

Mayor: Cr K Milne

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

Agenda

Ordinary Council Meeting Thursday 25 October 2018

held at
**Council Chambers, Murwillumbah Civic & Cultural Centre,
Tumbulgum Road, Murwillumbah**
commencing at 5.30pm

Principles for Local Government

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

Guiding Principles for Tweed Shire Council

(1) Exercise of functions generally

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

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

(2) Decision-making

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

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

(3) Community participation

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

Items for Consideration of Council:

ITEM	PRECIS	PAGE
	CONFIRMATION OF MINUTES	7
1	[CONMIN-EXT] Confirmation of Minutes of the Extraordinary Council Meeting held Thursday 20 September 2018	7
2	[CONMIN-CM] Confirmation of Minutes of Ordinary and Confidential Meeting held Thursday 20 September 2018	9
3	[CONMIN-CM] Confirmation of Minutes of the Ordinary and Confidential Meetings held Thursday 4 October 2018	11
	SCHEDULE OF OUTSTANDING RESOLUTIONS	13
4	[SOR-CM] Schedule of Outstanding Resolutions as at 25 October 2018	13
	MAYORAL MINUTE	28
5	[MM-CM] Mayoral Minute for September 2018	28
	RECEIPT OF PETITIONS	33
6	[ROP-CM] Receipt of Petitions as at 25 October 2018	33
	ORDERS OF THE DAY	35
7	[NOM] Intergovernmental Panel on Climate Change (IPCC) 2018 Report	35
8	[NOM] Rail Trail - Meeting with Adjacent Land Owners	38
9	[NOM] Planning Design Guidelines	41
10	[NOM] Busking	43
	QUESTIONS ON NOTICE	45
11	[QON-Cr P Allsop] Processing of Development Applications	45
12	[QON-Cr P Allsop] Community Consultation	46
13	[QON-Cr K Milne] Comparison on Investment Returns	47
	REPORTS THROUGH THE GENERAL MANAGER	48
	REPORTS FROM THE GENERAL MANAGER	48
14	[GM-CM] Council Architect - Panel Member - Tweed State Significant Projects	48
15	[GM-CM] Regional Cities NSW	52
16	[GM-CM] Draft Events Sponsorship Policy, Version 3.1	59

17	[GM-CM] Business Name - Licence	62
	REPORTS FROM THE DIRECTOR PLANNING AND REGULATION	66
18	[PR-CM] Development Application D94/0015.10 for an Amendment to Development Consent D94/0015, Development Application T4/2794.07 for an Amendment to Development Consent T4/2794 and Development Application PN1074.10 for an Amendment to Development Consent PN1074.10 Where all Three (3) Development Consents Relate to Additions to Existing Caravan Park at Lot 11 DP 1206666; No. 2 Barneys Point Road Banora Point	68
19	[PR-CM] Development Application DA18/0073 for a truck depot, plant nursery, rural/landscaping material supplies, office and alterations and additions to existing dwelling at Lot 1 DP 1091576; No. 188 Tweed Coast Road Chinderah	113
20	[PR-CM] Development Application DA18/0082 for a Telecommunications Facility at Lot 6 DP 866255 No. 233 Byangum Road, Murwillumbah	194
21	[PR-CM] Rural Land Strategy for Adoption	259
22	[PR-CM] Draft Tweed Shire Council Animal Pound - Rehoming and Minimising Euthanasia Policy	269
	REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES	282
23	[CNR-CM] Arts Northern Rivers and Cultural Planning	282
24	[CNR-CM] Licence to Possums Community Preschool Association Inc	288
25	[CNR-CM] Offer of Financial Assistance for the Tweed Coast Coastal Management Program	292
26	[CNR-CM] Acceptance of Environmental Trust Grants - Natural Resource Management Unit	295
27	[CNR-CM] Renewable Energy Action Plan - Progress Update	298
28	[CNR-CM] Report from Tweed Valley Wildlife Carers 2017-2018	301
29	[CNR-CM] RFO2018081 Design, Supply and Install PV System at Tweed Regional Aquatic Centre, Murwillumbah	304
30	[CNR-CM] Public Toilets - South Tweed Industrial Area	309
31	[CNR-CM] Report on Risk Assessment and Treatment Plan 2018 - Fingal Head - Coastal Public Safety Risk Assessment	312
	REPORTS FROM THE DIRECTOR ENGINEERING	319
32	[E-CM] RFO2018069 - Design, Supply and Install Six Solar PV Systems and Water and Wastewater Unit Sites	319

33	[E-CM] RFO2018105 Road Pavement Stabilisation Program 2018-2019	325
34	[E-CM] Natural Disaster Relief Assistance Grant Offer - South Murwillumbah Levee Repair	330
35	[E-CM] Clarification on the Extent of Parking Contribution Waiver - Murwillumbah Central Business District / South Murwillumbah	333
36	[E-CM] Funding Offer under the Country Passenger Transport Infrastructure Grants Scheme	339
37	[E-CM] Alteration of Locality Boundary between Chinderah and Kingscliff	342
38	[E-CM] Variation of Restriction on Use - Lot 10 DP 1231670 - 23 Sea Eagle Court, Casuarina	347
39	[E-CM] Draft Policy - Reduction of Water Related Charges due to Undetectable Leakage Policy v3.0	353
40	[E-CM] Raising of Clarrie Hall Dam - Concept Design Report	357
	REPORTS FROM THE EXECUTIVE MANAGER FINANCE, REVENUE AND INFORMATION TECHNOLOGY	361
41	[FRIT-CM] 2017/2018 Draft Statutory Financial Reports	361
42	[FRIT-CM] Carry Over Works from 2017/18 to 2018/19 Budget	366
43	[FRIT-CM] Monthly Investment and Section 94 Development Contribution Report for Period ending 30 September 2018	375
	REPORTS FROM THE EXECUTIVE MANAGER PEOPLE, COMMUNICATION AND GOVERNANCE	380
44	[PCG-CM] Local Government NSW - Request for Financial Assistance for Legal Costs	380
45	[PCG-CM] Kingscliff Communications Tower	384
46	[PCG-CM] Pecuniary Interest Returns 2017/2018	392
	REPORTS FROM SUB-COMMITTEES/WORKING GROUPS	394
47	[SUB-SAC] Minutes of the Sports Advisory Committee Meeting held 13 August 2018	394
48	[SUB-TSYC] Minutes of the Tweed Shire Youth Council Meeting held Wednesday 22 August 2018	399
49	[SUB-TCWC] Minutes of the Tweed Coast and Waterways Committee Meeting held Wednesday 12 September 2018	407
50	[SUB-TRAG] Minutes of the Tweed Regional Art Gallery Advisory Committee Meeting held Wednesday 19 September 2018	413

51	[SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 27 September 2018	416
	CONFIDENTIAL ITEMS FOR CONSIDERATION	432
	MAYORAL MINUTE IN COMMITTEE	432
C1	[MM-CM] Mayoral Minute - General Manager Annual Review for 2017/2018 and determination of the General Manager's Performance Agreement for 2018/19	432
	REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE	433
	REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE	433
C2	[CNR-CM] Nathan Bewes Recognition	433
	REPORTS FROM THE DIRECTOR ENGINEERING IN COMMITTEE	434
C3	[E-CM] Proposed Easement for Sewage Purposes - Lot 21 DP 331993 - 39 West End Street, Murwillumbah	434

CONFIRMATION OF MINUTES

1 [CONMIN-EXT] Confirmation of Minutes of the Extraordinary Council Meeting held Thursday 20 September 2018

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 Extraordinary Council Meeting held Thursday 20 September 2018 are attached for information and adoption by Council.

RECOMMENDATION:

That the Minutes of the Extraordinary Council Meeting held Thursday 20 September 2018 be adopted as a true and accurate record of proceedings of that meeting.

