’ in accordance with Clause 474 of the Work Health and Safety Regulation 2017. A copy of this certificate shall be forwarded to the **Principal Certifying Authority** and Council within 7 days of completion of the ‘clearance inspection’.

[GEN0350]

8. All existing trees within the road reserve are to be retained and protected during construction. Where existing trees within the road reserve cannot be adequately retained and protected, approval from Council’s General Manager or their delegate is required to remove street trees and they are to be replaced with a similar species in a 45L pot in accordance with Council’s Development Design Specification D14.08.03C Tree Planting and Location (for distances away from infrastructure such as light poles and driveways) and Standard Drawing ‘Tree and Shrub Planting Details’ Dwg. No. SD701 (including the installation of root barrier) to the satisfaction of Council’s General Manager or their delegate.

[GEN0355]

9. All works shall comply with AS2601-2001 Demolition of Structures and the Work Health and Safety Regulation 2017.

[GEN0360]

10. Prior to demolition of the structure is commenced all asbestos material shall be identified and removed from the site by an asbestos removalist who is licensed to carry out the work by WorkCover NSW. All asbestos waste shall be disposed at a facility that is licensed to receive asbestos waste (all receipts related to disposal must be kept on site and provided to a Council Authorised Officer upon request).

[GEN0365]

11. Both proposed strata lots shall connect to the existing sewer junction at front of the property on The Quarterdeck road verge.

[GENNS01]

12. Geotechnical investigations and assessment of the subject site shall be in accordance with the recommendations and requirements as specified in the Pacific Geotech Consulting Geotechnical Engineers, dated November 2018, except where varied by the conditions of this consent.

All individual house sites may be subject to further geotechnical testing at time of building approval.

[GENNS02]

13. Vegetation removal shall be limited to those trees identified as ‘Trees to be removed’ on Dwg. No. DA06 dated 20 November 2018 prepared by Armstrong & Co Architects and described as tree numbers 1, 2, 8, 13 and 14 in Arboricultural

Impact Assessment Report (AIAR) dated 02 October 2018 prepared by Peter Gray. All other native trees identified in the AIAR occurring on the subject site shall be afforded adequate protection during the construction stage and retained for the life of the development unless otherwise approved by Council's General Manager or delegate.

[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

14. Prior to issue of Construction Certificate the applicant is to submit to Council's General Manager or his delegate a list of the finished building materials and colours (including colour product photo images) for approval.

[PCC0175]

15. Section 7.11 Contributions

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

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

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

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

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

- | | |
|--|---------|
| (a) Tweed Road Contribution Plan:
1.3 Trips @ \$921 per Trips
(\$815 base rate + \$106 indexation)
CP Plan No. 4
Sector1_4 | \$1,197 |
| (b) Open Space (Casual):
1 ET @ \$624 per ET
(\$502 base rate + \$122 indexation)
CP Plan No. 5 | \$624 |
| (c) Open Space (Structured):
1 ET @ \$714 per ET
(\$575 base rate + \$139 indexation)
CP Plan No. 5 | \$714 |

- (d) **Shirewide Library Facilities:**
1 ET @ \$933 per ET \$933
(\$792 base rate + \$141 indexation)
CP Plan No. 11
- (e) **Bus Shelters:**
1 ET @ \$71 per ET \$71
(\$60 base rate + \$11 indexation)
CP Plan No. 12
- (f) **Eviron Cemetery:**
1 ET @ \$135 per ET \$135
(\$101 base rate + \$34 indexation)
CP Plan No. 13
- (g) **Community Facilities (Tweed Coast - North)**
1 ET @ \$1539 per ET \$1,539
(\$1,305.60 base rate + \$233.40 indexation)
CP Plan No. 15
- (h) **Extensions to Council Administration Offices
& Technical Support Facilities**
1 ET @ \$2187.14 per ET \$2,187.14
(\$1,759.90 base rate + \$427.24 indexation)
CP Plan No. 18
- (i) **Cycleways:**
1 ET @ \$526 per ET \$526
(\$447 base rate + \$79 indexation)
CP Plan No. 22
- (j) **Regional Open Space (Casual)**
1 ET @ \$1215 per ET \$1,215
(\$1,031 base rate + \$184 indexation)
CP Plan No. 26
- (k) **Regional Open Space (Structured):**
1 ET @ \$4264 per ET \$4,264
(\$3,619 base rate + \$645 indexation)
CP Plan No. 26

[PCC0215/POC0395/PSC0175]

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

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

BELOW IS ADVICE ONLY

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

Water: 0.6 ET @ \$13,926 = \$8,355.60

Sewer: 1.0 ET @ \$6,690 = \$6,690

[PCC0265]

17. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.

[PCC0935]

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

[PCC0945]

19. A Construction Certificate application for works that involve any of the following:

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee. The Section 68 Application must be approved by Council prior to the associated Construction Certificate being issued.

[PCC1145]

20. For developments containing less than four attached or detached strata dwellings having a Building Code classification of 1a, each premises must be connected by means of a separate water service pipe, each of which is connected to an individual Council water meter to allow individual metering. Application for the meters shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

[PCC1175]

21. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a Construction Certificate.

[PCC1195]

22. If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

Applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. The arrangements and costs associated with any adjustment to water and wastewater infrastructure shall be borne in full by the applicant/developer.

The Section 68 Application must be approved by Council prior to the associated Construction Certificate being issued.

[PCC1310]

23. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or delegate prior to the issue of a Construction Certificate. The detailed plan of landscaping should be reflective of the Landscape Concept Plan dated 14 November 2018 prepared by Plummer & Smith and shall meet the following plant selection criteria:

- a. A minimum of 80% locally occurring Australian native species and maximum of 20% non-locally occurring Australian native species to apply to all trees.
- b. A minimum of 80% locally occurring Australian native species and maximum of 20% Australian native or exotic species to apply to other plants (shrubs, ground cover and similar).
- c. No environmental weed species.

[PCNS01]

PRIOR TO COMMENCEMENT OF WORK

24. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

25. An application is to be made to Council to temporarily "cap off" the existing building sewerage house drainage from Council's sewerage system, prior to any demolition work commencing. A Plumbing and Drainage Works on Private Land <<http://www.tweed.nsw.gov.au/Controls/Forms/Documents/SewerSepticForm.pdf>> application form shall be submitted to Tweed Shire Council and payment of fees in accordance with Council's adopted fees and charges.

[PCW0045]

26. The erection of a building in accordance with a development consent must not be commenced until:
- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]
27. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.
- [PCW0225]
28. Residential building work:
- (a) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,

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

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

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

[PCW0235]

29. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 15 persons employed at the site. Each toilet provided must be:

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

30. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

31. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

[PCW0985]

- 32. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.**

[PCW1005]

- 33. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new (or modification of the existing) driveway access (or modification of access).**

Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCW1170]

- 34. All pre-construction arboricultural management measures as specified in the Arboricultural Impact Assessment Report (AIAR) dated 02 October 2018 prepared by Peter Gray shall be satisfactorily implemented prior to commencement of works.**

[PCWNS01]

DURING CONSTRUCTION

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

[DUR0005]

- 36. Should any Aboriginal object or cultural heritage (including human remains) be discovered all site works must cease immediately and the Tweed Byron Local Aboriginal Land Council (TBLALC) Aboriginal Sites Officer (on 07 5536 1763) are to be notified. The find is to be reported to the Office of Environment and Heritage. No works or development may be undertaken until the required investigations have been completed and any permits or approvals obtained, where required, in accordance with the National Parks and Wildlife Act, 1974.**

[DUR0025]

- 37. Commencement of work, including the switching on and operation of plant, machinery and vehicles is limited to the following hours, unless otherwise permitted by Council:**

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

38. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

39. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

40. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2017.

[DUR0415]

41. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Work Health and Safety Regulation 2017.

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

[DUR0645]

42. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

43. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from:

- Noise, water or air pollution.
- Dust during filling operations and also from construction vehicles.
- Material removed from the site by wind.

[DUR1005]

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

[DUR1015]

45. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

46. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times. [DUR2015]
47. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blown from the site. [DUR2185]
48. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. [DUR2205]
49. Written notice shall be provided to the 'regulator' at least 5 days before the removalist commences licensed asbestos removal work in accordance with Clause 466 of the Work Health and Safety Regulation 2017. [DUR2840]
50. A supervising Project Arborist with a minimum Australian Qualification framework (AQF) level 5 in Arboriculture shall be engaged to:
- a. Oversee all tree removal and any earthworks (including piling) within the tree protection zone of all trees identified to be retained and protected
 - b. Carry out mitigation/remediation works during the construction period in general accordance with the *Australian Standard AS4970 - 2009 Protection of trees on development sites*. [DURNS01]
51. A suitably qualified ecologist who holds a fauna survey licence is required to manage wildlife onsite during all tree removal operations. Fauna management methods employed should be generally consistent with the Draft Queensland Code of Practice for the Welfare of Wild Animals Affected by Clearing and Other Habitat and Wildlife Spotter/Catchers (Hangar & Nottidge 2009). Where translocation is required the proponent shall seek any relevant permits from the state regulating agency (NSW Office of Environment & Heritage). It is the responsibility of the proponents to ensure all relevant licences have been obtained prior to any fauna interactions. [DURNS01]
52. During the construction period and with respect to vegetation and fauna management measures the applicant must comply with any directions given by:
- a. Project Arborist;
 - b. Qualified ecologist; and/or
 - c. Council's General Manager or delegate. [DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

53. Prior to issue of an Occupation Certificate, all works/actions/inspections etc required at that stage by other conditions or any approved Management Plans or
-

the like shall be completed in accordance with those conditions or plans.

[POC0005]

54. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

55. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

[POC0355]

56. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

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

[POC1055]

58. An arboricultural certification report prepared by the Project Arborist ((Minimum AQF Level 5 Arborist) shall be submitted to Council prior to the issue of occupation certificate demonstrating compliance with:

- a. Condition 1 of this consent and Arboricultural Impact Assessment Report (AIAR) dated 02 October 2018 prepared by Peter Gray;
- b. *Australian Standard AS4970 - 2009 Protection of trees on development sites*; and
- c. Any other tree management measure to protect retained vegetation as directed by Council's General Manager or delegate or Project Arborist during the construction period.

[POCNS01]

59. All approved landscaping requirements must be completed in accordance with the approved detailed plan of landscaping to the satisfaction of the General Manager or delegate prior to the issue of occupation certificate. Landscaping must be maintained at all times to the satisfaction of Council's General Manager or delegate.

[POCNS01]

REPORT:

Applicant: Supaprumm Pty Ltd
Owner: Supaprumm Pty Ltd
Location: Lot 311 DP 246199 No. 43 The Quarterdeck, Tweed Heads
Zoning: R2 - Low Density Residential
Cost: \$900,000

Background:

The site is known as Lot 311 DP 246199 No. 43 The Quarterdeck, Tweed Heads. The site has a land area of 778.6 square metres, contains an existing dwelling and detached carport both of which are to be demolished. Vehicle access to the site is via a right of way (ROW) over the site and neighbouring property No. 41, which is located at the rear (east) of the site.



Figure: Aerial of the site and surrounds.

It is to be noted that the property directly to the south contains an attached dual occupancy with a site area of 700m², with several other dual occupancies located within close proximity on similar sized sites.



Figure: Infrastructure layers, sewer located in ROW at rear of site.

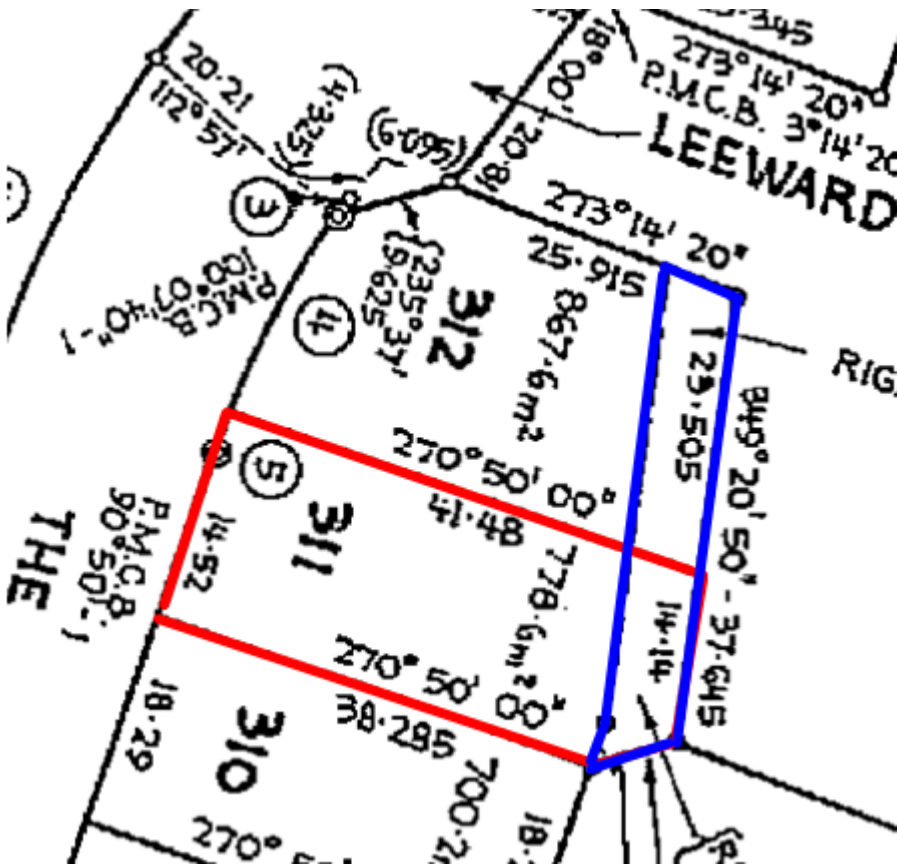
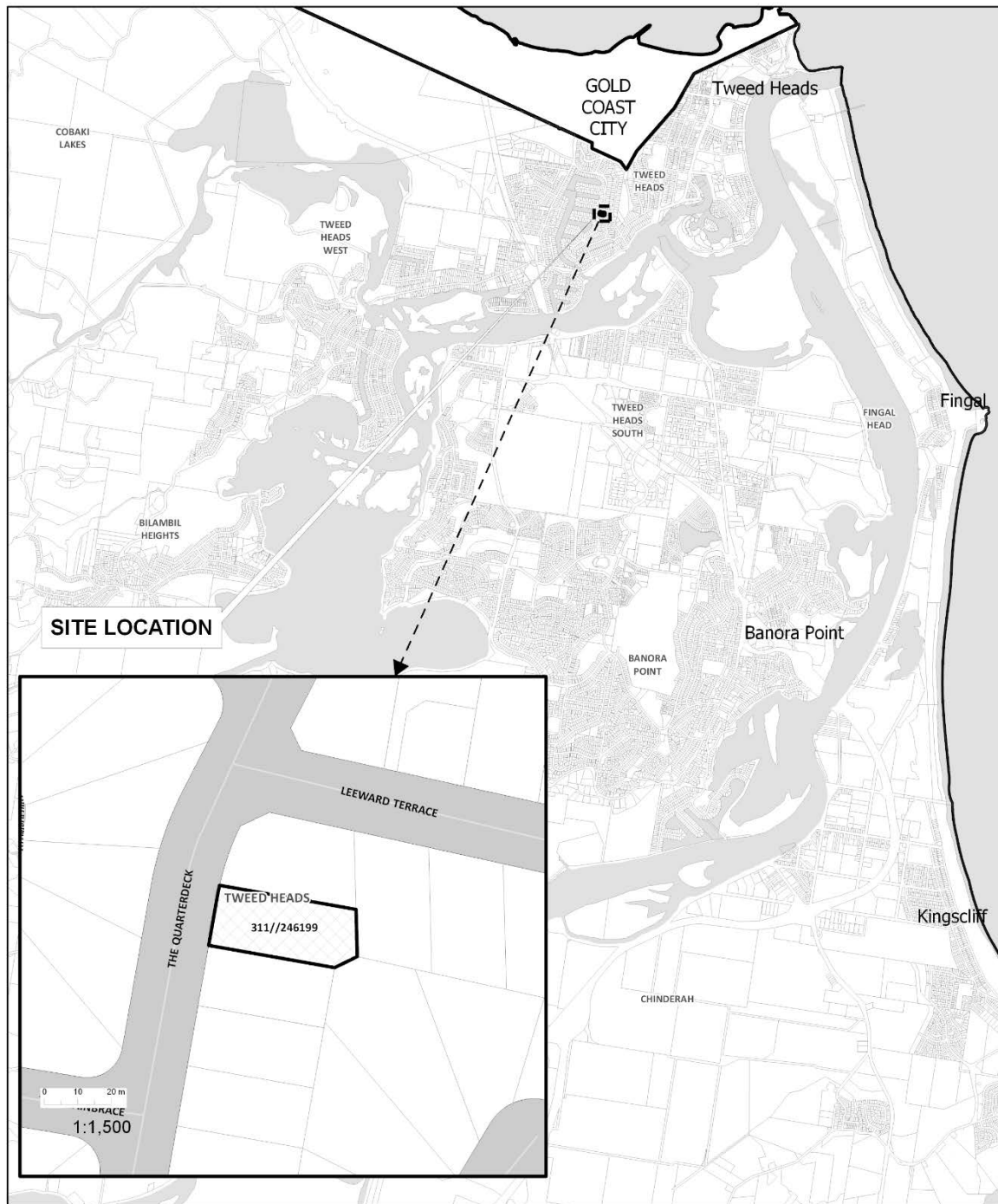


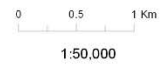
Figure: Plan of 88B illustrating ROW in Blue, subject site is Red.

SITE DIAGRAM:



Site Plan

Lot 311 DP246199
43 The Quarterdeck, TWEED HEADS 2485



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Coordinate System - MGA Zone 56
Datum - GDA 94

Cadastre: 18/07/2018
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Civic and Cultural Centre
3 Tumbulgun Road
Murwillumbah NSW 2484
PO Box 316
Murwillumbah NSW 2484

T: (02) 6670 2400 / 1300 292 872
F: (02) 6670 2483
W: www.tweed.nsw.gov.au
E: planningreforms@tweed.nsw.gov.au



Date Printed: 24 May, 2019

AERIAL PHOTOGRAPH:



1:2,000 @ A4 Portrait
0 20 40 m
DIO NEXT SCALE
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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geocentric Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

TWEED
Civic and Cultural Centre
3 Turnbull Road
Murwillumbah NSW 2484
PO Box 818
Murwillumbah NSW 2484
T | (02) 6570 2400 | 6569 200 872
F | (02) 6570 2125
W | www.tweedshire.nsw.gov.au
E | info@tweedshire.nsw.gov.au

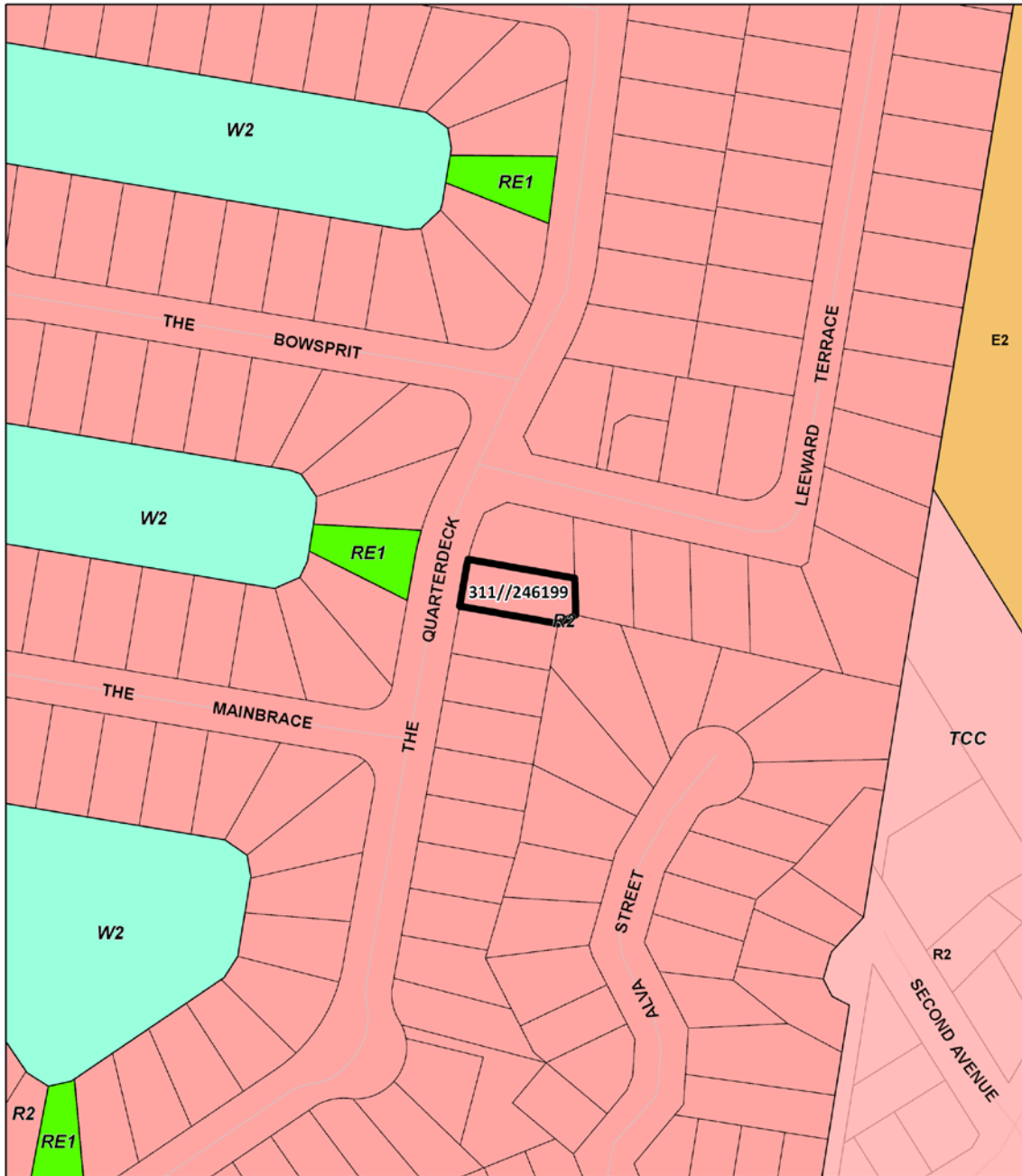
Aerial Photography April 2018

Lot 311 DP246199
43 The Quarterdeck, TWEED HEADS

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

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ZONING PLAN:



Subject Land

Subject Land

Land Zoning (LZN 2012)

E2, Environmental Conservation
 R2 Low Density Residential

Tweed Local Environmental Plan 2014

R2 Low Density Residential
 RE1 Public Recreation
 W2 Recreational Waterways
 TCC Tweed City Centre LEP 2012



Site Plan - Local Environmental Plan

Lot 311 DP246199
 43 The Quarterdeck, TWEED HEADS

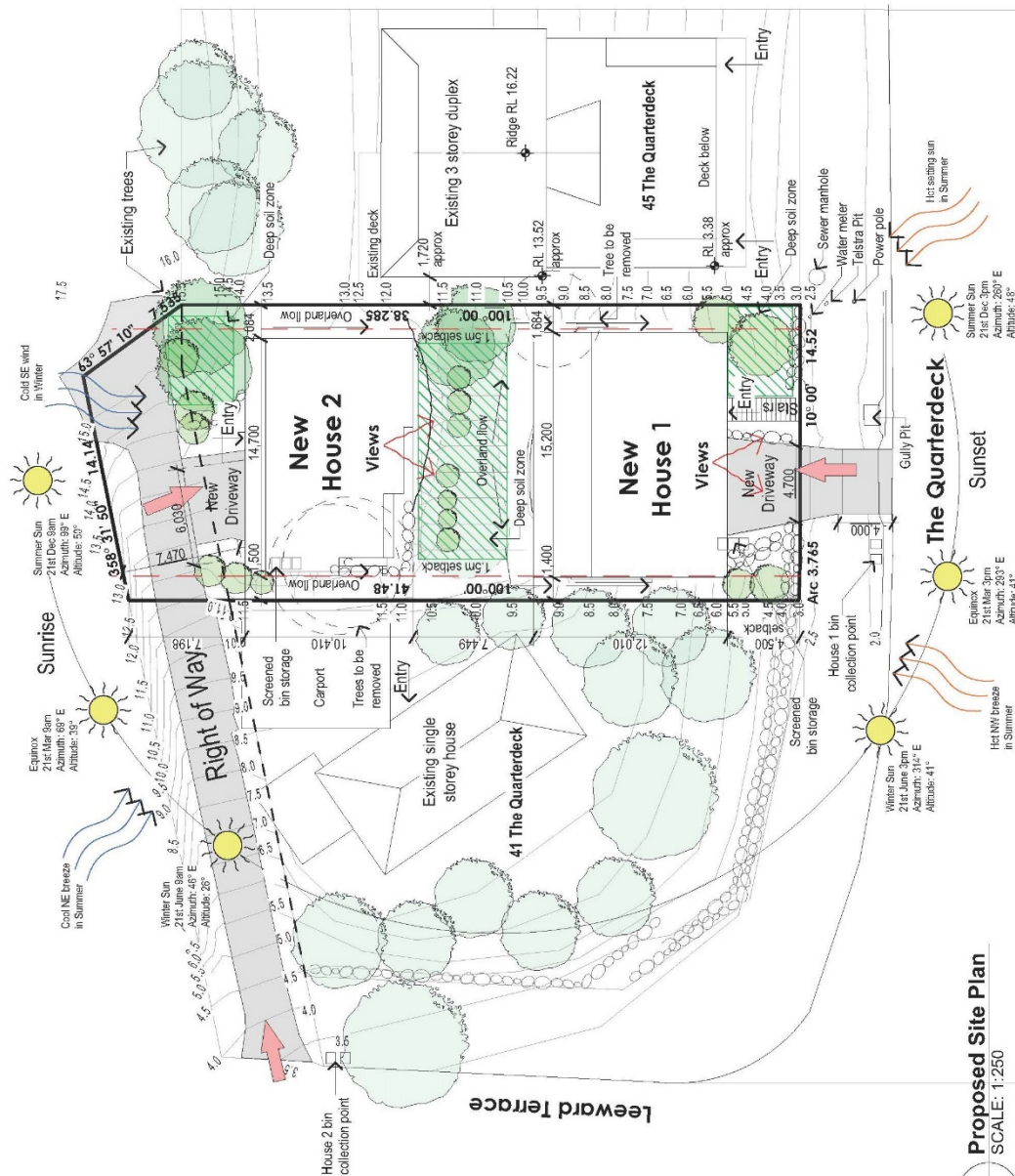
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Date Printed: 24 May, 2019

DEVELOPMENT PLANS:



Title: **Proposed Site/ Analysis Plan**

Dwg No: **DA04**
 Job: **2121H01**
 Drawn: **JR** Checked: **AA**

armstrong & Co
 Architects
 e: info@armstrongco.com.au p: 0755 363 333
 a: 27-32 Gifford St, Collingwood, VIC
 a: 2944 4321 www.armstrongco.com.au

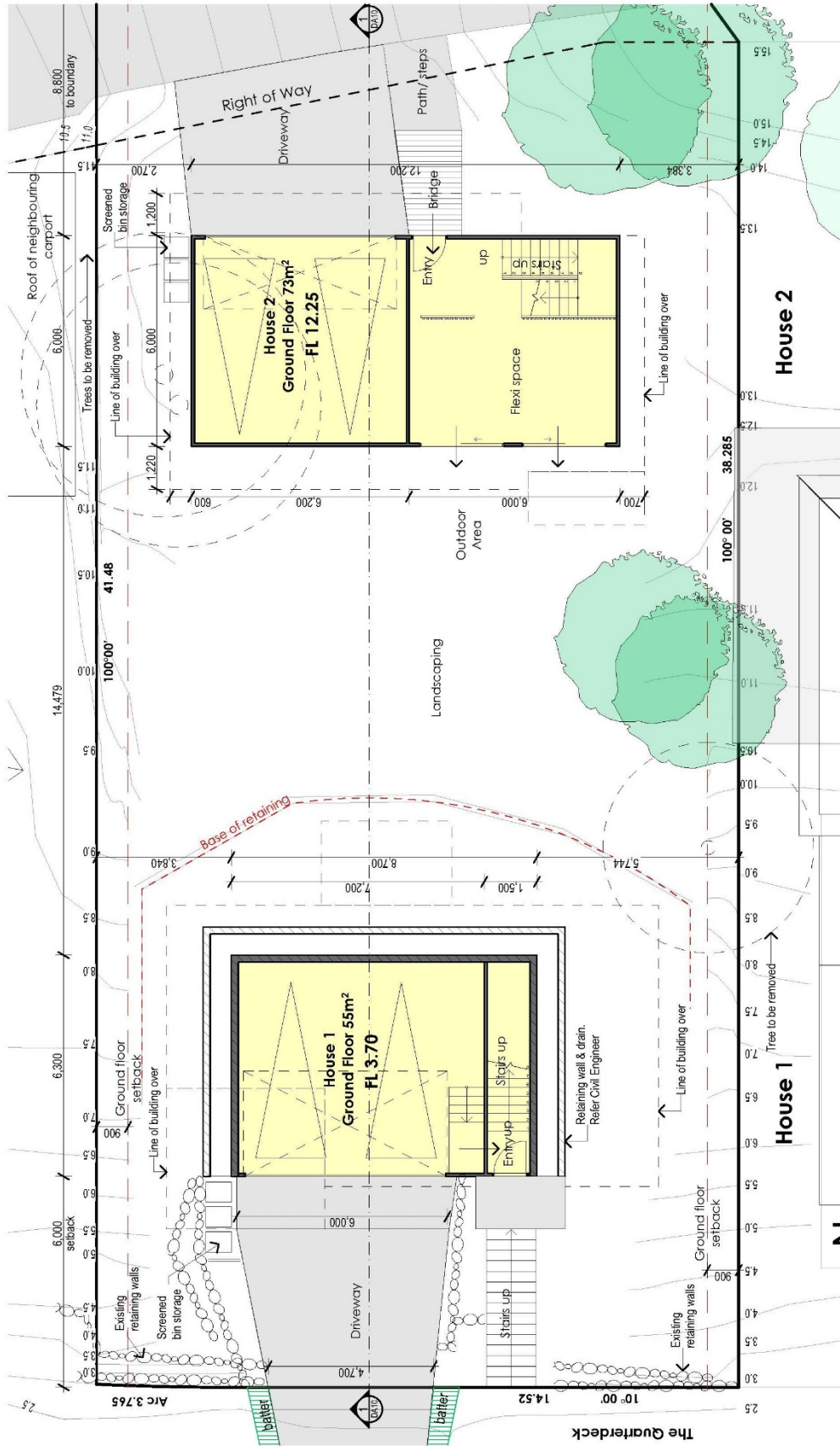
The Quarterdeck 2 Houses
 43 The Quarterdeck, Tweed Heads, NSW 2485
 Supaprum Pty Ltd

03/04/19
DA Submission

Proposed Site Plan
 SCALE: 1:250

0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20
 Scale 1:250 @ A3

A3:01 Project File\Quarterdeck Homes\3101.DWG & CD\dwg\p271101_Quarterdeck-Dwgs.dwg - 03 Jun 2019 19:19



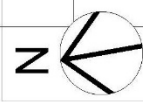
Title: **Ground Floor**

armstrong&co Architects
 e: theaco@armstrongco.com.au p: 0755 985 339
 www.armstrongco.com.au
 Andrew Armstrong (02) 94 06 521 www.armstrongco.com.au

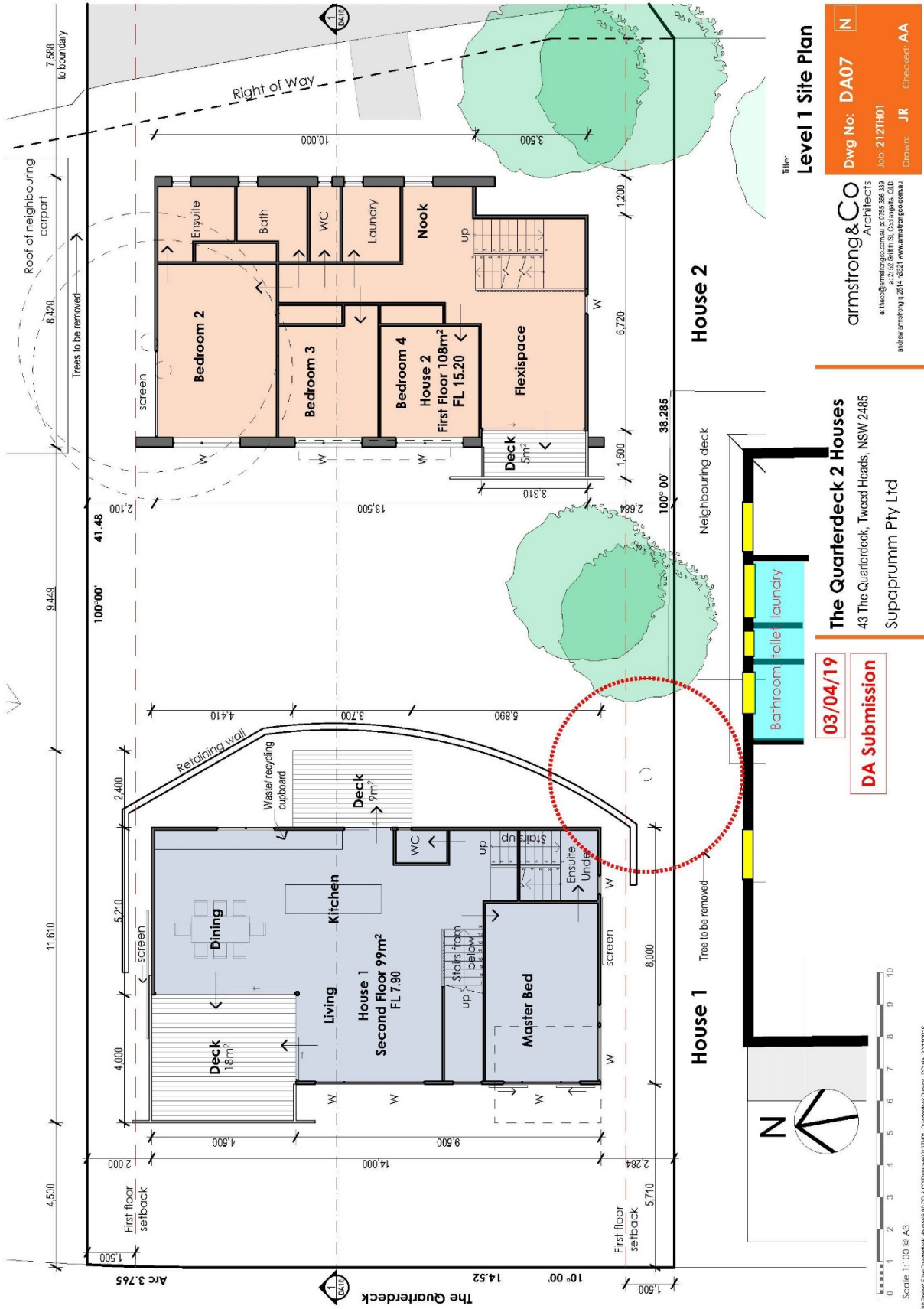
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 Job: 212TH01
 Drawn: **JR** Checked: **AA**

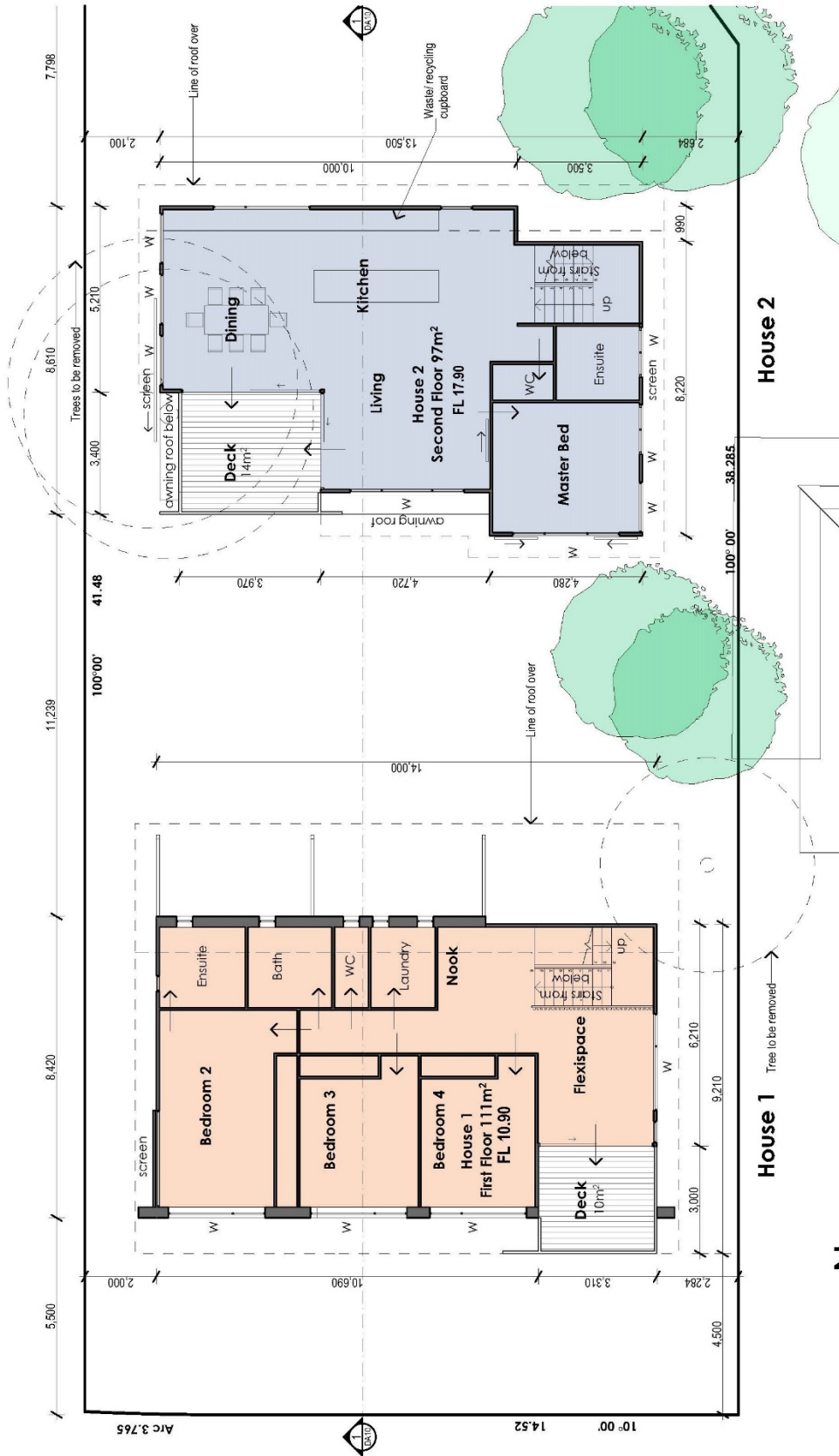
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A3:20 Project File\Quarterdeck Houses\0303 & 0304\dwg\212TH01_Quarterdeck Outer - 1D.dwg 20/1/2019