REPORT:

As per Summary.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Attachment 1

Minutes of the Ordinary Council Meeting held Thursday 20 September 2018 (ECM 5569991).

2 [CONMIN-CM] Confirmation of Minutes or Ordinary and Confidential Meeting held Thursday 20 September 2018

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 20 September 2018 are attached for information and adoption by Council.

RECOMMENDATION:

That:

- 1. The Minutes of the Ordinary and Confidential Council Meetings held Thursday 20 September 2018 be adopted as a true and accurate record of proceedings of that meeting.**
- 2. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
 - (f) matters affecting the security of the council, councillors, council staff or council property.**

REPORT:

As per Summary.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Attachment 1

Minutes of the Ordinary Council Meeting held Thursday 20 September 2018 (ECM 5570216).

(Confidential) Attachment 2

Minutes of the Confidential Council Meeting held Thursday 20 September 2018 (ECM 5570245).

3 [CONMIN-CM] Confirmation of Minutes of the Ordinary and Confidential Meetings held Thursday 4 October 2018

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 4 October 2018 are attached for information and adoption by Council.

RECOMMENDATION:

That:

- 1. The Minutes of the Ordinary and Confidential Council Meetings held Thursday 4 October 2018 be adopted as a true and accurate record of proceedings of that meeting.**
- 2. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
 - (f) matters affecting the security of the council, councillors, council staff or council property.**

REPORT:

As per Summary.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Attachment 1	Minutes of the Ordinary Council Meeting held Thursday 4 October 2018 (ECM 5588561).
(Confidential) Attachment 2	Minutes of the Confidential Council Meeting held Thursday 4 October 2018 (ECM5588549).

SCHEDULE OF OUTSTANDING RESOLUTIONS

4 [SOR-CM] Schedule of Outstanding Resolutions as at 25 October 2018

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 brought back to a future Council meeting which includes the terms and conditions of the future potential lease.

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

Meeting was held with Premier and Cabinet on 28 September 2018 to discuss process of securing lease rights and income derived over rail assets within the corridor to support the ongoing maintenance and operation of the rail trail.

20 JULY 2017

REPORTS FROM THE GENERAL MANAGER

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

311

**Cr K Milne
Cr C Cherry**

RESOLVED that:

1. The Planning Proposal for Bob Whittle Murwillumbah Airfield be prepared and submitted to the NSW Department of Planning and Environment for a Gateway Determination, in accordance with s56 of the Environmental Planning and Assessment Act.
2. The Minister for Planning and Environment or his Delegate be advised that Tweed Shire Council is not seeking plan making delegations for this planning proposal.
3. The Minister for Planning and Environment or his Delegate be advised that public exhibition is not required in this instance.
4. On receipt of the Minister's Gateway Determination Notice to proceed, any 'conditional' requirements of the Minister and any other study or work are to be completed, and included within the public exhibition material.
5. Following receipt of the Gateway Determination the planning proposal be publicly exhibited in accordance with the Gateway Determination and a further report is to be submitted to Council detailing the content of submissions received and any proposed amendment(s).

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

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

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

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

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

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

The draft planning proposal is currently on public exhibition and a further report will be submitted to Council.

26 OCTOBER 2017

ORDERS OF THE DAY

9 [NOM] Private Native Forestry

505

**Cr K Milne
Cr R Byrnes**

RESOLVED that Council:

....

4. Calls on the State Government and makes representations for an urgent moratorium on any further issuing of Private Native Forestry licences for native forests (i.e. not native plantation forests) in the Tweed Shire, until a review of the existing legislation is completed.
5. Holds a workshop on the suitability and safety of the external road network for the Hewittville logging vehicles.
6. Undertakes an urgent review of the ecological values of the Hewittville property at Limpinwood to ascertain if this site warrants a rezoning to better reflect and protect the environmental values of the site and brings back a report to Council to consider this matter.

Current Status: In terms of:

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

Point 5 was held on 10 May 2018.

Point 6, legal advice has recently been received, and a further report will be submitted to Council with an update following completion of legal matters currently being processed.

15 FEBRUARY 2018

ORDERS OF THE DAY

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

10

**Cr K Milne
Cr C Cherry**

RESOLVED that Council seeks legal advice about options in regard to concerns with the Hewittville Private Native Forestry at Limpinwood in the rural zones, including but not limited to whether:

1. Approval under other legislation may be required in the rural zones particularly in relation to threatened species, Aboriginal cultural heritage, impacts on water quality, etc;
2. The matter should be referred to the Federal Government under the Environment Protection Biodiversity Conservation Act; and
3. There is a capacity for Council to act on potential breaches of the State Government licence or to challenge that approval.
4. Council brings forward a report on the environmental values of the Hewittville property.

Current Status: Legal advice being sought and a further report will be prepared for consideration by Council with an update following completion of legal matters currently being processed.

1 MARCH 2018

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

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

REASON FOR CONFIDENTIALITY:

This is subject to current legal investigations.

Local Government Act

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

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

C 8

That:

...

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

...

Current Status: Information currently being collated with reference to previous uses of the site. Evidence for legal case is being prepared for Council. A further report will be submitted back to Council once firmer dates of any court action are resolved.

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: The directions hearing for criminal proceedings has been set for 19 October 2018 and a further report will be submitted back to Council following confirmation of upcoming action in the Land & Environment Court.

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.

19 APRIL 2018

REPORTS FROM DIRECTOR ENGINEERING

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

173

**Cr R Byrnes
Cr K Milne**

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

Current Status: Workshop was held on 31 May 2018.

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

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

REPORTS FROM DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

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

REASON FOR CONFIDENTIALITY:

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

Local Government Act

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

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

C 26

That Council:

...

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

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

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

Workshop scheduled for 8 November 2018.

3 MAY 2018

PLANNING COMMITTEE

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

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

P 20

**Cr K Milne
Cr C Cherry**

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

Current Status: Workshop was held on 15 June 2018.

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

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 Management Officer level to consider a regional approach to offsetting. Report was presented to the July Northern Rivers Joint Organisation (NRJO) General Managers' Group meeting where it was resolved that:

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

The NRJO NRM Managers group have prepared a report and consultant brief to complete this work. This report will be presented to the NRJO General Managers and Mayors group's November meeting. Subject to the outcome of this meeting, request for quotations from suitable consultants will be requested. 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.

REPORTS FROM DIRECTOR ENGINEERING

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

250

Cr C Cherry
Cr K Milne

RESOLVED that:

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

...

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

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

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

21 JUNE 2018

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

295

**Cr J Owen
Cr P Allsop**

RESOLVED that Council endorse:

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

Current Status: Officers preparing for public exhibition to be held in October/November 2018 following Council's resolution that it has resolved in the Strategic Planning and Urban Development Work Program to be made a priority 3 project.

19 JULY 2018

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

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

360

**Cr C Cherry
Cr K Milne**

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

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

Current Status: Council has forwarded a letter to the Department of Industry and Crown Lands seeking clarification as per the resolution. No response has been received to date. A memo provided to Councillors in August 2018 proposed a way forward to develop the plan while concurrently waiting for the response.

Community consultation has commenced with regard to the Plan of Management. The details of the community consultation were forwarded to the Councillors by email Monday, 8 October 2018.

16 AUGUST 2018

ORDERS OF THE DAY

6 [NOM] Environmental Land Purchases

422

Cr K Milne
Cr C Cherry

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

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

7 [NOM] Natural Resource Management Budget

423

Cr K Milne
Cr C Cherry

RESOLVED that:

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

Current Status: A Workshop is scheduled for 8 November 2018.

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

424

Cr C Cherry
Cr K Milne

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

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

Current Status: A workshop was held 11 October 2018. A report to be prepared for a future Council meeting.

REPORTS FROM DIRECTOR PLANNING AND REGULATION

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

419

Cr K Milne
Cr R Cooper

RESOLVED that Council:

.....