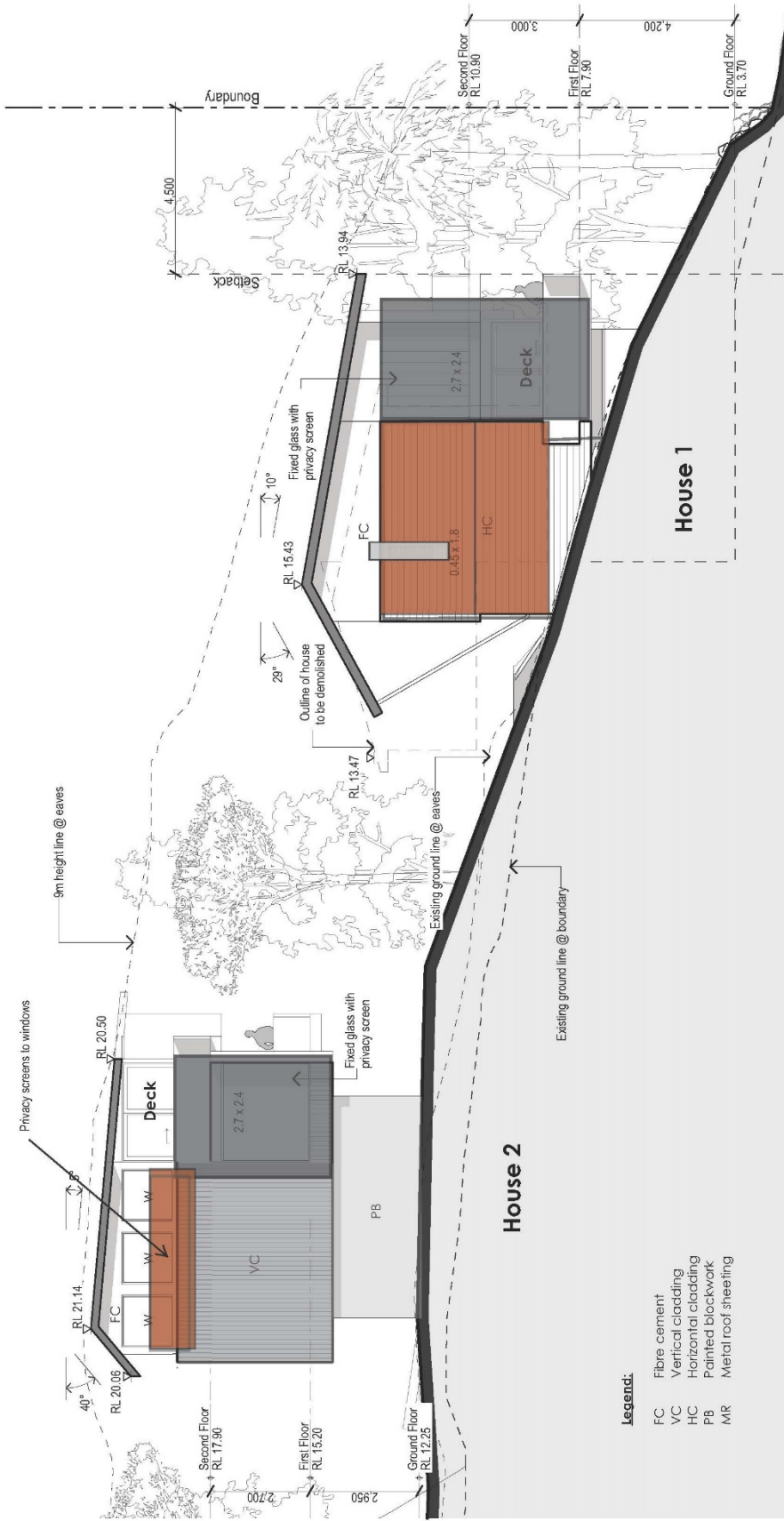
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 Supaprumm Pty Ltd

armstrong & Co
 Architects
 a href="mailto:info@armstrongco.com.au" p="0755 388 339
 a href="mailto:info@armstrongco.com.au" p="0755 388 339
 a href="http://www.armstrongco.com.au" p="www.armstrongco.com.au

Title: **Level 2 Plan**
 Dwg No: **DA08**
 Job: 212TH01
 Drawn: JR Checked: AA

A3:000-Project File:Quarterdeck-House1&2.DWG & CD:Quarterdeck-2Houses-DA08-Rev-20171018



- Legend:**
- FC Fibre cement
 - VC Vertical cladding
 - HC Horizontal cladding
 - PB Painted blockwork
 - MR Metal roof sheeting

North Elevation
SCALE: 1:100



AG20 Page# Plan-Quarterdeck Houses 2 Houses & CD Drawing 212 (N) - Quarterdeck Duplex - 00.dwg, 20/11/2018

03/04/19
DA Submission

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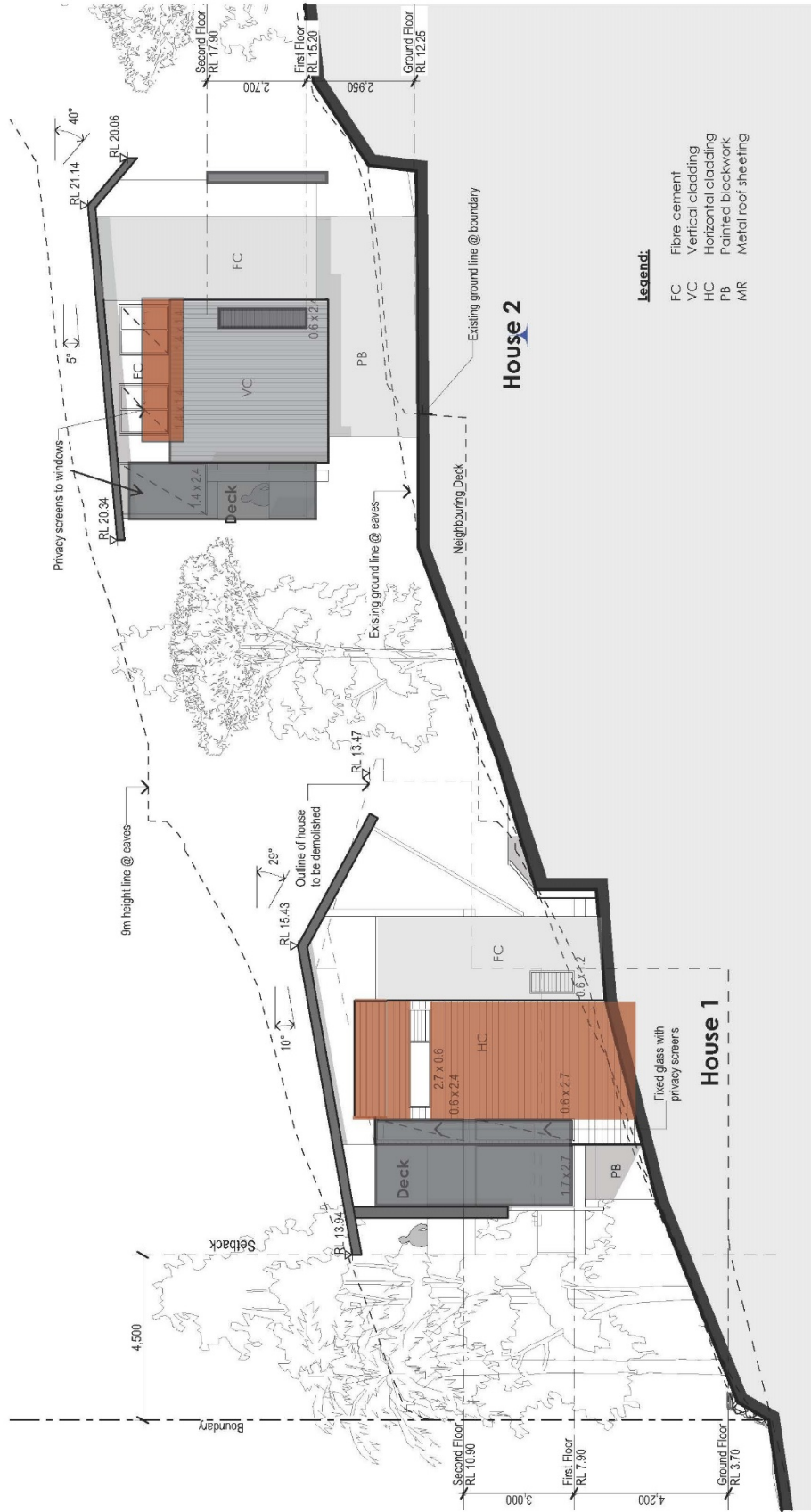
armstrong&co Architects
e: hannah@armstrongandco.com.au p: 0755 365 338
www.armstrongandco.com.au
office: armstrong @ 281 & 6652 | www.armstrongandco.com.au

Drawn: **JR** Checked: **AA**

Job #: **2121H01**

Dwg No: **DA12**

Title: **North Elevation**



South Elevation
SCALE: 1:100



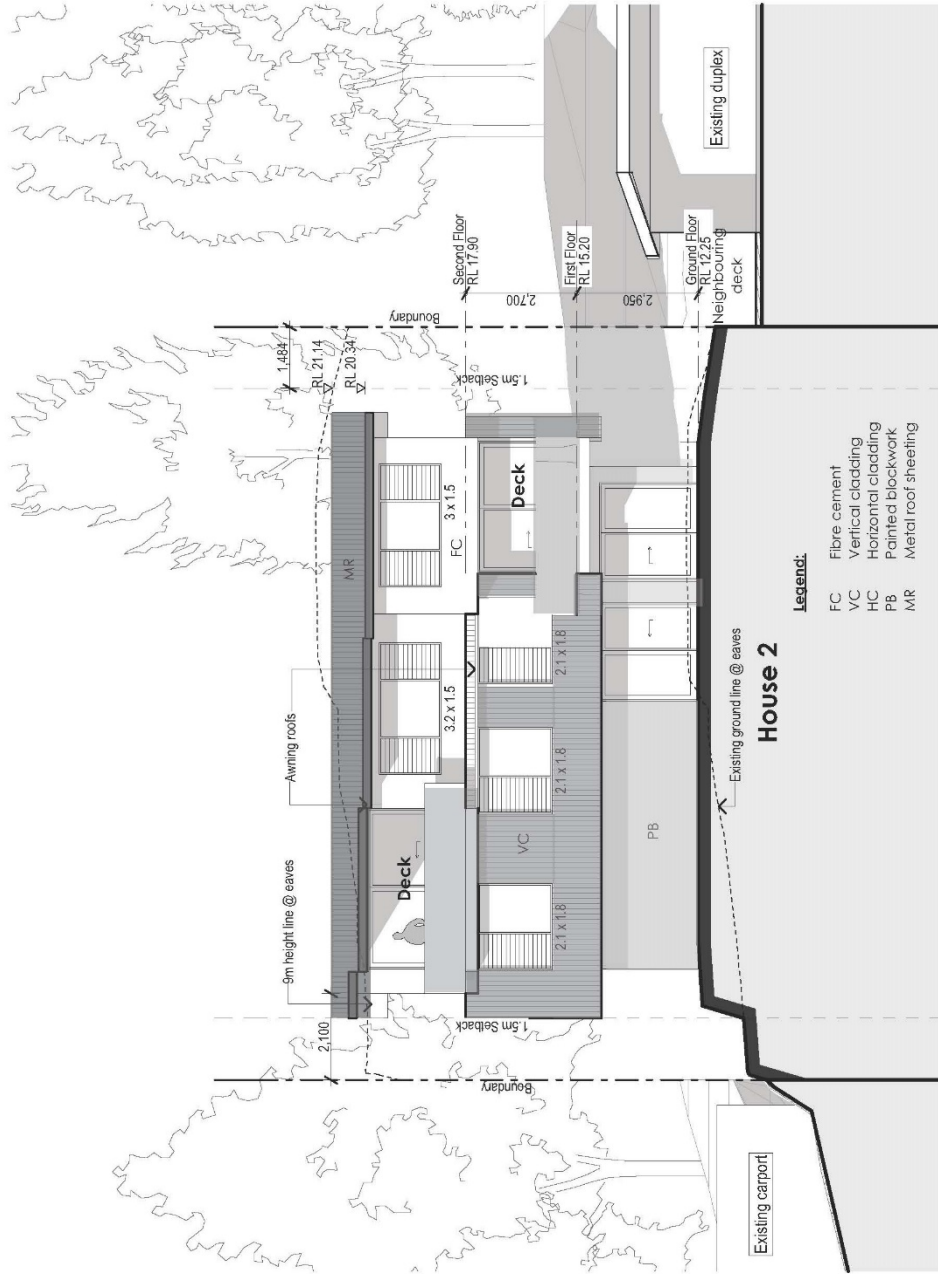
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43 The Quarterdeck, Tweed Heads, NSW 2485
Supaprmm Pty Ltd

armstrong & CO Architects
e: haco@armstrongco.com.au p: 0755 306 339
a: 27-32, 65-67 St. Costigan, QLD
a: 14/15 Armstrong - 25th rd St | www.armstrongco.com.au

South Elevation
Dwg No: DA13
Job: 2121H01
Drawn: JR
Checked: AA

A3700 Project File\Quarterdeck Houses\3103 & 320\Drawings\077161_Quarterdeck Elevation - 03 Jun 2019.rvt



Legend:

- FC Fibre cement
- VC Vertical cladding
- HC Horizontal cladding
- PB Painted blockwork
- MR Metal roof sheeting

House 2 West elevation
SCALE: 1:100

03/04/19
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43 The Quarterdeck, Tweed Heads, NSW 2485
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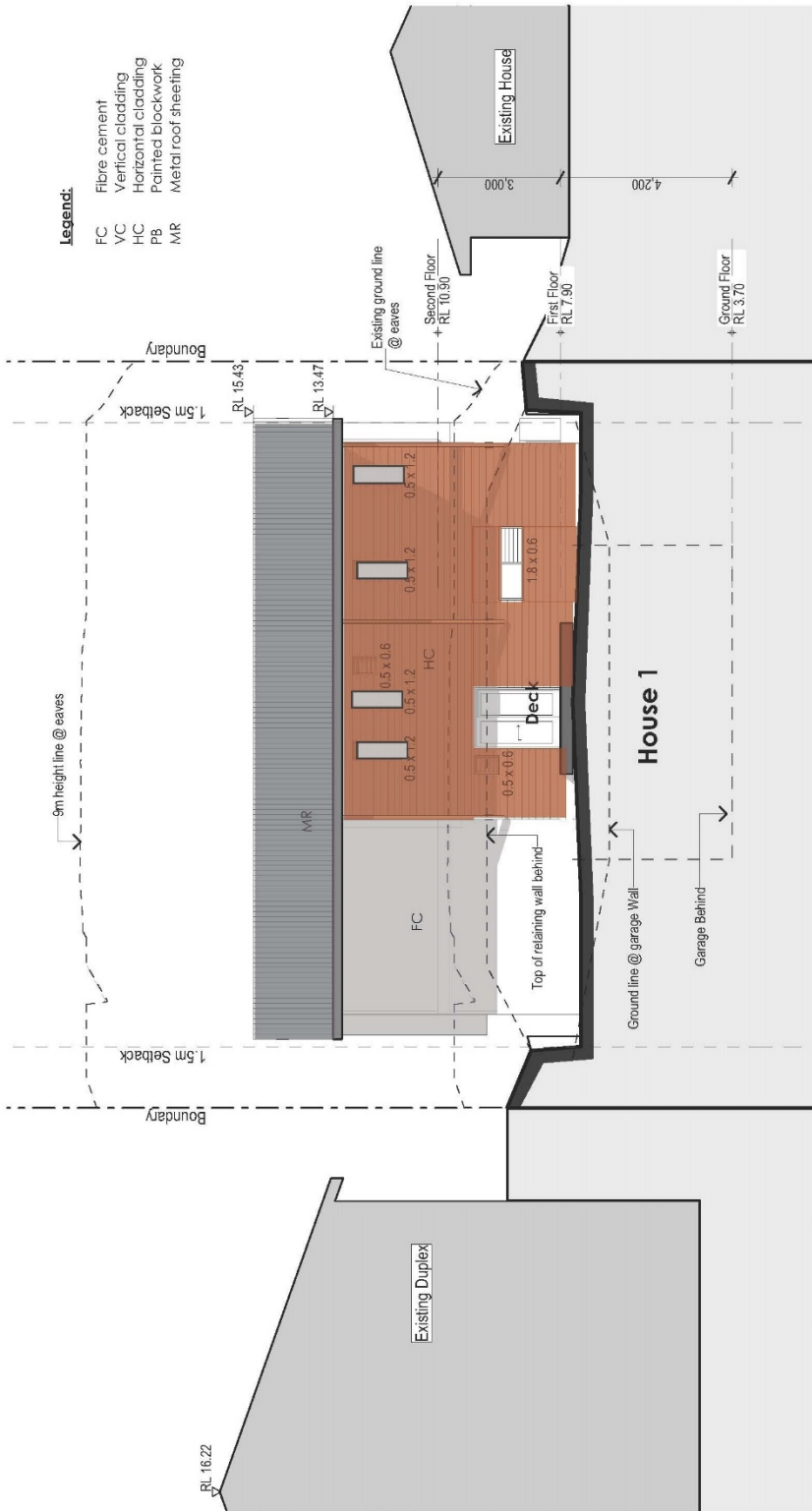
Title: **House 2 West Elevation**

Dwg No: **DA15** N
Job: 2121HD1
Drawn: **JR** Checked: **AA**

armstrong & CO Architects
e: haco@armstrongandco.com.au p: 0755 308 339
a: 2/52 Giffels St, Casapina, QLD
w: www.armstrong-2514-8521.com.au



A:\30\Project\Final\Quarterdeck Houses\03\DA15\DWG\dwg0719161_Quarterdeck Duplex - 03jun-2019.rvt



House 1 East Elevation
SCALE: 1:100



AG20 Paper Plan Quarterdeck House & CD Drawing 212 (N) Quarterdeck Duplex - 00.dwg, 20/1/2018

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Supaprumm Pty Ltd

armstrong&co Architects
e: hannah@armstrongandco.com.au p: 0755 365 339
www.armstrongandco.com.au
office: armstrong & co (nsw) | www.armstrongandco.com.au

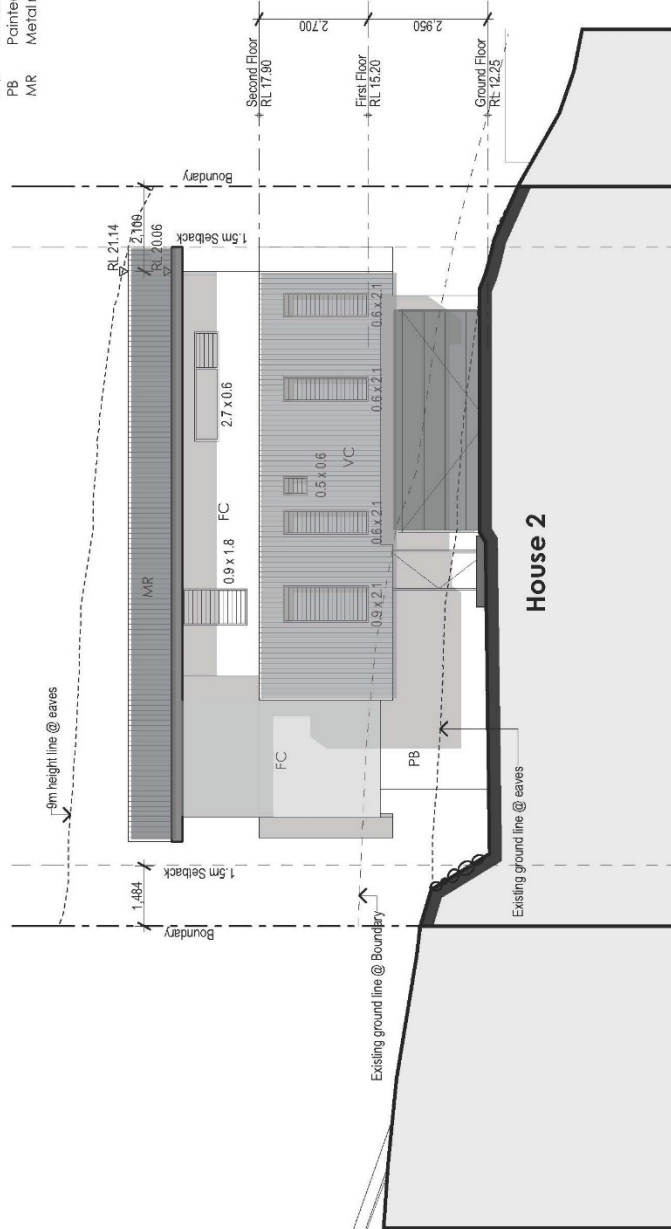
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Job #: 2121H01

Dwg No: **DA16** **N**

Title:
House 1 East Elevation

- Legend:**
- FC Fibre cement
 - VC Vertical cladding
 - HC Horizontal cladding
 - PB Painted blockwork
 - MR Metal roof sheeting



House 2 East Elevation
SCALE: 1:100

Title: **House 2 East Elevation**

Dwg No: **DA17**
Job: **212TH01**
Drawn: **JR** Checked: **AA**

armstrong&co
Architects
e: theaco@armstrongco.com.au p: 0755 366 359
a: 27-32 Giffels St, Coorangama, QLD
w: www.armstrongco.com.au

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Supaprumm Pty Ltd

03/04/19
DA Submission



Scale: 1:100 @ A3
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Considerations under Section 4.15 of the Environmental Planning and Assessment Act 1979:

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

Tweed Local Environmental Plan 2014

Clause 1.2 – Aims of the Plan

The proposed development is for a dual occupancy - detached within the R2 Low Density Residential zoning. The proposed development is permissible and consistent with the objectives of the R2 zoning and the aims of the plan. Accordingly, the proposal is considered acceptable.

Clause 2.3 – Zone objectives and Land use table

The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development will provide residential housing with a minimal environmental impact, within the R2 Low Density Residential zoning. The proposal is considered to be in accordance with the zones objectives, by contributing to the variety of residential housing permissible with consent.

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

These clauses are not relevant as the application does not propose a subdivision.

Clause 4.3 - Height of Buildings

The subject site is mapped as having a maximum height limit of 9m. The proposed three level dual occupancy has a maximum height of 8.2m and is compliant with the control.

Clause 4.4 – Floor Space Ratio

The site area is 778.6m² and is mapped as having a FSR of 0.8:1. Note car parking and balconies are excluded from the calculations.

Dwelling 1

Ground level: 7.7m² (parking not included in GFA)

Second level: 99m²

Third level: 111m²

Total GFA: 217.7m²

Dwelling 2

Ground level: 34.8m² (parking not included in GFA)

Second level: 108m²

Third level: 97m²

Total GFA: 239.8m²

Total area for both dwellings : 457.5m²

FSR of 0.58:1 which is compliant with the prescribed maximum (0.8:1) for the site.

Clause 4.6 - Exception to development standards

Not applicable as no exceptions to development standards are proposed.

Clause 5.4 - Controls relating to miscellaneous permissible uses

Not applicable as the proposal does not relate to a use under this clause.

Clause 5.10 - Heritage Conservation

The site is not within a heritage conservation area or a heritage item identified under this plan.

The site is not identified as an Aboriginal Place of Heritage Significance or predictive for Aboriginal Cultural Heritage under Council's Aboriginal Cultural Heritage Management Plan.

Nevertheless the precautionary principle will be applied with regard to minimisation of harm and the standard condition of consent with respect to Aboriginal cultural heritage items will be imposed on the consent (DUR0025).

Clause 5.11 - Bush fire hazard reduction

The site is not mapped as bushfire prone.

Clause 7.1 – Acid Sulfate Soils

The site is mapped as possibly containing Class 3 and 5 acid sulfate soils. A review of the proposal concurs with the applicants' comments that excavations will be above RL5.0m and therefore ASS material will not be intercepted.

Clause 7.2 - Earthworks

A geotechnical report was provided by the applicant and assessed by Council staff and considered acceptable subject to condition referencing the Geotechnical Report. The report covers earthworks, construction recommendations, foundation and drainage.

Subject to the report and recommended conditions, the proposal is considered not to have a detrimental impact on the drainage pattern of the land.

Subject to standard conditions of consent, the proposal is compliant with the provisions of this clause. An acid sulfate management plan is not required for the proposed works.

Clause 7.3 – Flood Planning

The site is not mapped as being flood affected by the Q100, however, it is affected by the PMF. Dual occupancy development are excluded from PMF requirements. No further consideration required.

Clause 7.4 - Floodplain risk management

Not applicable.

Clause 7.5 - Coastal risk planning

Not applicable as the site is not mapped within the Coastal Risk Planning map.

Clause 7.6 - Stormwater Management

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties.

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
- (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
- (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

It is considered that the development maintains ample permeable area suitable for the infiltration of water and will connect to Council's stormwater system in the Quarterdeck road reserve and therefore will not impact adjoining properties. Subject to standard conditions of consent, the proposal is compliant with the provisions of this clause.

Clause 7.8 – Airspace operations

The subject site is mapped as being within an area affected by the Gold Coast Airport Obstacle Limitation Surface (Inner Horizontal Surface 49.5m AHD). The proposed dwellings with a maximum height of approximately 8m (site RL 13m AHD) will not penetrate the limitation operations surface.

Clause 7.9 - Development in areas subject to aircraft noise

Not applicable as the site is not in an area mapped as being subject to aircraft noise.

Clause 7.10 - Essential Services

All essential services are available to the site including Council's water and sewer infrastructure.

The proposal is compliant with the provisions of this clause.

North Coast Regional Plan 2036 (NCRP)

The NCRP 2036 established the following vision for the area:

The best region in Australia to live, work and play thanks to its spectacular environment and vibrant communities

The NCRP 2036 includes 4 overarching goals to achieve the aforementioned vision:

1. The most stunning environment in NSW
2. A thriving interconnected economy
3. Vibrant and engaged communities
4. Great housing choices and lifestyle options

Consideration of the planning principles, which will guide growth on the North Coast, is required to be undertaken in determining an application. The site is mapped as an Urban Growth area and within the coastal strip.

Principle 1: Direct growth to identified Urban growth areas

Urban growth areas have been identified to achieve a balance between urban expansion and protecting coastal and other environmental assets. They help maintain the distinctive character of the North Coast, direct growth away from significant farmland and sensitive ecosystems and enable efficient planning for infrastructure and services.

Complies - the proposed development is for the construction of a detached dual occupancy within the Urban Growth Area. The site is within an established residential area and is located within the Coastal strip and outside farmland areas.

Principle 2: Manage the sensitive coastal strip

The coastal strip comprises land east of the planned Pacific Highway alignment plus the urban areas of Tweed Heads around the Cobaki Broadwater. The coastal strip is ecologically diverse and contains wetlands, lakes, estuaries, aquifers, significant farmland, and has areas of local, State, national and international environmental significance. Much of this land is also subject to natural hazards, including flooding, coastal inundation, erosion and recession.

Demand for new urban and rural residential land in this area is high. To safeguard the sensitive coastal environment, rural residential development will be limited in this area, and only minor and contiguous variations to urban growth area boundaries will be considered.

The development site is mapped under this plan as being within the coastal strip and within an established residential subdivision. The proposed development does not represent an expansion of existing urban growth boundaries nor result in impacts on a natural hazards or farmlands.

Principle 3: Provide great places to live and work in a unique environment

Making cities and centres the focus of housing diversity, jobs and activities makes communities more vibrant and active, reduces pressure on the environment, and makes it easier for residents to travel to work and access services.

The Plan guides councils in preparing local growth management strategies and planning proposals to deliver great places to live and work that maximise the advantages of the North Coast's unique environment.

The site is located within an established residential area and is within 15 minutes walk of public transport.

The proposed development is considered to comply with the planning principles of the NCRP 2036, goals and overarching vision of being the best region in Australia to live, work and play thanks to its spectacular environment and vibrant communities.

State Environmental Planning Policies

SEPP (Coastal Management) 2018

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

The objectives of each clause are as follows:

13 Development on land within the coastal environment area

(1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*

- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) *coastal environmental values and natural coastal processes,*
- (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of*

- the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) Aboriginal cultural heritage, practices and places,*
 - (g) the use of the surf zone.*
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

14 Development on land within the coastal use area

- (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) Aboriginal cultural heritage, practices and places,*
 - (v) cultural and built environment heritage, and*
 - (b) is satisfied that:*
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*

- (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*
- (2) *This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

The proposal is considered to be consistent with the objectives of each clause.

SEPP (Building Sustainability Index: BASIX) - 2004

The proponent has provided an acceptable BASIX certificate and any approval will be conditioned for compliance.

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

There are no draft LEPs applicable to the proposal.

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

Tweed Development Control Plan

Section A1 – Residential Development Code

The development generally complies with all of the development controls except for the following.

Dual Occupancies

C3 Dual occupancy developments on residentially zoned land must be located:

- *On sites with a minimum area of 900m², or*
- *On a minimum area of 450m² if the land is within the Medium Density Residential zone.*
- *On a minimum area of 500m² if the land is within the Low Density Residential zone and within 300m of a business zone.*

The objectives state:

O1. To ensure development responds to the characteristics of the site and the qualities of the surrounding built and natural contextual environment.

O2. To achieve environmentally, economically and socially sustainable development.

O3. To encourage innovative design for all forms of residential development which is of a high standard of architectural design and merit.

O4. To provide a diversity of housing types and sizes within residential areas that meet the needs of the wide range of family and household types and encourages greater availability of varied and affordable housing.

O5. To provide opportunity for small lot housing which is sensitively designed to mitigate amenity impacts on the subject block and adjoining development.

The site is zoned R2 Low Density Residential with an area of 778.6m² and is located approximately 500m from a business zone. As such a variation of 121.4m² (900m² – 778.6m²) or 13.48% is required. Acceptance of the variation is dependent on compliance with other controls and impacts. It is noted that there are only two variations proposed which are considered unlikely to impact on the natural and built environment; one relating to size of site and the other being cut and fill.

The proposal is considered to be consistent with the objectives by responding to the steep sloping nature of the site, is considered to have minimal/acceptable impacts on the environment. Further, it is considered to be of innovative design that responds to the site and neighbouring development and is of architectural design and merit; provides for housing variety within an established residential area; and is sensitively designed to mitigate potential impacts on the site and neighbouring development.






The applicant states that the whilst the site area is less than prescribed, the development provides for additional housing needs in a low density environment, designed addressing the constraints of the site, and is not out of character as there are approximately 10 dual occupancies in close proximity with the neighbouring site containing a dual occupancy on a lot of 700m².

The variation to the development control is supported in this instance.

2.1 Topography, cut and fill

Controls

C1. Where earthworks are proposed within the building footprint, construction shall be generally consistent with the requirements in Table 1 of the DCP A1-Part A (page 25).

Slope, construction and cut and fill controls					
Slope		Cut allowance	Fill allowance	Appropriate Structure	Indicative Diagram
0-6°	0-10%	1.0m	1.0m	<ul style="list-style-type: none"> • Single slab on ground • Split slab • Post and beam • Hybrid slab post and beam 	
6-8°	10-14%	2.0m within the footprint of the building*	1.0m	<ul style="list-style-type: none"> • No single slab on ground • Split slab • Post and beam • Hybrid slab post and beam 	
8-12°	14-21.5%	2.0m within the footprint of the building*	1.0m	<ul style="list-style-type: none"> • No single slab on ground • Split slab • Post and beam • Hybrid slab post and beam 	
12-18°	21.5-32.5%	3.0m within the footprint of the building*	1.0m	<ul style="list-style-type: none"> • No single slab on ground • Split slab • Post and beam • Hybrid slab post and beam 	
>18°	>32.5%	1.0m	1.0m	<ul style="list-style-type: none"> • No single slab on ground • Downslope construct only • Split slab • Post and beam • Hybrid slab post and beam 	

*Building footprint is defined as the most outer edge of the roof (including fascia and gutter).

Table 1 - Cut and Fill Requirements

The objectives state:

O1. To maintain the integrity of the topographic and scenic landscapes of the Tweed by limiting the extent of excavation, cut, fill and site benching.

O2. To moderate the effects of building height, bulk and mass on sloping land.

O3. To ensure that the building siting, design and construction method is appropriate for site slope.

O4. To mitigate the issues of overlooking, overshadowing and drainage arising from level changes particularly at lot boundary interface.

The site has an average slope of 15 degrees, therefore 3 metres of cut is permitted within the building footprint. The application proposes a maximum height of cut of 5.3m therefore a variation of 2.3m is proposed. The variation is considered to be acceptable in this instance due to the following:

- The proposed design of the dwellings is consistent with the “appropriate structures” and “indicative diagram” provided with the development control;
- The amount of cut is required to provide for a driveway and garage for dwelling 1. Development control C3 permits cut in excess of 1 m to allow for compliant driveways and garages;
- The level of cut reduces the overall height of dwelling 1, reducing bulk and mass and potential visual and privacy impacts on the streetscape and neighbouring properties;
- The building design and construction method is consistent with Council’s requirements illustrated with the control; and
- The level of cut reduces the building height of dwelling 1 which has positive effects on reduced overshadow, improved privacy. Stormwater drainage is unlikely to be an issue the site level at the property boundary is unchanged from the natural level. Council’s engineers did not raise this as an issue with the lawful point of discharge to The Quarterdeck, and a condition requiring a Section 68 application is recommended.

Section A2 - Site Access and Parking Code

The proposal is required to provide two parking spaces for each unit. The proposal includes a double garage per dwelling. Sufficient space is provided in each driveway for the parking of an additional vehicle. It is therefore considered compliant.

A condition is recommended relating to a S138 for the driveway for Dwelling 1 within Council’s Road Reserve.

The proposal is considered to be compliant with the provisions of the Section A2 of the DCP.

Section A11 - Public Notification of Development Proposals

The subject application was notified to adjoining property owners in accordance with this DCP with a submission period of 14 days from Monday 28 January 2019 to Monday 11 February 2019. During this time three submissions were received in relation to the application, the details of these submissions are addressed later within this report.

A16 - Preservation of Trees or Vegetation

Council’s Biodiversity Planner reviewed the proposal and the Arboricultural report dated 2 December 2018 and raised no objection to the proposal subject to conditions.

The proposal would see the removal of five local native trees and the retention of seven local native trees. Although the twelve trees qualify as ‘prescribed vegetation’ defined under Tweed Development Control Plan – Section A16 Preservation of Trees or Vegetation (DCP A16), the site does not support mapped Preferred Koala Habitat nor Preferred Koala Food Trees. A search for evidence of

None applicable.

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The primary objectives of the Coastal Management Plan are to protect development; to secure persons and property; and to provide, maintain and replace infrastructure.

The proposed development is not considered to impact upon that coastline with regard to demands and issues identified within the Plan for the whole of the Tweed coastline (Clause 2.4.1) including: recreation; water quality; heritage; land use and development potential; coastal ecology; and, social and economic demand. It is considered that the proposal represents an appropriate development on land zoned for residential use and achieves an adequate spatial separation from the coastal foreshore. The proposal is generally consistent with the objectives of the Management Plan.

Tweed Coast Estuaries Management Plan 2004

The subject site is not in an area to which this plan applies.

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

The subject site is located approx. 350m from the Terranora Inlet. The proposal relates to residential development within an established residential area. The proposal is not inconsistent with the intent of this plan.

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

Context and Setting

The proposed development is not considered to have any significant impact upon the residential amenity for residents of adjoining properties. The proposal is considered reasonable and appropriate, given the locality within an established residential locality. The proposed dual occupancy does not compromise the existing or desired future character of the area, and is consistent with developments of a similar nature within the locality.

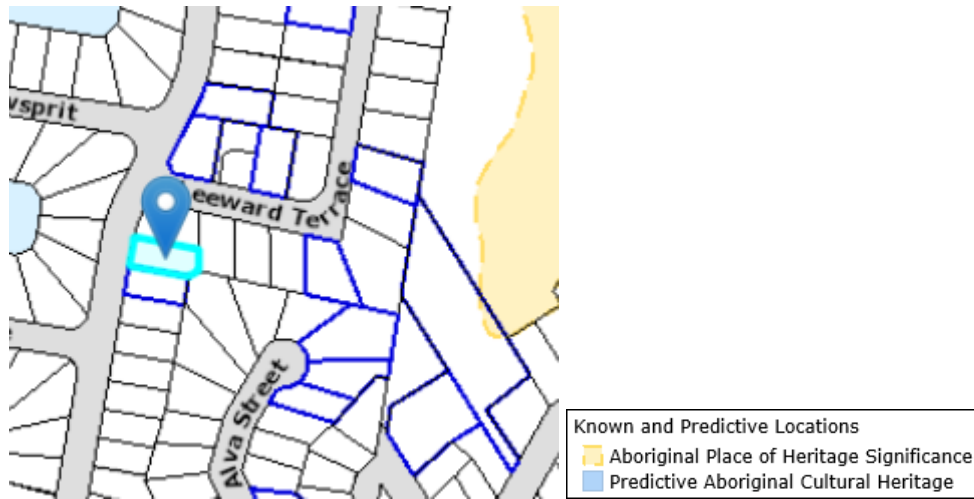
Access, Transport and Traffic

The proposal is not considered likely to generate significant volumes of traffic so as to be detrimental to the character of the area. The subject site is considered to be able to accommodate the additional traffic and parking requirements generated by this dual occupancy lot within an established residential area.

A double car garage is provided for each dwelling and the plans demonstrate the driveway is able to accommodate parking for an additional vehicles.

Heritage – Aboriginal Cultural Heritage

The site is *not* mapped as being a predictive location for Aboriginal Cultural Heritage under Council's Aboriginal Cultural Heritage Management Plan. Nevertheless the precautionary principle is adopted and a standard condition of consent requiring appropriate actions with respect to Aboriginal Cultural Heritage will be imposed on the consent (DUR0025).



Construction

The construction of the proposed development will be subject to standard conditions being included on any consent issued. It is noted that Council's Building Unit have reviewed the application and had no objection to its development subject to conditions of consent. The development phase of the proposal may present some interruption to the ambience of the surrounding area but this is temporary in nature and it is considered that potential amenity impacts can be adequately ameliorated through appropriate conditions of consent.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The subject site is located within an established residential area. There are multiple dual occupancy developments within close proximity to the site, with one located next door at 45 The Quarterdeck. The proposed dual occupancy (detached) development is relatively consistent with other developments within the immediate locality.

Availability of Utilities and Services

The subject site is serviced by Council's water and sewer infrastructure which are available to the proposal.

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

The subject application was notified to adjoining property owners in accordance with this DCP with a submission period of 14 days from Monday 28 January 2019 to Monday 11 February 2019. During this time three submissions were received in relation to the application, these are discussed below.