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

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

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.

Brief being prepared for Bird Life Australia to review draft off-leash dog policy. A further Workshop is scheduled on 22 November 2018 to provide further information.

20 SEPTEMBER 2018

ORDERS OF THE DAY

6 [NOM] Fossil Fuel Divestment

461

Cr K Milne
Cr C Cherry

RESOLVED that Council brings forward a report on options to improve our rate of Fossil Fuel divestment considering our Ethical Investments have been stuck at around only 50% of our total funds invested since reporting on this first started.

Current Status: Report to be prepared for 15 November 2018 Council Meeting.

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

11 [PR-CM] Air Traffic Pollution

466

Cr K Milne
Cr C Cherry

RESOLVED that Council:

....

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

Current Status: Currently implementing Council resolution of 20 September 2018 meeting.

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

18 [CNR-CM] Homelessness Policy Review and New Draft Policy

475

Cr K Milne
Cr P Allsop

RESOLVED that Council:

...

3. Notes a report and final policy will return to a future Council meeting for final adoption following consideration of submissions made.

Current Status: Currently on public exhibition and report to be prepared for future Council meeting.

MAYORAL MINUTE

5 [MM-CM] Mayoral Minute for September 2018

SUBMITTED BY: Cr K Milne, Mayor

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

SUMMARY OF REPORT:

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

RECOMMENDATION:

That:

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

REPORT:

Councillors

COMMITTEE MEETINGS

Attended by the Mayor

- 12 September Twee Coast and Waterways Committee – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
-

INVITATIONS / MAYORAL REPRESENTATION:

Attended by the Mayor

- 3 September Murwillumbah Legacy 70th Anniversary – Murwillumbah Services Club, 10 Wollumbin Street, Murwillumbah.
- 4 September Public Exhibition of Draft Kingscliff Locality Plan Community Meeting – Kingscliff Bowls Club, Marine Parade, Kingscliff.
- 7 September National Threatened Species Day Event – Tweed Regional Museum, 2 Queensland Road, Murwillumbah.
- 8 September Rise For Climate Rally – Jack Evans Boat Harbour, Bay Street, Tweed Heads.
- 13 September 2018 Health Services Needs Assessment Survey Presentation – South Tweed Sports Club, 4 Minjungbal Drive, Tweed Heads.
- 15 September Sustainable Living Home Expo – Kingscliff TAFE, 806 Cudgen Road, Kingscliff.
- 16 September Walk A Milne In Our Shoes – Uki War Memorial, 1473 Kyogle Road, Uki.
- 18 September Government Architect and Department of Planning and Environment Workshop – Twin Town Services Club, Wharf Street, Tweed Heads.
- 19 September LG NSW Building Resilience to Climate Change workshop – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah. Crs Cherry and Cooper also attended.
- 28 September Regional Economic Development Strategy Presentation – Murwillumbah Civic Centre, 10 Tumbulgum Road, Murwillumbah.
- 30 September Bless This Road Healing Day – Uki Hall, 1462 Kyogle Road, Uki. Cr Owen also attended.

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

- 18 September Club Grants Information Session – Tweed Heads Bowls Club, Corner Wharf and Florence Streets, Tweed Heads. Cr Byrnes attended.
-

Inability to Attend by or on behalf of the Mayor

All invitations were accepted by the Mayor or attended by another Councillor on her behalf.

REQUESTS FOR WORKSHOPS:

Councillors did not request any additional workshops during September 2018.

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

- 17-18 Sept Australian Regional Development Conference – Twin Towns Services Club, Wharf Street, Tweed Heads. Crs Allsop, Milne and Polglase attended.
- 21 September Community and Stakeholder Engagement – LG NSW, 28 Margaret Street, Sydney. Cr Cooper attended.

Information on Conferences to be held

- 24-25 October IAP2 Conference – Sanctuary Cove, Queensland

The theme is 'Shake It Up' where we will be mixing up a conference that will be more interactive, experiential and fun. Bringing together engagement practitioners, community development practitioners, communications and marketing professionals and academics to explore the practice of engagement. The conference will build on IAP2's reputation for offering a dynamic, interactive and targeted program that supports professional development and enhances the practice of project communications, community and stakeholder engagement. You can expect to dive into streams, sessions and workshops around the following themes: Forward/future and alternative thinking, Youth engagement, The decision makers' perspective, Engaging with First Nations and diverse communities, Behaviour change, Emerging areas/new opportunities in engagement, Tech tools and the digital engagement landscape, Risk and outrage management.

Registration \$ 1650.00 <https://www.iap2.org.au>
- 1 November Local Government Forum – Radisson Blu Hotel, Sydney.

This event provides an opportunity to bring the sector's leaders together, both staff and elected representatives, to tackle some of the big topics impacting on local government today and into the future. With the ever increasing demand on time and resources, this year we will examine ways to deliver tangible outcomes for our communities. With topics such as the transformation of service delivery; future proofing customer experience; and strengthening communication and engagement, our

industry leading guest speakers and panellists will share their expertise and experience to inform and inspire delegates. We encourage you take the time to participate in this event and gain insights for delivering exceptional outcomes for your community. Registration \$1050 (Early bird closed), two flights, one night's accommodation. <https://www.lgprofessionals.com.au>

- 24-25 Nov Mayor's Weekend Seminar – Sydney.

This seminar reflects a widespread view that the role of Mayors is becoming even more important and demanding. It addresses issues faced by mayors in metropolitan and rural and regional settings, and covers the vital skills and knowledge they require in order to perform their varied tasks effectively and in a thoroughly professional manner. The content is also linked to the work of LGNSW's Mayoral Mentor, and to more detailed programs on topics such as meeting procedures and the Code of Conduct.

Registration \$ 1320, two flights, two-three night's accommodation. <https://www.lgnsw.org.au/events-training/mayors-weekend-seminar>

SIGNING OF DOCUMENTS BY THE MAYOR:

- 6 September Voluntary House Purchase Scheme – Purchase of Property – Lots A, B, C and D DP 6624 comprised in 6 Clarkes Road, Mooball.
 - 6 September Voluntary House Purchase Scheme – Purchase of Property – 2 Section 12 DP 2974 comprised in 6 Holland Street, South Murwillumbah.
 - 12 September Voluntary House Purchase Scheme – Purchase of Property – Lot 1 DP 6624 comprised in 20 Pottsville Road, Mooball.
 - 25 September Funding Deed of Agreement – Tweed Shire Council for the Tweed Byron Resilience Coordination Project.
-

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

6 [ROP-CM] Receipt of Petitions as at 25 October 2018

SUBMITTED BY: Corporate Governance



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Collaborator

SUMMARY OF REPORT:

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

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

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

RECOMMENDATION:

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

REPORT:

As per Summary

OPTIONS:

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

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

CONCLUSION:

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

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

ORDERS OF THE DAY



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**

7 [NOM] Intergovernmental Panel on Climate Change (IPCC) 2018 Report

NOTICE OF MOTION:

Councillor K Milne moves that Council:

1. **Notes the release of the new Intergovernmental Panel on Climate Change (IPCC) 2018 report.**
2. **Reaffirms its commitment to action on climate change as an urgent and high priority.**
3. **Brings back a report on Darebin Council's Climate Emergency Plan in regard to the merit of adopting a similar strategy.**
4. **Commits to publishing a lead article in the Tweed Link on the urgency of climate change at least once a month.**

Councillor's Background Notes

Recommended Priority:

Nil.

Description of Project:

Nil.

Management Comments:

Delivery Program:

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

Budget/Long Term Financial Plan:

Staff resources and time to research and provide report on Item 3 of the Motion will need to be identified.

Legal Implications:

Nil.

Policy Implications:

The recommendations 1 and 2 are consistent with the Community Strategic Plan priority to prepare for climate change through adaptation and mitigation strategies, and align with Council's target to reduce our greenhouse gas footprint.