Summary of Submissions	Response
<p>Exceeds the development guidelines, overdevelopment, will set a precedent. Whilst there are other duplex units within the area the area is primarily single residences.</p>	<p>The applicant provided the following comment, which is agreed with by Council officers.</p> <p><i>“Whilst there is a non-compliance with Part A – General, Section C3 in relation to the 900m² minimum lot size requirement for dual occupancy development, the proposal has been designed to optimise the development potential of the site. This design cannot set an undesirable precedent as the site has unique topographical features and each application must be considered on its planning merits. The land has two vehicular access points which allows for the dwellings to be adequately separated, increasing ventilation and privacy. The site is steep which has resulted in smaller footprints to reduce earthworks and maximise sunlight. See Figure 1 prepared by Armstrong & Co Architects which indicates the minimal footprint.</i></p> <p><i>The site may not be compliant in area however the dwellings have been designed to maximise the comfort of the occupiers as well as maintain amenity to the adjoining properties.”</i></p> <p>The application on merit is considered to be acceptable, with the development designed to minimise impacts on the streetscape and neighbouring properties.</p>
<p>Visual bulk out of character (no.30).</p>	<p>The applicant provided the following comment, which is agreed with by Council officers.</p> <p><i>“Three submitters raised concern over the bulk and scale of the development and the impact on the existing character of the area. Concern was raised that the scale is imposing as both dwellings can be seen from The Quarterdeck.</i></p> <p><i>The R2 Low Density Residential zone allows for dual occupancy development. Designing the dwellings separately, each having individual vehicular access is less intrusive than dual occupancy development at street level. Given the topography of the land, House 2 is not visible from The Quarterdeck and the design will appear as a single dwelling. In addition to this, several mature trees have been retained which maintain the current character of the site.”</i></p>

Summary of Submissions	Response
<p>Overshadowing (no. 45).</p> <p><i>“* The application identifies that our home and small court yard at the rear will be in some form of shadowing for the entire day. This will also reduce the natural air flow and sunlight through our home upon which we rely on to cool and heat our property. We live in a duplex with a common wall, therefore our property only has one side of the building with window openings to allow air flow and sunlight in. We feel this will be a direct impact on the existing flow and light.”</i></p>	<p>The application complies with maximum height and setback requirements.</p> <p>The applicant provided the following comment and plans that illustrate that the proposal does not increase the level of overshadowing on the deck. It is noted from the plans that majority of shadowing on the deck is created by the objectors own building of topography of the site (the deck is approximately 2m below the natural ground).</p> <p><i>“Concern was raised that the rear courtyard of the adjoining property will lose sunlight throughout the day and the windows will no longer receive adequate sunlight and ventilation. Figures 3 and 4 prepared by Armstrong & Co Architects indicate the footprint of the existing dwelling as well as the outline of the existing dwelling to be demolished compared to the proposed House 1. The resultant impacts are very similar. The existing courtyard is located approximately 2 metres below ground level and gaining sunlight into that area currently is problematic. However, it must be noted that a tree is proposed to be removed along this southern boundary and this will aid in receiving additional sunlight and natural ventilation into the neighbouring property. Proposed House 1 will not further diminish the current amenity within the neighbouring property.”</i></p>
<p>Noise (no. 45).</p> <p><i>* Increase noise generated and the impact from the occupants of 2 x 4 bedroom homes will be excessive and incredibly difficult to manage.</i></p> <p><i>* We are concerned that this property is going to be used for Airbnb/holiday bookings purposes. If this is the case the impact on our lovely quiet street will be massive.</i></p>	<p>The applicant provided the following comment which is agreed with by Council officers.</p> <p><i>“Concern was raised from one submitter in relation to the increase in noise from the residents of the new dwellings and the potential use of the dwellings for Airbnb/Holiday Accommodation.</i></p> <p><i>Dual occupancy development is permissible on this site. The level of noise will not exceed the expected level of noise generated in any residential area. Whilst there may be concern that the property will be leased, the management of this is with the owners of the property and/or the managing agent.</i></p>
<p>Colours and Materials (no.34).</p> <p><i>“As a property owner of 34 The Quarterdeck which is opposite this proposed development I would like to draw your attention to the lack of detail regarding</i></p> <p><i>The external colours of these buildings.</i></p> <p><i>The colour of the Metal Roof Sheeting is not shown, nor is the colour of the buildings facing the Quarterdeck.</i></p>	<p>The applicant provided the following comment which is agreed with by Council officers.</p> <p><i>“One submitter raises concern over the colours of the dwellings, in particular House 1 and the reflection of light from the white walls. In response to this concern, the applicant has amended the materials and colours on western elevation to include horizontal cladding in a dark monument colour. The Colorbond metal roof sheeting will also be dark Colorbond, minimising reflectivity to adjoining properties.”</i></p> <p>A condition is recommended requiring colours and materials to be submitted to Council for approval (PCC0175).</p>

Summary of Submissions	Response
<p><i>I would have to object to the use of White on these surfaces, the building at number 45 is painted white all over and with the sun shining on it, from my property opposite it is blinding. No consultation was ever sought on the exclusive use of white on this building at number 45.”</i></p>	
<p>Car parking (no. 30).</p> <p><i>“If the 2 new dwellings are approved at least one will be a rental property and could have 2,3,4 or more residents in each dwelling with 2 or more cars per dwelling and associated traffic movements with these cars. The site does not have any extra car parking spaces or space for vehicles to manoeuvre on site or space for parking of trailers, boats or caravans on the site.”</i></p>	<p>The applicant provided the following response which is agreed to by Council officers.</p> <p><i>“Section A2 of Tweed Development Control Plan 2008, specifies parking rates of 2 spaces per dwelling for dual occupancy development. The proposed development will provide a new driveway access for House 1 from The Quarterdeck accessing a double garage. House 2 provides a garage for 2 cars being accessed via the right of way from Leeward Terrace. In addition to this there is adequate parking within the driveways to provide for an additional 2 cars per dwelling.</i></p> <p><i>Therefore, the requirements of Section A2 of TDCP2008 have been achieved. The increase in traffic as a result of one additional dwelling will be minimal. The introduction of a driveway opening onto The Quarterdeck will not create additional congestion as the proposal provides adequate onsite parking in excess of Council’s requirements.”</i></p>
<p>ROW affected by proposal and traffic increase, which will affect parking onto The Quarterdeck.</p>	<p>The ROW is currently accessed and used by the existing single dwelling on the site. The traffic and parking over the ROW to the site will remain unchanged as only one of the two dwellings will have access over the ROW. Dwelling 1 will have access via The Quarterdeck. As stated previously compliant parking is provided to both dwellings.</p>
<p>Leaves in stormwater drains entering canal (no.34).</p> <p><i>“with all the massive trees in this area the fallen leaves are carried into the storm water drains which flow under The Quarterdeck and end up in the Canal Waterway beside our property. At low tide the smell of the rotting leaves is most unpleasant and certainly does not help the water quality of this waterway.</i></p> <p><i>Some attention should be given to preventing the fallen leaves from enter the storm</i></p>	<p>The issue raised in a not an issue that should be directed at the application to resolve particular as every property in the area contains trees that contribute and not solely created by the subject site. However, the application requires the removal of three trees.</p>

Summary of Submissions	Response
<p><i>water system of this property."</i></p>	
<p>Demolition (no. 34 and no.45).</p> <p><i>"I also don't see any information on how the termite infestation of the existing building will be controlled during the demolition and development of this property."</i></p> <p><i>** We also have concerns over the correct removal of posable asbestos from the pre-existing dwelling.</i></p> <p><i>* We also have concerns over the correct removal and management of termites within the pre-existing dwelling."</i></p>	<p>Council officers raised not concerns in relation to the demolition and have provided conditions in relation to demolition.</p>



Figure: Aerial of the properties that made submissions objecting to proposal.

Public Authority Submissions Comment

The application was not nominated as integrated development and did not require referral to any external authorities. No submissions from public authorities were received in relation to the proposal.

(e) Public interest

The proposed development has been assessed against all relevant legislation and policies, is permissible with Council consent and is not considered to be contrary to the public interest. Subject to conditions of consent, the application is considered reasonable and appropriate for the locality.

OPTIONS:

1. Approve the application in accordance with the recommendation and conditions; or
2. Refuse the application with reasons for refusal.

CONCLUSION:

The proposed development has been assessed against all relevant legislation and policies, is permissible with Council consent and is not considered to be contrary to the public interest. Subject to conditions of consent, the application is considered reasonable and appropriate for the locality.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

The applicant has the right to appeal any determination by Council in the NSW Land and Environment Court.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

15 [PR-CM] Amended 2019/20 Planning & Regulatory Services Fees

SUBMITTED BY: Financial Services

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.2 Engagement
- 2.2.5 Financial Services - To collect and manage Council funds and provide information and advice to support sound financial decision-making.

ROLE: Provider Leader

SUMMARY OF REPORT:

The report outlines amendments to 2019/2020 Planning & Regulatory Services Fees which were incorrectly calculated when included in the 2019/2020 Fees and Charges document which has been exhibited. The sections affected are:

Water, Sewerage and Drainage Inspections; and
On Site Sewage Management

Given the items above and the recalculated amounts, it is proposed to place advice on the amendments for public exhibition.

RECOMMENDATION:

That:

1. Council endorses the public exhibition of amendments to Council 2019/2020 Fees and Charges for those items below for a period of 28 days inviting submissions, in accordance with Section 610F of the Local Government Act 1993.

Water, Sewerage & Drainage Inspections	Current (GST exempt)	Proposed (GST exempt)
Minimum number of inspections required:		
For dwellings – (4)	\$648.00	\$712.00
For Dual Occupancy – Attached (4 when built concurrently)	\$648.00	\$712.00
For Dual Occupancy – Detached (4 when built concurrently)	\$648.00	\$712.00
For alterations/additions including plumbing – (1–4 depending on proposed work)	\$648.00	\$712.00

Water, Sewerage & Drainage Inspections	Current (GST exempt)	Proposed (GST exempt)
On Site Sewage Management – Approval to Operate (per system) Each additional system in excess of 4 (application fee only)	\$48.00	\$48.50

2. A report be submitted back to Council following the public exhibition period.

REPORT:

The following fees require amendment:

Water, Sewerage & Drainage Inspections	Current (GST exempt)	Proposed (GST exempt)
Minimum number of inspections required:		
For dwellings – (4)	\$648.00	\$712.00
For Dual Occupancy – Attached (4 when built concurrently)	\$648.00	\$712.00
For Dual Occupancy – Detached (4 when built concurrently)	\$648.00	\$712.00
For alterations/additions including plumbing – (1 – 4 depending on proposed work)	\$648.00	\$712.00
On Site Sewage Management – Approval to Operate (per system) Each additional system in excess of 4 (application fee only)	\$48.00	\$48.50

The increase in these fee amounts are as a result of the fees being incorrectly calculated, the inspection fee increase from \$162 to \$178 for this year was not taken into account when preparing the Fees and Charges 2019/2020 document which has been on exhibition. For example: 4 x \$178 = \$712.

The On Site Sewage Management fee should be half of the "Approval to Operate (per system) - Up to four systems on one property (application fee only)" has been advertised as \$97 which was incorrectly calculated.

OPTIONS:

Not applicable

CONCLUSION:

Council will need to place the amended fees on public exhibition for 28 days inviting submissions, in accordance with Section 610F of the Local Government Act 1993.

COUNCIL IMPLICATIONS:

a. Policy:

Integrated Planning and Reporting documentation will require updating of the 2019/2020 Fees and Charges to reflect the amendments.

b. Budget/Long Term Financial Plan:

The above amended fees or charges cannot be adopted and raised by Council until the conclusion of the new exhibition period.

On adoption by Council the amended fees will be required to be included within the 2019/2020 Fees and Charges.

c. Legal:

Not Applicable.

d. Communication/Engagement:
Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

16 [CNR-CM] Proposals for Commercial Horse and Camel Rides on Tweed Shire Beaches

SUBMITTED BY: Natural Resource Management

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Collaborator

SUMMARY OF REPORT:

There have been nine enquiries since December 2017 about the licencing/permitting of commercial horse and camel riding businesses on beaches along the Tweed Coast.

With the increased population and visitor numbers, user conflict on beaches has escalated significantly in the past few years. This has resulted in increasing pressure on Council's Regulatory Services staff to increase their level of service and the expectation that Council will more proactively police and enforce the rules of use for this public space.

Council is about to commence the Tweed Coast Coastal Management Program (CMP) under the *Coastal Management Act 2016* and this document will consider current and future uses, opportunities and conflicts and reflect the community's expectations and aspirations. The coastal management program will be developed up until December 2020.

RECOMMENDATION:

That Council considers the feasibility of facilitating commercial horse and/or camel rides during the development of, and consultation for, the Tweed Coast Coastal Management Program, enabling the issue to be considered holistically in the context of other beach uses and community desires.

REPORT:

Background

Council has had a number of requests for the licencing/permitting of commercial horse and camel riding businesses on beaches along the Tweed Coast.

Since December 2017 there have been the following enquiries:

- Commercial horse rides on beach x 7
- Commercial camel rides x 2

These enquiries have been from businesses either wanting to potentially set up business operations or, in two cases, already running unauthorised rides. There have also been several complaints regarding commercial horse ride companies operating unauthorised on Tweed beaches.

With the increased population and visitor numbers, user conflict on beaches has escalated significantly in the past few years. This has resulted in increasing pressure on Council's Regulatory Services staff to increase their level of service and the expectation that Council will more proactively police and enforce the rules of use for this natural public space.

Extensive community consultation on the Open Space Strategy and Tweed Shire Coastline Management Plan did not uncover a latent demand for commercial horse or camel rides on Tweed beaches. Consultation with Council's Economic Development Unit determined that there would be minimal economic or tourism benefit to Tweed Shire.

Council is about to commence the Tweed Coast Coastal Management Program under the *Coastal Management Act 2016* and this document will consider current and future uses, opportunities and conflicts and reflect the community's expectations and aspirations.

Tweed Coast Coastal Management Program (CMP)

It is important that Council considers proposed commercial activities along the coastline holistically against the values and uses of Tweed's coastal zone.

The opportunity to consider commercial and other high impact activities in the coastal zone in an integrated way is through the development of CMP. This will enable the issue to be considered in the context of the whole coastline and in conjunction with other uses such as off-leash dogs, wildlife habitat, human access and identify potential conflicts between these uses.

There are a number of land owners, land managers, user groups, the general community and consideration of ecological values that need to be included and catered for in this planning process.

Planning and Consent Requirements

Commercial camel and horse rides would require development consent under the Environmental Planning & Assessment Act.

Under the current LEP beaches are zoned in accordance with the adjacent land use and zoning. Therefore beaches adjacent to populated areas are generally zoned - RE1 - Public Recreation.

Several Beaches are Zoned E1 - Environmental (National Parks) as Cudgen, Wooyung and Billinudgel Nature Reserves go to Low Water Mark.

The remainder are Deferred Matters to be zoned E2 - Environmental Protection under the E zone review to reflect the adjacent zoning of the foreshore.

These areas are currently Zoned 7(f). The first test is to determine whether the activity would be permissible in the zone with consent. The definition of Recreational Beach Activities, allowed with consent in this zone, is provided below. Legal advice would be required as to whether this activity is ancillary to the recreational use of the beach and that clauses (c) and (d) below did not apply, thereby making the activity prohibited.

recreational beach activities activities on public land which are ancillary to the recreational use of a beach, such as the sale of refreshments or the hire of umbrellas, chairs, mats or lockers, but not including the following:

- (a) activities that make use of any structure that is not dismantled at the end of each day's use,
- (b) the use or hire of motorised vehicles or equipment,
- (c) activities that have the potential to degrade the coastal environment,
- (d) activities that have the potential to have negative impact on the well-being and amenity of beach users,
- (e) activities that are located within the frontal dune system or the vegetated dunal areas,
- (f) activities that require access into the frontal dune system or vegetated dunal areas otherwise than by approved access points as contained in the Council's Dune Management Plan (as in force immediately before the commencement of [Tweed Local Environmental Plan 2000 \(Amendment No 18\)](#)).

Byron Shire Experience

Byron Shire issued three commercial horse riding licences due to the activity having historically occurred unauthorised. For some time there have been strong concerns from staff managing the licences particularly on the following issues:

- Parking of horse trailers and customers
- Unloading/saddling up
- Horse handling/inexperienced riders being organised in a public place
- Management of horse manure

No new licenses are being issued and the three current Byron licensees are on six month approvals pending staff resolving the issues. At least three of the business enquiries taken by Tweed Shire Council staff have come from Byron Shire, two of which are known to hold Byron Shire licenses.

Potential for Trial Licence Under Tender

To undertake a trial the following process would need to be resourced. This would be for a potential permit income (based on that received by Byron Shire Council for commercial horse rides and Tweed's watercraft hire licences) of \$2,000 - \$3,000 per year per licensee.

- Identify preferred locality -The activity may be restricted to beaches zoned RE1 which are the locations with most potential for conflict with other beach users. If permissible with consent in the 7 (f) or E Zone (yet to be determined) these locations have the most potential for conflict with ecological values.
- Ensure proposals were in accordance with the Open Space Strategy and Commercial Recreation Activities on Public Open Space Use Policy.
- If permissible with consent in the Zone, undertake relevant social, heritage and environmental studies for submission of Development Application.
- Determine whether tenders would be open to both horse and camel ride providers (or just one or the other). There are at least 4 horse ride companies and 2 camel companies who have enquired (or currently operate illegally) in the past 18 months. Presumably all these businesses would want the opportunity to tender to be part of the trial.
- Develop conditions under which the trial is to be conducted including designated locations, consent conditions and operating procedures.
- Develop tender documentation.
- Manage the tender and selection process (documentation, advertising, assessment).
- Commit to regulation and monitoring of the trial.
- Assess outcomes of the trial according to set criteria.

This would be a significant amount of staff time required to progress the trial. There are also the costs to the businesses in setting up for a short term trial that would then create the expectation and pressure for the activity to continue.

OPTIONS:

1. Determine the feasibility of facilitating commercial horse and/or camel rides during the development of, and consultation for, the CMP, enabling the issue to be considered holistically in the context of other beach uses and community desires.
2. Commit resources to undertake a trial with Council holding the Development Approval. This requires Council to complete environmental, economic and social assessments; develop operating conditions and requirements; seek Expressions of Interest and manage the tender process; and undertake monitoring, compliance and evaluation of the trial.
3. Resolve for no further consideration of commercial horse and camel rides on beaches in Tweed Shire.

CONCLUSION:

There has been no demonstrated demand from the community or tourism sector (apart from the interest expressed by the potential operators themselves) for commercial horse and camel rides on the beach.

There are significant cost and other implications for Council to consider if it is determined that this issue should be considered further.

COUNCIL IMPLICATIONS:

a. Policy:

Commercial Recreation Activities on Public Open Space.

Other relevant strategies:

Tweed Shire Coastline Management Plan 2005;

Draft Open Space Strategy 2019 - 2029;

Tweed Shire Coastal Management Program (in prep);

Tweed Coast Regional Crown Reserve Plan of Management (undated).

b. Budget/Long Term Financial Plan:

Budget implications will be dependent on the option selected. The range will be from nil expenditure for no further consideration to an estimated \$20,000 in cash and staff resources. It is estimated that a feasibility study to be undertaken as part of the Tweed Coastal Management Program would cost in the order of \$5-7,000.

There is no available budget. The estimated income from licence fees based on similar enterprises in Tweed and adjoining Shire's would be in the order of \$2,000 to \$3,000 per annum.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

The intention with the recommended option to include consideration of the issue as part of development of the Tweed Coast Coastal Management Program is for all consultation to occur as part of that project.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

17 [CNR-CM] Declaration of Dog Prohibited Areas under the Companion Animals Act 1998

SUBMITTED BY: Natural Resource Management

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
- 2.2.1 Animal Management - To provide effective and responsible care, management and public education for companion animals such as pet dogs and cats.

ROLE: **Leader**

SUMMARY OF REPORT:

The Coastal Zone Management Plan for the Tweed Coast Estuaries (2013) documented the high value to the community of the three coastal estuaries (Cudgen, Cudgera and Mooball Creeks) for recreational activities and as ecological habitats.

In a recent review, Birdlife Australia recommended that, as a priority, dogs be prohibited at the mouths of estuaries as these are critically important foraging and nesting areas that are already under significant pressure from recreational activities.

One way to reduce the threats to threatened and vulnerable species and reduce conflict for passive recreational activities is to instigate dog prohibited areas in the sections of Cudgera and Mooball Creek estuaries most impacted by these conflicts.

RECOMMENDATION:

That Council prohibits dogs under Section 14 (1c) of the *Companion Animals Act 1998* in the entirety of Lot 7074 DP 1113900 and immediate adjacent estuary foreshore of Mooball Creek to Low Water Mark and the current mapped dog exclusion zone between the mouth of Cudgera Creek and the Tweed Coast Road bridge, including Cudgera Creek Park and that portion of Hastings Point Headland used as a primitive camp ground.

REPORT:

The Coastal Zone Management Plan for the Tweed Coast Estuaries (adopted December 2013) documented the very high value to the community of the three coastal estuaries (Cudgen, Cudgera and Mooball Creeks) for recreational activities and as ecological habitats.

The 'Review of the Draft Guidelines for Dogs in Public Open Spaces' by Wildsearch Environmental Services and Birdlife Australia recommended, among other things, that "as a priority dogs be prohibited at or near the mouths of estuaries" as these are "critically important foraging and nesting areas that are already under significant pressure from recreational activities."

Orders under the *Companion Animals Act 1998*

Council is authorised to make orders for dogs to be prohibited from public places under the *Companion Animals Act 1998* (CAA). Under Section 14 of the *Companion Animals Act 1998*, dogs (whether or not they are leashed or otherwise controlled) are prohibited in the following public places:

- (a) Children's play areas.
- (b) Food preparation/consumption areas.
- (c) **Recreation areas where dogs are prohibited** (meaning any public place, or part of a public place, provided or set apart by a local authority for public recreation or the playing of organised games and in which the local authority has ordered that dogs are prohibited and in which, or near the boundaries of which, there are conspicuously exhibited by the local authority at reasonable intervals notices to the effect that dogs are prohibited in or on that public place or part).
- (d) **Public bathing areas where dogs are prohibited** (meaning any public place or any part of a public place that is used for or in conjunction with public bathing or public recreation (including a beach), in which the local authority has ordered that dogs are prohibited and in which, or near the boundaries of which, there are conspicuously exhibited by the local authority at reasonable intervals notices to the effect that dogs are prohibited in or on that public place).
- (e) School grounds.
- (f) Child care centres.
- (g) Shopping areas where dogs are prohibited.
- (h) Wildlife protection areas.

Cudgera Creek, Hastings Point

The lower estuary of Cudgera Creek at Hastings Point (see Figure 1), and the adjacent foreshore including that part of Hastings Point Headland which is used as a primitive camping ground, were made a Dog Exclusion Zone through implementation of the Coastal Zone Management Plan for the Tweed Coast Estuaries.


The recent successful breeding of the Critically Endangered Beach Stone-curlew in Cudgera Creek Park highlighted the success for Council and the community of the dog exclusion. Birdlife Australia (*A Review of Dog Impacts to Beach-nesting Birds and Management Solutions*, Dr Grainne Maguire, November 2018) notes that the threats are not only from dogs physically chasing or harming birds, but the level of disturbance to nesting birds from the *presence* of dogs. The report quotes studies that reveal "nesting shorebirds will respond from more than double the distance, flush more frequently and remain off their nests for longer periods when a person was accompanied by a dog than when alone".

Tweed Shire Council
Published by Steve Titman [?] · December 20, 2018 · 🌐

The Tweed's new Beach Stone-curlew family is looking forward to a relaxed Christmas and New Year like the rest of us.

As they're nesting at a very popular location near Cudgera Creek at Hastings Point we're putting in some extra measures to protect the new chick. This includes more and extended fencing.

Beach Stone-curlews are critically endangered in NSW so we ask everyone to give them as much space as possible so the parents can feed and protect their chick.... [See More](#)



16,329
People Reached

1,539
Engagements

[Boost Post](#)

👍❤️😂 660

32 Comments 79 Shares

Performance for Your Post

16,329 People Reached

954 Reactions, Comments & Shares 📊

704 👍 Like	584 On Post	120 On Shares
95 ❤️ Love	71 On Post	24 On Shares
23 😂 Haha	23 On Post	0 On Shares
51 Comments	39 On Post	12 On Shares
82 Shares	79 On Post	3 On Shares

585 Post Clicks

200 Photo Views	0 Link Clicks	385 Other Clicks 📊
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NEGATIVE FEEDBACK

3 Hide Post **1** Hide All Posts

0 Report as Spam **0** Unlike Page

Insights activity is reported in the Pacific time zone. Ads activity is reported in the time zone of your ad account.

Image: The successful breeding of the beach stone-curlew chick at Cudgera Creek in December 2018 resulted in some of Council's best ever social media response with overwhelmingly positive support and some ongoing annoyance about dogs still being seen in the exclusion zone.

Council received a lot of positive feedback about the actions taken to assist the breeding success of the Beach Stone-curlew and two pairs of Pied Oystercatchers. It also uncovered the frustration for Council regulatory staff *not* being able to fine people for dogs in a prohibited area as the Dog Exclusion Zone had not been made as an order under the *Companion Animals Act 1998*.



Figure 1: Proposed dog prohibited area under Section 14 of *Companion Animals Act 1998* for Hastings Point (existing dog exclusion zone).

The proposal to prohibit dogs in this area meets the following criteria under the CAA:

- (a) Children's play areas.
- (b) Food preparation/consumption areas.
- (c) Recreation areas where dogs are prohibited.
- (d) Public bathing areas where dogs are prohibited.

While not being a declared Wildlife Protection Area under the CAA, the location has known and obvious 'very high' wildlife habitat values including for listed Threatened and Endangered Species. The location is also adjacent to a mapped State Significant Littoral Rainforest under the State Environmental Planning Policy (Coastal Management).

Mooball Creek, Pottsville

There have been numerous strongly worded complaints to Council about off-leash dogs roaming through Ambrose Brown Park and on the adjacent foreshore beach. This area is popular with young families and elderly because of the playground, safe shallow swimming and ease of access. The presence of uncontrolled dogs is reported to have significant impacts on the ability for these members of the community to enjoy this recreation and swimming area.

The Pottsville South Holiday Park runs along almost half of the foreshore length within this Lot and does not allow dogs on the premises.

Despite the high level of recreational use and limited exposed sand and mud within this section of the estuary, migratory shorebirds including grey-tailed tattler and resident threatened species including the Australian pied oystercatcher, bush stone-curlew and beach stone-curlew have been recorded in this area.

The current proposal does not limit on-leash access to the eastern side of the creek and Pottsville Beach, with the existing designated off-leash beach area south from the bridge. Similarly, the extensive creek foreshore upstream of the bridge is fully accessible for dogs on leash.



Figure 2: Proposed dog prohibited area under Section 14 of *Companion Animals Act 1998* for Lot 7074 DP 1113900 Pottsville.

Orders under the *Companion Animals Act 1998*

Council is authorised to make orders for dogs to be prohibited from public places under the *Companion Animals Act 1998* (CAA). Under Section 14 of the *Companion Animals Act 1998*, dogs (whether or not they are leashed or otherwise controlled) are prohibited in the following public places:

- (a) Children's play areas.
- (b) Food preparation/consumption areas.
- (c) **Recreation areas where dogs are prohibited** (meaning any public place, or part of a public place, provided or set apart by a local authority for public recreation or the playing of organised games and in which the local authority has ordered that dogs are prohibited and in which, or near the boundaries of which, there are conspicuously exhibited by the local authority at reasonable intervals notices to the effect that dogs are prohibited in or on that public place or part).
- (d) Public bathing areas where dogs are prohibited.
- (e) School grounds.
- (f) Child care centres.
- (g) Shopping areas where dogs are prohibited.
- (h) Wildlife protection areas.

OPTIONS:

1. That Council prohibits dogs under Section 14 (1c) of the *Companion Animals Act 1998* in the entirety of Lot 7074 DP 1113900 and immediate adjacent estuary foreshore of Mooball Creek to Low Water Mark and the current mapped dog exclusion zone between the mouth of Cudgera Creek and the Tweed Coast Road bridge, including Cudgera

Creek Park and that portion of Hastings Point Headland used as a primitive camp ground.

2. That Council does not prohibit dogs under Section 14 (1c) of the *Companion Animals Act 1998* in the entirety of Lot 7074 DP 1113900 and immediate adjacent estuary foreshore of Mooball Creek to Low Water Mark and the current mapped dog exclusion zone between the mouth of Cudgera Creek and the Tweed Coast Road bridge, including Cudgera Creek Park and that portion of Hastings Point Headland used as a primitive camp ground.

CONCLUSION:

Creation of dog prohibited areas in the mouths of Cudgera and Mooball Creek estuaries acknowledges the known high recreational and ecological importance of these two areas. The making of orders under the *Companion Animals Act 1998* provides Council's Regulatory Services staff with the ability to better manage non-compliance.

COUNCIL IMPLICATIONS:

a. Policy:

Companion Animals Management Plan v1.0
Companion Animals Act 1998

b. Budget/Long Term Financial Plan:

Additional signage to come from existing budget allocations.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

Erection of conspicuous signage will be required delineating the boundaries of the dog prohibited areas. General community awareness to be undertaken through a Shire-wide communication plan.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

18 [CNR-CM] Sustainable Agriculture Small Grants Program Outcomes
2018/2019

SUBMITTED BY: Natural Resource Management

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.1 Natural Resource Management
- 1.1.5 Sustainable Agriculture - To promote the viability of agricultural land through biodiversity, education, water quality and sustainability initiatives

ROLE: Collaborator

SUMMARY OF REPORT:

This report presents the outcomes of the inaugural Sustainable Agriculture Small Grants Program initiated in 2018/2019. Five grants (totalling \$19,326) were awarded for projects to improve environmental outcomes on local farms with a total value of \$77,087. The grants enabled recipients to commence a range of improvements on their farms leading to a number of positive environmental outcomes. Due to the success of the Program the community would benefit from a continuation of the grant program for an additional three financial years.

RECOMMENDATION:

That Council:

1. **Endorses the continuation of the Sustainable Agriculture Small Grants Program for an additional three years.**
2. **Votes the expenditure of up to \$25,000 a year from the Sustainable Agriculture Program subject to the adoption of each year's budget.**
3. **Notes the outcomes of the one-year pilot of the Sustainable Agriculture Small Grants Program.**

REPORT:

In June 2018 Council endorsed the Sustainable Agriculture Small Grants Program as a one-year pilot with a budget of \$21,000. The grant program aimed to promote and encourage the adoption of innovative, sustainable agricultural practices for the benefit of the environment and the community and assist viability of farming in Tweed Shire.

Eight applications were received during the six week application period with five applicants awarded grants of up to \$4,000 each. Projects included:

- the installation of a equicentral system of fences and hardstand areas to improve pasture and manure waste management at a horse stud;
- strategic fencing to exclude cattle access to gullies and areas of high biodiversity value in the upper reaches of the Clarrie Hall Dam catchment;
- improvements to effluent management at a Burringbar dairy farm;
- revegetation within a small-scale cattle enterprise at Eungella; and
- cattle fencing and weed management on an abandoned permaculture farm in the upper reaches of the Oxley River.

The grants have worked to incentivise the adoption of better management practices and provided opportunities to kick-start environmental projects that farmers would have not otherwise initiated themselves. Grant recipients have acknowledged this in feedback provided to Council staff:

'Farming business grants allow us to work through a wish list of small projects that are not often affordable.'

'This grant from Council helped me to stop erosion and the drains from getting blocked from sediment runoff. We fenced off the long, bare steep gully from the cattle and planted it with local rainforest plants to hold the soil, and catch water runoff.'

'The grant and information received will certainly enable us to achieve greater productivity while at the same time allow preservation of our natural ecological environment. The ongoing advice and support has been really appreciated from the Sustainable [Agriculture] Grants team.'

Applicants also provided significant in-kind contributions to their projects totalling approximately \$58,000 compared with the \$19,326 of actual funds provided by Council.

The grants have resulted in:

- the installation of 1.8km of fencing to control cattle access to waterways and areas of high biodiversity value;
- reduced the risk of nutrient runoff from animal waste into waterways;
- increased native habitat on farms through revegetation works; and
- enabled strategies to increase productivity through improved pasture management.

OPTIONS:

1. Endorse the continuation of the Sustainable Agriculture Small Grants Program for an additional three years.

2. Do not endorse the continuation of the Sustainable Agriculture Small Grants Program.

CONCLUSION:

The Sustainable Agriculture Small Grants Program has assisted five farmers to implement better land management practices for the benefit of the community and natural environment.

The Program has incentivised the commencement of important environmental projects on farmland and by continuing to work with grant recipients, Council has the opportunity to showcase best farming practices, and regenerative agriculture approaches to the wider farming community.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

Tweed Sustainable Agriculture Strategy 2016.

b. Budget/Long Term Financial Plan:

A budget of \$25,000 is available in the proposed Sustainable Agriculture Program for 2019/2020 and future financial years to fund the continuation of the grant program.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

The grants received positive media attention including a story with one of the recipients on ABC North Coast radio and The Local Government Focus.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

19 [CNR-CM] Wyuna Road Community Land Foreshore Management

SUBMITTED BY: Natural Resource Management

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Provider**

SUMMARY OF REPORT:

Council has been in negotiations with a group of residents from Wyuna Road West Tweed, regarding a proposal from residents 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 in this area.

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. 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.

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.

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

Domestic Waterfront Licences Guidelines 2018

Dol 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.”

The Dol 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).

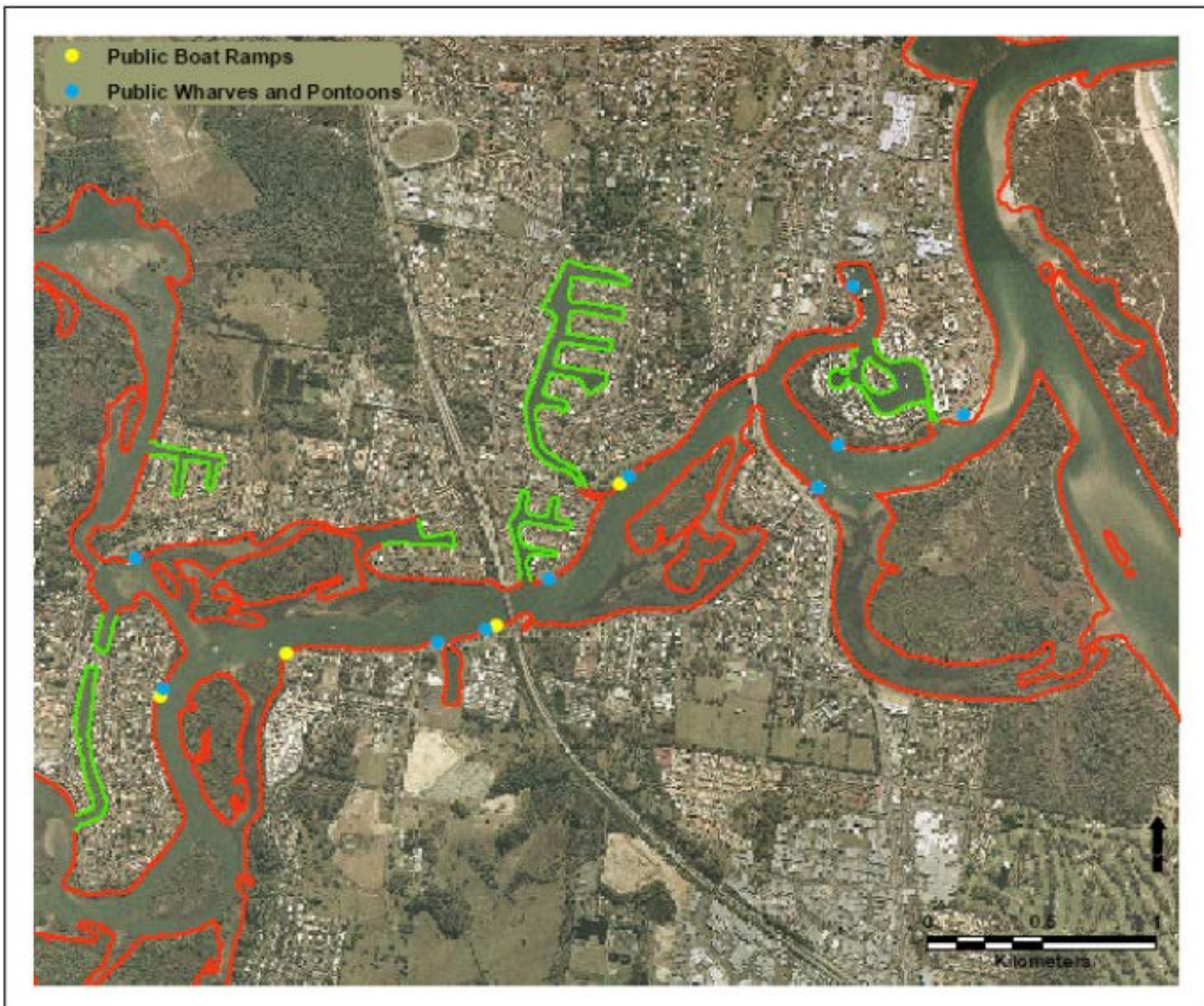


Figure 2. Terranora Creek mapping in Tweed River Domestic Structure Strategy (p17)

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. While there would be a strong interest from an original funding resident to maintain 'their' structures, there would be no obligation to do so, certainly not once the adjacent dwelling is sold, and no legal connection between the structure and any new adjacent occupier. 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. The level of foreshore embellishment proposed by residents would be far greater than that provided by Council in other public foreshores in the Shire.

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*. Foreshore works at Lot 108 DP 238224 on Terranora Creek will require such permits. When assessing applications DPI Fisheries acts in accordance with the Fisheries Management 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 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.

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, and
3. 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 results from Council not exercising sufficient investment or scrutiny in the area's management over at least three decades. As a result, residents from the south side of Wyuna Road have become the stewards of this area, 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 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 whether or not to reverse the lack of management of Lot 108 DP 238224 over the past decades, or, support the residents' group proposal to fund and formalise a significant number of additional structures, specifically designed for private use.

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. Consideration of the establishment of a cash reserve to accomplish staged implementation of the master plan over five years will be included in the next budget cycle.

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. 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)

20 [CNR-CM] Licence for Uki Residents' Association Environmental Facility

SUBMITTED BY: Natural Resource Management

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.2 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:

Uki Village and District Residents' Association (UKIRA) has requested a 12-month licence to use Council-managed Crown land for an environmental facility on a site on Kyogle Road.

UKIRA has provided a four-year management plan outlining the vision, management structure, funding and site activities proposed.

UKIRA's request is supported in-principle by relevant Council programs including the Biodiversity Program (the site's current land managers), Recreation Services, Community and Cultural Services and the Sustainability Program.

A Council resolution is required to enable the Mayor and General Manager to authorise a licence.

RECOMMENDATION:

That Council:

1. **Enters into a 12 month licence agreement with Uki Residents' Association (UKIRA) to establish a community environmental facility on Lot 203 DP 755730 Kyogle Road Uki.**
2. **Executes the licence agreement under the Common Seal of Council.**

REPORT:

Background

Uki Village and District Residents Association (UKIRA) has requested a 12-month licence to use Council-managed Crown land for an environmental facility on a site on Kyogle Road. UKIRA has provided a four-year management plan outlining the vision, management structure, funding and site activities proposed (see Attachment 1).

This new site will add a seventh community-led community garden-style facility to the Tweed, each unique in their location and arrangements.

UKIRA's request is supported in-principle by relevant Council programs including the Biodiversity Program (the site's current land managers), Recreation Services, Community and Cultural Services and the Sustainability Program.

UKIRA has asked for relief from licence fees for the site. The minimum annual rent for Crown land is \$498.00. Department of Industry's Crown Land Financial Concessions Policy sets this fee. This rent applies for Community Volunteer Service groups whose primary purpose is to provide services or facilities which are of benefit to the welfare of the general community, is largely supported by volunteers, uses the holding primarily for the specified purpose, and:

- a) is a registered charity with Australian Charities and Not-for-profits Commission, or
- b) is incorporated under the Associations Incorporation Act 2009.

Unfortunately Council is unable to waive the licence fee.

Beyond the current licence period, any future expansion of the site as proposed in UKIRA's management plan is likely to involve additional costs including but not limited to:

- \$1,000 in development assessment costs for community gardens to be permitted on the site under the *Environmental Planning and Assessment Act 1979 (NSW)*
- \$1,500 for a construction certificate for any built structures on the site (subject to appropriate sit conditions and flooding constraints)
- \$4,000 for a connection to the mains water supply, and ongoing water use costs
- other general operating costs

As part of any future licence application, UKIRA will be asked to provide a budget showing the likely capital and operational costs for the site and evidence of existing or anticipated sources of funding to meet those costs.

It is noted that Council does not have an operational budget to meet any of these costs and that any of these costs, if required, will be the full responsibility of the licence holder.

Council staff from our Sustainability, Biodiversity, Recreation Services teams will continue to support the project, provide guidance and advice, including potential grant opportunities.

Licensing requirements

Under the *Crown Land Management Act 2016 (NSW)* the Council seal is required on the short term licence agreement.

A Council resolution is required to enable the Mayor and General Manager to authorise a licence.

OPTIONS:

1. Enter into a 12 month licence agreement with Uki Village and District Residents Association (UKIRA) to establish a community environmental facility on Lot 203 on DP755730, Kyogle Road Uki.
2. Consider an alternative resolution.

CONCLUSION:

UKIRA's proposal has the potential to bring broad benefits that align with many of the Community Strategic Plan objectives such as:

- active public spaces that engage the community
- community recreation opportunities
- strengthened community connections
- biodiversity benefits
- local food production
- reduced food miles

In issuing a licence to UKIRA and acknowledging relief in maintenance costs for Council, Council's endorsement of this licence and support for UKIRA's environmental facility would align our approach to licences and leases with Council's support for sporting and community cultural facilities, particularly in supporting new groups during their establishment period.

As Council does not have a budget for community gardens, UKIRA's capacity to self-fund the administrative, capital, operational and maintenance costs associated with this new facility will be an ongoing consideration.

COUNCIL IMPLICATIONS:

a. Policy:

Crown Land Management Act.
Community Garden Guidelines

b. Budget/Long Term Financial Plan:

Cost associated with the development of this proposal is to be met by the proponent. Council's costs will be limited to staff time in facilitating the licence and adherence to the Community Gardens Guidelines.

c. Legal:

Yes, legal advice has been received.

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.

UKIRA has been corresponding with Council since 2014 about the potential to establish a community garden at the site. UKIRA has provided details in their management plan of over

40 community consultation activities undertaken including discussions with neighbouring residents.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Uki Environmental Facility Management Plan, March 2019
(ECM 5916211).

21 [CNR-CM] Renaming of Park Burringbar - Burringbar Memorial Reserve and Masterson Park

SUBMITTED BY: Recreation Services

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Provider

SUMMARY OF REPORT:

At its meeting held 21 March 2019, Council considered a report regarding submissions to a proposal to rename a park in Burringbar *Masterson and RSL Memorial Park*. Due to objections received to the proposal, Council resolved:

"that the item be deferred to the April Council meeting to allow the Director Community and Natural Resources to further negotiate with various stakeholders."

Council officers consulted with the main stakeholders being the Burringbar RSL Sub-Branch (nominators) and the Burringbar Community Association (submitter). A compromise was ultimately supported by both parties to name the park *Burringbar Memorial Reserve and Masterson Park*. In addition to renaming the park and installing signage, it was also agreed to install 'story boards' similar to that used to tell the story of Rowan Robinson. One story board will provide information about Major Samuel Alcorn Masterson, and another about the significance of the park as a memorial.

RECOMMENDATION:

That Council:

1. Renames Masterson Park Burringbar to "*Burringbar Memorial Reserve and Masterson Park*".
2. Installs story boards providing information about Major Samuel Alcorn Masterson and the significance of the park as a memorial.

REPORT:

At its meeting held 21 March 2019, Council considered a report regarding submissions to a proposal to rename a park in Burringbar *Masterson and RSL Memorial Park*. Due to objections received to the proposal Council resolved:

"that the item be deferred to the April Council meeting to allow the Director Community and Natural Resources to further negotiate with various stakeholders."

Council officers consulted with the main stakeholders being the Burringbar RSL Sub-Branch (nominators) and the Burringbar Community Association (submitter). A compromise was ultimately supported by both parties to name the park *Burringbar Memorial Reserve and Masterson Park*. In addition to renaming the park and installing signage, it was also agreed to install 'story boards' similar to that used to tell the story of Rowan Robinson. One story board will provide information about Major Samuel Alcorn Masterson, and another about the significance of the park as a memorial.

RETURNED AND



SERVICES LEAGUE

President: P.Connor

Secretary:

Treasurer: G. Cotelli

Patron: Douglas Moore.

Lt. Cmr. GLEX MCDO,

G.M., B.E.M., RAN Retd.

OF AUSTRALIA

NEW SOUTH WALES BRANCH INCORPORATED

"The Price of Liberty is Eternal Vigilance"

BURRINGBAR

SUB BRANCH

P.O. Box 92

BURRINGBAR

NSW 2483

8.05.2019

Stewart Brawley

Manager Recreation Services

Tweed Shire Council

Re Memorial Reserve/Masterson Park signage

Dear Stewart,

I refer to our discussions on Monday 6th May 2019 at the above location:

As a compromise, the Burringbar R.S.L. Sub-Branch is happy to delete the N.S.W. R.S.L. logo and the letters, with our express wishes for the wording "Memorial Reserve" (or "Burringbar Memorial Reserve") at the top, with "and Masterson Park" to remain.

We are thankful that you agree that signage as such in the said locality will not include the row of pictograms along the bottom!

Our R.S.L. Sub-Branch is very appreciative of the Tweed Shire Council's offer of installation of descriptive plaques detailing relevant historical facts in relation to the said area. (This to be undertaken with consultation with our R.S.L. Sub-Branch.)

Kind Regards

Phil Connor

President

Burringbar R.S.L. Sub-Branch

Figure 1: Letter from Burringbar RSL confirming their support for the proposed naming.

The Burringbar Community association confirmed their support for the above proposal in an email received 14 May 2019 reproduced below.

The Burringbar Community Association Inc. are supportive of the proposal offered by the Burringbar RSL Sub-branch.

Regards,

Secretary

Burringbar Community Association Inc.



Figure 2: Story board for Rowan Robinson. Similar story boards are proposed for the park in Burringbar

OPTIONS:

1. That Council:
 - a. Renames Masterson Park Burringbar to Burringbar Memorial Reserve and Masterson Park.
 - b. Installs story boards providing information about Major Samuel Alcorn Masterson and the significance of the park as a memorial.
2. That Council calls for comment regarding the re-naming of Masterson Park Burringbar to Burringbar Memorial Reserve and Masterson Park in accordance with Council's Policy for the Naming of Public Parks.
3. That Council does not change the name of the park in Burringbar named Masterson Park.

CONCLUSION:

Council's Naming of Public Parks Policy Selection Criteria states:

If the application meets the criteria listed above and Council resolves to support the proposal, the proposal is to be advertised in the Tweed Link or any other local newspaper inviting submissions from the public for a twenty eight (28) day submission period. Any submissions received will be considered in a further report to Council with a recommendation for approval or otherwise.

As the negotiated name is similar to the advertised name and the proponent and objector have agreed on the proposed name, Council may consider resolving to name the park *Burringbar Memorial Reserve and Masterson Park* without further consultation.

Alternatively, Council may prefer to re-exhibit the proposed naming in accordance with the timeframes in the policy.

COUNCIL IMPLICATIONS:

a. Policy:

Naming of Council Public Parks and Sportsfields v2.0.

b. Budget/Long Term Financial Plan:

The installation and production for the park sign and 'story boards' sign will be approximately \$1,250.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

Phone calls, emails and an on-site meeting were undertaken with the Burringbar RSL Sub-Branch and the Burringbar Community Association to negotiate an agreed outcome.

The proposal to rename the park Masterson and RSL Memorial Park was advertised in accordance with Council's policy for the Naming of Public Parks.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

22 [CNR-CM] Jack Evans Boat Harbour Plan of Management - Land Tenure

SUBMITTED BY: Recreation Services

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Provider**

SUMMARY OF REPORT:

Council has resolved to prepare a Plan of Management for the Jack Evans Boat Harbour (JEBH) in consultation with the community. The previously resolved scope of the draft plan of management includes Crown land where Council is not Crown Land Manager. A meeting has been held on 23 May 2019 with representatives from the NSW Department of Industry (DoI) – Crown Lands with regard to land tenure across the site. Subsequent to the advice received, direction is sought from Council in relation to the land tenure in the precinct.

In determining the scope of the Draft JEBH Plan of Management, several matters require consideration including land tenure, land categorisation, reserve purposes, Aboriginal Land Claims and procedural timeframes.

NSW DoI – Crown Lands have advised that Council cannot compile a plan of management over Crown land where Council has not been appointed Crown Land Manager. Accordingly it is recommended that Council requests the Minister to appoint Council as Crown Land Manager of Crown reserves which are currently not managed by Council within the area that will be subject to the Plan of Management. Alternatively, the proposed scope for the draft plan of management can be amended to exclude the Crown land where Council has not been appointed Crown Land Manager.

Should Council resolve to request the Minister that Council be appointed as Crown Land Manager of Crown reserves which are currently not managed by Council, notification to the Minister is required regarding the initial categorisation of each of the Reserves in order for Council to comply with section 3.23 of the *Crown Land Management Act 2016*.

Further, during the meeting with NSW DoI – Crown Lands, procedural requirements related to land subject to Aboriginal land claims was discussed. Council has received feedback from

the NSW Aboriginal Land Council regarding the Draft JEBH Plan of Management and land subject to an Aboriginal Land Claim in the area has been excluded from the Plan. However Council is currently awaiting further advice from the Department with regard to the requirements related to plans of management over land subject to an Aboriginal land claim. This matter will be reported to Council separately.

RECOMMENDATION:

That Council:

1. Supports the scope of the proposed Draft Jack Evans Boat Harbour Plan of Management to include the Jack Evans Boat Harbour Waterway, Chris Cunningham Park, Goorimahbah, Ebenezer Park and land north of Coral Street excluding land subject to Aboriginal Land Claim 24855 as resolved at its meeting on 17 April 2019;
2. Requests the Minister for Water, Property and Housing that Council be appointed Crown Land Manager of Crown land outlined in the following table; and

<i>Lot//DP</i>	<i>Crown Reserve</i>	<i>Initial Category</i>
Lot 7339 DP 1166191	To be added to R57974	Park
Lot 7034 DP1052935 & Lot 7068 DP 1113061	R55246	Park
Lot 7036 DP 1054009 only and not part Lot 703 DP 877250	R80245	Park
Lot 7091 DP 1108680 & Lot 7329 DP 1163074 Excluding the training walls	R755740	Park/ Natural Area (Watercourse)

3. Provides notice to the Minister for Water, Property and Housing of the initial categories assigned to each of the Crown Reserves Council is requesting to be appointed Crown Land Manager to comply with Section 3.23 of the *Crown Land Management Act 2016*.

REPORT:

Background

Jack Evans Boat Harbour (JEBH) Reserve Trust resolved at its meeting on Thursday 18 May 2017 that a plan of management is prepared for the JEBH in consultation with the community.

The main issues that could influence the proposed timeline of the preparation of the Plan of Management were reported to the JEBH Reserve Trust meeting on Thursday 15 February 2018. The main issues involved:

- Consultation with the Aboriginal Advisory Committee regarding 'Goorimahbah – Place of Stories'
- Land Tenure
- Divergence of views between community stakeholders
- Homeless use of the park
- Cross border impacts with the Gold Coast City Council
- State Government development plans for Crown Land surrounding JEBH
- The proposed all access playground
- The RSL cenotaph and the RSL's expectations
- The existing aquatic hire operation and conflicts with use of the area by cross border time share resorts.

Land Tenure

JEBH comprises several separate Crown Reserves however Tweed Shire Council is not nominated Crown Land Manager for all of these. Council has no power to authorise any third party use or occupation of the Crown Reserves of which it is not Crown Land Manager. Additionally, the 'Reserve Purpose' of these reserves varies which has implications for the potential use of the land as any proposed use needs to be consistent with the reserve purpose.

The following map shows Crown Reserves in the JEBH precinct managed by Tweed Shire Council. Red denotes land where Council is Crown Land Manager. Blue denotes land devolved to Council under section 48 of the LG Act. It is noted that in the case of devolved land, Council maintains the site, however has no management control and for example, cannot issue leases or licences. Uncoloured areas are either State managed Crown Land or are not Crown Land thereby under Council or private ownership.



Figure 1: Crown Reserves in Jack Evans Boat Harbour precinct managed by Tweed Shire Council. (Source: Crown Land Manager Reserves Portal – NSW Crown Lands. Please note that R1012191 around the harbour shore is incorrectly excluded).

It is noted that the NSW Department of Industry – Crown Lands and Water (“the Department”) previously advised on 24 May 2018:

"Council cannot compile a Local Government Act plan of management over land that Council is not currently the Trust manager of. Council can request to be appointed over the land. This will depend on current land negotiations with the LALC."

(It is noted that the new Crown Lands Management Act 2016 came into force on 1 July 2018 and under the new Act, any land where Council was ‘Reserve Trust Manager’, Council is now ‘Crown Land Manager’.)

This matter was reported to Council on 19 July 2018 seeking confirmation regarding the land that will be subject to the proposed JEBH Plan of Management and sought to rectify any associated land tenure matters.

At the Council meeting on 19 July 2018, Council resolved to defer this item in order to receive clarification from the Department on the matter. A response was received 29 March 2019 addressing each of the points of the Council resolution on 19 July 2018 which are as follows:

1. *Whether it is possible for Council to create a Plan of Management for the Jack Evans Boat Harbour Precinct under the Crown Land Management Act given it is advised by staff it is not possible under the Local Government Act, due to Council not being the designated Crown Land Managers for all Reserves in this Precinct.*

Department response:

Council is not able to prepare a POM under the provisions of the Crown Land Management Act 2016 (CLM Act) for reserves which are not under a Reserve Trust of which Council is appointed to manage.

Currently, under the provisions CLM Act, Tweed Heads Jack Evans Boatharbour Reserve Trust (Trust), remains in place as a transitional trust until 1 July 2019, when it will be abolished and Council will be directly appointed as Crown Land Manager of the current managed reserves.

Council must be the appointed Crown Land Manager of the identified Crown lands in the Precinct before it may consider the preparation of a POM under the provisions of the Local Government Act 1993.

- 2. If it is possible for Council to initiate the Plan of Management under the Crown Land Management Act (CLMA), then Council writes immediately to the Department of Industry - Crown Lands and requests their support in preparing a plan for the Jack Evans Boat Harbour Precinct under the CLMA.*

Department response:

Any proposed POM for Council managed reserves should be prepared under the provisions of the Local Government Act 1993.

- 3. The current status of Aboriginal Land Claim 24855 lodged by New South Wales Aboriginal Land Council and provision of all the relevant information of the lands subject to the Land Claim.*

Department response:

Aboriginal Land Claim 24855 was lodged by the New South Wales Aboriginal Land Council on 6 May 2010 over Lot 702 DP 720453 and Lot 703 DP 877250 and as at today's date has yet to be determined.

The Department offered to meet with Council to discuss the matter. A meeting was held on 23 May 2019. Officers from the Department confirmed that Council is not able to prepare a plan of management for reserves that Council has not been appointed to manage.

The Department recommended that Council requests to be appointed Crown Land Manager of the reserves in the JEBH precinct which it is not currently Crown Land Manager.

Further, the Department stated that Council may be required to enter into a lease agreement with the Department, if Council is not appointed Crown Land manager and Council wishes to regulate land use, maintain or further embellish the parklands which is what is proposed for Goorimahbah – Place of Stories. Charges to Council for the lease would apply at market rates.

Scope of the Plan of Management and Initial Categorisation

At its meeting on 17 April 2019 Council resolved that the scope of the Draft JEBH Plan of Management is as shown below in Figure 2.


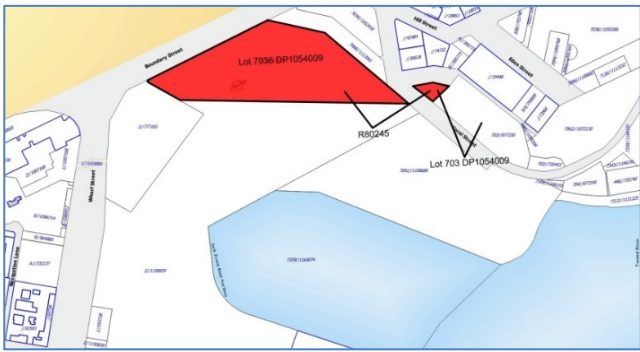

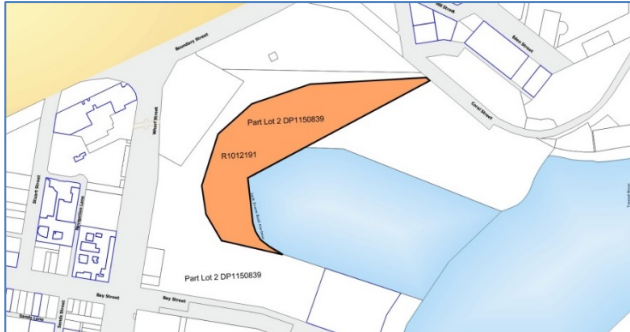


Figure 2: Scope of proposed Jack Evans Boat Harbour Draft Plan of Management per Council meeting 17 April 2019.

Given the advice from the Department, Table 1 below lists Crown Land Manager appointments and Crown Reserve amendments that are required should the scope of the Draft Plan of Management reflect Figure 2. It is noted that these amendments were recommended by the Department in February 2017.

Further, Table 1 below also lists the recommended initial categorisation as required to be provided to the Minister to ensure that Council complies with section 3.23 of the CLM Act, Council must assign one or more categories of community land referred to in section 36 of the Local Government Act 1993, to each crown reserve for which it is manager. The primary consideration for categorisation of land is that the category assigned must be **most closely related to** the Crown Reserve Purpose.

Table 1: Recommended Crown Reserve Appointments/Amendments	
<p>In Ebenezer Park, Lot 7339 DP 1166191 (shaded in gold) to be added to Reserve 57974 and Council be appointed Crown Land Manager of Lot 7339. Part Crown Reserve 57974 is shaded in green.</p> <p><u>Reserve Purpose:</u> Access; Public Recreation; Quarry.</p> <p><u>Proposed category:</u> Park</p>	<p>Figure 3: Lot 7339 DP 1166191 Part Crown Reserve 57974</p>

<p>Council be appointed Crown Land Manager of Crown Reserve 55246 (mapped in purple).</p> <p><u>Reserve Purpose:</u> Public Recreation; <u>Proposed category:</u> Park</p>	 <p><i>Figure 4: Crown Reserve 55246</i></p>
<p>Council be appointed Crown Land Manager of Reserve 80245 over Lot 7036 DP 1054009 only. Part Lot 703; the separate triangle to the east is part of Reserve 80245 however is not within the scope of the draft plan of management and is subject to an Aboriginal land claim discussed elsewhere in this report.</p> <p><u>Reserve Purpose:</u> Public Recreation; <u>Proposed category:</u> Park</p>	 <p><i>Figure 5: Crown Reserve 80245</i></p>
<p>Part Lot 7091 DP 1108680 and part Lot 7329 DP 1163074 (currently part of Crown Reserve 755740) be added to Reserve 1012191 and Council be appointed Crown Land Manager of these Lots within Reserve 1012191. As discussed with the Department, the request should exclude the training walls along the south east boundaries.</p> <p><u>R 755740</u> <u>Reserve Purpose:</u> Future Public Requirements</p> <p><u>R 1012191</u> <u>Reserve Purpose:</u> Access and Public Requirements, Rural Services, Tourism Purposes and Environmental and Heritage Conservation.</p> <p><u>Proposed category:</u> Park/ Natural Area (Watercourse)</p>	 <p><i>Figure 6: Lot 7091 DP 1108680 and Lot 7329 DP 1163074 Part Crown Reserve 755740</i></p>  <p><i>Figure 7: Crown Reserve 1012191 currently Council Managed.</i></p>

Should Council resolve to not request to be appointed as Crown Land Manager of the Crown land in the JEBH precinct it is currently not manager for, it is recommended the scope of the draft JEBH Plan of Management be amended to exclude the land not under Council management listed in Table 1.

Aboriginal Land Claim 24855 and Reserve 80245

Land north of Coral Street is subject to Aboriginal Land Claim 24855 which is yet to be determined. The land claim includes Lot 702 DP 720453, Lot 703 DP 877250 and Lot 7089 DP 1095268. Council is Crown Land Manager of the land except for the triangle shaped eastern section of Reserve 80245 within Lot 703 shown in Figure 5.

A courtesy letter was sent to the NSW Aboriginal Land Council (NSWALC) seeking feedback as to whether NSWALC had any concerns related to the adoption of a plan of management over the land subject to Aboriginal Land Claim 24855. The following is noted from the NSWALC response:

Up to this point in time the position of NSWALC has generally been that the land claims should be determined prior to any consent to Council taking management control under the Local Government Act. As a next step I am likely to be required to provide a full response through our legal officers. Additionally, I note for your reference that ALC 24855 was lodged by NSW ALC on behalf of Tweed-Byron Local Aboriginal Land Council (T-BLALC) and any amendment to the claim would require the resolution of T-BLALC Board.

On 17 April 2019, Council resolved to exclude all lots subject to the Aboriginal Land Claim. This was based on the NSWALC response and previous advice from the Department that consent is required from the claimant, NSWALC, for the adoption of a plan of management. It is noted that the land claim at the site is unlikely to be determined prior.

Should Council wish to include the land subject to Aboriginal Land Claim 24855 in its entirety in the JEBH Plan of Management, Council would be required to request to be appointed as Crown Land Manager of Part Lot 703 within Reserve 80245 shown in Figure 5. Therefore, in this situation, consent from the New South Wales Aboriginal Land Council would need to be obtained prior.

Council is currently awaiting further advice from the Department with regard to the requirements related to plans of management over land subject to an Aboriginal land claim. This matter will be reported to Council separately.

OPTIONS:

Option 1

That Council:

1. Supports the scope of the proposed Draft Jack Evans Boat Harbour Plan of Management to include the Jack Evans Boat Harbour Waterway, Chris Cunningham Park, Goorimahbah, Ebenezer Park and land north of Coral Street excluding land subject to Aboriginal Land Claim 24855 as resolved at its meeting on 17 April 2019;
2. Requests the Minister for Water, Property and Housing that Council be appointed Crown Land Manager of Crown land outlined in the following table; and

Lot//DP	Crown Reserve	Initial Category
Lot 7339 DP 1166191	To be added to R57974	Park
Lot 7034 DP1052935 & Lot 7068 DP 1113061	R55246	Park
Lot 7036 DP 1054009 only and not part Lot 703 DP 877250	R80245	Park
Lot 7091 DP 1108680 & Lot 7329 DP 1163074 Excluding the training walls	R755740	Park/ Natural Area (Watercourse)

3. Provides notice to the Minister for Water, Property and Housing of the initial categories assigned to each of the Crown Reserves Council is requesting to be appointed Crown Land Manager to comply with Section 3.23 of the *Crown Land Management Act 2016*.

Option 2

Amends the scope of the proposed Draft Jack Evans Boat Harbour Plan of Management to only include Crown land to which Council is currently Crown Land Manager.

CONCLUSION:

The previously resolved scope of the draft plan of management for JEBH includes Crown land where Council is not Crown Land Manager.

A meeting has been held with representatives from the NSW Department of Industry – Crown Lands where Council was advised that Council cannot compile a plan of management over Crown land where Council has not been appointed Crown Land Manager. Accordingly it is recommended that Council requests the Minister to appoint Council as Crown Land Manager of Crown reserves which are currently not managed by Council within the nominated scope of the Plan of Management.

Alternatively, the proposed scope for the draft plan of management can be amended to exclude the Crown land where Council has not been appointed Crown Land Manager.

Should Council resolve to request the Minister that Council be appointed as Crown Land Manager of Crown reserves which are currently not managed by Council, notification to the Minister is required regarding the initial categorisation of each of the Reserves in order for Council to comply with section 3.23 of the *Crown Land Management Act 2016*.

COUNCIL IMPLICATIONS:

a. Policy:

Community Engagement Strategy v2.0
Crown Lands Management Act 2016
Local Government Act 1993

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Involve/Collaborate - We will work with you on an ongoing basis to ensure your ideas, concerns and aspirations are considered. We will provide feedback on Council's decisions.

A comprehensive community engagement process is being undertaken in the development of the Draft Plan of Management.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

23 [CNR-CM] Reintroduction of Waste Levy in Queensland - Impact to Cost of Contract RFO2016128

SUBMITTED BY: Waste Management

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

SUMMARY OF REPORT:

The Queensland Government has reintroduced a waste levy which will apply to the waste being transported from Tweed to Queensland landfills for disposal. The levy will commence at \$75 per tonne and is due to start on 1 July 2019.

The waste charges for transport and disposal of waste have been increased by the contractors under RFO2016128 to cover this cost. Provision is made in the 2019/2020 fees and charges to cover the increased cost.

This report has been prepared to advise Council of the cost increase.

RECOMMENDATION:

That Council notes the increase in the cost to dispose of waste in Queensland and the impact has been incorporated in the Draft 2019/2020 Fees and Charges and Draft 2019/2020 Budget documents.

REPORT:

Background

At the 21 September 2017 meeting Council resolved that in respect to RFO2016128, Transport and Disposal of Demolition Waste, Mixed Waste and the Transport of Organic Waste:

- 1. Council awards the contract to Veolia Environmental Services Pty Ltd (Trading as TiTree Bioenergy Pty Ltd) (ABN 67 450 387 919) based on the schedule of rates as submitted with an estimated value of \$20,557,990 (GST excl) for the seven (7) year period commencing 1 January 2018, with the possibility to extend by a further two (2) 12 month periods.*
- 2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council six monthly and at finalisation of the Contract.*

The Contract has been in place and operating very successfully since that time however in January 2019 the Queensland Government announced that they were introducing a landfill levy to commence 1 July 2019 at a rate of \$75 per tonne. This levy will apply to all materials taken to the Queensland landfills for disposal.

The alternative would be for Council to recommence operating our own landfill for the receipt of all waste streams again, however there is no developed capacity currently available at the Stotts Creek Resource Recovery Centre (SCRRC) for putrescible (wet) waste. This will mean that Council will need to continue to dispose of the putrescible waste such as that collected in the red household bin, off site until at least as long as it takes to develop the final landfill cell at the SCRRC. The development of this cell is at the planning stages and anticipated to take at least two years to be operational as it needs to be designed and approved by the EPA before we can commence the procurement process for the construction of the cell.

In 2017/2018 Council collected 14,845 tonnes of household red bin waste, and overall transported 29,485 tonnes of waste to Queensland for disposal.

The levy in NSW for the disposal of waste to landfill will be \$82.60 per tonne from 1 July 2019 so this more than offsets the cost of the Queensland waste levy. The other costs in establishing and running the landfill cell at the SCRRC are estimated as similar to those incurred by Council to send our waste to Queensland. When we export the waste we preserve our landfill airspace for later use and this will become a very valuable asset in the future with the decreasing availability of landfill in the northern rivers and the increased cost of developing new landfill disposal space.

Cost implications of the new levy in Queensland

In 2017/2018 Council transported 14,845 tonnes of household putrescible waste which we currently have no capacity for at the SCRRC. At \$75 per tonne for the Queensland levy, the additional cost for Council will be \$1,113,375 per annum. This increase cost has been well publicised and is included in the 2019/2020 fees and charges.

If Council exports a similar amount to that exported in 2017/2018, the Queensland levy will cost us \$2,209,875 on top of our current contract rate under RFO2016128, for the transport and disposal of waste. The additional cost is associated with construction and demolition

waste and industrial waste that was received at the SCRRC and transported to Queensland under RFO2016128 for disposal.

The alternative to transporting this waste to Queensland for disposal would be for Council to landfill that portion of the waste stream that we are able to accept and dispose of, that is the non-putrescible (dry) waste fraction. This would reduce Council's Queensland levy liability by \$1,096,500, however this would then be offset by a NSW levy liability of \$1,207,612 for that waste.

These estimates are based on the 2017/2018 waste export figures.

OPTIONS:

1. Council has the option to continue taking the putrescible (wet) and non-putrescible (dry) waste to Queensland and to pay the Queensland waste levy.
2. Alternatively Council may decide to only take the putrescible waste to Queensland where we would incur the Queensland waste levy, and to dispose of the non-putrescible waste at the SCRRC, where we would incur the NSW waste levy.

CONCLUSION:

Council currently export all waste received at the SCRRC that can be transported, to Queensland for disposal. This includes both putrescible and non-putrescible waste. The introduction of a waste levy in Queensland will increase the cost of our transport and disposal by \$75 per tonne with this money going indirectly through the contractor to the Queensland government. The alternative would be for us to dispose of that waste that can be disposed of at the SCRRC into our landfill, however this would require us to pay the NSW waste levy of \$82.60 per tonne.

This increase will add approximately \$2.2 million to Council's costs if the waste is disposed of in Queensland or potentially higher if the waste is disposed of in NSW.

The export of waste means Council preserves our landfill capacity for later, and it is getting significantly more expensive and difficult to develop landfills. The facility we are transporting our waste to is a best practice landfill with state of the art gas capture, with the gas used for renewable power generation. This is a better outcome than the SCRRC where the gas is flared to reduce the greenhouse impact of our operations, and the capture of gas is less efficient as the old landfill is unlined. When we construct the new putrescible landfill cell we will add a liner to improve this.

It is therefore recommended that we should continue to export waste to Queensland while it remains economically and environmentally the best option for Council. If however there is an opportunity to divert more of the dry (non-putrescible) waste by sorting and processing this material, Council should consider sorting and processing this material prior to either exporting this material or disposing of it at the SCRRC. Council will have the opportunity to consider this as part of the zero waste strategy being developed this year.

It is therefore recommended that Council note the increase in Queensland Government levy requirements and continue to export waste to Queensland while we are able to do so.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.7.

b. Budget/Long Term Financial Plan:

The cost of the Queensland levy will be passed on through waste fees and charges for 2019/2020. The estimated increase (based on 2017/2018 volumes) in contractor payments purely to cover the cost of the new Queensland levy will be \$2,209,875.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

24 [CNR-CM] Rural and Regional Youth Participation Grants

SUBMITTED BY: Community and Cultural Services

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Collaborator

SUMMARY OF REPORT:

Tweed Shire Council has successfully received funding of \$1,500 (plus GST) from the Rural and Regional Youth Participation Grants. The grant is an initiative of the NSW Government Department of Family and Community Services and goes towards supporting local youth participation activities and events between June and December 2019. Building on the success of Council's Youth Music Forum held during NSW Youth Week 2019 Tweed Shire Council has secured the funding on the basis of holding a second youth music forum later this year. The date of the forum will be confirmed in the coming weeks, with an expectation that it will take place between September and November 2019.

RECOMMENDATION:

That Council notes the receipt of \$1,500 (plus GST) in funding from the Rural and Regional Youth Participation Grants which will go towards holding a Youth Music Forum in 2019.

REPORT:

Tweed Shire Council has successfully received funding of \$1,500 (plus GST) from the Rural and Regional Youth Participation Grants. The grant is an initiative of the NSW Government Department of Family and Community Services and goes towards supporting local youth participation activities and events between June and December 2019. Building on the success of Council's Youth Music Forum during NSW Youth Week 2019.

In April 2019 Tweed Shire Council organised a Youth Music Forum at the Regent Cinema in Murwillumbah. It was a free event held as part of Council's activities for NSW Youth Week. The event included a Young Musician's Panel Discussion with local musicians Matt Turner, Pete Koro and Emmagen Rain. Panel 2 focussed on Music Education and Research and included representatives from School of Audio Engineering (SAE) Byron Bay, Southern Cross University and Griffith University. The key note was provided by Emily Holler (Mojo Bullet) and live music sets were performed by Budjerah Slabb and Ollie Twohill. Approximately 35 to 40 people attended.

Council received overwhelmingly positive feedback about the event. 100% of respondents rated Tweed Shire Council's Youth Music Forum as Excellent or Very Good and 100% rated the quality of the speakers as Excellent. Qualitative feedback indicated that participants appreciated:

- the local content;
- the knowledgeable panellists;
- encouragement for young musicians; and
- the chance for Q&A with people in the industry

Respondents also expressed an interest for:

- more opportunities / incentives for musicians;
- more regular events (such as performance opportunities in Knox Park);
- similar forums in the future.

Tweed Shire Council has secured the funding on the basis of holding a second youth music forum later this year. In addition to the grant funding Tweed Shire Council has allocated \$2,500 from the Cultural Development Fund towards the project. This activity helps deliver on the TSC Cultural Plan (2018 - 2019) *THEME 2 – ENTERPRISINGLY CREATIVE; Significant projects and programs #5:*

- Support opportunities for artistic practice & professional development among youth in collaboration with Council's Youth Strategy.

The date and location of the forum will be confirmed in the coming weeks, with an expectation that it will take place between September and November 2019.

OPTIONS:

1. That Council notes the receipt of \$1,500 (plus GST) in funding from the Rural and Regional Youth Participation Grants which will go towards holding a youth music forum in 2019.

Or

2. That Council request additional information regarding the Rural and Regional Youth Participation Grants.

CONCLUSION:

This report provides a summary of the funding from the Rural and Regional Youth Participation Grants \$1,500 (plus GST) from the NSW Government Department of Family and Community Services to go towards holding a youth music forum in 2019.

COUNCIL IMPLICATIONS:

a. Policy:

Cultural Plan 2018-2021

b. Budget/Long Term Financial Plan:

\$1,500 from the Rural and Regional Youth Participation Grants will go towards this project. Community and Cultural Services has allocated \$2,500 from the Cultural Development Fund towards this project.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

The application was based on feedback from participants attending the Youth Music Forum at the Regent Cinema in April 2019.

Consultation with local high schools will be undertaken to identify selected youth to contribute to planning the forum. A music industry mentor will be engaged to assist the selected youth in planning the event and providing professional development.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

25 [CNR-CM] Tweed Regional Museum Strategic Plan and Museum Service Agreement

SUBMITTED BY: Community and Cultural Services

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.2 Places
- 3.2.6 Museum - To preserve and share the history of the Tweed for the benefit and enjoyment of visitors and the community.

ROLE: **Provider**

SUMMARY OF REPORT:

The Tweed Regional Museum Strategic Plan 2019/2020 – 2020/2021 has been developed following review of achievements under the previous Plan (2014 – 2017) and consultation within Council and the Museum Advisory Committee. The Plan covers Museum strategic goals over the remaining two years of Council's Delivery Program 2017 – 2021.

The Goals and Strategic Activities identified in the plan build on Council's investment in Museum facilities and programs highlighted in the document *Good Start, Keep Going!* (Attachment 1), which provides an overview of major achievements of the last five years.

Based on these achievements and on trends identified in data collated from annual visitor surveys undertaken since 2014/2015, and through consultation, the Tweed Regional Museum Strategic Plan 2019/2020 – 2020/2021 (Attachment 2) sets out priorities for the next stage of the Museum's development.

In summary, over the next two years the Museum will:

- continue to manage a complex suite of heritage listed and purpose built facilities, in multiple locations across the Shire to ensure the Shire's collection is cared for effectively and that visitors have access to the collection and displays;
- address issues of signage, parking, promotion and strategic cross-promotion constraining visitor awareness and access to Museum branches at both Murwillumbah and Tweed Heads;
- grow Museum audiences through public and education programs and through greater on-line access to the collection and programs;
- continue to present an annual program of temporary exhibitions devoted to the history and heritage of the Tweed;

- pursue collaborative projects and relationships that extend the breadth of Museum programs and capacity; and
- deliver major grant funded projects such as the permanent natural heritage display at the Tweed Regional Museum Murwillumbah and the Arts and Heritage App.

The Tweed Regional Museum Advisory Committee formally endorsed the Tweed Regional Museum Strategic Plan 2019/2020 – 2020/2021 at its meeting on 8 May 2019.

The annual Museum Service Agreement 2019, which sets out the relationship between the Museum and the Historical Societies of Murwillumbah, Tweed Heads and Uki & South Arm has also been executed (Attachment 3). The Agreement acknowledges the significant support provided to each of the Societies by Council in return for the Societies' support for identified collection and display related Museum activities.

RECOMMENDATION:

That Council:

- 1. Adopts the Tweed Regional Museum Strategic Plan 2019/2020 – 2020/2021.**
- 2. Notes execution of the Tweed Regional Museum Service Agreement 2019.**

REPORT:

The document *Good Start, Keep Going!* – named after a comment left by one of the Museum visitors in 2018, succinctly captures the Museum’s journey. It reflects the many important milestones the Museum has achieved over the past five years – and points to the opportunities and challenges that await the next period of development.

The document highlights the significant investment in facilities required to appropriately house and showcase the Shire’s collection. It points to the significant resources required to preserve and manage the collection and associated research, the foundation upon which all other Museum activities are based.

The Museum’s success in caring for heritage collections and buildings; growing audiences; developing local, state and national relationships; working collaboratively within the community, and providing locals and visitors with the stories about what makes the Tweed unique and what we value, are also highlighted in *Good Start, Keep Going!*

The Museum’s vision for the future is set out in the 2019/2020 – 2020/2021 Strategic Plan (Attachment 2):

Preserving stories, sharing history: building an inspiring museum about the people, places, environment and culture of the Tweed for the benefit and enjoyment of visitors and the diverse communities of the region.

The Plan sets out five Strategic Goals:

- Goal 1: Develop an outstanding regional museum dedicated to the history and heritage of the Tweed Shire;
- Goal 2: Grow and broaden audiences;
- Goal 3: Develop a significant, sustainable and accessible collection;
- Goal 4: Present diverse and innovative programs about people, places and events that reflect and shape life in the Tweed; and
- Goal 5: Explore opportunities to work with Council, community and industry colleagues and organisations on collaborative projects that extend the breadth of the Museum programs, and capacity.

Key actions for 2019/2021

To address the goals set out in the Strategic Plan over the next two years, the Museum will deliver on the following:

- continue to manage a complex suite of heritage listed and purpose built facilities, in multiple locations across the Shire to ensure the Shire’s collection is cared for effectively and that visitors have access to the collection and displays;
- address issues of signage, parking, promotion and strategic cross-promotion constraining visitor awareness and access to Museum branches at both Murwillumbah and Tweed Heads;

- grow Museum audiences through public and education programs and through greater on-line access to the collection and programs;
- continue to present an annual program of temporary exhibitions devoted to the history and heritage of the Tweed;
- pursue collaborative projects and relationships that extend the breadth of Museum programs and capacity;
- install and open the *Land / Life / Culture* permanent exhibition. A large new interactive display featuring the natural history of the Tweed interweaved with Aboriginal cultural knowledge. This exhibition is a collaborative project with Natural Resource Management and Community Development; and
- deliver a new Arts and Heritage mobile application in late 2019, which will allow users to explore history and art in Murwillumbah and beyond.

Museum Service Agreement 2019

Each year since 2016/2017 and following an extensive process of review and consultation with the Societies, an annual Service Agreement is negotiated between Council and the Murwillumbah, Tweed Heads and Uki & South Arm Historical Societies reflecting mutual obligations and the nature of the support provided to the Societies by Council.

The 2019 Service Agreement has been signed by representatives of all three Societies and was signed off by the General Manager on 30 April 2019.

OPTIONS:

That Council:

1. Adopts the Tweed Regional Museum Strategic Plan 2019/2020 – 2020/2021; and
2. Notes execution of the Tweed Regional Museum Service Agreement 2019.

OR

That Council:

1. Does not adopt the Tweed Regional Museum Strategic Plan 2019/2020 – 2020/2021 and requests further information; and
2. Notes execution of the Tweed Regional Museum Service Agreement 2019.

CONCLUSION:

A review of Museum achievements over the past five years (*Good Start, Keep Going!*) and the Tweed Regional Museum Strategic Plan 2019/2020 – 2020/2021 have been developed. The Strategic Plan provides a framework for sustainable development of the Museum over the next two years. Together these documents provide the basis for Museum operational and business planning for the next two years.

The 2019 Museum Service Agreement formalises the Council's significant contribution to the Historical Societies of Murwillumbah, Tweed Heads and Uki and South Arm over the next year, in acknowledgment of their support for the development and delivery of key Museum collection and display programs.

COUNCIL IMPLICATIONS:

a. Policy:

The Tweed Regional Museum Strategic Plan 2019/2020 – 2020/2021 will be delivered in line with the Tweed Shire Council Community Strategic Plan.

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.	Good Start, Keep Going! Tweed Regional Museum in Review 2014-2019 (ECM 5905518).
Attachment 2.	Tweed Regional Museum Strategic Plan 2019/2020 – 2020/2021 (ECM 5908226).
Attachment 3.	Tweed Regional Museum Service Agreement 2019 (ECM 5865365).

REPORTS FROM THE DIRECTOR ENGINEERING

26 [E-CM] Inquest into the Deaths of Stephanie Jane King, Ella-Jane Kabealo and Jacob Matthew Kabealo

SUBMITTED BY: Roads and Stormwater

mh



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.2 Asset Protection
- 1.2.1 Floodplain Management - To manage the risk of flooding and its impacts for property owners and the community.

ROLE: **Provider**

SUMMARY OF REPORT:

An Inquest into the deaths of a local mother and two of her three children associated with the 2017 flood event was heard at Byron Bay Local Court on 6 to 8 May 2019. Acting State Coroner, Magistrate Teresa O'Sullivan handed down her report, including her findings and recommendations at Murwillumbah Local Court on 10 May 2019.

Council's Manager Roads and Stormwater was called to give evidence at the Hearing.

Five recommendations were made to Tweed Shire Council.

A copy of the Inquest Report is attached to this report.

RECOMMENDATION:

That Council formally accepts and actions the recommendations from the Inquest into the deaths of Stephanie Jane King, Ella-Jane Kabealo and Jacob Matthew Kabealo.

REPORT:

An Inquest into the deaths of a local mother and two of her three children was heard at Byron Bay Local Court on 6 to 8 May 2019. Acting State Coroner, Magistrate Teresa O'Sullivan handed down her report, including her findings and recommendations at Murwillumbah Local Court on 10 May 2019.

Magistrate O'Sullivan found that Stephanie King, Ella-Jane Kabealo and Jacob Kabealo died on 3 April 2017, at North Tumbulgum. All three died by drowning after the vehicle being driven by Ms King on Dulguigan Road lost traction with the road because of mud and silt that remained after flood waters, causing the van to slide onto the other side of the road and into the Tweed River. The road had not been closed by the Council.

It is well known to Council that this event occurred in the aftermath of the ex-Tropical Cyclone Debbie flooding in 2017, which was the largest flood recorded in Tumbulgum since records began. Magistrate O'Sullivan recognised the considerable challenges facing Council in the face of this natural disaster.

The Inquest Report details the circumstances of the event, including the particular bravery of the sole survivor of the crash, Chloe Kabealo, and various community members who tried to assist.

Council's Manager Roads and Stormwater, Danny Rose, provided evidence on the third day of the Inquest. Council's insurer appointed barrister Jason Downing as Counsel.

The focus of questioning was around the context of the crash and the flood event, Council's road closure procedures, their effectiveness during and after the 2017 flood event, what actions were taken at the time, and what measures have since been implemented by Council to prevent a similar tragedy from occurring.