Council's action to increase the solar power potential of its facilities from 16kW in 2017 to 780kW by the end of 2018 demonstrates Council's effective action to reduce greenhouse gas emissions from grid electricity use. Council is on track to deliver its Renewable Energy Action Plan (REAP) targets of self-generating 25% of electricity use at Council facilities from solar by 2022, and 50% with solar and battery storage by 2025. By achieving its REAP targets, Council will reduce its greenhouse gas emissions by over 35% compared to 2016/2017 levels.

A revision of the Tweed Community and Council Climate Change Action Plan is being scoped for delivery by July 2019 and will incorporate a review of leading practice across the local government sector, including Darebin Council's Climate Emergency Plan.

Regarding Item 4, Council's [Communications Policy v1.0 \(adopted 15 February 2018\)](#) states:

"Editorial priorities are determined by the Communications team and linked to Council business based on newsworthy principles: timing, significance, proximity, prominence and human interest."

Appropriate and relevant communications for any Council project or program area are considered across all relevant communication channels used by Tweed Shire Council. Therefore, the pre-determination of regular editorial content is not consistent with the adopted policy.

8 [NOM] Rail Trail - Meeting with Adjacent Land Owners

NOTICE OF MOTION:

Councillor K Milne moves that Council invites the landowners adjacent to the proposed rail trail to a Workshop to advise of the latest progress on the project and to hear their concerns.

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**

Council resolved on 7 June 2008 to proceed with a planning proposal to amend the Tweed LEP 2014 to enable a Part 5 approvals pathway for the rail trail project and this was publicly exhibited between 21 August and 28 September 2018. A total of 73 adjoining landowners were personally invited to review and comment on the planning proposal and while 3 public submissions were received only 1 was from an adjoining landowner.

This proposal will shortly be reported back to Council with a summary of issues. In the meantime, the Project Director and Communication Engagement Officer have been meeting one-on-one with adjoining landowners since April this year and have previously written to each inviting feedback and providing a timeline for the project. This ongoing personalised engagement is paramount and invaluable to both parties.

While there are several key issues being raised across the board, many of them are unfounded or without substantive evidence based on verifiable observation or experience of rail trail operators and users supporting such claims, for example; increased crime, theft,

trespass and vandalism; biosecurity risks associated with horses, dogs, and littering. There are also those that have substance and require a rational and considered response; repair and maintenance of farm fencing, human interactions with cattle or farming operations, leasing of the railway for farming purposes and impact on privacy and amenity; impact on the environment and in particular the sensitive micro habitat within the Burringbar tunnel, which supports micro-bats and glow-worms. There are also philosophical points of view; that government(s) should be allocating public funds toward road repair, environmental management or other cultural services among others; that the rail trail will not attract any users and will not bring any benefits to the area.

These and other issues have been picked-up by staff through their work engaging with the landowners as well as in the “Rail Trail Community Consultations” undertaken by the NSW Department of Premier and Cabinet for the Tweed, New England and Goulburn rail trails and through wider research. Importantly, the officer-landowner partnership is addressing the concerns of those landowners through proper identification of the issues affecting them and their property and is enabling the partnership to work collaboratively on solutions.

One of the biggest challenges to date however, is that a number of adjoining landowners are proving difficult to contact and some have made it clear that they do not wish to be contacted. Quite a few don't receive mail directly and only infrequently visit their post office box and the traditional landline phone has increasingly been superseded by mobile phone technology and email, with those public contacts rarely being provided to Council. Ensuring that the landowners are genuinely contacted therefore requires manual input and the staff are continuing that work.

In addition, as part of the public engagement on the Council's draft Public Open Space Strategy these staff will also be attending community conversation sessions in Murwillumbah, Stokers Siding, Burringbar, Mooball, Crabbes Creek and Uki to give an update on the progress of the rail trail and to answer any questions – based on the information and status of the project to-date. This information includes updates on the preparation of a Biosecurity Risk Management Plan, currently being prepared by Local Land Services, the draft Conservation Heritage Master-plan for the Murwillumbah Railway Station; progress on the Council's environmental and planning assessment, and the status of the Council's concept design that will be used to inform the design and construct tender process.

Inviting the adjoining landowners (those that can be contacted) to a workshop in this context is not seen to be beneficial and will most likely create an air of anxiety or contempt because the issues, although having the appearance of being the same and affecting multiple landowners, nevertheless impact on individual persons and property in different ways and require different and sometimes innovative individualised responses and that not all of which are capable of being definitively answered at this time and without the personalised, and circumstance based, consideration.

A workshop at this stage is more likely to be harmful to productive trusting relations between the Council, staff and landowners.

A Councillor workshop with staff to provide an update on the progress of the rail trail is very much supported. It remains the intent of staff to convene a workshop with Council as soon as the NSW government has reached inter-agency agreement on the ultimate governance model, funding amount, land ownership (railway corridor) and timing and substance of the legislative requirements needed. Staff have raised various concerns and views about these

matters with many of those echoed by their agencies and leading to further more detailed discussion and negotiation. These issues need to be resolved as a priority and once agreement is reached within NSW government Council will then need to consider whatever propositions are advanced – it is on the basis of this that a Councillor – staff workshop should be convened.

In the meantime, Council staff are doing everything that they can to keep the project moving forward, to work with adjoining landowners and to identify and work on finding solutions through the design of the trail, to inform the local communities about the information and status of the project, and to continue engaging with all State government departments to resolve and reach agreements that are advantageous and beneficial to the Tweed community.

Budget/Long Term Financial Plan:

No significant impact on council's forward estimates arising from this Motion.

Legal Implications:

There are no perceived legal implications associated with this Motion.

Policy Implications:

The community engagement on Council projects is detailed in its Policy framework, which is designed to maximise productive community engagement and foster long-lasting trusting relationships. The engagement proposed is not seen to be wholly consistent with achieving that same outcome, for the reasons outlined above.

9 [NOM] Planning Design Guidelines

NOTICE OF MOTION:

Councillor K Milne moves that Council adopt the NSW State Government's North Coast Urban Design Guidelines and NSW Coastal Design Guidelines as guiding documents to further assist Council in achieving great planning outcomes.

North Coast Urban Design Guidelines

www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/North-Coast/~media/9BC435205B4C4F8683795BF2D3015AF1.ashx

Coastal Design Guidelines for NSW

www.planning.nsw.gov.au/~media/Files/DPE/Guidelines/coastal-design-guidelines-for-nsw-2003-02.ashx

Councillor's Background Notes

Recommended Priority:

Nil.

Description of Project:

Nil.

Management Comments:

Delivery Program:

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- | | |
|-------|--|
| 1 | Leaving a Legacy |
| 1.1 | Natural Resource Management |
| 1.1.3 | Coastal Management - To protect and manage the use and quality of the Tweed's beaches and foreshores. |
| 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's endorsement of the NSW State Government's North Coast Urban Design Guidelines and NSW Coastal Design Guidelines as guiding documents to further assist Council in achieving great planning outcomes is supported.

Please note that the NSW Government Architects are currently preparing a design guide entitled '*Urban Design for Regional NSW*'. These guidelines have been prepared as an action of the NSW Government Architects *Better Placed* design policy and are currently in draft format soon to be release on public exhibition.

Council staff have commenced discussions with the NSW Government Architects in regard of these guidelines and will prepare a submission once on exhibition. It is unclear whether these draft urban design guidelines for regional NSW will supersede either of these existing guideline documents.

Budget/Long Term Financial Plan:

Nil

Legal Implications:

Nil.

Policy Implications:

Notwithstanding the intent of the Motion to adopt the guidelines, s.92 of the Environmental Planning and Assessment Act 1979 currently mandates '*additional matters*' to be considered with any development application which includes consideration of the NSW Coastal Policy 1997 where relevant.