Key evidence included:

- Terranora Road was closed in the days prior to the crash, when water was over the road north of Tumbulgum. Access to Dulguigan Road was lost at this time, and water remained over Dulguigan Road until after Sunday evening 2 April.
- Dulguigan Road was at no time formally closed by Council, by way of signage or notification on the MyRoadInfo website, despite it being impassable due to flood water.
- Terranora Road was reopened on the morning of Monday 3 April, once water had receded.
- In accordance with Council's "Emergency Call Out and Road Closure" Procedure a road closure should have been made on Dulguigan Road once it had been inundated by the flood.
- The operation and administration of road closures was hampered by restricted staff resources, as many could not make it to work, or had to leave work as the flood escalated.
- A road closure would normally be lifted once water had receded from the roadway and staff had checked its condition.
- While the presence of silt, mud and debris on a road after a flood was not unusual, the amount that occurred on Dulguigan Road was greater than had occurred during any previous events and Council staff did not anticipate it would present such a significant hazard.

- The condition of the road was the major (and possibly only) cause of the accident.

Mr Rose was complimented by Magistrate O'Sullivan, who was grateful for his candour and full and frank evidence.

Magistrate O'Sullivan made the following observations concerning Council:

"It appears that the Council was so overwhelmed by the flood in March/April 2017, that they did not have the resources to effect road closures in accordance with the procedure in place at the time. Further, although Dulguigan Road is prone to flooding, the extent of silt and mud washed up on the road from the Tweed River was far greater after this flood than experienced previously and Council was not aware that it would cause such a significant road hazard. Had the road been formally closed, it is possible that this would have been checked before it was re-opened." (Paragraph 8)

"Council has experience in dealing with floods ... however it was not well enough staffed and resourced to deal with road closures. That meant that Dulguigan Road was not closed when it should have been, and was not checked before it came to be used by members of the public, including Stephanie and her family. That is a terrible tragedy and, given the likelihood of another major flood in this area, lessons must be learnt." (Paragraph 54)

Since the accident, Council has undertaken "substantial actions", including:

- Installation of 220m of guardrail along the riverside of Dulguigan Road, including the crash site.
- Updating of Council's "road spotters" contact list.
- Staff training into MyRoadInfo, increasing capacity to nine possible administrators.
- Launch of the Emergency Dashboard website.
- A review of the "Road Emergencies and Closures" Procedure (Version 1.4, replacing the 2013 version of "Emergency Call Out and Road Closure" Procedure).
- A proactive approach to contacting "road spotters", rather than waiting for them to contact Council.
- New roles for the Communications and Customer Experience Unit to support the Roads and Stormwater Unit with road closure notifications and updates.

Magistrate O'Sullivan was "satisfied that the Council has made a significant effort to address shortcomings" with the above actions, but concluded that "there is more that can be done".

The Inquest Report makes five recommendations to Tweed Shire Council as follows:

- I. That Council consider conducting a study of roads within the Tweed Shire Council areas, to identify particular hazards during and following floods, as well as strategies to mitigate such hazards;*
- II. That consideration be given to updating the Council's Standard Operating Procedures to provide for Works Officers to actively look for risks to road users arising from mud and silt being deposited on roads following floods;*
- III. That the Road Spotters Program be updated to seek to increase the number of volunteer road spotters who live adjacent to known critical road flooding locations*

and that Council also prepare a Road Closure Volunteer Instructions document that provides criteria for when to notify Council, including referring to water being on the road during floods and mud or silt being deposited on the road following floods;

- IV. That consideration be given to installing warning signs on the southern and northern ends of Dulguigan Road North Tumbulgum alerting the public to hazards from mud and silt following floods; and*
- V. That Council considers how best to advertise to the community a change in procedure for road closures, if, as proposed in the draft Road Emergencies and Closure procedure, a road is also considered to be closed when an obvious hazard makes it unsafe or impassable for general traffic until the hazard has receded or been removed."*

In making these recommendations, Magistrate O'Sullivan encouraged Council to complete this work as soon as Council is able to resource it.

The recommendations should be formally accepted by Council and actioned by the Manager Roads and Stormwater. The costs associated with actioning the recommendations can be borne by existing operational budgets.

OPTIONS:

Option1 – formally accept the Inquest Report and its recommendations to Council.

Option 2 – note the Council officer's report with no further action.

Option 1 is the recommendation of this report. Taking no further action presents a range of liability and reputational risks that would be very difficult to justify given the coronial process that has taken place.

CONCLUSION:

The deaths of Stephanie, Ella-Jane and Jacob were a tragedy, as were the other lives lost around the 2017 flood.

It is important that Council takes away lessons to avoid similar tragedies occurring in the future. This was the clear emphasis of the Inquest. It was not aimed at punitive actions or liability, but organisational improvement.

Council has already undertaken substantial actions in response to the flood and the Dulguigan Road crash, and should accept the additional recommendations from the Inquest to further improve staff responses, road hazard identification and communication, and related procedures.

COUNCIL IMPLICATIONS:

a. Policy:

Emergency Call Out and Road Closure Procedure.

This document outlines Council's organisational responsibilities and procedures to be followed when temporarily closing public roads under its control. This includes responses to flood and storm events, motor vehicle accidents, and other unplanned incidents. The procedure was part of the evidence considered in the Inquest. The document has not been amended since 2013.

Prior to the Inquest, a comprehensive review of this procedure was already well advanced, prompted by Council's Flood Debrief Action Plan. Further amendments will be made in line with the recommendations from the Inquest prior to adoption.

b. Budget/Long Term Financial Plan:

There are no significant costs expected to be incurred in implementing the recommendations of the Inquest. The costs of signage, studies etc. can be borne by existing operational budgets.

c. Legal:

Council's insurers appointed legal representation throughout the Inquest, which greatly assisted Council officers in the preparation of evidence for the hearing.

d. Communication/Engagement:

Inform - We will keep you informed.

The Inquest attracted interest from major media organisations. Council's media release responding to the Inquest's findings and recommendations from 10 May is attached to this report.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- | | |
|---------------|---|
| Attachment 1. | Inquest into the Deaths of Stephanie Jane King, Ella-Jane Kabealo and Jacob Matthew Kabealo, Coroners Court of New South Wales (ECM 5911403). |
| Attachment 2. | Tweed Shire Council media release, Friday 10 May 2019 (ECM 5911402). |
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27 [E-CM] Minutes of the B-Double Routes Agency Advisory Group meeting held Thursday 2 May 2019

SUBMITTED BY: Director

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Advocate

SUMMARY OF REPORT:

The Minutes of the B-Double Routes Agency Advisory Group meeting held 2 May 2019 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the B-Double Routes Agency Advisory Group Meeting held Thursday 2 May 2019 be received and noted; and
2. The Executive Leadership Team's recommendations be adopted as follows:
 1. Tweed Valley Way, Quarry Road, Lundberg Drive and Kite Crescent, South Murwillumbah Consent Request No 218536r1v1 (ECM 5846893, ECM 5823752) - 26m B Double access at Higher Mass Loading (HML) on existing B Double Route (ECM 575540) - Mick Bourke Transport

That the request for a Higher Mass Limit on Tweed Valley Way, Quarry Road, Lundberg Drive and Kite Crescent be supported for Mick Bourke Transport, subject to an appropriate Quarry Road Bridge structural integrity assessment.

2. **Tweed Valley Way and McLeod Street to the Condong Sugar Mill Consent Request No 220119r1v1 - 26m B Double access at HML on existing B Double Route (ECM 5756149) - Mick Bourke Transport**

That the request for a Higher Mass Limit on Tweed Valley Way, Cane Road and McLeod Street, Murwillumbah be supported for Mick Bourke Transport.

REPORT:

The Minutes of the B-Double Routes Agency Advisory Group Meeting held Thursday 2 May 2019 are reproduced as follows for the information of Councillors:

Venue:

Mt Warning Meeting Room

Time:

9:30am

Present:

Mr Ray Clark (Chairperson), Cr Chris Cherry, Mr Col Brooks on behalf of Ms Janelle Saffin MP (Member for Lismore), Mr Rod Bates on behalf of Mr Geoff Provest MP, (Member for Tweed), Ms Linda Makejev and Ms Katherine Boulton Roads and Maritime Services of NSW Representative).

Informal:

Alana Brooks, Mr Shane Davidson, Ms Judith Finch (Minutes).

Apologies:

Cr James Owen, Cr Reece Byrnes, Cr Ron Cooper, Cr Katie Milne, Cr Warren Polglase, Ms Janelle Saffin, MP (Member for Tweed), Snr Constable Chris Davis, NSW Police.

Minutes of Previous Meeting:

RESOLVED that the Minutes of the B-Double Routes Agency Advisory Group meeting held 28 February 2019 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Nil.

Agenda Items:

- 1. Tweed Valley Way, Quarry Road, Lundberg Drive and Kite Crescent, South Murwillumbah Consent Request No 218536r1v1 (ECM 5846893, ECM 5823752) - 26m B Double access at Higher Mass Loading (HML) on existing B Double Route (ECM 575540) - Mick Bourke Transport**

An application received from the NHVR (217536r1v1) on 25 January 2019 in relation to a request from Mick Bourke Transport to access the current 26m B Double route along Tweed Valley Way, Quarry Road, Lundberg Drive and Kite Crescent to carry out deliveries to the Stone and Wood Brewery at a higher mass limit being 68t. (increase of 3t).

It was identified that a structure, being the bridge on Quarry Road has not been assessed as to its structural integrity in relation to the extra 3 tonne proposed weight. Therefore, prior to submission to the Committee for comment the applicant was requested to provide the following details to enable informed advice to Council:

- (a) The freight type and delivery destination (Local business name), basic data indicating less truck movements required to carry out the freight task, future inclusion of back

loading from Condong Sugar Mill (less one-way trips) and a comparison of HML and volume of trailer bins M2 (capacity).

- (b) To provide an assessment of the structural integrity of the bridge on Quarry Road, to confirm the bridge will be capable of the extra load.

Council provided Mr Bourke copies of the structural design of the bridge on Quarry Road for the applicant to seek a quote to carry out the assessment of the structural integrity, which is referred to in the attached documents.

Mr Bourke has provided a cost estimate to assess the bridge on Quarry Road for its suitability for access for his 26m B Double at HML (extra 3t) 68t. The applicant is willing to fund the assessment but would like some confirmation that his request would be supported if the bridge is deemed suitable for the freight task.

RECOMMENDATION FROM ADVISORY GROUP:

That the request for a Higher Mass Limit on Tweed Valley Way, Quarry Road, Lundberg Drive and Kite Crescent be supported for Mick Bourke Transport, subject to an appropriate Quarry Bridge structural integrity assessment.

2. Tweed Valley Way and McLeod Street to the Condong Sugar Mill Consent Request No 220119r1v1 - 26m B Double access at HML on existing B Double Route (ECM 5756149) - Mick Bourke Transport

An application received from the NHVR on 4 February 2019 in relation to a request from Mick Bourke Transport to access the current 26m B Double route along Tweed Valley Way and McLeod Street to the Condong Sugar Mill to carry out the transport of raw sugar at a higher mass limit being 68t (increase of 3t).

Note: No structures to assess in relation to this request.

Council has previously approved (29 November 2018) B Double access to the Condong Power Plant (ECM 5665890) at HML to Emberwell Pty Ltd for the delivery of mulch to the facility at 12 Clothiers Creek Road adjacent to the Condong Sugar Mill in McLeod Street at 68t.

RECOMMENDATION FROM ADVISORY GROUP:

That the request for a Higher Mass Limit on Tweed Valley Way, Cane Road and McLeod Street, Murwillumbah be supported for Mick Bourke Transport.

General Business:

Nil.

Next Meeting:

The next meeting of the B-Double Routes Agency Advisory Group will be called as and when required.

The meeting closed at 9:45am.

EXECUTIVE LEADERSHIP TEAM COMMENTS:

1. **Tweed Valley Way, Quarry Road, Lundberg Drive and Kite Crescent, South Murwillumbah Consent Request No 218536r1v1 (ECM 5846893, ECM 5823752) - 26m B Double access at Higher Mass Loading (HML) on existing B Double Route (ECM 575540) - Mick Bourke Transport**

Nil.

2. **Tweed Valley Way and McLeod Street to the Condong Sugar Mill Consent Request No 220119r1v1 - 26m B Double access at HML on existing B Double Route (ECM 5756149) - Mick Bourke Transport**

Nil.

EXECUTIVE LEADERSHIP TEAM RECOMMENDATIONS:

1. **Tweed Valley Way, Quarry Road, Lundberg Drive and Kite Crescent, South Murwillumbah Consent Request No 218536r1v1 (ECM 5846893, ECM 5823752) - 26m B Double access at Higher Mass Loading (HML) on existing B Double Route (ECM 575540) - Mick Bourke Transport**

That the request for a Higher Mass Limit on Tweed Valley Way, Quarry Road, Lundberg Drive and Kite Crescent be supported for Mick Bourke Transport, subject to an appropriate Quarry Bridge structural integrity assessment.

2. **Tweed Valley Way and McLeod Street to the Condong Sugar Mill Consent Request No 220119r1v1 - 26m B Double access at HML on existing B Double Route (ECM 5756149) - Mick Bourke Transport**

That the request for a Higher Mass Limit on Tweed Valley Way, Cane Road and McLeod Street, Murwillumbah be supported for Mick Bourke Transport.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice v2.6.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not applicable.

d. Communication/Engagement:
Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

28 [E-CM] B-Double Outstanding Applications

SUBMITTED BY: Roads and Stormwater

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

SUMMARY OF REPORT:

Council is in receipt of three 19m B-Double applications that were deferred as Council required further information. It is now considered that the applications can be determined. This report recommends that these applications be refused and the applicants be advised accordingly.

RECOMMENDATION:

That:

1. The applications from Black Mount Pty Ltd and from Ray Cavanough Transport Pty Ltd to extend the existing 19m B-Double route (50-55t) from 2574 Kyogle Road through to Tweed Valley Way, be refused.
2. The application for the use of a 19m B-Double (50-55t) to access the Hy-Tec Quarry on Dulguigan Road be refused.

REPORT:

Consent is required for the travel of 19m B-Double trucks on Council managed roads when their Gross Mass is over 50 tonne.

Council at its 19 April 2018 meeting considered the following applications from two operators being:

1. 19m B-Double (50-55t) 2574 Kyogle Road to Tweed Valley Way, South Murwillumbah. NHVR Road Manager Consent Request No. 119533. Application from Black Mount Pty Ltd to extend the existing 19 metre B-Double route for a 12 month period. Route starts from 2574 Kyogle Road, Kunghur through Kyogle Road, Terragon, Kyogle Road, Uki, Kyogle Road, Dum Dum, Kyogle Road, Byangum, Kyogle Road, Murwillumbah, Wollumbin Street, Murwillumbah and South Murwillumbah, Alma Street, South Murwillumbah, Tweed Valley Way, South Murwillumbah.
2. 19m B-Double (50t-55t) 2574 Kyogle Road to Tweed Valley Way, South Murwillumbah. NHVR Permit No. 197920V1. Application from Ray Cavanough Transport Pty Ltd to extend the existing 19 metre B-Double route for a 12 month period. Route starts from 2574 Kyogle Road, Kunghur through Kyogle Road, Terragon, Kyogle Road, Uki, Kyogle Road, Dum Dum, Kyogle Road, Byangum, Kyogle Road, Murwillumbah, Wollumbin Street, Murwillumbah and South Murwillumbah, Alma Street, South Murwillumbah, Tweed Valley Way, South Murwillumbah.

At its meeting held 19 April 2018, Council resolved:

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

Since that resolution, several workshops and discussions have been held with the community and industry representatives in relation to B-Double use on Council roads. In this case, it is appropriate that any approvals for B-Double use of the roads accessing 2574 Kyogle Road (19m > 50t) should be cognizant with the consent conditions attached to that site’s approval. Current advice is that approving the use of a 19m B-Double to access the site would be in breach of the existing consent conditions for the use of the site and therefore the application should not be approved.

At its 17 May 2018 meeting Council resolved that the application for a:

*“19m B-Double (50t-55t) to Dulguigan Quarry - NHVR Consent Request Number 143550r1v1. The application (NHVR Consent Request Number 143550r1v1) for the use of a 19m B-Double up to 55t on Riverside Drive, Tumbulgum, Terranora Road, Dulguigan Road, North Tumbulgum, Dulguigan **be deferred** for feedback from NSW Police representative on the B-Double Routes Agency Advisory Group.”*

Since the above resolution, a number of workshops and reports have been discussed by Council. When reviewing the Dulguigan Road Heavy Vehicle Route Assessment report, Council resolved at its 17 April 2019 meeting 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."

Accordingly, the outstanding B-Double application needs to be refused to be consistent with the Council Resolution and the applicant informed accordingly.

OPTIONS:

1. That Council adopts the recommendations for refusal.
2. That Council approves the applications for 19m B-Double use as requested by the applicants. However, this would be in conflict with previous resolutions and may require further legal advice.

CONCLUSION:

Given that the use of 19m B-Doubles would be in breach of the consent conditions for the site on Kyogle Road and given the previous Council resolution to not approve 19m B-Doubles on Dulguigan Road until road upgrades are carried out, the outstanding applications outlined in this report should be refused and the applicants informed accordingly.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

This report requires formal written advice to be provided to the relevant applicants.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

29 [E-CM] RFO2019065 Supply of Water Treatment Chemicals

SUBMITTED BY: Water and Wastewater

Valid



Leaving a Legacy
Looking out for future generations



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

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.
- 3 People, places and moving around
- 3.2 Places
- 3.2.1 Aquatic Centres - To provide swimming pools and other aquatic facilities for water sport, health and fitness, recreation, and water safety education.

ROLE: **Provider**

SUMMARY OF REPORT:

Tweed Shire Council is seeking to engage one or more Providers to supply and deliver to Council's water and wastewater treatment plants and swimming pools various bulk chemicals used for water treatment purposes.

At the time of closing 15 Offers were received across the various separable portion schedules.

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 RFO2019065 Supply of Water Treatment Chemicals:

1. **Council awards the offer to the following Providers at the rates mentioned in the Confidential Attachment 1 RFO2019065 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.**
2. **Council declines to accept any of the Offers for Schedule D: Carbon Dioxide and enters into negotiations with any person for Schedule D: Carbon Dioxide in**

accordance with Regulation 178 of the Local government (General) Regulation 2005.

Schedule	Recommended Contractor	Recommended Contractor's ABN
SCHEDULE A: Aluminium Chlorohydrate	Ixom Operations Pty Ltd	51 600 546 512
SCHEDULE B: Aluminium Sulphate	Omega Chemicals Pty Ltd	32 982 143 022
SCHEDULE C: Calcium Hypochlorite	Innovative Water Care International Pty Ltd	92 074 240 707
SCHEDULE E: Chlorine Gas	Ixom Operations Pty Ltd	51 600 546 512
SCHEDULE F: Citric Acid	Omega Chemicals Pty Ltd	32 982 143 022
SCHEDULE G: Hydrated Lime	Ixom Operations Pty Ltd	51 600 546 512
SCHEDULE H: Hydrofluosilicic Acid	Axieo Operations	88 602 074 322
SCHEDULE I: Sodium Bisulphite	Omega Chemicals Pty Ltd	32 982 143 022
SCHEDULE J: Magnesium Hydroxide	Grenof Pty Ltd	17 166 936 894
SCHEDULE K: Polymer	BTX Group Pty Ltd	47 131 302 942
SCHEDULE L: Potassium Permanganate	Ixom Operations Pty Ltd	51 600 546 512
SCHEDULE M: Carbon	Activated Carbon Technologies Pty Ltd	67 103 713 622
SCHEDULE N: Sodium Hydroxide	Coogee QCA Pty Ltd	54 009 985 326
SCHEDULE O: Sodium Hypochlorite	Coogee QCA Pty Ltd	54 009 985 326

2. **Council declines to accept any of the Offers for Schedule D: Carbon Dioxide and enters into negotiations with any person for Schedule D: Carbon Dioxide in accordance with Regulation 178 of the Local government (General) Regulation 2005.**
3. **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.**
4. **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

Tweed Shire Council is seeking to engage one or more Providers to supply and deliver to Council's water and wastewater treatment plants and swimming pools various bulk chemicals used for water treatment purposes.

Request for Offer Advertising

The Offer was invited in accordance with the provisions of the Local Government Act 1993, the NSW Local Government (General) Regulation 2005 and the Tendering Guidelines for NSW Local Government. The Offer was officially advertised in The Sydney Morning Herald on Tuesday 30/04/2019 and also in the Brisbane Courier Mail on 27/04/2019.

Offer submissions closed at 4.00pm (local time) on 22/05/2019 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 (1) Offer Addendum (Notice to Bidders) issued before close of Offer.

Notice to Bidders No.1 was issued to advise Bidders that:

1. The word version of the returnable schedules did not include 5.7 Schedule of Local Preference and indicated in the full Offer document. A new word version of the complete returnable schedules is attached to this Notice to Bidders No.1 to include Schedule 5.7.
2. An additional returnable schedule 5.8 Schedule of Quality Management has been added in order to assess a bidder's quality management systems. A new word version of the complete returnable schedules is attached to this Notice to Bidders No.1 to include Schedule 5.8.
3. Bidders are to submit the returnable schedules attached to this Notice to Bidders No.1 when submitting their Offer.

Offer Submissions

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

Bidder	ABN	Offered Schedules
Activated Carbon Technologies Pty Ltd	67 103 713 622	<ul style="list-style-type: none">• Schedule M: Carbon
Aquapac Pty Ltd	36 114 118 311	<ul style="list-style-type: none">• Schedule A: Aluminium Chlorohydrate• Schedule B: Aluminium Sulphate• Schedule F: Citric Acid Solution• Schedule I: Sodium Bisulphite• Schedule K: Polymer• Schedule L: Potassium Permanganate• Schedule M: Carbon• Schedule N: Sodium Hydroxide (Non Conforming)

Bidder	ABN	Offered Schedules
Axieo Operations (Australia) Pty Ltd	88 602 074 322	<ul style="list-style-type: none"> • Schedule H: Hydrofluosilicic Acid
BOC Limited	95 000 029 729	<ul style="list-style-type: none"> • Schedule D: Carbon Dioxide
BTX Group Pty Ltd	47 131 302 942	<ul style="list-style-type: none"> • Schedule C: Calcium Hypochlorite • Schedule F: Citric Acid Solution • Schedule I: Sodium Bisulphite • Schedule K: Polymer • Schedule L: Potassium Permanganate • Schedule M: Carbon • Schedule N: Sodium Hydroxide (Non Conforming)
Calix Limited	36 117 372 540	<ul style="list-style-type: none"> • Schedule J: Magnesium Hydroxide
Chemiplas Australia Pty Ltd	29 003 056 808	<ul style="list-style-type: none"> • Schedule A: Aluminium Chlorohydrate • Schedule K: Polymer
Coogee QCA Pty Ltd	54 009 985 326	<ul style="list-style-type: none"> • Schedule F: Citric Acid Solution • Schedule N: Sodium Hydroxide • Schedule O: Sodium Hypochlorite
Grenof Pty Ltd	17 166 936 894	<ul style="list-style-type: none"> • Schedule J: Magnesium Hydroxide
Hardman Chemicals Pty Ltd	24 167 987 064	<ul style="list-style-type: none"> • Schedule A: Aluminium Chlorohydrate
Innovative Water Care International Pty Ltd	92 074 240 707	<ul style="list-style-type: none"> • Schedule C: Calcium Hypochlorite
Ixom Operations Pty Ltd	51 600 546 512	<ul style="list-style-type: none"> • Schedule A: Aluminium Chlorohydrate • Schedule B: Aluminium Sulphate • Schedule C: Calcium Hypochlorite • Schedule E: Chlorine Gas • Schedule F: Citric Acid Solution • Schedule G: Hydrated Lime • Schedule H: Hydrofluosilicic Acid • Schedule I: Sodium Bisulphite • Schedule J: Magnesium Hydroxide • Schedule L: Potassium Permanganate • Schedule M: Carbon • Schedule N: Sodium Hydroxide • Schedule O: Sodium Hypochlorite
Nowra Chemical Manufacturers Pty Ltd	93 001 505 988	<ul style="list-style-type: none"> • Schedule B: Aluminium Sulphate
Omega Chemicals	32 982 143 022	<ul style="list-style-type: none"> • Schedule A: Aluminium Chlorohydrate • Schedule B: Aluminium Sulphate • Schedule F: Citric Acid Solution • Schedule I: Sodium Bisulphite • Schedule N: Sodium Hydroxide
Redox Pty Ltd	92 000 762 345	<ul style="list-style-type: none"> • Schedule A: Aluminium Chlorohydrate • Schedule B: Aluminium Sulphate • Schedule C: Calcium Hypochlorite

Bidder	ABN	Offered Schedules
		<ul style="list-style-type: none"> • Schedule F: Citric Acid Solution • Schedule H: Hydrofluosilicic Acid • Schedule I: Sodium Bisulphite • Schedule K: Polymer • Schedule L: Potassium Permanganate • Schedule N: Sodium Hydroxide

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
Operations Coordinator - Aquatic Facilities
Engineer- Treatment and Catchment
Project Manager- Contracts

Offers were evaluated based on the criteria noted in the table below:

Evaluation Criteria	Document Reference	Weighting (%)
Assessed Offer Price (as adjusted based on predicted average annual usage quantities)	Schedule 5.2	60
Demonstrated capability to perform the Services as specified, including suitability of products offered and product lead times offered.	Schedule 5.5	20
Bidder's Quality Assurance Processes.	Schedule 5.8	10
Local Content	Schedule 5.7	10
	Total	100

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

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

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

OPTIONS:

That Council:

1. Council awards the Contract to the following Providers at the rates mentioned in the Confidential Attachment 1 RFO2019065 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:

Schedule	Recommended Contractor	Recommended Contractor's ABN
SCHEDULE A: Aluminium Chlorohydrate	Ixom Operations Pty Ltd	51 600 546 512
SCHEDULE B: Aluminium Sulphate	Omega Chemicals Pty Ltd	32 982 143 022
SCHEDULE C: Calcium Hypochlorite	Innovative Water Care International Pty Ltd	92 074 240 707
SCHEDULE E: Chlorine Gas	Ixom Operations Pty Ltd	51 600 546 512
SCHEDULE F: Citric Acid	Omega Chemicals Pty Ltd	32 982 143 022
SCHEDULE G: Hydrated Lime	Ixom Operations Pty Ltd	51 600 546 512
SCHEDULE H: Hydrofluosilicic Acid	Axieo Operations	88 602 074 322
SCHEDULE I: Sodium Bisulphite	Omega Chemicals Pty Ltd	32 982 143 022
SCHEDULE J: Magnesium Hydroxide	Grenof Pty Ltd	17 166 936 894
SCHEDULE K: Polymer	BTX Group Pty Ltd	47 131 302 942
SCHEDULE L: Potassium Permanganate	Ixom Operations Pty Ltd	51 600 546 512
SCHEDULE M: Carbon	Activated Carbon Technologies Pty Ltd	67 103 713 622
SCHEDULE N: Sodium Hydroxide	Coogee QCA Pty Ltd	54 009 985 326
SCHEDULE O: Sodium Hypochlorite	Coogee QCA Pty Ltd	54 009 985 326

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:

The offers from the above recommended Providers have been evaluated as conforming. The recommended offers are considered to provide value for money in the current market and therefore Council should proceed with awarding those Providers contracts to supply water treatment chemicals under RFO2019065 at the rates mentioned in Attachment 1 RFO2019065 Offer Evaluation Report.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.7.

In accordance with Local Government (General) Regulations 2005.

b. Budget/Long Term Financial Plan:

Provision for RFO2019065 Supply of Water Treatment Chemicals is included in the 2019/2020 and 2020/2021 Budgets.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. RFO2019065 - Offer Evaluation Report (ECM5914869).

(Confidential) Attachment 2. RFO2019065 - Offer Evaluation Scoring Sheet (ECM5914707).

30 [E-CM] RFO2019046 South Murwillumbah Levee Repair

SUBMITTED BY: Roads and Stormwater

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.2 Asset Protection
- 1.2.1 Floodplain Management - To manage the risk of flooding and its impacts for property owners and the community

ROLE: Leader

SUMMARY OF REPORT:

The South Murwillumbah Flood Levee was severely damaged during the Cyclone Debbie floods. NSW Public Works Advisory (PWA) have been engaged to design and manage the restoration of the levee. Natural Disaster Relief and Recovery Arrangements have been secured to fund the project. On behalf of Council, NSW PWA have completed the procurement process and now recommend the engagement of a Civil Contractor to complete the restoration works.

Request for Offer RFO2019046 South Murwillumbah Levee Repair (NSW PWA Reference RFT-10022331) was advertised and assessed by NSW PWA on behalf of Council. The intent of RFO2019046 is to restore the South Murwillumbah Levee near River Street South Murwillumbah.

Offers closed at 9:30am on 23 May 2019 and all Offers received were assessed, with the process managed NSW PWA.

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 RFO2019046 South Murwillumbah Levee Repair:

- 1. Council awards a contract to MGN Civil Pty Ltd ABN 49 608 290 562 for the amount of \$3,487,895.45 (exclusive of GST).**

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

Request for Offer RFO2019046 South Murwillumbah Levee Repair (Public Works Reference RFT-10022331) was advertised and assessed by NSW PWA on behalf of Council.

The intent of RFO2019046 is to restore the South Murwillumbah Levee near River Street South Murwillumbah.

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 Offer was advertised by NSW PWA in an open tender format. Advertising was consistent with Clauses 176 to 178 of the Local Government (General) Regulation 2005.

Offer submissions closed at 9:30am (local time) on 23 May 2019 in the Tender Box managed by Public Works Advisory, North Coast Office. Tender submissions were only accepted via their eTendering portal (<https://tenders.nsw.gov.au/>).

Offer Submissions

At the closing time for Offer Submissions, the Tender Box was opened and 3 Offers were recorded as below:

Bidder	ABN
Roman Contractors Pty Ltd	48 122 536 770
MGN Civil Pty Ltd	49 608 290 562
Hazell Bros (QLD) Pty Ltd	46 145 228 986

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 to enable selection of the best value Offer. Details of price and non-price evaluation are in the Tender Evaluation Plan (attachment 1).

Based on the Tender Evaluation Plan, submissions received and the Offer Evaluation Report, the offer from MGN Civil Pty Ltd was identified as the most advantageous and therefore the recommended bidder for RFO2019046 South Murwillumbah Levee Repair.

A copy of the Tender Evaluation Plan and Offer Evaluation Report 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. Awards a contract to MGN Civil Pty Ltd ABN 49 608 290 562 for the amount of \$3,487,895.45 (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:

Based on the Offer Evaluation Plan, Submissions received and the Offer Evaluation Report, the offer from MGN Civil Pty Ltd was identified as the most advantageous and therefore the recommended bidder for RFO2019046 South Murwillumbah Levee Repair.

It is recommended that Council awards a contract to MGN Civil Pty Ltd ABN 49 608 290 562 for the amount of \$3,487,895.45 (exclusive of GST).

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.7 and the Local Government (General) Regulations 2005.

b. Budget/Long Term Financial Plan:

The flood damage restoration project is grant funded by the Natural Disaster Relief and Recovery Arrangements (NDRRA) program. Currently, the project is pre-approved for a maximum funding amount of \$3,753,700.

The sum of the proposed contract of \$3,487,895, plus NSW Public Works Advisory services for the project of \$418,700 makes for a total projected project cost of \$3,906,595 (no allowance for variations). This is \$152,895 greater than the approved NDRRA grant funding amount.

A variation will be sought from the NDRRA program assessors. However, if this is unsuccessful, the shortfall can be funded from the Infrastructure Reserve.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. RFO2019046 - Offer Evaluation Plan (ECM 5918158).

(Confidential) Attachment 2. RFO2019046 - Offer Evaluation Report (ECM 5918169).

31 [E-CM] RFO2018141 Design and Construct Uki Water Treatment Plant

SUBMITTED BY: Water and Wastewater

Valid



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.3 Utility Services
- 1.3.4 Water Supply -- To provide secure, high quality and reliable drinking water which meets health and environmental requirements.

ROLE: Provider

SUMMARY OF REPORT:

Request for Offer RFO2018141 was called for the Design and Construction of the Uki Water Treatment Plant to provide safe potable water supply for the Uki and surrounding community.

The offer was advertised as per the requirements of the Local Government Regulation 2005.

Once offers have been received on 22 May 2019, Council officers will undertake an assessment and provide an Addendum Report to Council to be included in the Agenda for the Council Meeting of 20 June 2019.

RECOMMENDATION:

That an Addendum Report dealing with RFO2018141 Design and Construct Uki Water Treatment Plant will be prepared for consideration at the 20 June 2019 meeting.

REPORT:

Offer Background

Request for Offer RFO2018141 was called for the Design and Construction of the Uki Water Treatment Plant to provide safe potable water supply for Uki and the surrounding community.

The offer was advertised as per the requirements of the Local Government Regulation 2005.

Once offers have been received on 22 May 2019, Council officers will undertake an assessment and provide an Addendum Report to Council to be included in the Agenda for the Council Meeting of 20 June 2019.

OPTIONS:

That Council:

1. Accepts an Addendum Report dealing with RFO2018141 Design and Construct Uki Water Treatment Plant be provided for consideration to the 20 June 2019 meeting.
2. Declines to accept an Addendum Report, but in doing so acknowledges the risk that Bidders do not extend their Offer validity period to the next Council meeting scheduled for August 2019.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.7

In accordance with Local Government (General) Regulations 2005.

b. Budget/Long Term Financial Plan:

\$325,000 of grant funding has been provided through Department of Lands Safe and Secure Water Program. The remaining funding are available from the Water Fund.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

32 [E-CM] RFO2019045 Plant and Equipment Hire and Truck Haulage

SUBMITTED BY: Infrastructure Delivery

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Provider**

SUMMARY OF REPORT:

Request for Offer RFO2019045 Plant & Equipment Hire and Truck Haulage was called to establish a Register of Pre-Qualified Contractors for the hire of construction plant and equipment from suitably qualified contractors to perform planned maintenance services, responsive maintenance services and capital works.

The request for offer closed on 29 May 2019 and is required to be tabled at the 20 June 2019 Council Meeting. Contracts Unit Officers will prepare an Addendum Report to Council which will be inserted as an Addendum Item in the Agenda.

RECOMMENDATION:

That an Addendum Report dealing with Contract RFO2019045 Plant & Equipment Hire and Truck Haulage will be prepared for consideration prior to 20 June 2019 meeting.

REPORT:

As per summary.

OPTIONS:

Not applicable.

CONCLUSION:

Not applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.7.

In accordance with Local Government (General) Regulations 2005.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM THE EXECUTIVE MANAGER FINANCE, REVENUE AND INFORMATION TECHNOLOGY

33 [FRIT-CM] Integrated Planning and Reporting Framework - 2017/2021 Delivery Program and 2019/2020 Operational Plan

SUBMITTED BY: Financial Services

mhm



Making decisions with you
We're in this together



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Making decisions with you
2.2	Engagement
2.2.2	Communications - To inform, educate and engage the public about Council and community activities.
4	Behind the scenes
4.1	Assurance
4.1.1	Governance - To provide assistance to Councillors and support for Council to operate within its legal framework.

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

SUMMARY OF REPORT:

Council placed the 2017/2021 Delivery Program, including the 2019/2020 Draft Operational Plan; Revenue Policy and Statement; Budget and Fees and Charges; and the Resourcing Strategy 2019 on public exhibition, inviting submissions from 22 April to 24 May 2019.

Council must consider all public submissions received concerning the Delivery Program 2017/2021 and the Operational Plan 2019/2020 before adopting the plans for the next year.

The Draft Water Supply and Wastewater Asset Management Plans were placed on exhibition from 26 April 2019 to 24 May 2019. The draft plans have been corrected for formatting errors and the revised documents, version 3.1, are now presented to Council for adoption.

RECOMMENDATION:

That Council adopts:

1. **The Water Supply and Wastewater Asset Management Plans (May 2019), Version 3.1 and amends the Resourcing Strategy 2019 (Section 2: Asset Management Planning) to incorporate the updated Water and Wastewater asset data.**
2. **The following plans, as exhibited and amended:**
 - **Delivery Program 2017/2021;**
 - **Operational Plan 2019/2020;**
 - **Resourcing Strategy 2019 supporting the 2017-2027 Community Strategic Plan (as further amended by 1. above)**
 - **Revenue Policy and Statement 2019/2020;**
 - **Budget 2019/2020; and**
 - **Fees and Charges 2019/2020.**

REPORT:**Water Supply and Wastewater Asset Management Plans (May 2019), Version 3.1.**

Council adopted the Water Supply Asset Management Plan (*Version 1.2*) in May 2011 and the Wastewater Asset Management Plant (*Version 1.1*) in April 2011.

These Plans have been amended to cover the latest information on asset condition, financial values, funding levels and Council's improvement plan. Information that is revised annually is now located on Council's website with links in the Plans to ensure the latest information is publically available without having to formally revise the Plans. The Plans will now be reviewed every 4 years, commencing 1 July of each election year ready for public exhibition in April the following year.

At its meeting on 17 April 2019, it was resolved to place the Draft Water Supply and Wastewater Asset Management Plans (March 2019) on public exhibition for a period of 28 days.

Summary of Submissions:

Submissions were received from the following individuals and organisations.

Ref. No.	Name	Date Received	Received by	ECM No.
1	Mr Richard W Murray	24 May 2019	Email	5903625
2	Mr Richard W Murray	26 May 2019	Email	5904167

Submission No. 1:

Submission 1 has been superseded by submission 2 with corrections and formatting changes.

Submission No. 2:

Consists of two submissions, one for each of the Asset Management Plans exhibited. It also contains two other documents titled '*News Reports - Recycled water from reclaimed wastewater services in Australia*' and '*NSW recycled water schemes harvests stormwater and wastewater from residential lots to generate recycled water on site for toilet flushing clothes washing and irrigation*'.

Discussion of Submission No. 2:

The topics discussed in this submission fall outside the scope and intention of the Water Supply and Wastewater Asset Management Plans.

Summary of Corrections:

There were some minor formatting errors which have been corrected and the revised Asset Management Plans version 3.1 are now provided for Councils adoption.

No other changes to the draft documents have been warranted.

2017/2021 Delivery Program and 2019/2020 Operational Plan

Council placed the Delivery Program 2017/2021 and Draft Operational Plan 2019/2020 and associated documents on public exhibition following the April Council Meeting, inviting submissions up to 24 May 2019.

The Delivery Program 2017/2021 details projects and services Council has determined to carry out over the four year period. The Delivery Program 2017/2021 is informed by the Resourcing Strategy. The Operational Plan 2019/2020 is a detailed account for one year of the Delivery Program and incorporates the 2019/2020 Budget, Revenue Policy and Statement the Fees and Charges.

During the display period, Council sought general community feedback through the Tweed Link, the Tweed Shire Council website as well as a presentation of the Integrated Planning and Reporting framework and the Draft 2019/2020 budget at the Community Round Table meeting of 1 May 2019.

Council received one written submission during the exhibition period.

This submission objected to the increase in waste charges on the basis that:

“waste and recycling companies ... have been earning in the top % of companies each year and pay their CEO's very handsomely” and also commented that “More effort should be put into either building appropriate facilities so the community benefits from waste recycling or demanding transparency and fair prices for waste transfer.”

This submission has received a response advising that:

Tweed Shire Council runs a comprehensive tender process for a number of its waste management services. Tenders are invited, assessed and awarded strictly in line with Councils procurement policies to ensure the Tweed community receives value for money through the provision of these services. The cost to collect and process waste has increased over the past 20 years as community expectations on how waste is managed has changed. Approximately 60% of waste generated at home is now recycled and the remainder is placed in triple lined landfill cells that have leachate and landfill gas capture to provide much greater environmental outcomes than in past years. Recycling is carried out where markets exist within Australia or the materials are sold on the international market.

Council has the option to either run waste services using its own staff, trucks and machinery or contracting the services to specialised waste management companies. An external contractor operates the current waste collection and processing contract in the Tweed as they have provided the most competitive rate in the last tender process for waste services.

The recycling industry has seen a significant shift in the way plastics are processed in that the industry has demanded a higher quality of plastic product to be produced from our recycling centres. This shift, coupled with the Queensland Government increase in the waste levy (were Councils domestic waste is disposed of) have been the major drivers in the increase in waste costs which is paid for by the ratepayers who use the service.

The following changes have been made to the draft documents:-

Delivery Program/Operational Plan

- Implementation Timetable changed to past tense.
- 604 kW solar system at Banora Point Treatment Plant added.
- Minor amendments to wording and categorisation of water projects.
- References to Office of Local Government altered to Department of Planning and Industry as a result of State Government re-organisation.
- Expenditure graphs updated where necessary.
- Budget summary and capital program summary updated.

Resourcing Strategy

- Long Term Financial Plan updated as a result of adding 604 kW solar system at Banora Point Treatment Plant to Sewer (Wastewater) capital works.

Revenue Policy and Statement

- References to Office of Local Government altered to Department of Planning and Industry as a result of State Government re-organisation.