The implementation section (s3.2) specifically references the promotion of, inter alia, the North Coast Design Guidelines, as the prime responsibility of the State. It thereby follows that the mandatory consideration of the Policy extends to the consideration of these Guideline. Notably, as guidelines, the principles are considered and incorporated into the Tweed DCP and locality planning processes.

10 [NOM] Busking

NOTICE OF MOTION:

Councillor K Milne moves that Council develops an action plan to better support and promote musicians through busking, including but not limited to:

- a) establishing a register of local musicians;
- b) financial support;
- c) identifying / designing appropriate spaces; and
- d) promotion.

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
- 3.1 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**

A register of local musicians has been developed by the Cultural Planner and work on making online registration available is continuing.

In regards to providing financial assistance, Tweed Shire Council currently charges \$46 for a year busking permit. There is an option for this fee to be reduced to \$20 which may promote

an increase in uptake. Should Council decide to reduce the yearly fee this could be promoted to the registered artists to encourage participation.

The \$20 would cover the cost of a busking card but would not necessarily cover compliance. An increase in buskers may impact the number of complaints received by Council, therefore, it is suggested these impacts be investigated further prior to any changes being adopted.

Other Local Government area fees in comparison are as follows.

Three month permits

Byron	Not available
Ballina	\$26.00
Gold Coast	\$96.00

Yearly permits

Byron	\$15.00 (plus on off application fee of \$25)
Ballina	\$72.00
Gold Coast	Not available

Tweed Shire Council's Foot Path Trading Policy allows busking in Murwillumbah, Pottsville, Cabarita, Kingscliff and Tweed. Both Ballina and Gold Coast restrict busking to designated spots within designated suburbs whilst Tweed does not make these restrictions. Therefore Tweed currently provides greater flexibility ensuring a busker can set up anywhere within that suburb as long as they abide by time, amenity and safety considerations outlined in the policy.

When street scapes are redesigned consideration could be given to assist buskers to meet the site considerations e.g. extended areas within footpaths etc.

Budget/Long Term Financial Plan:

Minimal impact if fee is reduced from \$46 per year to \$20.
Impacts on compliance budgets need to be assessed.

Legal Implications:

Not Applicable.

Policy Implications:

The promotion of busking as a means of activating public spaces and encouraging local musicians and performers can be delivered through the Cultural Plan 2018-2021.

No changes required to the Footpath Trading Policy.

No changes to the Cultural Plan 2018-2021.

Placemaking and Public Art Policy is currently under review.

QUESTIONS ON NOTICE

11 [QON-Cr P Allsop] Processing of Development Applications

QUESTION ON NOTICE:

Councillor P Allsop asked:

1. Could the General Manager please provide the current number of applications awaiting approval from the Council's Development Assessment section, to also include the number of planning staff:
 - a). currently actively processing applications?
 - b) Council has in their employment?
2. What are the five oldest applications currently awaiting approval and why?

It would be appreciated if the General Manager could advise through observations and facts what would bring internal restrictions to processing and performance, but not including those occasions caused by the proponents. As well as providing considerations that could improve facilitation of development application processing.

The reason for these questions is that there is currently a shortage of approved development land and approved building lots available. Speculatively speaking this is pushing up market prices and effectively troubling some trades and builders in regards to the long term employment of trade and apprentice workers.

12 [QON-Cr P Allsop] Community Consultation

QUESTION ON NOTICE:

Councillor P Allsop asked:

1. What were the costs for each of the Community Consultation meetings at Kingscliff Beach Bowls Club?
 2. How many meetings in total and what was the total cost of this consultation process?
 3. Did the consultation process reveal any significant new finding?
 4. Will the findings or results have an impacts on any of Councils current strategies, if so what effects are there?
-

13 [QON-Cr K Milne] Comparison on Investment Returns

QUESTION ON NOTICE:

Councillor K Milne asked:

What is the average rate of return on investments for Council's current method of invested funds compared to an estimated average return through energy savings in the long term if invested in energy efficiencies or renewable energy?

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

14 [GM-CM] Council Architect - Panel Member - Tweed State Significant Projects

SUBMITTED BY: General Manager

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Collaborator

SUMMARY OF REPORT:

Council has been invited by Government Architect - New South Wales (GANSW) to nominate an appropriately qualified individual to participate as a panel member on the NSW State Design Review Panel for State Significant projects in Tweed Shire.

A list of selected panel members and shortlisted applicants with previous local Design Review Panel experience from which Council can select a nominee has been provided. On the shortlist is Paul Berkemeier, the architect engaged to design the recent extension to the Tweed Regional Museum building in Murwillumbah.

RECOMMENDATION:

That Council nominates Paul Berkemeier of BTB Architecture Studio to the NSW State Design Review Panel for state significant projects in the Tweed.

REPORT:

Further to the Minister for Planning and Housing's recent launch of the inaugural, pilot NSW State Design Review Panel (NSW SDRP), GANSW has invited NSW LGAs to nominate an appropriately qualified individual to participate as a panel member for state significant projects in that LGA.

GANSW has made the commitment to implement the objectives for good design as outlined in *Better Placed – an integrated design policy for the built environment of New South Wales*. These objectives define the key considerations in the design of the built environment. Achieving these objectives will ensure our cities and towns, our landscapes, our buildings and our public domain will be healthy, responsive, integrated, equitable and resilient.

The terms of reference of the SDRP require that one panel member for each project is nominated by the relevant local Council as an expert from a design field who has detailed working knowledge of the local context.

Amongst the 40 panel members selected from the open tender process undertaken by GANSW, there are 27 who are currently or have recently been on local design review panels (Attachment 1). The GANSW strongly recommends that these members who already have design review experience in local panels should be the Council nominees for review of projects in the corresponding LGA. In addition to the core pool of 40 panel members, GANSW also has a list of shortlisted applicants with local panel experience who are recommended to councils (Attachment 2).

Types of projects reviewed by the Panel

During the early stages of a project the Department of Planning and Housing, in consultation with GANSW, will recommend projects that would benefit from design review. This may include, but not limited to, the following state significant projects:

- any project referred to GANSW by the Minister or his delegate.
- projects on Government owned land that includes public use of that land and/or may impact on the public domain, including Green Corridors.
- projects declared state significant development in the *State Environmental Planning Policy (State and Regional Development) 2011*, including:
 - identified sites (for example the Bays Precinct, Barangaroo, the Rocks, Moore Park Showgrounds, Darling Harbour). In the Tweed context this would include the new Tweed Valley Hospital.
 - certain land uses (for example tourism, health or education uses, or commercial / residential premises within a rail corridor)
 - other types of state significant development where the project is adjacent to or impacts on sensitive areas.
- selected projects declared state significant infrastructure in the *State Environmental Planning Policy (State and Regional Development) 2011*.

Applicants for these projects are therefore encouraged to consult as early as possible with the Department during project inception, well before SEARs are requested. This will ensure that, where required, the Panel will provide early design advice.

The majority of SEARs issued since 1 January 2018 include requirements for applicants to consult with the GANSW on its proposed strategy for achieving design excellence.

Applications lodged after 1 January 2018, and not yet determined, will only need to use the panel where this has been agreed in consultation with the GANSW.

Statutory planning context

Several environmental planning instruments (EPIs), such as local environmental plans and state environmental planning policies, establish the statutory context for determining whether a proposal exhibits design excellence. Examples include requirements for a competitive design process or setting out specific design matters to be addressed, such as achieving high standards of design appropriate to the building type and location.

Use of the Panel does not replace the need for the applicant to satisfy the relevant design excellence provisions in an EPI, including where a competitive design process may be required.

Scope of review

The Panel will evaluate all projects against the Objectives for Good Design as defined in *Better Placed*.

The Panel will also evaluate proposals against design principles identified in relevant State Environmental Planning Policies, for example:

- *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development*, and the associated Residential Apartment Design Guide
- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, and the 'Design Guide for Schools.'

The Panel will also have regard to any relevant local, state or national plans, policies and guidelines, such as relevant local environment plans, development control plans and urban design strategies.

Further information relating to the operation and organisation of the NSW SDRP, can be found in the Terms of Reference and overview document (attachment 3).

Council's nominee is not a representative of Council views within the panel, they are nominated for their strong knowledge of the local area and for their independent expertise. Requirements for each Council nominee are:

- Independent, qualified and (where relevant) Australian registered practitioners, or retired practitioners, in one of the following fields: architecture, urban design, landscape architecture, and/or other relevant discipline with equivalent experience (in accordance with the mandatory criteria for panel members per the open tender process). Demonstrated strong working knowledge of the relevant LGA (either through experience on local design review panel or as consultant to Council), particularly in respect of large projects including education or health related projects, industrial and infrastructure projects, heritage, strategic design, master planning, open space and green infrastructure, as well as high density and mixed use development.
- Council's nominee will be reviewed and approved by GANSW, appointed directly by GANSW for a 24 month period, remunerated on the same basis as the existing SDRP members, and held to the NSW SDRP Terms of Reference, and in particular the principles of good design review (See NSW State Design Review Panel introduction, attachment 4).

OPTIONS:

1. Recommends the nomination of Paul Berkemeier of BTB Architecture Studio to the NSW State Design Review Panel for state significant projects in the Tweed.
2. Nominates a panel member from the list of selected panel members or shortlisted applicants.
3. Declines to nominate a panel member.

CONCLUSION:

Paul Berkemeier was the architect appointed to design the extension to the Regional Museum building in Murwillumbah and, therefore, has a knowledge of the local area and the relevant expertise.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Nil

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:

- | | |
|---------------|--|
| Attachment 1. | List of panel members on the NSW State Design Review Panel (ECM 5597847) |
| Attachment 2. | List of shortlisted applicants with local panel experience (ECM 5597858) |
| Attachment 3. | NSW State Design Review Panel Terms of Reference and overview document (ECM 5597859) |
| Attachment 4. | NSW State Design Review Panel introduction (ECM 5597860) |
-

15 [GM-CM] Regional Cities NSW

SUBMITTED BY: General Manager

mhm



People, places and moving around

Who we are and how we live



Behind the scenes

Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

3	People, places and moving around
3.1"	People
3.1.5	Economic Development - To support the local economy and attract new business and employment to the Tweed.
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:

In January 2018, Council received an invitation from the NSW Inland Forum (IF) to consider joining a new group called Regional Cities NSW (RCNSW). At the meeting held 15 February 2018, Council resolved that:

- "1. The Mayor and/or the General Manager meet with current Inland Forum members and other regional cities in Sydney on Thursday 1 March 2018 to discuss participation in Regional Cities NSW.*
- 2. A further report will be prepared following the initial meeting to determine Council's commitment to this forum, including estimated on going costs."*

The Mayor and General Manager were unable to attend the 1 March 2018 meeting to discuss participation in Regional Cities NSW due to a change in meeting time which conflicted with their ability to attend the Planning Committee meeting.

A further workshop was scheduled for 2 August 2018. However, this meeting date also coincided with a Planning Committee meeting. As a result the Mayor and General Manager were again unable to attend.

Further information on the Regional Cities NSW alliance has now been provided to Council. This report details the proposed RCNSW alliance and requests Council give consideration to joining RCNSW. Participation in the Regional Cities NSW alliance will promote cooperation on issues and projects of mutual interest that affect regional cities in NSW.

It should be noted that an earlier report to Council on this was not possible until the information provided in the body of this report was available.

RECOMMENDATION:

That Council:

- 1. Joins Regional Cities NSW (RCNSW) with a formal review of Council's membership to take place within the first 24 months of the formal commencement of RCNSW, to ensure it is meeting its stated objectives.**
- 2. Notes that a minimum of nine councils will be needed to establish RCNSW.**
- 3. Allocates \$5,000 for membership of RCNSW from 1 January 2019 to 30 June 2019.**
- 4. The annual membership fee of \$10,000 be included in Council's Long Term Financial Plan.**
- 5. Any future requests for financial contributions over and above the annual membership fee to RCNSW to be reported to Council for further consideration.**

REPORT:

In January 2018, Council received an invitation from the Inland Forum (IF) to join a new group called Regional Cities NSW (RCNSW).

The IF is an existing group of seven councils that have worked collaboratively for a number of years to achieve improved outcomes and opportunities for inland NSW. The current IF member councils are Albury, Armidale, Bathurst, Dubbo, Orange, Tamworth and Wagga Wagga Councils. The membership of the IF have agreed that there is huge potential in expanding the membership of the group to create a new body to be known as RCNSW.

According to the invitation, RCNSW is to be modelled on the successful model that has been implemented in Victoria, where the ten largest cities outside of Melbourne work cooperatively on issues and projects of mutual interest that affect regional cities in that State. Attached to this report is the proposal / invitation received from the IF, dated 19 December 2017, titled '*Correspondence from the Inland Forum – Invitation to Join Regional Cities NSW.*'

The invitation to join RCNSW was first tabled at the 15 February 2018 Council, where Council resolved the following:

- "1. *The Mayor and/or the General Manager meet with current Inland Forum members and other regional cities in Sydney on Thursday 1 March 2018 to discuss participation in Regional Cities NSW.*
2. *A further report will be prepared following the initial meeting to determine Council's commitment to this forum, including estimated on going costs."*

In summary, the original proposal received from the IF was as follows:

- RCNSW will be comprised of Mayors and CEOs/General Managers of 16 large cities in regional New South Wales. These cities reside outside of the expanded metropolitan areas of Sydney, Newcastle and Wollongong, have distinct regional catchments, and share similar opportunities and challenges for growth and investment.
- RCNSW will be an alliance of regional cities dedicated to achieving real change in regional New South Wales through policy development and active implementation of those policies. Regional cities are the heart of regional New South Wales and by improving their infrastructure and liveability, regional cities can help to grow and support wider regional and rural communities.

Further details about the governance arrangements initially proposed for RCNSW can be found in the attached document titled '*Correspondence from the Inland Forum – Invitation to Join Regional Cities NSW.*'

For information, the councils invited to participate in RCNSW are as follows:

- Albury
- Coffs Harbour
- Maitland
- Tamworth
- Armidale

- Dubbo
- Orange
- Bathurst
- Griffith
- Tweed
- Cessnock
- Lismore
- Queanbeyan
- Wagga Wagga
- Mid-Coast
- Port Macquarie-Hastings

At the planning day held on 2 August 2018, participants agreed on the following indicators of overall success for RCNSW:

- State government and community have recognised of the significance and benefits of regional cities;
- A seat at the policy table to advise state government on the formation and implementation of policies;
- The establishment of a population or settlement strategy that would prioritise population growth to regional cities;
- The alliance is known as having a clear point of difference from the other alliances in the regional developments space, and
- A strong network that offers collaboration, networking and collective benefit to all members.

Further information relating to what success might look like for RCNSW, can be found on pages 7 & 8 of the attached document titled '*Regional Cities NSW Workshop Report – 2 August 2018.*'

It was agreed at the planning day that the overall success of RCNSW would be the creation of connected, thriving and sustainable regional cities. To this end, discussion took place on the establishment of a short-term agenda for RCNSW, to ensure that this new alliance was more than simply a talk-fest on regional issues, but had real actions and goals to work towards. The most supported ideas around this to come from the planning day were:

Memorandum of Understanding (MOU) with State Government:

Establishing, through a formal agreement, a mechanism for the alliance to have a seat at the table and provide strategic influence on the State's policy and investment agenda.