Fees and Charges

- Section 603 certificate charge has been amended to \$80.00 in accordance with Office of Local Government fee structure.
- Waste Management – Management fee has been amended from \$70.00 to \$69.80 to correspond with the charge as listed in the Fees and Charges.
- “Pool entry – spectator (non-swimmer)” charge has been amended from \$3.85 to \$3.50.

Budget

An additional capital works item (Banora Point Wastewater Treatment Plant 600kW PV Solar for \$880,000) has been added. This has been offset by a reduction in the transfer to Asset Renewal Reserve.

OPTIONS:

Council is required to adopt by 30 June 2019 the Delivery Program 2017/2021; Operational Plan 2019/2020; Resourcing Strategy 2019, Revenue Policy and Statement 2019/2020; Budget 2019/2020 and Fees and Charges 2019/2020.

CONCLUSIONS:

Water Supply and Wastewater Asset Management Plans (May 2019), Version 3.1.

The amendments to the Plans ensure that once adopted, they will be consistent with Council's latest strategies.

2017/2021 Delivery Program and 2019/2020 Operational Plan

That Council adopts the following plans, as exhibited and amended:

- Delivery Program 2017/2021,
- Operational Plan 2019/2020,
- Resourcing Strategy 2019 supporting the 2017-2027 Community Strategic Plan
- Revenue Policy and Statement 2019/2020,
- Budget 2019/2020,
- Fees and Charges 2019/2020.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

The Community Strategic Plan provides a vehicle for expressing long-term community aspirations. These aspirations will not be achieved without sufficient resources – time, money, assets and people – as outlined in the Resourcing Strategy.

The Resourcing Strategy consists of three components:

- Long Term Financial Planning
- Workforce Management Planning
- Asset Management Planning.

The Long Term Financial Plan must be:

- for a minimum of 10 years.
- updated at least annually as part of the development of the Operational Plan.
- reviewed in detail as part of the four yearly review of the Community Strategic Plan.

The Long Term Financial Plan is an important part of council's strategic planning process. It is the point where long term community aspirations and goals are tested against financial realities as outlined within the report and the 2019/2020 Budget and Long Term Financial Plan.

c. Legal:

Integrated Planning and Reporting requirements are outlined in Sections 402, 403, 404, 405 and 406 of the Local Government Act 1993.

d. Communication/Engagement:

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

Council sought general community feedback through the Tweed Link, the Tweed Shire Council website as well as a presentation at the Stakeholder Forum held on 1 May 2019.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1. Water Supply Asset Management Plan (May 2019) (ECM 5907854).
- Attachment 2. Wastewater Asset Management Plan (May 2019) (ECM 2907821).
- Attachment 3. Delivery Program 2017/2021 and Draft Operational Plan 2019/2020 (ECM 5919151).
- Attachment 4. Resourcing Strategy 2019, Supporting the 2017/2027 Community Strategic Plan (ECM 5919192).
- Attachment 5. Revenue Policy and Statement 2019/2020 (ECM 5919195)
- Attachment 6. Budget 2019/2020 (ECM 5919213)
- Attachment 7. Fees and Charges 2019/2020 (ECM 5919232)
-

34 [FRIT-CM] Monthly Investment Report for period ending 31 May 2019

SUBMITTED BY: Financial Services

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.2 Engagement
- 2.2.5 Financial Services - To collect and manage Council funds and provide information and advice to support sound financial decision-making.

ROLE: **Leader**

SUMMARY OF REPORT:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested. The Executive Manager Finance, Revenue and Information Technology, being the Responsible Accounting Officer, certifies that investments have been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies. Council had **\$337,100,824** invested as at **31 May 2019** and the actual net return on these funds was **\$779,402** or **2.77%** annualised for the month. (Note: this is income received during the month not accrued interest)

RECOMMENDATION:

That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at period ending 31 May 2019 totalling \$337,100,824 be received and noted.

REPORT:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested. The Executive Manager Finance, Revenue and Information Technology, being the Responsible Accounting Officer, certifies that investments have been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies. Council had **\$337,100,824** invested as at **31 May 2019** and the actual net return on these funds was **\$779,402** or **2.77%** annualised for the month. (Note: this is income received during the month not accrued interest)

1. Ethical Investments

Australian Ethical Classification			
\$189,206,032	which represents	55.96%	of the total portfolio
<i>Source: Australian Ethical</i>			
Market Forces Classification			
\$158,150,000	which represents	47.50%	of the total portfolio
<i>Source: Market Forces</i>			
Major Differences			
<ul style="list-style-type: none"> • Australian Ethical classify NAB and Westpac as non-fossil fuel lending institutions but not ANZ or CBA • Market Forces classify ANZ as non-fossil fuel lending institutions but not CBA NAB or Westpac 			

2. Economic Commentary**Australian and World Economy and Cash Rate**

At its 4 June 2019 meeting, the Reserve Bank of Australia Board decided to lower the cash rate by 25 basis points to 1.25 per cent. The Board took this decision to support employment growth and provide greater confidence that inflation will be consistent with the medium-term target.

The outlook for the global economy remains reasonable, although the downside risks stemming from the trade disputes have increased. Growth in international trade remains weak and the increased uncertainty is affecting investment intentions in a number of countries. In China, the authorities have taken steps to support the economy, while addressing risks in the financial system. In most advanced economies, inflation remains subdued, unemployment rates are low and wages growth has picked up.

Global financial conditions remain accommodative. Long-term bond yields and risk premiums are low. In Australia, long-term bond yields are at historically low levels. Bank funding costs have also declined further, with money-market spreads having fully reversed the increases that took place last year. The Australian dollar has depreciated a little over the past few months and is at the low end of its narrow range of recent times.

The central scenario remains for the Australian economy to grow by around 2¾ per cent in 2019 and 2020. This outlook is supported by increased investment in infrastructure and a

pick-up in activity in the resources sector, partly in response to an increase in the prices of Australia's exports. The main domestic uncertainty continues to be the outlook for household consumption, which is being affected by a protracted period of low income growth and declining housing prices. Some pick-up in growth in household disposable income is expected and this should support consumption.

Employment growth has been strong over the past year, labour force participation has been increasing, the vacancy rate remains high and there are reports of skills shortages in some areas. Despite these developments, there has been little further inroads into the spare capacity in the labour market of late. The unemployment rate had been steady at around 5 per cent for some months, but ticked up to 5.2 per cent in April. The strong employment growth over the past year or so has led to a pick-up in wages growth in the private sector, although overall wages growth remains low. A further gradual lift in wages growth is expected and this would be a welcome development. Taken together, these labour market outcomes suggest that the Australian economy can sustain a lower rate of unemployment.

The recent inflation outcomes have been lower than expected and suggest subdued inflationary pressures across much of the economy. Inflation is still however anticipated to pick up, and will be boosted in the June quarter by increases in petrol prices. The central scenario remains for underlying inflation to be 1¾ per cent this year, 2 per cent in 2020 and a little higher after that.

The adjustment in established housing markets is continuing, after the earlier large run-up in prices in some cities. Conditions remain soft, although in some markets the rate of price decline has slowed and auction clearance rates have increased. Growth in housing credit has also stabilised recently. Credit conditions have been tightened and the demand for credit by investors has been subdued for some time. Mortgage rates remain low and there is strong competition for borrowers of high credit quality.

The decision to lower the cash rate will help make further inroads into the spare capacity in the economy. It will assist with faster progress in reducing unemployment and achieve more assured progress towards the inflation target. The Board will continue to monitor developments in the labour market closely and adjust monetary policy to support sustainable growth in the economy and the achievement of the inflation target over time.

(Source: RBA Monetary Policy Decision)

Council's Investment Portfolio

Council's investment portfolio is conservatively structured in accordance with NSW Office of Local Government guidelines with approximately 80% of the portfolio held in cash and term deposits. Term deposits and bonds are paying average margins over the 90 day bank bill rate. The benchmark 90 day bank bill rate hit a low of 1.42% pa during the month.

Bank demand for term deposit funds has waned as overseas wholesale funding alternatives become less expensive in conjunction with a global falling interest rate outlook. At the same time Australian Prudential Regulation Authority (APRA) imposed mortgage lending restrictions have loosened meaning some increased demand for depositor's funds. Banks are also using debt issuance (bonds) as a less expensive source of funds than term deposits.

Many "cash at call" rates are at levels below the RBA cash rate. The historic low cash rate and long-term bond rates are translating to lower total investment yields. This continues to present difficulties obtaining reasonable investment income without risking capital.

All investment categories out-performed the UBS 90 day bank bill benchmark this month. The investment portfolio again benefited this month from some longer-dated, higher yielding bonds and recently purchased short-term term deposits. Longer-dated bonds and term deposits are being replaced with high yielding short-term deposits. Overall, the investment portfolio has returned a weighted average 1.43% pa above the 90 day UBS bank bill index for the last month.

3. Term to Maturity

Maturity Profile	Actual % Portfolio	Policy Limits
Less than 365 days	49.07%*	Minimum 40%
More than 365 days and less than 3 years	34.65%	Maximum 60%
3 years and less than 5 years	16.28%	Maximum 35%
Portfolio Total	100.00%	

**Note: Some of Council's Bond Portfolio is included with longer dated maturities i.e. >1 year <5 years however this type of investment can generally be liquidated within two (2) business days*

4. Diversification and Credit Risk

Total Portfolio Credit Limits Compared to Policy Limits					
Long-Term Credit Ratings			Short-Term Credit Ratings		
Credit Ratings	Investment Policy Limit	Portfolio	Credit Ratings	Investment Policy Limit	Portfolio
AAA Category	100%	1.36%	A-1+	100%	11.12%
AA Category	100%	26.04%	A-1	100%	12.76%
A Category	60%	17.49%	A-2	60%	17.80%
BBB Category	20%	9.28%	A-3	20%	0.00%
Unrated	10%	1.48%	Unrated	10%	2.67%

5. Investment Summary

General Fund

Corporate Fixed Rate Bonds	4,699,163.90	
Floating Rate Notes	61,901,661.50	
Asset Backed Securities	0.00	
Fund Managers	0.00	
Term Deposits	95,999,999.00	
Call Account	6,500,000.00	169,100,824.40

Water Fund

Term Deposits	67,000,000.00	
Fund Managers	0.00	67,000,000.00

Sewerage Fund

Term Deposits	101,000,000.00	
Fund Managers	0.00	101,000,000.00

Total Investments		337,100,824.40
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It should be noted that the General Fund investments of **\$169 million** are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and Council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

All Water and Sewerage Fund investments can only be expended in accordance with Government regulation and Council resolution.

Statutory Statement - Local Government (General) Regulation 2005 Clause 212

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Local Government (General) Regulations and Council's investment policies.



Responsible Accounting Officer

Executive Manager
Finance, Revenue & Information Technology
Tweed Shire Council

OPTIONS:

Not Applicable.

CONCLUSION:

Not Applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Local Government (General) Regulations 2005 - Section 212 - Reports on council investments

"(1) The responsible accounting officer of a council:

(a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:

(i) if only one ordinary meeting of the council is held in a month, at that meeting, or

(ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and

(b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.

(2) The report must be made up to the last day of the month immediately preceding the meeting."

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Tweed Shire Council Investment Report – 1-31 May 2019
(ECM5921798).

REPORTS FROM THE EXECUTIVE MANAGER PEOPLE, COMMUNICATION AND GOVERNANCE

35 [PCG-CM] Ken McDonald Training Centre, Kingscliff - Lease Arrangements

SUBMITTED BY: Corporate Governance

mbm



LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.1 Built Environment

ROLE: **Provider**

SUMMARY OF REPORT:

This report discusses the finalisation of lease negotiations between Tweed Shire Council and Surf Life Saving Far North Coast Branch for the ongoing use of Council's facility located on Council owned land at Ed Parker Rotary Park Kingscliff, Lot 287 DP 542598.

RECOMMENDATION:

That Council:

1. Enters into a lease agreement with Surf Life Saving Far North Coast Branch for use of the Ken McDonald Training Centre located within Ed Parker Rotary Park, Lot 287 DP 542598, Kingscliff.
2. Executes all documentation under the Common Seal of Council.

REPORT:

In November 2014, the Australian Volunteer Coast Guard Association (AVCGA) Kingscliff Flotilla vacated both the Kingscliff communications tower at Faulks Park, within Lot 2 DP 1122062 Kingscliff (Crown Reserve 10001008) and also the Kingscliff training facilities (known as the Ken McDonald Training Centre (Centre)) and boat storage at Ed Parker Rotary Park located within Lot 287 DP 542598 Kingscliff.

In May 2015, Council officers consulted with community stakeholders to determine the most appropriate future use of the Centre at Ed Parker Rotary Park.

At Council's Ordinary Meeting on 10 December 2015, Council resolved:

- "1. Delegates approval to the Director of Planning and Regulation to further negotiate to agreed lease terms with Surf Life Saving Far North Coast Branch.*
- 2. Advises Marine Rescue NSW that Council is not able to renew their interim 12 month lease, however the training facility will be available for use by Marine Rescue Pt Danger.*
- 3. Advises St John's Ambulance that the training facility will be available for use by St John's Ambulance, as stipulated within their submission.*
- 4. Advises the food business operator that at this time the facility is unable to accommodate their requirements, as the floor is subject to tidal inundation."*

As per Item 1 above protracted negotiations with Surf Life Saving Far North Coast Branch have now been finalised.

Approval is therefore sought to enter into a lease agreement for the Centre noting the following terms:

- Lease expires 3 January 2024;
- Rent - \$200/month plus GST;
- Option for renewal – 3 further options for 5 years each;
- Permitted use – Provision of surf life saving services and training purposes; and
- Public liability insurance amount - \$10,000,000.

CONCLUSION:

Following protracted negotiations, and in accordance with Council's resolution of 10 December 2015, approval is sought to enter into lease arrangements with Surf Life Saving Far North Coast Branch for use of the Ken McDonald Training Centre located within Ed Parker Rotary Park at Lot 287 DP 542598.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Income of \$2,400/annum

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

36 [PCG-CM] Compliments and Complaints Analysis Report for the Period 1 January to 31 March 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
4.1.1	Governance - To provide assistance to Councillors and support for Council to operate within its legal framework.

ROLE: **Leader**

SUMMARY OF REPORT:

The Compliments and Complaints Handling Policy contains a quarterly reporting requirement. The Policy is designed to:

- Ensure compliments and complaints received are appropriately recorded;
- Recognise and acknowledge the compliments Council receives;
- Deal with complaints in a fair and equitable manner; and
- Increase the level of customer satisfaction with the way feedback is handled, and in the delivery of services and systems.

The Compliments and Complaints Analysis Report for the Period 1 January 2019 to 31 March 2019 identifies compliments and complaints and is provided for the information of Council.

RECOMMENDATION:

That Council receives and notes the Compliments and Complaints Analysis Report for the period 1 January 2019 to 31 March 2019.

REPORT:

The Compliments and Complaints Handling Policy contains a quarterly reporting requirement. The Policy is designed to:

- Ensure compliments and complaints received are appropriately recorded;
- Recognise and acknowledge the compliments Council receives;
- Deal with complaints in a fair and equitable manner; and
- Increase the level of customer satisfaction with the way feedback is handled, and in the delivery of services and systems.

There are many instances where Council is complimented on the broad range of services it provides to the community, often in the form of a follow up phone call, written thank you or certificate of appreciation. These occasions highlight when Council has met or exceeded citizen expectations. Information about the compliments Council receives often goes unrecognised because, unlike complaints, they require little action. However Council values its staff and compliments are an important feedback mechanism on organisational performance as well as a good sign of an engaged and active community.

Under the Compliments and Complaints Handling Policy the following applies:

"What is a Complaint?"

A complaint is an expression of dissatisfaction, made in respect to:

- *A Council Officer's role in the provision of service delivery or lack of service delivery that has allegedly affected an individual, group or body of stakeholders whether justified nor not.*
- *The quality of service provided by council.*
- *Council failing to act upon a request from the public.*
- *The policies adopted by council.*
- *Dissatisfaction with Council's action following the lodgement of a request for service (management through Council's customer request management system) or a request for information (managed through Government Information Public Access Act)."*

"What is not a Complaint?"

- *A request for service is covered by the customer request management (CRM) process. Examples are; reporting of road potholes, water leaks, dust and noise, overgrown allotments and dog issues.*
- *A request for information or an explanation of a policy or procedure.*
- *Objections to a development application before Council determination or appeals in relation to the determination by council.*
- *Concerns raised regarding decisions of the elected council."*

It is not a request for service (customer request management), or information, or an explanation of a policy or procedure, or objections to a development application before Council determination.

A complaint analysis report is presented to Council, detailed by type and outcomes/actions on a quarterly basis, without personal identifying particulars of complainants or associated persons or properties.

The complaint type has been categorised in accordance with the Council's organisational structure. This methodology assists in monitoring the effectiveness of Council's handling of complaints and improving service delivery.

Council received 70 Compliments for the period 1 January 2019 to 31 March 2019, as follows:

Council Division	Ref	Details of Compliment	Comments
Office of the General Manager	1.1	General Manager Nil.	Nil.
People, Communication and Governance	2.1	Communication & Customer Experience Section 13 Compliments Informative customer service.	Noted by Supervisor and referred to nominated Staff.
	2.2	Corporate Governance 2 Compliments Assistance with Information Access and insurance matters.	Noted by Supervisor and referred to nominated Staff.
Finance, Revenue and Information Technology	3.1	Financial Services 1 Compliment Contribution to Technical Advisory Group.	Noted by Executive Manager.
Planning and Regulation	4.1	Development Assessment and Compliance Unit 4 Compliments Assistance given by responsible officers, DAP Meeting very effective and customer service from ranger.	Noted by Division Director.
	4.2	Building and Environmental Health Unit Nil.	Nil.
Engineering	5.1	Roads and Stormwater Unit 13 Compliments Appreciation of roadside weed clearing and slashing, improved street lighting, road maintenance, repair of footpath, road grading and removal of graffiti.	Noted by Unit Manager and referred to relevant Staff.
	5.2	Water and Wastewater Unit 8 Compliments Appreciation for prompt service to address burst water pipes, leaking water meters, sewer issues and assistance to nearby Council.	Noted by Unit Manager and referred to relevant Staff.

Council Division	Ref	Details of Compliment	Comments
Community and Natural Resources	6.1	Recreation Services Unit 15 Compliments Good service in relation to tree pruning/removals, repair of playground. Appreciation of Lions Park Kingscliff and Tierney Park Banora Point redevelopment/upgrade. Assistance provided Cemeteries staff. Improved signage at sports field.	Noted by Unit Manager and referred to nominated staff.
	6.2	Community and Cultural Services 6 Compliments Appreciation of the Tweed Regional Gallery (including the Slow Art Gallery Event and Gallery Walkway function) and Tweed Regional Museum.	Noted by Unit Manager.
	6.3	Natural Resources Management Unit 4 Compliment Thank you for work to protect the nesting Beach Stone Curlews and sand repair to Mooball Creek.	Noted by Unit Manager.
	6.4	Waste Services Section 4 Compliments Appreciation of helpful service at Stotts Creek Resource Recovery Centre, removal of rubbish, and customer service.	Noted by Section Coordinator.

Council received 12 complaints for the period 1 January 2019 to 31 March 2019, as follows:

Council Division	Ref	Details of Complaint	Comments
Office of General Manager	1.1	NIL	
People, Communication and Governance.	2.1	Government Information Public Access Act Application. Lodgement of a complaint that a Council Officer would not discuss a GIPA Internal Review decision. Officer unable to discuss the decision, made the original decision.	Completed Email acknowledgment sent and followed up with a telephone message reinforcing decision, no return call was received.
	2.2	Access to Building Information Lodging a formal complaint regarding the release of non-publicly available information.	Completed Email sent apologising for the release of the non-publicly available building information.
	2.3	Noise Complaints – Murwillumbah Been pursuing noise issue for almost five years and have achieved nothing except that the low frequency and loud hammering noise is coming from 148 Tweed Valley Way.	Completed Emails have been received and sent pertaining to this complaint, advising that no low frequency or loud hammering noise complaints have been received in respect of 148 Tweed Valley Way.
Planning and Regulation	3.1	141 Byangum Road Murwillumbah Lodgement of numerous complaints concerning the handling of the development application and any	Completed Investigation of concerns undertaken, emails were sent to complainant's addressing their concerns pertaining to

Council Division	Ref	Details of Complaint	Comments
		subsequent alterations to the plans including notification – DA18/0485.	notification, acknowledgement of submissions, communication of concerns and dealing with alterations to plans.
	3.2	71 Laceflower Parade Casuarina Concerned that Council has not followed EPA Guidelines in dealing with noise from a heat pump and air conditioning unit.	In Progress Further investigation to be undertaken, with a response to be provided to the complainant.
Engineering	4.1	Cabarita Headland Carpark Lodgement of complaints that the new bitumen seal is disgusting, suggest close the park & start resealing again.	Completed Emails sent advising that work will be undertaken to rectify the problem.
	4.2	Terranora Road Roadworks Roadworks on Council website is listed under “short delays”, took 40 minutes to get from Mahers Lane to Fraser Drive, roadworks should start after school runs are complete.	In Progress Complaint being investigated, a response to be prepared.
	4.3	Wabba Road - Road Closure/Opening Repeating concerns about the difficulties of transiting a public easement and that the change of language provides a future opportunity to prevent horse riding on the new access road.	Completed Detailed letter sent responding to issues raised and clarifying language concerns.
Community and Natural Resources	5.1	Waste Collection Service 2 complaints advising concerns regarding the fortnightly red bin service and 1 complaint concerning the charging of dumping green waste.at Stotts Creek Refuse Centre.	Completed Detailed emails sent advising of Council Policy in delivering and charging for the services.
	5.2	Uniake Park Tweed Heads Outlining concerns that complainant has not received a reply to an email requesting the installation of bollards along a 90m stretch in the park to block access to private vehicles using the park.	Completed Complainant contacted advising that signage will be erected and that bollards will not be installed due to the cost and ongoing maintenance.
	5.3	Moorabinda Place Bilambil Heights Advising that no answer has been received pertaining to the request for the removal of a Melaleuca tree which is causing concerns to the residents.	In Progress An email has previously been sent advising that the tree does not meet Council’s criteria under its Management Guidelines for its removal. Further response is being prepared.

OPTIONS:

1. Receive and note the Compliments and Complaints Analysis Report for the period 1 January to 31 March 2019.
2. Do not receive and note the Compliments and Complaints Analysis Report for the period 1 January to 31 March 2019.

CONCLUSION:

Compliments and Complaints received during the Period 1 January 31 March 2019 as required by the Compliments and Complaints Handling Policy.

COUNCIL IMPLICATIONS:

a. Policy:

Compliments and Complaints Handling v1.4

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.

37 [PCG-CM] Legal Services Register Report for the period 1 January to 31 March 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 January to 31 March 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 January to 31 March 2019 is \$ 313,098 and described as follows:

Legal Matter	Amount
• 2795 – Soorley Street – Unauthorised Works	\$7,919
• 2801 – Tanglewood Estate Treatment Plant – Settlement Deed.	\$355
• 2817 – DA16/0527 – 204 Marine Parade – Class 1 Appeal	\$2,932
• 2822 – DA16/0355 – 26 Tringa Street – Class 1 Appeal	\$8,024
• 2824 – Unauthorised works at the Crown Road off Zara Road	\$ 53,979
• 2825 – 1110 Urliup Road- Unauthorised Works	\$6,244
• 2832 – DA17/0383- 355 Tomewin Road – Class 1 Appeal	\$91,875
• 2835 – DA03/0445 – 447 Urliup Road – Class 1 Appeal	\$1,353
• 2848 – Lot 136 Boormans Road – Legal Advice – Unauthorised Activities	\$940
• 2849 – 656 Upper Crystal Creek Road – Legal Advice on Use of Property and Compliance Action	\$23,994
• 2858 – DA06/0603 – 101 Bryens Road – Legal Advice	\$ 5,827
• 2859 – DA05/0995 – 2574 Kyogle Road – Legal Advice	\$11,117
• 2862 – DA12/0215.01 9 Boyd Street Tweed Heads Class 4 Appeal	\$4,327
• 2863 – Represent Council at the Local Court – Dangerous Dog Declaration hearing	\$9,268

Legal Matter	Amount
• 2865 – 32 Glenrock Road – Swimming Pool Compliance Appeal	\$2,850
• 2866 – Illegal Land use and Ongoing Barking Dog Complaints – Legal Advice	\$3,857
• 2867 – DA18/0637 – 477 Urliup Road – Helipad – Class 1 Appeal	\$ 1,500
• 2869 – Tweed Valley Hospital - Legal Advice	\$34,514
• 2870 – GIPAA Application 95 – Legal Advice	\$5,486
• 2835 – DA18/0910 – 477 Urliup Road – Water Bottling Facility – Class 1 Appeal	\$32,837
• Industry Central Land Swap Project – Legal Advice	\$3,900
	\$313,098

The total amount paid for legal services for the period 1 July 2018 to 31 March 2019 is \$635,138.

RECOMMENDATION:

That Council receives and notes the Legal Services Register report for the period 1 January to 31 March 2019.

REPORT:

Expenditure incurred on legal instructions for the period 1 January to 31 March 2019 follows:

Category 1 Planning and Environmental Law	Category 2 Local Government Law	Category 3 Commercial/Property Law	Category 4 District/Local Court
\$299,930	\$3,900	\$0	\$9,268

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 1 July 2018 to 31 March 2019	Current Period 1 January to 31 March 2019
Bartier Perry	\$13,857	\$3,857
HWL Ebsworth Lawyers	\$168,473	\$91,875
Hall & Wilcox	\$16,944	\$16,944
Lindsay Taylor Lawyers	\$211,109	\$101,518
Maddocks Lawyers	\$29,702	\$15,943
Marsdens Law Group	\$61,780	\$38,540
Sparke Helmore Lawyers	\$63,616	\$23,994
Wilshire Webb Staunton Beattie Lawyers	\$41,603	\$7,259
Other		
DLA Piper	\$5,302	\$0
Sub Total	\$612,386	\$299,930

Category 2 Local Government Law (litigation and advice)	Year to Date 1 July 2018 to 31 March 2019	Current Period 1 January to 31 March 2019
Hall & Wilcox	\$0	\$0
Maddocks Lawyers	\$0	\$0
Marsdens Law Group	\$0	\$0
Prevention Partners	\$4,127	\$0
Swaab Attorneys	\$0	\$0
Lindsay Taylor Lawyers	\$937	\$0
STACKS Law Firm	\$3,900	\$3,900
Sub Total	\$8,964	\$3,900

Category 3 Commercial/Property Law	Year to Date 1 July 2018 to 31 March 2019	Current Period 1 January to 31 March 2019
Bartier Perry	\$0	\$0
Hall & Wilcox	\$0	\$0
HWL Lawyers	\$0	\$0
Lindsay Taylor Lawyers	\$0	\$0
Maddocks	\$0	\$0
Sub Total	\$0	\$0

Category 4 District/Local Court	Year to Date 1 July 2018 to 31 March 2019	Current Period 1 January to 31 March 2019
Minter Ellison – Gold Coast	\$13,788	\$9,268
Sub Total	\$13,788	\$9,268
Total	\$635,138	\$313,098

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 6 May 2019
Maddocks Lawyers (2795)	Unauthorised works - Existing use rights - Soorley Street, Tweed Heads South.	Provide legal opinion on existing use rights.	<i>Prev. Years</i> \$566,950 <i>18/19</i> \$18,792 Total \$585,742	Letter was sent to solicitors for property owner seeking an answer to existing use rights questions. - No answer was received. Council at its meeting held on 7 April 2016 resolved to commence legal proceedings to stop unauthorised activities and seek any punitive measures. Class 4 proceedings have commenced in the Land and Environment Court. r	Completed Matter partly heard. Council at its meeting held on 5 April 2018, resolved that it instructs its solicitors with Reysson solicitors to seek an adjournment of six months for the current proceedings. Adjournment agreed by Court. Council at its Confidential meeting held on 12 December 2018 adopted Option 1 contained in the report.
Lindsay Taylor Lawyers (2801)	Tanglewood Estate Treatment Plant.	Provide advice in respect to the potential resolution of the issues concerned with the Sewerage Treatment Plant.	<i>Prev. Years</i> \$17,434 <i>18/19</i> \$1,772 Total \$19,206	Solicitor drafted settlement proposal, which was sent to property owner's Solicitor. Ongoing discussions and negotiations in progress	Completed Settlement Deed agreed and now executed by all parties.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 6 May 2019
				between all parties.	
Sparke Helmore Lawyers (2802)	3222 Kyogle Road Mt Burrell – Unauthorised activities.	Council at its Meeting held on 7 April 2016 resolved to engage solicitors to commence proceedings pertaining to unauthorised activities and seek legal advice regarding options for punitive action.	Prev. Years \$123,106	Significant correspondence has occurred. Council has now commenced legal proceedings, through issuing a summons in the Land and Environment Court against the property owner for breaches of the Environment and Assessment Act 1979.	In Progress A number of directions hearings have been conducted during the months of October, November and on 9 December 2016. The Registrar of the Land and Environment Court on 7 April 2017, made “consent orders” to resolve the unlawful occupation of the property - now completed. Council awarded costs of \$101,257, have not been paid, property owner has now been placed into Administration.
LEGAL SERVICES MATTERS INITIATED PRIOR TO 1 NOVEMBER 2016					
TOTAL 2018/2019			\$20,564		

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 6 May 2019
Wilshire Webb Staunton Beattie Lawyers (2817)	DA16/0527 204 Marine Parade Kingscliff Erection of a residential flat building (7 units).	Council at its meeting held on 1 December 2016 resolved to refuse the development application.	Prev. Years \$41,462 18/19 \$2,932 Total \$44,394	Solicitors engaged to defend the appeal.s34 conference was conducted on site on 30 May 2017. Amended plans filed with the Land and Environment Court on 14 July 2017.	Completed Appeal heard on 25 and 26 September 2017. 16 October 2017, the Court upheld the appeal, with amended DA16/0527 being approved. Council costs of \$5,000 thrown away as a result of amended plans paid by the applicant.
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 Class 1 Appeal in the Land and Environment Court.	Prev. Years \$402,313 18/19 \$10,910 Total \$413,223	Solicitors engaged to defend the appeal. Appeal commenced, documentation filed with the court. Court ordered the applicant to pay council's costs of \$6,000 thrown away through the lodgement of amended stormwater plans.	Completed On 6 March 2018, Court directed the applicant to file and serve by 30 March 2018, settled documentation to reflect the Commissioner's determinations. Documentation now filed.
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.	Prev. Years \$95,772 18/19 \$136,153 Total \$231,925	Solicitors engaged and have provided appropriate advice. Council at its meeting held on 1 March 2018, resolved that it continues to pursue the alleged offence of Section 76A	In Progress Discussions have been held between parties, with a directions hearing held on 7 December 2018, where the Judge made a number of orders for both parties to comply with. A further directors

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 6 May 2019
				of the EP&A Act. Council's Solicitors have commenced Class 5 proceedings in the Land and Environment Court against the property owner for undertaking activities without Development Consent.	hearing is scheduled for 8 March 2019. The defendant has lodged a Notice of Motion in respect of the proceedings, which is listed for hearing on 22 February 2019.
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>Prev. Years \$38,852</p> <p>18/19 \$11,225</p> <p>Total \$50,077</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.	Completed 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 signed by Council on 31 August 2018.
HWL Ebsworth (2832)	DA17/0383 Demolition of existing Dwelling and Construction of Caravan Park in 5 Stages. 355 Tomewin Road, Dungay.	Council at its Meeting held on 7 June 2018, resolved that it engages solicitors and relevant experts (as required) to attend any necessary section 34 conference and defend the Class 1 Appeal.	<p>Prev. Years \$9,803</p> <p>18/19 \$181,564</p> <p>Total \$191,367</p>	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.	In Progress Hearing set down for 25 February to 1 March 2019. 30 January 2019, applicant discontinued the appeal and is to pay Council costs as agreed or assessed. Matter of costs being reviewed.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 6 May 2019
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.	Prev. Years \$77,278 18/19 \$19,893 Total \$97,171	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 appeal was dismissed and costs were reserved.
Wilshire Webb Staunton Beattie (2837)	DA17/0084 128 Leisure Drive Banora Point. Council at its meeting held on 7 September 2017, resolved to refuse the development application.	Council at its Meeting held on 2 November 2017 resolved that it engages legal representation for the Class 1 Appeal and provides delegation to a Councillor and General Manager to undertake negotiations during any upcoming s34 conference.	Prev. Years \$19,702 18/19 \$34,344 Total \$54,046	Solicitors engaged s34 conferences held on 21 March, 3 and 6 April 2018. On 27 April Orders of the Land and Environment Court were that the s34 conference be terminated and the Appeal listed for mention on 11 May 2018.	Completed Land and Environment Court judgment was delivered on 30 November 2018 which upheld the applicant's Class 1 Appeal.
Sparke Helmore Lawyers (2838)	6 Beason Court Casuarina.	Council at its Meeting held on 2 November 2017 resolved that legal advice be sought regarding options for options (including but not limited to Orders) to cease the continued unauthorised use.	Prev. Years \$15,082 18/19 \$269 Total \$15,351	Solicitors engaged, detailed advice received. Proposed order to cease using the property for an unauthorised use has been issued to the property owner.	Completed Council has issued a Development Control Order on the owner to cease use of the property for tourist and visitor accommodation. Advice received, use has ceased.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 6 May 2019
Lindsay Taylor Lawyers (2839)	337 Round Mountain Road Mountain.	Council at its Meeting held on 2 November 2017 resolved that legal advice be sought regarding options for enforcement and possible legal action.	Prev. Years \$24,228 18/19 \$6,652 Total \$30,880	Solicitors engaged to provide appropriate advice, which has been received and reviewed by Council Officers A Notice has been issued under the POEO Act regarding the SEPP 14 clearing.	Completed Response received, reviewed by Council's Solicitors. Council at its meeting of 4 April 2019, resolved to cease the investigation into the vegetation removal and to further action.
HWL Ebsworth (2842)	DA16/0274 42 North Arm Road Council at its meeting held on 6 July 2017, resolved to refuse the development application.	Council at its Meeting held on 7 December 2017 resolved that it engages legal representation for the Land and Environment Court Class 1 Appeal and provides delegation to the Mayor and General Manager to undertake negotiations as necessary.	Prev. Years \$45,316 18/19 (\$24,202) Total \$21,114	Solicitors engaged. Directions hearing held on 11 December 2017, with an s34 conference held on 4 and 22 May 2018.	Completed Directions hearing held on 12 June 2018, applicant has withdrawn the appeal, with an agreement to pay Council's costs of \$25,000 within 28 days. Costs have been paid.
DLA Piper (2843)	DA17/0572 606 Pottsville Road Council at its meeting held on 16 November 2017, resolved to refuse the development application.	Meeting held on 13 December 2017 resolved that it engages legal representation for the Land and Environment Court Class 1 Appeal to attend any necessary s34 conference.	Prev. Years \$83,641 18/19 \$5,302 Total \$88,943	Appeal was defended, solicitors engaged, Directions hearing held on 22 February, matter heard on 29 and 30 May and 20 June 2018.	Completed Discussions being held on draft conditions of consent. Court ordered the applicant to present amended plans and operational management plan for its consideration. On 25 July 2018 the appeal was dismissed.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 6 May 2019
Sparke Helmore Lawyers (2844)	DA17/0498 26 Marine Parade Kingscliff. Council at its meeting held on 15 February 2018, resolved to refuse the development application.	Council at the 15 February 2018 Meeting resolved that it provides delegation to Council's General Manager to provide instruction to Council's solicitor in the Land and Environment Court Class 1 appeal (including in any Section 34 conference).	Prev. Years \$23,176 18/19 \$16,458 Total \$39,634	Solicitors engaged. A directions hearing in the Land and Environment Court was held on 29 January 2018, an s34 conference was held onsite on for 29 June 201, where proposed timelines were determined.	Completed A Notice of Discontinuance was filed with the Land & environment Court of 3 September 2018.
Lindsay Taylor Lawyers (2848)	Lot 136 Boormans Road Tyalgum.	Council at its meeting held on 1 March 2018 resolved to pursue an investigation of the apparent offence under section 76A of the EP&A Act and other actions.	Prev. Years \$20,101 18/19 \$14,917 Total \$35,018	Council Officers have been investigating the matter, sought advice from solicitors. Solicitors now engaged to comply with council resolution.	In Progress Solicitors and Council Officers are progressing with obtaining information in compliance with the Council resolution. Council resolved 15 November to continue investigation, with a further report to be brought back to Council.
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.	18/19 \$5,827	Solicitors engaged, review of file undertaken, reported provided to Council	In Progress Detailed advice received and, reviewed. Council at its meeting of 4 April 2019 resolved to take 2 compliance actions.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 6 May 2019
Hall and Wilcox Lawyers (2859)	DA05/0995 and DA16/0579, Mount Warning Spring Water, 2574 Kyogle Road, Kunghur– Compliance Update.	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.	18/19 \$11,117	Solicitors engaged, review of file undertaken, reported provided to Council	In Progress Detailed advice received and reviewed. Council at its meeting of 4 April 2019, resolved to take 3 compliance actions.
Bartier Perry Lawyers (2866)	Illegal Land Use and Ongoing Barking Dog Complaints.	Council at its meeting held on 6 December 2018 resolved that it seeks legal advice in respect on how to pursue the two matters.	18/19 \$3,857	Solicitors engaged, advice received.	In Progress Initial compliance action is being pursued. Further action to be initiated if nuisance continues.
Marsdens Law Group (2867)	DA18/0637 – Helipad 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.	18/19 \$1,500	Solicitors engaged. Directions hearing was held on 4 February 2019.	In Progress Class 1 Appeal listed for hearing on 22 August 2019.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 6 May 2019
Marsdens Law Group (2868)	DA16/0660 268 Dungay Creek Road – 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.	18/19	Solicitor engaged. Directions hearing was held on 25 March 2019, where an s34 conference hearing date was set for 6 November 2019.	In Progress
Lindsay Taylor Lawyers (2869)	Tweed Valley Hospital- Mayors' Notice of Motion- Council resolution of 15 November 2018.	Provide advice on whether the Preliminary works proposed for the hospital relocation constitute exempt and complying development.	18/19 \$34,514	Solicitor engaged. Advices have been provided and were discussed at an Extraordinary Council meeting held on 21 December 2018.	Completed Extraordinary Council Meeting held on 17 January 2019, Council resolved that it does not proceed with seeking further legal advice or pursuing legal action at this stage.
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 and endorse taking the necessary legal action to enforce the requirements of the Orders if the Orders are not complied with.	18/19	Penalty Notices served upon the owner. Proposed Development Control Order served on the owner, response received and being assessed by Council Officers.	In Progress

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 6 May 2019
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 s34 conference and negotiate consent orders and provides delegation to the General Manager and Mayor to undertake negotiations as necessary.	18/19	Solicitor engaged. Directions hearing held on 15 April 2019, matter was listed for an Section 34 conference on Tuesday 19 November 2019.	In Progress
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.	18/19	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.
Marsdens Law Group (2835)	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.	18/19 \$32,837	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. Adjourned for dates to be fixed.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 6 May 2019
COUNCIL INITIATED LEGAL SERVICES AFTER 1 NOVEMBER 2016					
TOTAL 2018/2019			\$506,069		

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 6 May 2019
HWL Ebsworth (2818)	D94/0015 2 Barneys Point Road Caravan Park.	Provide advice on registration of trailers for the purpose of a proposed development in a caravan park.	18/19 \$2,875	Solicitor engaged. Advice provided.	Completed
HWL Ebsworth (2831)	Caravans outside Caravan Parks.	Provide advice to Council on legislation.	18/19 \$3,000	Solicitor engaged. Advice provided.	Completed
Lindsay Taylor Lawyers (2845)	74-76 Pearl Street Kingscliff	Provide advice in relation to the pathway for assessing a proposed development application	Prev. Years \$5,622 18/19 \$117 Total \$5,739	Solicitor engaged. Advices have been received	Completed
Sparke Helmore (2849)	656 Upper Crystal Creek Road Crystal Creek.	Provide advice in relation to demolition orders of the construction and use of a building on the property.	Prev. Years \$10,186 18/19 \$46,889 Total \$57,075	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.	In Progress 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.

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 6 May 2019
Lindsay Taylor Lawyers (2852)	Biodiversity Act 2016.	Provide advice on Draft Biodiversity DCP & Biodiversity Act 2016 Conservation.	<i>Prev. Years</i> \$7,767 <i>18/19</i> \$273 Total \$8,040	Solicitor engaged, written advice was provided on 19 April 2018, followed by telephone advice on 16 May 2018.	Completed
Marsdens Law Group (2853)	Tweed Rail Trail	Provide advice on assessment procedure	<i>18/19</i> \$2,200	Solicitor engaged. Advice has been received	Completed
Bartier Perry Lawyers (2860)	DA04/0162 Hy-Tec Quarry Dulguigan	Audit of all Council's files relevant to the Development Application	<i>18/19</i> \$10,000	Solicitor engaged. Review conducted and advice provided.	Completed
HWL Ebsworth (2861)	ILL18/1115 8 Eclipse Lane Casuarina	Provide advice in regards to the issue of a Construction Certificate	<i>18/19</i> \$5,236	Solicitor engaged. Advice provided	Completed
Wilshire Webb Staunton Beattie (2862)	DA12/0215.01 9 Boyd Street Tweed Heads. Fred's Place.	Defend the objectors appeal in the Land and Environment Court against the Section 4.55 modification to DA 12/0215.	<i>18/19</i> \$4,327	Solicitor engaged. Notice of discontinuance issued. Each party to pay their own costs.	Completed
Marsdens Law Group (2865)	32 Glenrock Road Dum Dum.	Defend Land and Environment Appeal against the Swimming Pool Non Compliance Report.	<i>18/19</i> \$2,850	Solicitor engaged.	Completed 16 January 2019, Land and Environment Court Appeal withdrawn by the applicant.
Marsdens Law Group (2868)	DA16/0660 268 Dungay Creek Road Dungay.	Provide advice on the development application for a water extraction facility.	<i>18/19</i> \$2,500	Solicitor engaged. Advice provided.	Completed

Category 1 - Planning and Environmental Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 6 May 2019
Lindsay Taylor Lawyers (2870)	Crown road Zara Road and Lot 136 Boormans Road Limpinwood.	Provide advice in relation to the decision for Government Information Public Access Act Application 95.	18/19 \$5,486	Solicitor engaged, Decisions 95 and 95A reviewed and processed.	Completed
LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016					
TOTAL 2018/2019			\$85,753		

LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016

Category 2 - Local Government Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 6 May 2019
Marsdens Law Group	7 Year Special Rate Variation.	Class 4 Appeal Land and Environment Court.	Prev. Years \$493,120	Appeal dismissed by Land and Environment Court 30/12/08. Court of Appeal dismissed 5/2/10 part costs awarded. Application to High Court for special leave dismissed with costs, not assessed.	In Progress. Recovery of assessed costs of \$134,058 being pursued.
Lindsay Taylor Lawyers	Development Servicing Plans for Water Supply and Sewerage Services.	Provide advice to confirm a position to be recommended to Council.	18/19 \$937	Solicitor engaged. Advice provided and referred to in a Confidential Report to Council on 12 December 2018.	Completed
Prevention Partners	Industry Central Land Swap Project.	Provide probity advice on the project.	18/19 \$4,127	Probity advisor engaged. Advice received.	Completed

Category 2 - Local Government Law					
Provider (Reference)	Description	General instructions	Costs	Comments	Current Status as at 6 May 2019
Stacks Law Firm	Industry Central Land Swap Project.	Provide advice on relocating flood affected properties.	18/19 \$3,900	Solicitor engaged, advice provided.	Completed
LEGAL SERVICES PROTOCOL INITIATED AFTER 1 NOVEMBER 2016					
TOTAL 2018/2019			\$8,964		

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 6 May 2019
TOTAL 2018/2019			\$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 6 May 2019
Minter Ellison (2863)	Represent Council at a hearing to defend an application against a dangerous dog declaration.		18/19 \$13,788	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 2018/2019			\$13,788		

OPTIONS:

Reporting as per Legal Services Procedure requirements.

CONCLUSION:

Legal expenses for the quarter related primarily to actions instigated in previous periods.

COUNCIL IMPLICATIONS:**a. Policy:**

Legal Services Procedure

b. Budget/Long Term Financial Plan:

Total legal services budget - \$804,987.

Total legal expenditure 1 July 2018 to 31 March 2019 - \$635,138

	Total Cost 2018/2019
Matters Initiated prior to 1 November 2016	
Category 1 -Planning and Environmental Law	\$20,564
Council Initiated Legal Services after 1 November 2016	
Category 1 - Planning and Environmental Law	\$506,069
Legal Services Protocol Initiated after 1 November 2016	
Category 1 - Planning and Environmental Law	\$85,753
Category 2 - Local Government Law	\$8,964
Category 3 - Commercial/Property Law	\$0
Category 4 - District/Local Court	\$13,788
TOTAL	<u>\$635,138</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.

38 [PCG-CM] Alternate Council Delegate - Audit, Risk and Improvement Committee

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 the organisation to operate within its legal framework.
- 4.1.2 Internal Audit - To provide oversight of Council's business activities, identify improvements and support compliance with legislation.

ROLE: **Leader**

SUMMARY OF REPORT:

At its meeting on 19 March 2019 the Audit, Risk and Improvement Committee determined to implement an additional alternate Councillor delegate to the Committee.

RECOMMENDATION:

That Council appoints an alternate elected delegate to the Audit, Risk and Improvement Committee.

REPORT:

Following the Local Government Elections in 2016 the following Councillors were nominated as delegates to the Audit, Risk and Improvement Committee (ARIC):

Committee	Delegate	Alternate
Audit Committee	Cr J Owen Cr W Polglase	

Given the need for the elected delegates to be present to create a quorum, and the commitments being experienced by elected members from time to time, it was advised that the continuity of Councillor membership with the Committee is of benefit. It was determined that an amendment be made to the ARIC charter for the establishment of an additional elected delegate as an alternate representative.

The current ARIC Charter, which was adopted on 26 October 2017, states:

"3. Composition and Tenure

The Committee will consist of:

3.1 Members (voting)

The Committee shall consist of at least four members. Changes to the Committee composition and tenure will be by approval of Tweed Shire Council.

The Committee consists of:

- *No less than two and no more than three independent members - appointed by Council; and*
- *Two Councillors other than the Mayor (or an Administrator).*

Council may also appoint an alternate independent member who shall act as an independent member if an independent member is unavailable.

Council may also appoint an alternate Councillor member who shall act as a Councillor member if a Councillor member is unavailable.

The Chair of the Committee will be an independent member elected by a majority vote of the members of the Committee.

All independent members and the alternate independent member will be appointed by Council for a term of up to four years, after which they will be eligible for extension or re-appointment following a formal review of their performance."

OPTIONS:

1. Appoints an alternate elected delegate to the Audit, Risk and Improvement Committee.
2. Does not appoint an alternate elected delegate to the Audit, Risk and Improvement Committee.

CONCLUSION:

The inclusion of an alternate Councillor member would maintain a Council presence at the Committee meetings whilst giving consideration to the various commitments experienced by the current Councillor members.

COUNCIL IMPLICATIONS:

a. Policy:

Audit, Risk and Improvement Committee Charter v1.8

b. Budget/Long Term Financial Plan:

Not applicable

c. Legal:

Not Applicable.

d. Communication/Engagement:

Involve/Collaborate-We will work with you on an ongoing basis to ensure your ideas, concerns and aspirations are considered. We will provide feedback on Council's decisions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

39 [SUB-SAC] Minutes of the Sports Advisory Committee Meeting held 1 April 2019

SUBMITTED BY: Recreation Services

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.2 Places
- 3.2.9 Sporting Fields - To provide a range of accessible sports facilities and major event venues to promote an active and healthy lifestyle.

ROLE: **Leader**

SUMMARY OF REPORT:

The Minutes of the Sports Advisory Committee Meeting held Monday 1 April 2019 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Sports Advisory Committee Meeting held Monday 1 April 2019 be received and noted.

REPORT:

The Minutes of the Sports Advisory Committee Meeting held Monday 1 April 2019 are reproduced as follows for the information of Councillors.

Venue:

Cudgen Leagues Club

Time:

5.30pm

Present:

Cr Pryce Allsop, Stewart Brawley, Gillian Austin, Helen Rigney, Dion Andrews, Jess Willemse (Cricket NSW), Mark Suhor (Kingscliff District Football Club)

Apologies:

Cr Warren Polglase, Linton Alford, Bruce Campbell, Rob Nienhuis

Minutes of Previous Meeting:

Moved: Gillian Austin

Seconded: Dion Andrews

RESOLVED that the Minutes of the Sports Advisory Committee meeting held Monday 4 February 2019 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

1. Annual Report of Detailed Participation Numbers of Individual Sports Clubs - Matt McCann

Matt McCann will provide an update at the next meeting.

Agenda Items:

1. Jess Willemse from Cricket NSW

Jess provided the committee with an outline of her role in supporting and developing cricket in the Tweed and Northern Rivers area. Jess utilizes the cricket clubhouse at Rabjones Oval as a base when in Murwillumbah but largely operates on a mobile basis. Jess offered her services at any stage should Council, clubs or the committee require any information or assistance with respect to cricket in the Tweed.

2. Sports Advisory Committee's Role and Responsibilities

Deferred to next meeting when more committee members are in attendance.

3. Kingscliff Sports Field Masterplan Update

Stewart provided committee with an outline of the plans for the development of Kingscliff Regional Sports Complex. The project is largely funded through the NSW Office Sport Regional Facilities Grant. Mark Suhor (President of Kingscliff District Football Club) advised

the committee that the club has been heavily involved in the planning for the complex and is looking forward to works commencing.

4. Office of Open Space and Parklands Successful application - 2018-19 Everyone can play grant

Council was success in an application in the Everyone can play grant program to improve the accessibility of a playground in Fingal.

5. Activate Inclusions Sports Day - Monday 17 June 2019 at Tweed Heads PCYC

The committee was provided information and contacts for the Activate Inclusions Sports Day at Tweed Heads PCYC schedule for 17 June 2019.

6. "Containerbuild"

Council officers visited Lismore City Council with a number of other local Council representatives to inspect new club and change room facilities installed in Lismore. The building is constructed from shipping containers which can be furbished to any floor plan. A site visit of the manufacturing facility was also undertaken. The facilities appear robust and cost effective and offer an alternative worth consideration in many circumstances particularly for isolated facilities.

General Business:

School Use of Facilities

The committee discussed the various issues that arise from school use of the facilities including access to and cleaning of amenities, treatment of items such as goal posts and notification of proposed use. Council makes every attempt to liaise with schools to manage their use of the fields, but with regular changes in staff this is an ongoing management issue. It was also noted that the fee structure for club use is based on 20% cost recovery with the understanding that the other 80% covers the cost of general community use including school use.

Next Meeting:

The next meeting of the Sports Advisory Committee will be held 3 June 2019.

The meeting closed at 6.30pm.

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - adopted 21 August 2012 (ECM 2846627).

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.

40 [SUB-EAC] Minutes of the Equal Access Advisory Committee Meeting held Wednesday 17 April 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: Advocate

SUMMARY OF REPORT:

The Minutes of the Equal Access Advisory Committee Meeting held Wednesday 17 April 2019 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the Equal Access Advisory Committee Meeting held Wednesday 17 April 2019 be received and noted; and
2. The Executive Leadership Team's recommendations be adopted as follows:

OM1 New Member for Equal Access Advisory Committee

That the available position on the Equal Access Advisory Committee be left vacant until the next Committee is formed.

REPORT:

The minutes of the Equal Access Advisory Committee meeting held Wednesday 17 April 2019 are reproduced as follows for the information of Councillors.

Venue:

Banora Point Community Centre

Time:

10.05am

Present:

Suzanne Hudson, Una Cowdroy, Bev Kelso, Wendy Gilbert (Chair), (Community Representatives), Cr Warren Polglase, Karen Collins, Chantelle Howse, Robert Noakes, Alana Brookes, Gabby Arthur (Tweed Shire Council).

Apologies:

Prospero Aplet (Chair), Milena Morrow, Nathan Quinell, (Community Representatives), Robyn Grigg (Tweed Shire Council).

Guests:

Iain Lonsdale and Alex Manning (Tweed Shire Council).

Minutes of Previous Meeting:

Moved: Una Cowdroy

Seconded: Bev Kelso

RESOLVED that the Minutes of the Equal Access Advisory Committee meeting held Wednesday 19 December 2018 be accepted as a true and accurate record of the proceedings of that meeting.

Outstanding Matters:

OM1. New member for Equal Access Advisory Committee

Following the resignation of Chris Vannucci, the EAAC discussed whether it would like to appoint a replacement member now or wait until the end of the term before filling the position.

Moved: Bev Kelso

Seconded: Susi Hudson

RECOMMENDATION:

That the available position on the Equal Access Advisory Committee be left vacant until the next Committee is formed.

OM2. Blind Citizens Australia Campaign for audio description in free to air television

Karen Collins to forward campaign link to EAAC. *Update:* Completed.

OM3. Upgraded accessible toilet facility at Club Banora

Robert advised he has inspected the accessible toilet and confirmed it is unacceptable as the signage is at the wrong height and a privacy screen is required. Robert will liaise with the Club management regarding the corrections required.

Una advised that South Tweed Sports Club has renovated its accessible toilet however the sink is in the wrong position and the handrail can't be extended. The half wall has now been removed.

The Committee formally thanked Una for following up on the accessible toilet facilities at Club Banora and South Tweed Sports Club.

Una advised that the kerb ramps on Florence Place opposite the Tweed Bowls Club near Tweed Hospital are inadequate and require replacing. Una also advised that the ramp outside St Martha's, Winders Place opposite the shopping centre is too steep and wheelchairs and mobility scooters bottom out.

Action: *Liaise with Club Banora management regarding corrections required to accessible toilet. Responsible Officer: Robert Noakes.*

Action: *Audit to be carried out of the kerb ramps on Florence Place opposite the Tweed Bowls Club near Tweed Hospital and outside St Martha's, Winders Place opposite the shopping centre. Responsible Officers: Karen Collins and Alana Brookes.*

Agenda Items:

A1. Tweed Shire Rail Trail - Iain Lonsdale and Alex Manning (Tweed Shire Council)

Iain and Alex provided the EAAC with background on the rail trail which will run from Murwillumbah Railway Station to Crabbes Creek (near Wooyung Road intersection). The trail will be used as a shared space for walking, cycling and jogging. The project will cover 24kms and is being funded by the Federal and State Governments.

The trail will be designed with a high quality surface that can be used by a wide spectrum of users and which fits within budget. The area from Murwillumbah Railway Station to Tweed Regional Gallery & MOAC will be fully bitumen sealed as it will be the highest usage section. The trail will also be bitumen sealed in the Burringbar and Stokers Siding villages. The other areas will be sealed using a high quality, compacted gravel, which should be wheelchair accessible. The key areas of historical value will be accessible for everyone.

Toilet blocks will not be included in the design and additional funding will be required for those facilities. There are toilet facilities (non-accessible) available in Stokers Siding and Burringbar villages. Once the trail is completed, Council may seek additional funding for accessible toilets and Aboriginal Cultural heritage which will be subject to the governance arrangements for the trail.

The EAAC advised that from an accessibility perspective, it would be helpful to have fencing on the elevated areas. As the tunnel may not be lit, a guiderail or white painted strip along the wall may provide accessibility. Users may also need to use torches. There are environmental considerations such as bats and glow worms in the tunnel.

The anticipated timeframe is for the Contractor to be engaged June/July, construction to commence before the end of 2019 which will take 12 months, with the trail opening to the public early 2021.

Karen advised she has met with Northern Rivers Rail Trail regarding possible employment opportunities of people with disabilities and will arrange for them to attend a future meeting.

Action: *Northern Rivers Rail Trail to be invited to attend future EAAC meeting. Responsible Officer: Karen Collins.*

A2. Neil Barker, ITS Program Manager, DM Roads

Neil Barker did not attend the meeting. Karen advised that Neil was attending to provide an introduction of the Roads and Maritime Service's program to maintain and upgrade traffic signals and intersections with a focus on access and safety for people with disability and older people. Neil has been contracted by State Government to undertake research on traffic lights. Karen will arrange for Neil to attend the June meeting for a workshop.

Alana advised that a trial is being undertaken at the traffic lights in Leisure Drive, where the flashing light will stay on whilst a pedestrian is crossing the road.

Action: *Neil Barker to be invited to June EAAC meeting regarding the RMS program to maintain and upgrade traffic signals and intersections with a focus on access and safety for people with disability and older people. Responsible Officer: Karen Collins.*

A3. NDIS roll out

Coordinator Community Services unable to attend today's meeting.

Karen advised that Fiona Holland is no longer with Community Services and Vicky Harrison has replaced the position and will attend the June meeting.

Karen tabled an NDIS report titled 'How is the disability sector fairing' and will distribute it by email to the EAAC.

Action: *NDIS report: 'How is the disability sector fairing' to be distributed by email to the EAAC. Responsible Officer: Karen Collins.*

A4. Access and Inclusion Planning (Disability Inclusion Action Plan)

Karen advised her priorities and provided an update:

- Review Access and Inclusion Policy - Currently discussing with the internal Council Access and Inclusion Plan Working Group. Karen will provide the Policy update to EAAC when it is received.
- Unauthorised use of DAPBs information - Research has confirmed this is an international issue with Shopping Centres customers being the worst offenders. Karen is working with Sunnyside Shopping Centre and Council's Compliance Unit to carry out a two or three month campaign including observation, education, direct approach and fining followed by an evaluation to see if there has been any change. Karen will develop the material and provide it to the EAAC. Education will also be developed for learner drivers and schools.
- Access audit of Council's nine village halls - Karen to carry out access audits of the halls and will be attending the Halls Advisory Committee meeting.

The other items in the Access and Inclusion Plan have been delegated to other Council staff members.

A5. Tweed Link – Access All Areas

Currently on hold to evaluate.

A6. Access and inclusion Awards

Karen advised the survey has been distributed. Evaluation and ideas are being sought.

General business:

GB8.Southern Cross University (SCU) proposal

Karen has been approached by SCU seeking advice as to whether the EAAC members would be interested in assisting with the making of a film about people living with a disability. Susi, Una and Wendy advised they would be interested.

Action: *Further enquiries to be made with SCU re EAAC member involvement in film about people living with a disability. Responsible Officer: Karen Collins.*

GB9. Creating Access Advisory Group (People with Disability Australia and Youth Action)

Following an Expression of Interest, Kyle Sculley, a young resident of Tweed Shire has been accepted as a member of an advisory group of young people with disability. The Creating Access Advisory Group's project supports one of the actions in the Access and Inclusion Plan to improve inclusion of young people with disability. Karen and Sylvia Roylance, Community Development Officer Youth and Families, are meeting with Kyle regarding his attendance at a Youth Council meeting.

GB10.EAAC 21st birthday

Discussion regarding ideas of how to celebrate the EAAC's 21 years. Ideas included:

- A formal acknowledgement.
- An article in Tweed Link outlining the achievements.
- Social media.
- Stories with personal experience and how the EAAC has assisted.
- Endorsement of issues that have been addressed - ie. toilet audits.
- Invite some of the previous members to participate.
- Arrange for the Communications Unit to interview some of the members.
- Put together a presentation for the Northern Rivers Joint Organisation (NRJO) outlining the achievements of EAAC.

GB11.'Everyone Can Play' program

Karen advised that funding is available for Councils to apply to upgrade playgrounds. A report is currently being prepared for Council's consideration regarding the proposal to disperse the 'All Access Playground' funds into the 'Everyone Can Play' program.

Susi noted that the park between Cooloon and Megan Streets is being upgraded by Council to include a playground, seating space, footpath and landscaping.

GB12. Requests for Accessible Parking Spaces

Discussion regarding Accessible Parking Spaces which could be considered for upgrade as they don't require a large amount of work:

- Lovers Rock Park, Coral Street, Duranbah Beach.
- Ebenezer Park, Coral Street.
- Salt Park. Placement in south eastern corner will provide access to the Surf Club, beach, park and accessible toilets.
- South Kingscliff. Additional space adjacent to current space.

Process to be developed for process of dealing with ad hoc requests for accessible parking spaces.

Action: *Process to be developed for dealing with ad hoc requests for accessible parking spaces. Responsible Officers: Karen Collins and Alana Brookes.*

GB13. Restaurants at Tweed City Shopping Centre

Discussion regarding some of the normally designated accessible spaces outside the restaurants at Tweed City Shopping Centre having been designated as Uber parking. The EAAC noted that many people with disabilities use Uber Eats as they are unable to get out to restaurants.

Susi advised there is also the Uber Assist service where the driver will pick up the person and take them to service providers and other places.

GB14. Footpath Parking

Bev raised concerns with vehicles being parked on footpaths blocking the thoroughfare for pedestrians using the footpath. Alana advised that the Council Rangers will book a vehicle if it is parked on the footpath and she will follow up with the Rangers.

Action: *Liaise with Council Rangers re vehicles being parked on footpaths blocking the thoroughfare for pedestrians using the footpath. Responsible Officer: Alana Brookes.*

Next Meeting:

The next meeting of the Equal Access Advisory Committee will be held Wednesday 19 June 2019.

The meeting closed at 11.30am.

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

OM1 New Member for Equal Access Advisory Committee

That the available position on the Equal Access Advisory Committee be left vacant until the next Committee is formed.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Equal Access Advisory Committee adopted 12 December 2013 (ECM 2847116)

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.

41 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 2 May 2019

SUBMITTED BY: Roads and Stormwater

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Advocate

SUMMARY OF REPORT:

The Minutes of the Local Traffic Committee Meeting held Thursday 2 May 2019 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the Local Traffic Committee Meeting held Thursday 2 May 2019 be received and noted; and
2. The Executive Leadership Team's recommendations be adopted as follows:

A4. [LTC] Elizabeth Street, Pottsville

That:

1. ***A “No Parking, Turning area” sign be installed on either side of the new turnaround area at the southern end of Elizabeth Street.***
2. ***That a yellow “No Stopping” line be installed from the southern “No Parking” zone adjacent the turnaround to the start of the driveway at Number 1 Elizabeth Street, Pottsville.***

A5. [LTC] Meridian Way, Tweed Heads

That 'Keep Clear' pavement stencils be installed on Ducat Street at the Meridian Way intersection.

A7. [LTC] Cooly Rocks On 8 - 9 June 2019

That the proposed traffic diversions associated with the Cooly Rocks On event from 5 to 9 June 2019 be supported, subject to:

- 1. NSW Police approval being obtained.***
- 2. Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.***
- 3. Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.***
- 4. The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.***
- 5. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.***
- 6. Adequate public liability insurance being held by the event organiser.***
- 7. All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.***
- 8. Consultation with emergency services and any identified issues addressed.***
- 9. Arrangements made for private property access and egress affected by the event.***
- 10. That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au and select Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.***
- 11. The event be conducted and signposted (where applicable this supersedes signposting in accordance with RMS Guide to Traffic Control at Worksites) in accordance with the current RMS Guidelines for Bicycle Road Races to ensure consistency across the network.***

REPORT:

The Minutes of the Local Traffic Committee Meeting held Thursday 2 May 2019 are reproduced as follows for the information of Councillors.

VENUE:

Mt Warning Meeting Room

TIME:

Commencing at 9.30am

PRESENT:

Committee Members: Linda Makejev, Roads and Maritime Services of NSW, Mr Col Brooks on behalf of Ms Janelle Saffin, Member for Lismore, Mr Rod Bates on behalf of Mr Geoff Provest MP, Member for Tweed, Mr Ray Clark (Chairman).

Informal: Cr Chris Cherry, Miss Alana Brooks, Mr Shane Davidson, Ms Katherine Boulton, Roads and Maritime Services of NSW, Ms Judith Finch (Minutes Secretary).

APOLOGIES:

Cr James Owen, Cr Pryce Allsop, Snr Constable Chris Davies, NSW Police, Ms Janelle Saffin MP, Member for Lismore, Mr Geoff Provest, Member for Tweed.

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

MIN1 [LTC-MIN] Confirmation of Previous Minutes Meeting held 28 February 2019

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 28 February 2019 be adopted as a true and accurate record of proceedings of that meeting.

SCHEDULE OF OUTSTANDING RESOLUTIONS

SCH1 [LTC-SOR] Schedule of Outstanding Resolutions - May 2019

From Meeting held 28 February 2019

B1 [LTC] Bakers Road, Byangum

ORIGIN:

Roads & Stormwater

FILE NO: ECM5687631: Traffic - Committee: Weight of Vehicles: Bakers Road, Byangum.

SUMMARY OF REPORT:

Applicant's Information:

The applicant would appreciate if the 'Traffic and Road Safety Committee' consider requesting a vehicle weight limit of 14.5 tonnes on Bakers Road in Byangum.

The road has many blind corners, trees near the edge of the road and steep drop offs. Recently there has been an increase in very large water tankers using this road and making it extremely dangerous.

There has been some feedback on social media about how this road has become more dangerous.

Attached is a heavy vehicle trip planner showing the recommended route through Murwillumbah. It also shows some of the tight blind corners on Bakers Road.

Officer's Comment:

There is no evidence of the increase in heavy vehicle movements on Bakers Road and it is recommended that traffic volumes surveys be carried out to determine the actual number of heavy vehicles. However, it would be unlikely that heavy vehicles would use this road to bypass Murwillumbah town centre. Google Maps indicates that it would take longer and increased distance using Bakers Road to get to the roundabout at Alma Street at Tweed Valley Way.

COMMITTEE ADVICE:

That:

- 1. Traffic surveys be carried out on Bakers Road, Byangum to determine the extent of heavy vehicle use and these surveys be brought back to the Committee upon completion.**
- 2. Bakers Road, Byangum be added to the Schedule of Outstanding Resolutions.**

Current Status: *That Bakers Road Byangum (B1) from Local Traffic Committee meeting held 2 May 2019 remain on the list of Outstanding Resolutions.*

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 28 February 2019 (Item B1).

From Meeting held 28 February 2019

B6 [LTC] Kennedy Drive, Tweed Heads

ORIGIN:
Roads & Stormwater

FILE NO: TRA19/0003

SUMMARY OF REPORT:

Applicant's Information:

The applicant has requested yellow lines to be painted on road outside 33 Kennedy Drive. Cars are trying to exit Second Avenue onto Kennedy Drive often have to "floor" it or quickly

pull back in to kerb due to other cars travelling more than 50km/h along Kennedy Drive. There is a bend which restricts view hence why drivers need to floor it or pull back in.

Officer's Comment:

There has been one 'left near' injury crash in 2014 at this intersection. There are give-way lines on Second Avenue and the sight distance to the right is approximately 45m.

The Chairperson advised that this item should be moved to the B Section of the Minutes.

Sight distance at the intersection is considered adequate for a Give Way sign and concerns were raised in relation to the constraints for installing an acceleration lane from Second Avenue into Kennedy Drive.

The Committee was informed that to install a complying acceleration lane on Kennedy Drive from Second Avenue, it would negatively impact on domestic driveways in this vicinity and should not be installed.

COMMITTEE ADVICE:

That:

- 1. A concept design be submitted for the Committee's consideration, showing an acceleration lane installed on Kennedy Drive from Second Avenue, Tweed Heads.**
- 2. Kennedy Drive be added to the Schedule of Outstanding Resolutions.**

From meeting held 2 May 2019:

COMMITTEE ADVICE:

That:

- 1. The request for a Stop sign at the intersection of Kennedy Drive and Second Avenue is not supported and installation of an acceleration lane on Kennedy Drive is also not supported, therefore no further action is required at this location.**
- 2. The Kennedy Drive, Tweed Heads be removed from the Schedule of Outstanding Resolutions.**

Current Status: *That Item B6 Kennedy Drive, Tweed Heads Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 2 May 2019 be removed from the list of Outstanding Resolutions.*

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 28 February 2019 (Item B6).)

BUSINESS ARISING

Nil.

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES - MURWILLUMBAH

- A1 The Chairperson requested that this item be moved to the B Section of the Minutes (B9).**
- A2 The Chairperson requested that this item be moved to the B Section of the Minutes (B10).**

DELEGATIONS FOR REGULATORY DEVICES - TWEED HEADS

- A3 The Chairman requested that this item be moved to the B Section of the Minutes (B7).**
- A4 [LTC] Elizabeth Street, Pottsville**

ORIGIN:
Roads & Stormwater

FILE NO: ECM 5805808; Traffic - Committee; Traffic - Parking Zones; Signs - Traffic Issues; Elizabeth Street, Pottsville

SUMMARY OF REPORT:

Applicant's Information:

This item has been raised by the Roads & Stormwater Unit in relation to receiving complaints from residents regarding people parking in the concrete turnaround area at the end of Elizabeth Street, Pottsville.

Officer's Comment:

The concrete turnaround area at the end of Elizabeth Street, Pottsville was designed to be left clear so that vehicles can perform a 3 point turnaround.

The signage and linemarking as per the Committee Advice has been installed as this is a safety issue that needed to be addressed immediately.

RECOMMENDATION TO COUNCIL:

That:

- 1. A "No Parking, Turning area" sign be installed on either side of the new turnaround area at the southern end of Elizabeth Street.**
- 2. That a yellow "No Stopping" line be installed from the southern "No Parking" zone adjacent the turnaround to the start of the driveway at Number 1 Elizabeth Street, Pottsville.**

- A5 [LTC] Meridian Way, Tweed Heads**

ORIGIN:
Roads & Stormwater

FILE NO: ECM 5782856; Traffic - Committee; Traffic Safety; Street Signs; Meridian Way, Tweed Heads; Ducat Street, Tweed Heads; Kennedy Drive, Tweed Heads

SUMMARY OF REPORT:

Applicant's Information:

The applicant believes that there is an ongoing and dangerous issue regarding the entrance to Meridian Way, Tweed Heads (off Ducat Street). It remains a high risk trying to exit and enter Meridian Way due to the high volume of traffic constantly backed up at the lights on Ducat Street, waiting to turn right onto Kennedy Drive. Motorists take no notice whatsoever of the sign. Photos are attached as proof.

Residents of Meridian Way have to rely daily on motorists lining up across the entrance of their street to 'wave them through'. The applicant and other residents do not wish to rely upon other motorists letting them know that it is safe to pull out.

There is no visual whatsoever of oncoming traffic entering Ducat Street from the lights at Kennedy Drive, due to the constant and lengthy line of traffic up Ducat Street, waiting to get through the lights at Kennedy Drive. Motorists (including many buses and trucks that use Ducat Street) take no notice whatsoever of the erected "Do Not Queue Across Intersection" sign and it is basically "exit at your own risk" when you pull out of Meridian Way.

The major contributor to the forever growing line of traffic on Ducat Street are the lights located on the corner of Kennedy Drive and Ducat Street. The constant line of traffic up Ducat Street are vehicles wishing to turn right from Ducat Street into Kennedy Drive. However, the lights turn green only for a very short period of time and only allow approximately four cars through at a time. This is due to the build-up of traffic on Kennedy Drive. Hence the line of traffic backing up Ducat Street waiting to turn right onto Kennedy Drive continues to grow, is extremely lengthy and constant.

This is a seven day a week problem.

The applicant requests the traffic committee urgently review this matter and expand their decision from providing an almost invisible "Do Not Queue Across Intersection" sign (which no motorists pay any attention to) and request the urgent marking of the road (Ducat Street) at the entrance to Meridian Way with the words "Keep Clear" similar to around the corner on Kennedy Drive and Shearwater Parade. Motorists adhere to the "Keep Clear" markings on Kennedy Drive, unlike the "Do Not Queue Across Intersection" sign on Meridian Way which absolute no one adheres to.

Officer's Comment:

Traffic queuing from the signals at Kennedy Drive regularly extend from Ducat Street to Meridian Way.

Whilst the installation of 'Keep Clear' pavement stencils are normally confined to emergency vehicle accesses, in this instance it could be supported. This is also consistent with similar marking on Kennedy Drive at Shearwater Parade.

RECOMMENDATION TO COUNCIL:

That 'Keep Clear' pavement stencils be installed on Ducat Street at the Meridian Way intersection.

FOR VOTE - Mr Rod Bates on behalf of Mr G Provest, MP Member for Tweed, Ms Linda Makejev, Roads & Maritime Services, Mr Ray Clark

A6 The Chairman requested that this item be moved to the B Section of the Minutes (B8)

A7 [LTC-LATE] Cooly Rocks On 8 - 9 June 2019

ORIGIN:

Roads & Stormwater

FILE NO: ECM5870025; Traffic - Committee; Festival - Cooly Rocks On; Roads - Closures including Traffic; Wharf Street, Tweed Heads

Applicant's Information:

The applicant is requesting traffic diversions associated with the Cooly Rocks On event being held from 5 to 9 June 2019.

Event Management, Connecting Southern Gold Coast, is seeking support from the Tweed Shire Council, in approving short term closure, to general traffic, of the Wharf St/ Boundary St and Griffith St Roundabout to allow both the Car Cruise and Parade to travel through this roundabout, and in the presentation of the Traffic Management for the Event in the following ways:

- Placement of VMS on Tweed Shire Council roads, to direct traffic travelling northbound, to detours around the event Road Closures.
- Placement of Traffic Signage on Wharf St and Bay St to alert traffic of change in Traffic Conditions within the Event Precinct, in Coolangatta

Short-term temporary closure of the Wharf St/ Boundary St and Griffith St Roundabout, with diversions, for the presentation of the Saturday night Car Cruise, 6.00pm to 8.30pm, and the Sunday morning Parade, 9.00am to 10.30am.

Officer's Comment:

The requested closure in Tweed Heads will still allow traffic to flow through the Wharf Street / Griffith Street roundabout into Boundary Street under traffic control.

RECOMMENDATION TO COUNCIL:

That the proposed traffic diversions associated with the Cooly Rocks On event from 5 to 9 June 2019 be supported, subject to:

- 1. NSW Police approval being obtained.**

2. Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.
3. Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.
4. The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.
5. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.
6. Adequate public liability insurance being held by the event organiser.
7. All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.
8. Consultation with emergency services and any identified issues addressed.
9. Arrangements made for private property access and egress affected by the event.
10. That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au and select Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.
11. The event be conducted and signposted (where applicable this supersedes signposting in accordance with RMS Guide to Traffic Control at Worksites) in accordance with the current RMS Guidelines for Bicycle Road Races to ensure consistency across the network.

FOR VOTE - Mr Rod Bates on behalf of Mr G Provest, MP Member for Tweed, Ms Linda Makejev, Roads & Maritime Services, Mr Ray Clark

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE - MURWILLUMBAH

B1 [LTC] Smiths Creek Road and Clareville Road, Smiths Creek

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5816333; Traffic Committee; Transport-Bus Services-Stops; Smiths Creek Road, Smiths Creek; Clareville Road

SUMMARY OF REPORT:

Applicant's Information:

The applicant has raised safety issues with the school bus drop off on Smiths Creek Road at Clareville Road, Smiths Creek. Recently, there was a near miss, when a car travelling on Clareville Road, heading towards Smith Creek Road, encountered children and parents walking out from behind a bus.

Officer's Comment:

The students are currently being dropped off on the opposite side of the road to the traffic flow, with the bus parking across the intersection of Clareville Road and the door opening next to the westbound travel lane on Smiths Creek Road. Although it is within a 50km/h zone, it is expected that cars are traveling much faster, as the default 100km/h speed limit ends 50m before Clareville Road. Currently, parents are marshalling the drop off to ensure that students do not walk out into the traffic lane. However, there is a concern that these particular parents cannot always be there to assist the unsupervised children. There is also the risk of children walking behind the bus and meeting vehicles turning at the intersection.

There is a potential for an informal stop, 100m east of Clareville Road. However, the children would need to cross the road in the 100km/h section and walk along the grass on the narrow shoulder. There is a quarry on Smiths Creek Road which generates heavy vehicle traffic.

COMMITTEE ADVICE:

That advice be provided to the bus company that the current practice of dropping off students on the incorrect side of the road is unsafe and should be discontinued. The preferred option is for the operator to enter Clareville Road and carry out a "U" turn at a safe location.

B2 [LTC] Tweed Valley Way, Stokers Siding

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5841874; Traffic - Committee; Tweed Valley Way, Stokers Siding; Blakeney's Road; Traffic Safety

SUMMARY OF REPORT:

Applicant's Information:

The applicant is concerned about numerous fatal accidents along Tweed Valley Way, Stokers Siding. The applicant has provided photos of historical crashes and would like Council to take action and improve safety on this stretch of road. It is suggested to review the road design, reduce the speed limit and undertake enforcement.

Officer's Comment:

The 'Fiveways'

Complaints are frequently received about the safety at the 'Fiveways' intersection on Tweed Valley Way, Stokers Siding. The main concern is the risk of vehicles turning left out of Stokers Road, colliding with a vehicle turning right out of Blakeney's Road. A review of the last five years of crash data did not reveal any crashes involving this movement. There has been one fatal and two injury crashes at this intersection, all involving motorists turning right out of Stokers Road.

A stop sign on Stokers Road was requested and discussed at the Local Traffic Committee meeting on 21 December 2017. The resolution was as follows:

"That:

1. *The installation of a 'No Stopping' sign on Stokers Road at Tweed Valley Way is not supported due to expected non-compliance.*
2. *Increased frequency of mowing the north and south sides of Blakeney's Road intersection with Tweed Valley Way be requested.*
3. *The existing chevrons on Stokers Road approaching Tweed Valley Way be improved by installing raised pavement markers."*

Tweed Way 600m South of Blakeney's Road

There was a recent fatal crash involving a Ford Hotrod travelling north in lane two, that lost control while negotiating the right sweeping bend and passing another vehicle. The residents are reporting a spate of crashes at the same location over the past year. This curve had not been recognised as high risk before the fatal crash. A review of the past five years of crash data found one other crash at this location, also involving a southbound vehicle losing control on the curve.

A site inspection found that the superelevation may be inappropriate through the curve and survey will be undertaken for confirmation.

COMMITTEE ADVICE:

That:

1. **Council Officers review the survey data and apply for Safer Roads Funding if road modifications are required to improve safety through the curve.**
2. **Delineation be improved on Stokers Road at the intersection of Tweed Valley Way, to prevent motorists from cutting the corner so they have better visibility of vehicles turning right out of Blakeney's Road.**
3. **Police are requested to enforce the speed limit on Tweed Valley Way south of Stokers Road, as Police resources permit.**

B9 [LTC] Kyogle Road, Dum Dum

ORIGIN:

Roads & Stormwater

FILE NO: ECM5855165; Traffic Committee; Roads Safety Audit; Kyogle Road, Dum Dum; Glenock Road

SUMMARY OF REPORT:

Applicant's Information:

There have been two crashes in the last few months on Kyogle Road, on the curve 250m north of Glenock Road, Dum Dum. There was also a fatal crash at this location in 2011. A road safety evaluation of Kyogle Road recommended removing or reducing the overtaking lane at this location as it ends on a curve, which may be contributing to the crashes. Reducing

the overtaking lane so it ends before the curve, will result in the length being shorter than RMS guidelines.

Officer's Comment:

That the overtaking lane be discussed at the meeting.

The RMS advised that they would abstain from voting on this issue due to the proposed reduction in lane length is not within the recommendations from the AustRoads Guide. A concept plan will be brought to a future LTC meeting.

The Chairperson requested that this item be added to the Schedule of Outstanding Resolutions.

COMMITTEE ADVICE:

That the overtaking lane on Kyogle Road north of Glenock Road, Dum Dum be added to the Schedule of Outstanding Resolutions.

B10 [LTC] Cane Road, Tyngah

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5806918; Traffic - Committee; Traffic - Local Area Traffic Management; Cane Road, Tyngah; Racecourse Road, Tyngah

SUMMARY OF REPORT:

A request for improved horse warning signage on Cane Road near Racecourse Road has been received.

Applicant's Information:

Request received regarding the crossing of horses on Cane Road every morning to get to the Tweed River Jockey Club for track work.

Even though there are currently signs in place asking motorists to approach slowly, I am sure you are aware, being a speed limit of 100, and peoples tendency to not read signs; unless they can visually see a horse crossing, no one takes notice of this request to 'slow down' . And, it is a general request, so people also tend to not take notice, however it is more and more dangerous every day.

We therefore, are seeking permission to install either of the following:

1. Two "horse crossing", with flashing lights to alert drivers to slow down ahead. These signs to be operational between the hours of 4.30am and 8.30am. One sign 300 metres prior to the crossing on each side of Cane Road. Motorists don't read standard signs, so flashing will ensure motorists know that horse will specifically crossing during these times.

2. Have two solar electronic signs with "Horses Crossing Here between 4.30am and 8.30am" on either side leading to the intersection, informing motorists it is ONLY between these times, so they will take note. Same as when you are approaching road works, if the signs are informative, and you know it is only for a certain time etc. you tend to take note.