Snowy Hydro Funding:

Providing a set of recommendations on how the government should invest the \$4.2 billion released in the NSW budget from the sale of Snowy Hydro project. The government has indicated that all of these funds will go to the regions and they will need guidance on how this money should be allocated. The group also anticipated that there would be streamlined funding mechanisms to enable regional cities to access this funding.

Population Strategy:

Due to ongoing debate of metropolitan congestion and rapid population growth, the group saw a great opportunity to have influence in developing a framework for growing regional cities

under the banner of a state population strategy, with the aim being to develop a settlement plan directing people, infrastructure and business to regional cities.

Regional Investment:

Identifying a framework to identify how regional investment can be streamlined to be better facilitated in the regions.

One of the other key purposes of the 2 August 2018 planning day was to discuss the proposed governance and structure arrangements for RCNSW. Further details on this can be found on pages 10 to 14 of the attachment document titled '*Regional Cities NSW Workshop Report – 2 August 2018*' however in summary, the following was agreed:

Formation: The alliance to be known as Regional Cities New South Wales (RCNSW) be formed.

Membership: Councils representing regional cities that had a clear service centre role would be invited to be members.

Board Members: The forum should be a Mayor and CEO/General Manager forum with alternates offered in the case of inability to attend.

Board Structure: All member councils (Mayor and CEO/General Manager) will sit on the board. Voting will be by consensus.

Meeting Schedule: Members agreed to meeting quarterly at a venue to be defined at a later date, noting that visits to each member city would be welcomed.

Working Group: It was agreed that a working group to further define and evolve the structure and agenda of the alliance be established, as well as to work through the development of the proposed MOU. Working Group members were nominated as:

- Mr Paul Bennett, General Manager, Tamworth Regional Council.
- Mr Craig Swift-McNair, General Manager, Port Macquarie-Hastings.
- Mr David Sherley, General Manager, Bathurst Regional Council.
- Mr Peter Thompson, General Manager, Wagga Wagga City Council.
- Ms Susan Law, CEO, Armidale Regional Council.

The above-mentioned working group met via teleconference on 3 September 2018 to confirm the meeting notes from the planning day in August; to progress discussions around the structure of RCNSW and to propose a standard approach by member councils in reporting back to their respective councils on the outcomes of the RCNSW meetings.

There are a range of issues that Council will need to take into account when considering whether or not to join RCNSW. Perhaps one of the most relevant issues is why Council would join an alliance such as RCNSW, when we have only recently joined a Joint Organisation (JO)? Whilst this is a valid question to ask, it is important to distinguish the difference between RCNSW and a JO. A JO is geographically based and its interests are those of the geographic region.

RCNSW membership is not geographically based, but will rather focus on commonality of interests between the sixteen regional cities, regardless of their location. This form of an alliance will be able to pursue issues such as population growth, congestion, access, investment etc. and perhaps more effectively than a JO may be able to, considering the membership and make up of a JO.

From a funding perspective, there have been initial discussions around the level of financial contribution required from each member council in order to ensure the viability of RCNSW. It was agreed at the planning day that an investment of \$10,000 per annum by each member council was considered to be a reasonable amount of funding to enable RCNSW to be established; to engage an appropriate secretariat and to establish a strategic plan. There may well be other initiatives that this pooled funding will be able to support in line with the objectives of RCNSW.

It should be noted that as per recommendation 4) as included in this report, the current funding request for this financial year is \$5,000, effectively being for membership of RCNSW from 1 January 2019 to 30 June 2019, noting that the IF has kindly offered to fund the secretariat and support staff during the coming months to ensure that RCNSW can be established in a timely and effective manner.

OPTIONS:

That:

1. Council becomes a member of Regional Cities NSW.
2. Council does not become a member of Regional Cities NSW.

CONCLUSION:

Council's participation in the Regional Cities NSW alliance will promote cooperation on issues and projects of mutual interest that affect regional cities in that State.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

The current funding request for this financial year is \$5,000, effectively being for membership of RCNSW from 1 January 2019 to 30 June 2019. After this date it is anticipated that the annual membership fee will be \$10,000 per annum.

The annual membership fee of \$10,000 be included in Council's Long Term Financial Plan.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1. Correspondence from the Inland Forum – Invitation to Join Regional Cities NSW (ECM 4992393)
- Attachment 2. Regional Cities NSW Workshop Report – 2 August 2018 (ECM 5596040)
-

16 [GM-CM] Draft Events Sponsorship Policy, Version 3.1

SUBMITTED BY: Office of the General Manager

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 People, places and moving around
- 3.1 People
- 3.1.7 Events - To develop, attract and support events that showcase the Tweed's unique characteristics and identity.

ROLE: **Leader**

SUMMARY OF REPORT:

The Events Sponsorship Policy provides a framework for Council to offer financial assistance to event organisers to develop, host and grow festivals and events in the Tweed Shire.

Two years on from implementation, and following the assessment and awarding of three rounds of funding 2016/2017, 2017/2018 and 2018/2019, the Policy (refer Attachment 1) has been reviewed and updated.

The draft Events Sponsorship Policy, Version 3.1 was tabled at Council's meeting of 19 July 2018, where it was resolved that Council:

- “1. Places the draft Events Sponsorship Policy, Version 3.1 on public exhibition for a period of 28 days, commencing Tuesday 24 July 2018, and accepts public submissions for a period of 42 days, up until Monday 3 September 2018 as per Section 160 of the Local Government Act 1993.....”*

The draft Events Sponsorship Policy, Version 3.1 was placed on public exhibition for 28 days, commencing Tuesday 7 August 2018, with submissions accepted for 42 days up until 18 September 2018. No public submissions were received.

RECOMMENDATION:

That Council adopts the Events Sponsorship Policy, Version 3.1.

REPORT:

The Events Sponsorship Policy provides a framework for Council to offer financial assistance to event organisers to develop, host and grow festivals and events in the Tweed Shire.

The aims and objectives of the draft Events Sponsorship Policy are to:

- Drive social, community, environmental and economic outcomes for the Tweed Region (noting the important link between community outcomes and economic benefits).
- Generate local economic activity and development within the Tweed Shire.
- Further develop the region's capacity to deliver authentic and well-organised events.
- Attract external visitation to The Tweed.
- Enhance and honour the personality of the region and desires of the community.

It is recognised that each event has a unique characteristic and therefore the relative importance of these objectives will vary from event to event. With this in mind, the Events Sponsorship Policy has recently been reviewed to recognise long-standing community events, or events based on a hobby activity which are linked to a strong sense of place, belonging and resident satisfaction. There may be commercial elements to the activity, but the events are more focused on honoring the history and culture of the region and desires of the community than attracting external visitation or driving economic outcomes.

As a result, the following changes have been made:

- Community Event definition updated on page 3.
- Event Growth potential for a community event no longer applies – refer page 4.
- The guiding principle for 'Sustainability', provides an opportunity for event organisers to introduce 'innovative' practices that minimise the impact on the local environment – refer page 8.

The draft Events Sponsorship Policy, Version 3.1 was tabled at Council's meeting of 19 July 2018, where it was resolved that Council:

- “1. Places the draft Events Sponsorship Policy, Version 3.1 on public exhibition for a period of 28 days, commencing Tuesday 24 July 2018, and accepts public submissions for a period of 42 days, up until Monday 3 September 2018 as per Section 160 of the Local Government Act 1993.....”*

The draft Events Sponsorship Policy, Version 3.1 was placed on public exhibition for 28 days, commencing Tuesday 7 August 2018, with submissions accepted for 42 days up until 18 September 2018. No public submissions were received.

OPTIONS:

That Council adopts the Events Sponsorship Policy, Version 3.1, as exhibited.

CONCLUSION:

As actions continue to be implemented from the Events Strategy, further reviews and updates may be required of the Events Sponsorship Policy, Events Sponsorship Guidelines and the Events Sponsorship Application Form.