We cross 80 horses per day at this intersection, and the facility beside us crosses another 30 per day, in total, there is potentially 110 horses crossing here, each and every morning, along with the staff that are handling these horses. Each day there is some incident of someone speeding past, and whether it is our horses, or one of the other Trainers horses, at the time, it is very dangerous. Horses, as we all know, can be unpredictable and skittish, and pairing this with a speeding vehicle, we are all lucky that nothing horrendous has happened to date.

I have spoken also to some of the Triathletes, and some of the Bicycle riders that are also on the roads at these times, and they said they too would welcome some sort of calming in the area during these times. Tweed River Jockey Club and McDonalds Dairy farm are also endorsing this, to improve the safety for motorists, our staff, horses and all involved.

Officer's Comment:

Council Officers have received a number of requests over the years to improve safety for the horse riders crossing Cane Road between the horse training businesses and the Tweed River Jockey Club. Requests to reduce the speed limit where not supported and standard 'Horse Rider' warning signs have been installed on Cane Road on either side of Racecourse Road.

A special "Horse Crossing" sign was installed on Cane Road with the condition that the Jockey Club would manage the sign that should only be opened to display "horses crossing" during peak crossing times. This sign has been left open full time and is now very faded.

Flashing signs are now being requested to warn motorists of horse riders crossing. The Roads and Maritime Services have a grant scheme for flashing livestock signs. A similar flashing sign system that is activated when horses are crossing could be considered for use at this location at the expense of the businesses or Jockey Club.

The proposed electronic signage is within Council's delegated authority to approve and was generally supported by the Committee. Currently there are varying levels of technology and signage available and further research will be conducted by Council and the RMS to determine the most suitable sign. The costs associated with the installation of the sign should be borne by the applicant and a formal agreement for maintenance and operation procedures would need to be developed.

The Chairperson requested that this item be moved to the B Section of the Minutes.

COMMITTEE ADVICE:

That the Committee supports further research into the installation of enhanced warning signage for horses crossing on the approaches to the Jockey Club on Cane Road, Tyngalga.

GENERAL TRAFFIC ADVICE - TWEED HEADS

B3 [LTC] Cockatoo Place, Tweed Heads South

ORIGIN:
Roads & Stormwater

FILE NO: ECM 5768044; Traffic - Committee; Cockatoo Place, Tweed Heads South; Robin Circuit; Pedestrian Safety; Parking Zones; Traffic Safety

SUMMARY OF REPORT:

Applicant's Information:

The applicant is experiencing problems in reversing out of their driveway and returning back into their driveway, with cars parked directly adjacent to the driveway entrance.

In view of these problems the applicant requests Council consider in assisting them by:

1. Installing "no parking signs" to cover the area of the 4 driveways to the corner of Cockatoo Place and Robin Circuit (as shown in blue on the diagram).
2. Paint a yellow strip along the road on the Northern side.

Officer's Comment:

The street is a 6m wide kerb face to face which, is the minimum road width, allowed within the subdivision Development Control Plan. The customer's driveway is 3m wide across the nature strip which is the minimum requirement. The maximum allowed is 6m. When a vehicle is parked opposite the driveway there is approx. 3.9m available to manoeuvre out of the driveway.

Installing prohibitive parking signage in residential streets to facilitate easier access to private driveways would result in inappropriate demands on council resources, including enforcement and linemarking contract payments.

COMMITTEE ADVICE:

That the request for prohibitive parking on Cockatoo Place is not supported as limiting parking in residential areas should only be carried out for safety reasons.

B4 [LTC] Fraser Drive, Banora Point

ORIGIN:
Roads & Stormwater

FILE NO: ECM5785148; Traffic - Committee; Fraser Drive – Banora Point; Harrier Street; Speed Zones

SUMMARY OF REPORT:

Request received for a reduction of the 80km/h speed limit on Fraser Drive.

Applicant's Information:

The applicant is concerned that the speed limit is inconsistent and inappropriate given the adjacent developments.

Officer's Comment:

The 80km/h section on Fraser Drive is approximately 1km in length from Harrier Street to just north of Vintage Lakes Drive. There is 60km/h sections north and south of this speed zone.

A review of the five year crash history found one non-injury and one injury crash, both single vehicle run off road.

The new developments accessing Fraser Drive have 2 intersections which have been designed for an 80km/h speed zone.

The Chairman requested that this item be added to the Schedule of Outstanding Resolutions.

COMMITTEE ADVICE:

That:

- 1. The request for a reduction of the 80km/h speed limit on Fraser Drive, Banora Point be referred to the Roads and Maritime Services, who are the authority on speed limits in NSW.**
- 2. This item be placed on the Schedule of Outstanding Resolutions.**

B5 [LTC] Kirkwood Road, Tweed Heads South

ORIGIN:

Roads & Stormwater

FILE NO: ECM5796442; Traffic - Committee; Pedestrian Safety; Traffic - Safety; Traffic - Pedestrian Crossings; Kirkwood Road, Tweed Heads South; Falcon Way, Tweed Heads South

SUMMARY OF REPORT:

Applicant's Information:

Applicant is concerned with the speed of cars travelling through the 50km/h section of Kirkwood Road, near the intersection of Falcon Way, Tweed Heads South. The speeding motorists are making it dangerous for pedestrians, particularly children crossing to and from school in the morning and afternoon. The customer has requested that action be taken, such as installing a pedestrian crossing, speed cameras and speed humps.

Officer's Comment:

There are pedestrian refuges on all approaches to the roundabout at the intersection of Falcon Way and Kirkwood Road. The refuges are the most appropriate crossing facility at this location as the number of pedestrians crossing in three one hour periods would not meet the warrants for a marked pedestrian crossing.

The 85th percentile for vehicle speed 200m west of the roundabout is 67km/h. in the 50km/h zone.

*Linda Cooper took over as Minutes Secretary and
Judith Finch left the meeting at 11.25am.*

COMMITTEE ADVICE:

That a pedestrian crossing is not supported on Kirkwood Road near Falcon Way because the number of pedestrians crossing per hour would be too low to meet the minimum warrants.

B6 [LTC] Philip Street, Pottsville

**ORIGIN:
Roads & Stormwater**

FILE NO: ECM 5830055; Traffic - Committee; Parking Zones; Philip Street, Pottsville

SUMMARY OF REPORT:

Applicant's Information:

The applicant is requesting 'customer parking only' signage or timed parking to address the lack of parking in Philip Street, Pottsville, adjacent to their business.

Officer's Comment:

There is no other time limited parking in Pottsville and previous feedback from community groups was that this would not be supported. Currently there is a long term parking study being carried out to determine parking demand in the village. The existing commercial premises has provided parking partly on site and partly within the road reserve which is commensurate with its DA approvals.

COMMITTEE ADVICE:

That the installation of time limited parking or reserved parking signage in Philip Street, Pottsville is not supported.

B7 [LTC] Marine Parade and Seaview Street, Kingscliff

**ORIGIN:
Roads & Stormwater**

FILE NO: ECM 5782162; Traffic - Committee; Traffic - Pedestrian Crossings; Resident/Ratepayers & Community Organisations; Marine Parade; Seaview Streets, Kingscliff

SUMMARY OF REPORT:

Cr Chris Cherry left the meeting at 10:26am

Applicant's Information:

Request received for:

1. A pedestrian crossing at the junction of Marine Parade and Seaview Street and
2. That the latest pedestrian counts for Seaview Street at that site be provided to the applicant.

Officer's Comment:

Pedestrian and vehicle counts have been conducted to determine the suitability of a marked pedestrian crossing at this location. During three, one hour periods on a week day, there was an average of 114 pedestrians and 279 vehicles. While the numbers are too low for the normal warrants, they come close to the 'special warrants'. This item was included for consideration, given the pedestrian and vehicle numbers would be much higher if recorded on a weekend or during holidays.

There are number of site constraints that would need to be reviewed to determine if a pedestrian crossing can be retrofitted at this location, including surrounding infrastructure and existing development approvals on the vacant land.

The Chairman requested that this item be moved to the B Section of the Minutes.

COMMITTEE ADVICE:

That the request for a pedestrian crossing on Seaview Street near the intersection with Marine Parade, Kingscliff is not supported due to the minimum warrants not being met.

B8 [LTC] Lakeview Parade, Tweed Heads South

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5787448; Traffic - Committee; Lakeview Parade; Traffic Linemarking; Traffic Safety; Parking Zones

SUMMARY OF REPORT:

Applicant's Information:

Requesting a yellow no stopping line to be placed at the cul-de-sac at the end of Lakeview Parade, Tweed Heads South. When cars park at the end of the cul-de-sac, other cars cannot turn. It is also impossible to turn a trailer. This is a constant problem experienced by many others.

Officer's Comment:

Given the steep driveways along this street and its narrow width (5m), the request to install a 'yellow no stopping edgeline' on the cul-de-sac bulb at the end of Lakeview Parade is supported.

The Chairman requested that this item be moved to the B Section of the Minutes.

COMMITTEE ADVICE:

That the installation of a 'yellow no stopping edgeline' on the cul-de-sac bulb at the end of Lakeview Parade is not supported as prohibitive signage in residential areas is difficult to enforce and may set a precedent for other areas.

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held 30 May 2019 in the Mt Warning Meeting Room commencing at 9.30am.

There being no further business the Meeting terminated at 11:50am.

EXECUTIVE LEADERSHIP TEAM COMMENTS:

A4. [LTC] Elizabeth Street, Pottsville

Nil.

A5. [LTC] Meridian Way, Tweed Heads

Nil.

A7. [LTC] Cooly Rocks On 8 - 9 June 2019

Nil.

EXECUTIVE LEADERSHIP TEAM RECOMMENDATIONS:

A4. [LTC] Elizabeth Street, Pottsville

That:

- 1. A "No Parking, Turning area" sign be installed on either side of the new turnaround area at the southern end of Elizabeth Street.***
- 2. That a yellow "No Stopping" line be installed from the southern "No Parking" zone adjacent the turnaround to the start of the driveway at Number 1 Elizabeth Street, Pottsville.***

A5. [LTC] Meridian Way, Tweed Heads

That 'Keep Clear' pavement stencils be installed on Ducat Street at the Meridian Way intersection.

A7. [LTC] Cooly Rocks On 8 - 9 June 2019

That the proposed traffic diversions associated with the Cooly Rocks On event from 5 to 9 June 2019 be supported, subject to:

- 1. NSW Police approval being obtained.***
- 2. Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.***
- 3. Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.***
- 4. The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.***
- 5. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.***
- 6. Adequate public liability insurance being held by the event organiser.***
- 7. All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.***
- 8. Consultation with emergency services and any identified issues addressed.***
- 9. Arrangements made for private property access and egress affected by the event.***
- 10. That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au and select Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.***
- 11. The event be conducted and signposted (where applicable this supersedes signposting in accordance with RMS Guide to Traffic Control at Worksites) in accordance with the current RMS Guidelines for Bicycle Road Races to ensure consistency across the network.***

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

42 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 3 May 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 Friday 3 May 2019 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the Aboriginal Advisory Committee Meeting held Friday 3 May 2019 be received and noted; and
2. The Executive Leadership Team's recommendations be adopted as follows:

GB5. Community Reference Group for Smart, Small, Sustainable (SSS) Village Proposal, Wardrop Valley

That once the Terms of Reference for the Community Reference Group for Smart, Small, Sustainable (SSS) Village Proposal, Wardrop Valley have been developed, they be referred to the Aboriginal Advisory Committee for consideration.

REPORT:

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 3 May 2019 are reproduced as follows for the information of Councillors.

Venue:

Minjungbal Aboriginal Museum and Cultural Centre

Time:

9.50am

Present:

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

Ex-officio:

Tracey Stinson (arrived at 10.07am), Robyn Grigg, Chantelle Howse, Robert Appo, Gabby Arthur (Minutes) (Tweed Shire Council).

Guests (in order of arrival):

Sally Cooper (Tweed Shire Council) (arrived at 10.45am).

Apologies:

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

Chair: Leweena Williams

Moved: Des Williams

Seconded: Victor Slockee

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

Leweena opened the meeting with a welcome to all present and paid respect to Elders past, present and those emerging.

Minutes of Previous Meeting:

Moved: Victor Slockee

Seconded: Dale Williams

RESOLVED that the Minutes of the Aboriginal Advisory Committee meeting held Friday 8 February 2019 be accepted as a true and accurate record of the proceedings of that meeting. The minutes were endorsed by Council at its meeting held on 17 April 2019.

Business Arising:

Business Arising from meeting held on 7 December 2018 and 8 February 2019

GB5. Arts Northern Rivers

Robyn advised that there been no change since her original report and it is business as usual for both Council and Arts Northern Rivers. Council's Cultural Plan will be reported to Council in the near future.

Business Arising from meeting held on 8 February 2019

A2. Test excavations per Mooball Management Agreement - Lot 2 DP 534493 and Lot 7 DP 593000 Tweed Valley Way, Mooball

Cr Cherry advised a dwelling has been placed on the lower site next to the existing dwelling. TBLALC advised that after a site inspection there is no physical evidence of cultural material on the site identified by Cr Cherry.

Business Arising from meeting held on 8 February 2019

A1(b) Ukerebagh Island Clean-up

Rob provided an update on his discussions with TBLALC and Tweed Aboriginal Cooperative Society regarding the Ukerebagh Island clean-up and advised that National Parks and Wildlife will be consulted as site managers.

Business Arising from meeting held on 8 February 2019

A2. Chinderah/Kingscliff boundary

Cr Cherry advised that at its meeting held on 17 April 2019, Council unanimously supported the AAC's recommendation that the locality boundary for Chinderah/Kingscliff not be altered.

Agenda Items:

A1. Community Development Strategy - Chantelle Howse and Robert Appo

Chantelle provided an overview of the Community Development Strategy and the responsibilities of the Community Development team. There are three phases:

- Research
- Internal consultation
- Community consultation - four focus groups will be held:
 - Murwillumbah - 27 May
 - Tweed Heads South - 28 May
 - Banora Point - 4 June
 - Cabarita Beach - 5 June.

The AAC members were encouraged to participate in the community consultation. A forum will be held in June to discuss the research and community consultation responses. The draft Community Development Strategy will then be reported to Council and placed on public exhibition.

Chantelle will forward surveys and invitations to the AAC to attend the focus group meetings and encouraged the members to share the information with their networks and community.

Discussion in relation to getting wider, diverse views with a focus on positive outcomes.

Sally Cooper arrived at 10.45am

Action: *Coordinator Community Development to arrange for the Community Development Strategy survey and invitations to be emailed to the AAC.*

Chantelle Howse left at 11.00am

A2. Procurement - Tim Mackney and Charlotte Neilson (Tweed Shire Council)

Apologies received from Tim Mackney and Charlotte Neilson at the commencement of the meeting. Item deferred to next meeting.

A3. Fingal Holiday Park Aboriginal Cultural Heritage Assessment - Sally Cooper (Tweed Shire Council)

Council has infrastructure in the Fingal Holiday Park, the adjoining foreshore park, roads (Marine Parade, Main Road, Letitia Spit Road), stormwater, town water and reticulated sewer system that are either currently in need of maintenance, or are expected to in the future. Council is unable to carry out its legislative requirements in managing Aboriginal cultural heritage and undertake the required maintenance without undertaking an Aboriginal Cultural Heritage Assessment (ACHA). Tracey advised that Council will be undertaking an ACHA and wishes to proceed in a culturally sensitive and appropriate manner.

Council understands that Aboriginal cultural significance is high in Fingal Head. Council will be appointing a specialist consultant to undertake the ACHA who will consult with the Aboriginal community. Initially, the ACHA investigation would use non-invasive methods. There will not be any excavation unless there is a high degree of certainty that no burials are in the area. Investigation methods would be developed in consultation with the Registered Aboriginal Parties (RAPs).

Council has a responsibility to maintain infrastructure and Aboriginal cultural heritage could be harmed during the maintenance. Council is trying to identify priority areas specific to the location of Council infrastructure. Council is continuing to consult with the TBLALC and AAC.

The ACHA will potentially identify areas where Council won't be able to avoid harm and if that is the case, then Council may need to apply for an AHIP.

In 2011, an ACHA was prepared which identified Fingal Holiday Park as being of high cultural value. This finding led Tweed Coast Holiday Parks to focus redevelopment on other parks such as Kingscliff. There is no intent for redevelopment of the Fingal Head Holiday Park, as outlined in the 10 year strategy for the Tweed Coast Holiday Parks. The desire is to rearrange existing caravan sites and for the holiday park to maintain its current character.

The next stage is to engage a cultural heritage assessment consultant. The consultation process will be carried out over a period of several months. Invitations will be extended to the Aboriginal stakeholders to enlist as RAPs. When looking for a consultant, Council acknowledges the importance of community input.

Leweena advised that TBLALC works with a world expert who is based in the USA and it would be necessary for Council to engage such an expert to undertake the ACHA. TBLALC was onsite in 2011 when the previous ACHA was completed. There were stakeholders who

identified where there were burials potentially within the holiday park boundary however this wasn't dealt with adequately.

The AAC advised there are definitely Aboriginal burials in the holiday park as it has encroached on the cemetery. Leweena requested that the wording in the documentation be changed as it currently sounds like the Aboriginal sites are imposing on Council infrastructure.

TBLALC would like more time to consider the management of the highly emotional journey for the Elders and the process and outcomes. TBLALC need to discuss the ACHA with the Aboriginal community before any correspondence is sent out by Council.

Tracey advised her fear is that if a piece of infrastructure fails, Council does not have anything in place which is why there is the necessity for the ACHA to be progressed within a reasonable timeframe. To comply with legislation and honour what Council should be doing, it needs to move forward but it is absolutely aware that the Aboriginal community needs time to consider the impacts to the Aboriginal community.

Stormwater pipe depth will be determined by the fall - typically up to 1 metre. Council advised that the location of the major infrastructure (eg sewer and water pipes) is known however the minor infrastructure (eg irrigation and cabling) put in over time was never mapped.

If it is unearthed that infrastructure goes through burial sites then no maintenance or development can be done in this area. This may result in the Aboriginal community requesting that the holiday park be reduced in extent.

This process is about whether Council can operate the holiday park (ie. maintain the infrastructure) or not. The boundary could need to be shifted so far that the park may not be viable anymore. There has been a councillor workshop on this topic and these potential implications were discussed.

Leweena asked that a member of the AAC or Aboriginal community be on the panel when assessing the consultant tenders. The AAC would nominate Des and Victor to be part of the assessment panel. Council to look at the procurement legalities as it may be better for the AAC to make a recommendation on the tenders received rather than to be on the panel.

Council has prepared a letter that it would like to distribute. Council will not distribute the letter until it receives advice from the AAC that it is ready for it to be distributed. A draft of the letter to be sent to the AAC for comment.

It was noted that there was some work carried out in the holiday park on 1 May 2019 with shallow ground disturbance. There was no reasoning provided as to why the work was being done. Sally is following up with Andrew Illingworth to find out why the work was being carried out.

Item to be discussed at next AAC meeting. Sally advised she will come back to a future meeting when she has some further information.

Action: *Council's draft letter addressed to stakeholders and community members to be provided to CDO-Aboriginal for distribution to the AAC for comment before it is finalised and sent out.*

Sally Cooper left the meeting at 11.53am

Inwards Correspondence:

Nil.

Outwards Correspondence:

Nil.

General Business:

Business Arising from Notes of meeting held on 12 April 2019

GB4. Bridge-ing the Gap campaign to have the Aboriginal flag placed on the Harbour Bridge

Rob advised he has followed up with the Mayor re the letter she received from the Bridge-ing the Gap campaign to fly the Aboriginal flag on the Harbour Bridge. Six councils in NSW have agreed to place a petition in their council office. Mayor Milne was asking if she put up a Notice of Motion to have the petition at its council offices would the AAC support it. Cr Cherry advised that Mayor Milne hasn't had a chance to follow this up with the councillors. Item to be deferred to next meeting.

Business Arising from Notes of meeting held on 12 April 2019

GB5. Community Reference Group for Smart, Small, Sustainable (SSS) Village Proposal, Wardrop Valley

This item has been placed on hold until the Terms of Reference have been developed for the reference group.

Moved: Victor Slockee

Seconded: Des Williams

RECOMMENDATION:

That once the Terms of Reference for the Community Reference Group for Smart, Small, Sustainable (SSS) Village Proposal, Wardrop Valley have been developed, they be referred to the Aboriginal Advisory Committee for consideration.

Business Arising from Notes of meeting held on 12 April 2019

GB6. Jack Evans Boat Harbour Update

Cr Cherry advised that following discussion at the last AAC meeting, Council at its meeting on 17 April 2019 agreed to remove the land in Coral Street subject to Aboriginal Land Rights Claim from the Plan of Management for the Jack Evans Boat Harbour.

GB7. Proposal for Temporary Outdoor Cinema Ebenezer Park

Cr Cherry advised that the proposal for a temporary outdoor cinema in Ebenezer Park will be considered by Council at its next meeting.

GB8. Future AAC Agendas

Rob advised that at the June AAC meeting we might take the opportunity to workshop the AAC agendas for future meetings. Rob suggested questions surrounding items such as:

- Projects
- Council staff attendance

- Reporting on current Policies and Plans
- Aspirations for future AAC representatives
- Fostering links to young people in the Aboriginal community
- RAP - 6 to 8 months to go. Actions 85% achieved.
- Reporting by RAP Working Group.

GB9. Reconciliation Week

Council has partnered with 3SA, Headspace, New Horizons and the Family Centre for this year's Reconciliation Week event and have organised a comedy and trivia night. The event will be held on Wednesday 29 May at South Tweed Community Hall, with tables of 8 to 10 people. Councillors, Executive Leadership Team and AAC members will receive VIP invitations. Council will be allocated approximately 40-50 tickets. Rob advised that Council is financially contributing to the event in accordance with the RAP action item for Reconciliation Week.

GB10. Tweed Coast Road - Gold Line Marking

Rob advised he is working with Danny Rose regarding no parking line marking on Tweed Coast Road.

Next Meeting:

The next meeting of the Aboriginal Advisory Committee will be held Friday 7 June 2019.

The meeting closed at 12.45pm.

EXECUTIVE LEADERSHIP TEAM COMMENTS:

GB5. Community Reference Group for Smart, Small, Sustainable (SSS) Village Proposal, Wardrop Valley

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

GB5. Community Reference Group for Smart, Small, Sustainable (SSS) Village Proposal, Wardrop Valley

That once the Terms of Reference for the Community Reference Group for Smart, Small, Sustainable (SSS) Village Proposal, Wardrop Valley have been developed, they be referred to the Aboriginal Advisory Committee for consideration.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Aboriginal Advisory Committee adopted 19 September 2013 (ECM3146605).

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

43 [SUB-TRAG] Minutes of the Tweed Regional Art Gallery Advisory Committee Meeting held Wednesday 8 May 2019

SUBMITTED BY: Community and Cultural Services

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.2 Places
- 3.2.2 Art Gallery - To promote awareness, enjoyment and understanding of the visual arts through collections, exhibitions, education and community programs.

ROLE: **Leader**

SUMMARY OF REPORT:

The Minutes of the Tweed Regional Art Gallery Advisory Committee Meeting held Wednesday 8 May 2019 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Tweed Regional Art Gallery Advisory Committee Meeting held Wednesday 8 May 2019 be received and noted.

REPORT:

The Minutes of the Tweed Regional Art Gallery Advisory Committee meeting held Wednesday 8 May 2019 are reproduced as follows for the information of Councillors.

Venue:

Tweed Regional Gallery & Margaret Olley Art Centre

Time:

5.00pm

Present:

Cr Warren Polglase (chair), Robyn Grigg (Manager Community & Cultural Services), Susi Muddiman OAM (Gallery Director), Hobie Porter, Jennifer Unwin, Alan Hann (Friends of Tweed Regional Gallery), Shirley Kennedy, David Wolff (Tweed Regional Gallery Foundation Ltd.), Kree Harrison (Administrative Officer - minutes).

Apologies:

Cr Reece Byrnes, Tracey Stinson (Director Community & Natural Resources), Louise Devine.

Minutes of Previous Meeting:

Moved: Hobie Porter

Seconded: Jennifer Unwin

RESOLVED that the Minutes of the Tweed Regional Gallery Advisory Committee meeting held on Wednesday 20 February 2019 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

No business arising.

Agenda Items:

Gallery Director's Report

The Gallery Director presented her report, and acquisition of artworks were discussed with the Committee.

Moved: Jennifer Unwin

Seconded: Shirley Kennedy

RESOLVED that the Gallery Director's report be accepted and new acquisitions ratified.

General Business:

The Gallery Director presented the new exhibition program to the committee.

The Gallery Director discussed the upcoming Art Deco exhibition and associated Public Programs with the committee. Also discussed was the 16 page publication about Art Deco buildings in Murwillumbah that will be produced in collaboration with the Tweed Regional Museum. The Tweed Regional Gallery Foundation Ltd. will host an Exhibition Preview event on Thursday 30 May.

The Gallery Director discussed the upcoming exhibition *A Shared Obsession: Margaret Olley & Fred Jessup* with the committee and associated Public Programs including, In Conversation event and Artist Studios Bus Tour (hosed by the Friends of Tweed Regional Gallery).

The Gallery Director informed the committee she will be attending the Museums and Galleries of Australia National Conference held in Alice Springs 13-17 May.

Next Meeting:

The next meeting of the Tweed Regional Gallery Advisory Committee will be held on Wednesday 14 August 2019.

The meeting closed at 6.00pm.

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - adopted 19 July 2018 (ECM 5444969).

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.

44 [SUB-TSYC] Minutes of the Tweed Shire Youth Council Meeting held Wednesday 8 May 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: Collaborator Leader

SUMMARY OF REPORT:

The Minutes of the Tweed Shire Youth Council Meeting held Wednesday 8 May 2019 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Tweed Shire Youth Council Meeting held Wednesday 8 May 2019 be received and noted.

REPORT:

The Minutes of the Tweed Shire Youth Council Meeting held Wednesday 8 May 2019 are reproduced as follows for the information of Councillors.

Venue:

Harvard Room, Tweed Heads Administration Building

Time:

4.00pm

Present:

Ari Cummins and Ryan Thomas (Banora Point High School); Cassandra Pollard and Madeline Maugueret (Pacific Coast Christian School); Will Fitzgibbons and Jaidah Fergus-Mackie (Lindisfarne Anglican Grammar); Shelby Johnston, Nava Bergman and Jasper Tiffen (Murwillumbah High School); Noemi Suter, Amanda Widen-Battaglini and Maddie Idle (Kingscliff High School); Jazmine Cooke (Tweed River High School); Scarlett Magnus and Jacob Wilson (St Joseph's College)

Guests:

Cr Ron Cooper; Troy Green (General Manager); Andrew Illingworth (Acting Director Community and Natural Resources); Chantelle Howse (Coordinator Community Development); Karen Collins (Community Development Officer - Aged and Disability); Giselle Benitez (Policy Planner); Kyle Sculley (Member Creating Access Advisory Group)

Ex-Officio:

Sylvia Roylance (Community Development Officer - Families and Youth); Shane Davidson (Executive Officer); Lisa Bailey (Minutes)

Apologies:

Mayor of Tweed Shire, Cr Katie Milne; Tracey Stinson (Director Community and Natural Resources); Stephanie Papadopoulos (Manager Corporate Governance); Robyn Grigg (Manager Community and Cultural Services); Joshua Carpenter (Banora Point High School); Conner Insull (Kingscliff High School)

Jasper Tiffen, as Chairperson of the Committee, welcomed everyone to the meeting.

Aboriginal Statement

Cr Cooper acknowledged the Bundjalung Aboriginal Nation with the following statement:

"We wish to recognise the generations of the local Aboriginal people of the Bundjalung Nation who have lived in and derived their physical and spiritual needs from the forests, rivers, lakes and streams of this beautiful valley over many thousands of years as the traditional owners and custodians of these lands."

Youth Council Meeting Agenda Items:

A1. Housekeeping

A brief overview of the amenities and the evacuation procedures for the Harvard Room, Tweed Heads Administration Building was carried out.

A2. Confirmation of Minutes from meeting held Wednesday 13 February 2019

RESOLVED that the Minutes of the Tweed Shire Youth Council Committee meeting held 13 February 2019 be accepted as a true and accurate record of the proceedings of that meeting.

Moved: Jazmine Cooke

Seconded: Scarlett Magnus

A3. Youth Council update on Attendance at Conferences and Events

No updates this meeting.

**A4. What's On Exhibition - Giselle Benitez - Policy Planner
Draft Scenic Landscape Strategy**

Giselle introduced the Draft Scenic Landscape Strategy to Youth Council Members. The strategy will provide a toolkit for anyone wanting to develop a property, to enable them to consider the impact on the natural environment and the scenic landscape. To support the strategy a set of 'Scenic Management Principles' have been established. Members were asked to review these principles and encouraged to provide feedback on this and also the interactive mapping tool (<http://data-scenic-landscape-tweedsc.opendata.arcgis.com>).

A5. Receipt of Petitions regarding an Emerging Community Issue

Shane provided an overview of how petitions can be received, either hand-written or via email. Petitions need to be addressed to Tweed Shire Council and contain at least five signatures. A contact person is required, and if not provided, the first signatory on the list will be delegated as the contact. There were no petitions presented at this meeting.

Jazmine Cooke informed the committee that as a member of Youth Parliament, she has an avenue to present any petitions that relate to State Government, for example, additional high schools, new hospitals, youth homelessness accommodation. Cr Cooper reminded members that petitions presented to the State government must hold signatories only from NSW residents and Shane confirmed any petitions of 10,000 signatures or more must be debated in parliament.

A6. Report from Council Officer Karen Collins - Access and Inclusion Plan

Karen introduced her role as being responsible for promoting inclusion for people with disabilities across the Shire. The aim of the Access and Inclusion Plan is to have a community where everyone can participate. One of the goals of the plan aims to influence organisations that involve youth to make that service accessible. Karen would like to offer members training to help identify access issues across the Shire to support the 'Creating Access Project' to be discussed further by Kyle Sculley on the next agenda item.

A7. Community Guest Speaker - Kyle Sculley

Karen introduced Kyle who is a member of an advisory group convened by People with Disabilities Australia (PWDA) working on the 'Creating Access Project'. The group plans to develop an audit tool to help organisations understand how accessible their organisations are and what improvements can be made to be more inclusive of young people with disabilities. Kyle is seeking suggestions from Youth Council members on areas they identify as needing improvements and pilot organisations they think would benefit from the audit tool.

Kyle spoke with the committee on matters that impact how he lives his life, and the changes over the past ten years in how people with disabilities are treated. Some of the

improvements that he would like made around the Shire include: the provision of braille signage; improved access ramps and improvements in the way autistic people are treated in the community. Kyle's motto in life is 'what I have does not define me' and he hopes his involvement in this advisory committee will lead to assisting other young people in the Shire to live more fulfilling and independent lives, where people no longer feel the need to ask about the kind of disability they have.

Youth Councillor Workshop:

1. School Community Project Presentation

Tweed River High School, Jazmine Cooke
Mini Green Team - Tweed Heads South Public School

Jazmine has been working with Tweed Heads South Public School aiming to develop a 'Mini Green Team'. A 'Clean-Up Australia Day' event was held on February 28 within the school grounds. Across the day Jazmine provided education on the how a small item of rubbish can go straight into the local waterways, and also talked about the importance of turning off lights when they are not in use, for example. Feedback from the young people confirmed they were already hearing these messages from their parents, however, hearing it from a high school student seemed to have more impact in getting the message across.

Jazmine has also assisted in setting up a composting system with students taking ownership of collecting items to be composted as part of their daily routine. She will also be escorting students to an environmental symposium at Miami with topics focussing on matters such as the elimination of plastic straws.

2. Youth Council Reports - School Community Project Updates

Banora Point High School: implementing a Green Team. Have conducted a waste audit to assist with obtaining recycle bins for all students to use.

Kingscliff High School: Creating a website to provide easy access to notifications about environmental footprint. On the basis that 'knowledge is power' it is hoped the site will increase awareness on 'what is climate change'. Looking at holding events to provide students the opportunity to have input to share ideas on what to include on the site. Also investigating the option of linking the site through Facebook to better engage the community.

Lindisfarne Anglican Grammar: Following attendance at a RRISK seminar last year, representatives are hoping to have a forum to share this information with a greater population across the school. Hoping to hold 'Save-A-Mate' (SAM) drug and alcohol information session with students. Red Cross offering SAM 'train the trainer' module so that the programme can be rolled out across all school. Topics covered, for example, are how to identify when friends who are suffering from the effects of drugs and/or alcohol.

Pacific Coast Christian School: Aiming to hold information sessions across the school with an environmental focus.

Murwillumbah High School: Have created sub-groups within the SRC to target different areas such as: culture; youth council; media; and project (study hub). Will be continuing with the 'U R OK' Day.

St Joseph's College: Looking at conducting a pastoral activity visiting local retirement homes. Working with 'You Have a Friend' to assist with feeding homeless people in the park at Jack Evans Boat Harbour. This is helping in demystifying homelessness and gaining a greater understanding of how quickly people can become homeless. Also promoting the work of You Have a Friend with the aim of increasing their volunteer group. Will also be attending Street Retreat working on social justice issues.

3. National Youth Event Dates 2019

3.1 Wear It Purple Day - Friday 30 August

Sylvia advised headspace has planned a movie followed by Q and A panel discussion as part of the event held at Hoyts Tweed City. Further information will be sent out.

3.2 headspace Day (National Mental Health Week) - October (exact date TBC)

3.3 Diversity Walk - 26 October 2019

General Business:

Sylvia presented the Tide Times brochures that were prepared as the final stage of Josh's Fishing Line Debris project. 5000 copies have been printed and are being circulated around the community. Brochures can be found at bait and fishing tackle businesses located in Tweed Heads. Tweed Valley Wildlife Carers Inc. are happy with the volume of debris that is being collected in the bins. Josh has been approached by the tourism company 'Catch A Crab' who are wanting to support the project by taking him on a tour to identify key areas where they come across debris and may consider ways to expand the project.

Banora Point High School held a Blue Light Disco last year with the assistance of PCYC. Will be running events this year also at Seagulls Club. Promotion for the Primary Schools event has commenced and planning for a High School event in Term 3 is underway.

Next Meeting:

The next meeting of the Tweed Shire Youth Council Committee will be held Wednesday 14 August 2019, Murwillumbah Civic and Cultural Centre, Council Chambers, 10-14 Tumbulgum Road, Murwillumbah.

The meeting closed at 6pm.

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - adopted 22 October 2015 (ECM 3808358).

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.

45 [SUB-CHAC] Minutes of the Community Halls Advisory Committee Meeting held Wednesday 15 May 2019

SUBMITTED BY: Community Services

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.1 People
- 3.1.4 Cultural and Community Development - To provide community and cultural development services to foster and improve the social and cultural wellbeing of the community and to plan for the needs of current and future populations by understanding needs and identifying gaps in service delivery.

ROLE: Leader

SUMMARY OF REPORT:

The Minutes of the Community Halls Advisory Committee Meeting held Wednesday 15 May 2019 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Community Halls Advisory Committee Meeting held Wednesday 15 May 2019 be received and noted.

REPORT:

The Minutes of the Community Halls Advisory Committee (CHAC) Meeting Held Wednesday 15 May 2019 are reproduced as follows for the information of Councillors.

Venue:

Canvas and Kettle Meeting Room, Murwillumbah Civic and Cultural Centre,
Tumbulgum Road, Murwillumbah

Time:

11:00am

Present:

Dot Colley and Jennifer Kidd (Tumbulgum Hall - Deputy Chairperson), Helen Manning (Fernvale Hall), Jill Buttfield, Janet Tkachenko and Yvonne Hogan (Pottsville Beach Hall), Maree Edwards and Gail Brims (Chillingham Hall), Steve Sweetnam (Doon Doon Hall), Claire Masters (Limpinwood Hall), Felicity McKellar (Crystal Creek Hall) and Cr Warren Polglase (Tweed Shire Council)

Apologies:

Liz Mioni (Piggabeen Hall) and Robyn Grigg (Tweed Shire Council)

Ex-officio:

Chantelle Howse and Shannon Rees (Tweed Shire Council), Lisa Bailey (Tweed Shire Council - Minutes)

Minutes of Previous Meetings:

Moved: Claire Masters

Seconded: Yvonne Hogan

RESOLVED that the Minutes of the Community Halls Advisory Committee (CHAC) meeting held Wednesday 6 February 2019 be accepted as a true and accurate record of the proceedings of the meeting.

OUTSTANDING MATTERS REPORT:

OM1 Review of Draft Guidelines

Guidelines are now accepted and no longer in draft form. A 'final' copy was provided to individual halls.

This item is now closed.

OM2 Hall Management Agreements

The Hall Management Agreement has been finalised and now has a 12 month validity from the date of signing. The Agreement will be distributed to individual Hall Committees during the Volunteer Induction Workshop to be held at the conclusion of this meeting.

This item is now closed.

AGENDA ITEMS:

AI1. Disability Audit for Community Halls

Karen Collins, Council's Community Development Officer - Ageing and Disability, provided a background to the Access and Inclusion Plan noting that Council is legislated by law to have

a plan. Most relevant to this committee is Focus Area 2 - Creating Liveable Communities. A goal under this focus area is to 'undertake access audits of Council owned buildings'. The subsequent action item being 'undertake an access audit of all Community Halls'. An audit is technically an inspection to assess the facility against current Access Standard and guidelines and Karen is qualified to complete this audit. Priorities will be applied to actions resulting from these audits and this information will be provided to Hall Committees once finalised. Karen advised the audits will take a few hours to complete and she will be in contact to arrange a suitable date and time.

A query was raised regarding funding to pay for any issues resulting from the audits. Chantelle advised that Council will be determining the priorities / projects and will work with committees in a partnership approach to apply for grants (for example) to support the work.

Shannon reminded members these audits will be conducted on the hall, it is not an audit of management committees. The information provided will be helpful when requesting owners consent to carry out improvements to the halls.

Karen provided members a summary of the plan and a booklet that provides a simplified version of the Premises Standards.

AI2. Council Resolution (20 September 2018 Meeting)

Chantelle provided an update to the committee advising the implementation of the 'Application for Owners Consent' form was required to support this process. This has been trialled over the past few weeks and a copy of the form was provided for each Hall Committee. The completion of this form is required in order to assess owner's consent for improvements to building/infrastructure. It was suggested that each Hall Committee work on compiling this information now in preparation for any future grant applications.

Any project requesting matched funding (\$3000 annually) will require the completion of this Application for Owner's Consent. A report will be sent to Council's Executive Leadership Team over the coming weeks to finalise / endorse this process. Chantelle confirmed the funding is available in this financial year, and each to follow. However, the funds will not accrue from year to year.

Chantelle advised Council's focus will be on maintenance issues and it was suggested by Jenny Kidd that issues identified by Paul Mitchell (Council's Maintenance Officer - Community Assets) be aligned with this process to assist in getting this work scheduled.

Janet Tkachenko suggested adding a step to allow the opportunity for Hall Committee members to meet with Chantelle to discuss the works after Stage 1.

Chantelle advised any further feedback on the form is welcome.

AI3. Upcoming Events

Due to limited time available at this meeting, this item focussed on major events only.

Chillingham Hall are having a History Day on the June long weekend. This event is in collaboration with Chillingham Public School and Chillingham Community Association. Maree will forward through a flyer for circulation across committee members.

Inwards Correspondence:

Nil.

Outgoing Correspondence:

Nil.

General Business:

GB1. Scheduling Next Meeting, including venue

The next meeting will be held 11am Wednesday 28 August at the Canvas and Kettle Meeting Room, Murwillumbah Civic and Cultural Centre.

The meeting closed at 11.20am.

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference Version 1.1 - adopted 15 December 2017 (ECM 4934120).

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

C1 [CNR-CM] Park Naming - George Beattie Park - Oxley Cove

REASON FOR CONFIDENTIALITY:

Council has previously resolved to consider park naming proposals in confidential to avoid embarrassment to individuals or families should Council not support a submission.

Local Government Act

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

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

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Provider**

REPORTS FROM THE DIRECTOR ENGINEERING IN COMMITTEE

C1 [E-CM] Potential Purchase of Flood Liable Land

REASON FOR CONFIDENTIALITY:

This report relates to the potential purchase of land and contains land valuation information that could form the basis of negotiations with external parties.

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
- 1.2 Asset Protection
- 1.2.1 Floodplain Management - To manage the risk of flooding and its impacts for property owners and the community.

ROLE: **Leader**

C2 [E-CM] RFO2018111 Design, Supply and Installation of Creative Lighting on Tweed Border Marker

REASON FOR CONFIDENTIALITY:

No advantage to prospective bidders during negotiation process.

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



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**