The Guidelines and Form will require further updating in April 2019 to reflect the dates the funding round opens and closes in May 2019.

COUNCIL IMPLICATIONS:

a. Policy:

Community Strategic Plan "Living and Loving the Tweed" 2017-2027

Events Strategy v1.0

Events Sponsorship Policy v3.0 *to be replaced with the Events Sponsorship Policy v3.1*

Events Sponsorship Guidelines v3.0

b. Budget/Long Term Financial Plan:

A budget allocation has been made in the 2018/2019 Budget for Events Sponsorship, with Council expending all the funds at its meeting of 19 July 2018.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

The draft Events Sponsorship Policy, Version 3.1 was placed on public exhibition for 28 days, commencing Tuesday 7 August 2018, with submissions accepted for 42 days up until 18 September 2018. No public submissions were received.

The exhibition period of the draft Policy was advertised in the Tweed Link on 7 August, and 21 August 2018, and a copy of the draft Policy was available from Council's website.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Events Sponsorship Policy, Version 3.1 (ECM 5365271)

17 [GM-CM] Business Name - Licence

SUBMITTED BY: Economic Development

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Provider**

SUMMARY OF REPORT:

On 1 October 2018 Council entered into a contract with DR Tourism to provide tourism services. This contract specified that all intellectual property that was generated within the course of the contract be vested with Council.

Discussions with DR Tourism have identified that a new business name be established to make it clear to the travelling public, the tourism industry and the Tweed community that these services are being provided by Council under contract.

It was agreed that a suitable trading name was "The Tweed Tourism Company".

This report recommends that Council enters into a licence agreement with DR Tourism Pty Ltd to utilise the registered business name "The Tweed Tourism Company".

RECOMMENDATION:

That:

1. Council enters into a licence agreement with DR Tourism Pty Ltd (ABN: 87 619 651 857) to use the business name "The Tweed Tourism Company" for the term of the tender contract for Tourism Services (ED-RFT 01-2017).
2. Council executes all documents under the Common Seal of Council.

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

REPORT:

On 1 October 2018 Council entered into a contract with DR Tourism to provide tourism services. This contract specified that all intellectual property that was generated within the course of the contract be vested with Council.

Through discussions with DR Tourism it was identified that a new business name should be used by DR Tourism to undertake these contracted services. The purpose of this is to make it clear to the travelling public, the tourism industry and the Tweed community that these services are being provided by Council under contract.

It was agreed that a suitable trading name was "The Tweed Tourism Company". As a result Council has registered the name with the Australian Securities Investment Commission to the unincorporated body Tweed Shire Council (ABN: 90 178 732 496).

To formalise this process Council has drafted a licence agreement for DR Tourism Pty Ltd (ABN: 87 619 651 857) to use the trading name to deliver the contracted tourism services.

OPTIONS:

That Council:

1. Enters into a licence agreement with DR Tourism Pty Ltd to utilise the registered business name "The Tweed Tourism Company".
2. Does not enter into this licencing agreement.

CONCLUSION:

This report recommends that Council enters into a licence agreement with DR Tourism Pty Ltd to utilise the registered business name "The Tweed Tourism Company".

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

N/A

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. Licence Agreement with DR Tourism Pty Ltd
(ECM 5584942).

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.

- 18 [PR-CM] Development Application D94/0015.10 for an Amendment to Development Consent D94/0015, Development Application T4/2794.07 for an Amendment to Development Consent T4/2794 and Development Application PN1074.10 for an Amendment to Development Consent PN1074.10 Where all Three (3) Development Consents Relate to Additions to Existing Caravan Park at Lot 11 DP 1206666; No. 2 Barneys Point Road Banora Point

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:

Three section 4.55(1A) modification applications were received by Council on 11 July 2018 seeking approval to modify the three development consents for an existing caravan park at Lot 11 DP 1206666; No. 2 Barneys Point Road Banora Point (Palm Lake Resort).

The subject site has been subject to a complex planning history with three (3) development consents now governing the development of the site as a caravan park accommodating manufactured homes: Development Consents D94/0015, T4/2794 and PN1074. The conditions of consent on all three consents are identical with Condition 14 of each consent requiring the provision of a public pedestrian access to and along the foreshore with a public benefit covenant (benefitting Council) to be imposed on the land to accommodate the public pedestrian access prior to installation of any structure.

This condition was the outcome of a land swap arrangement between the applicant and the Department of Industry – Crown Land where the applicant benefitted from access to Crown lands on the site in return for providing public access to the foreshore in accordance with the aims and objectives of State Environmental Planning Policy (SEPP) No 71 – Coastal Protection. Accordingly, a right of footway (3m wide) has been registered on the Registered Plan and a footpath constructed on the right of footway.

The applicant is now seeking to amend this condition on each consent to limit the hours of public access to the footpath to between 7.00am and 5.00pm daily (Amendment to Condition

14). To enforce this, it is proposed to erect gates at either end of the walkway constructed over the public access easement. Accordingly, the current applications also seek to amend Condition 1AAAAAA to reflect this in the stamped plans.

The applicant has submitted that the intention of the development is to provide security for the residents of the caravan park. It is proposed that the easement would be publically accessible between 7am and 5pm when the path may be used for recreational purposes, but that the gates would be closed at night to allow for the security of nearby residents and to limit the use of the path during the night for “non-social” activities.

The application was notified for a period of two (2) weeks from Wednesday 8 August 2018 to Wednesday 22 August 2018. During this time, there were 24 submissions received in support of the application (all from residents at the development) with some submitters indicating support for a complete restriction on public access to the footway. In addition there was correspondence for a substantial number of residents (prior to the acceptance of the modification applications) seeking that Council restrict access to the public footpath. A summary of the issues raised in the submissions and other related correspondence is as follows:

- The development houses vulnerable older Australians who purchased their homes in the belief that they could retire with peace and security.
- Invasion of privacy due to proximity of path to dwellings.
- The pathway goes nowhere, with no access directly to the foreshore from the path.
- Site is close to an anti-social behaviour hotspot in the adjacent park and area under the M1 bridge (rubbish dumping, illegal camping, drug dealing, unleashed dogs, etc)
- Concern in relation to crime with a number of arrests for drug-dealing close-by, drug paraphernalia found on site and a break-in to one of the dwellings on the site.
- The only people who would be using this easement at night would be up to no good and non-social activities – locking the gates would deter ‘undesirables’ and the drug dealers, drug users, alcoholics and homeless who frequent the nearby area.
- Other issues raised included:
 - vandalism,
 - public accessing private areas such as marinas, pontoons and boat ramps access from the path,
 - higher insurance costs due to damage to Palm Lake property along the pathway,
 - lack of lighting on the walkway with an increased risk of accidents and liability to Council,
 - no bollards restricting vehicular access from Barneys Point Road.
- The proposal to lock the gates at night is a reasonable compromise allowing for security for the residents at night and general access to the walkway during the day.
- Some residents expressed a preference for no public access along the foreshore with this area being available exclusively to residents of the caravan park.

At face value, this may appear to be a reasonable compromise – the public access is maintained, albeit restricted to between 7am and 5pm daily with the residents having exclusive access to the foreshore at all other times.

However this ‘solution’ requires consideration of the following questions:

- Is the proposal to place restrictions on public access to the foreshore at odds with the Council's obligations to maintain public access to the foreshore (SEPP Coastal Management 2018)?
- Should public access be restricted to compensate for a lack of consideration of Crime Prevention Through Environmental Design (CPTED) principles in the initial design process?
- Restricting public access to 7am to 5pm is unreasonable, particularly for those whose leisure time is likely to be outside of these hours and those who wish to access the foreshore for fishing - but how is a 'reasonable' public access timeframe determined?
- Will restricting access to the general public improve safety and minimise the risk of anti-social behaviour? This may result in less activation of the path with reduced casual surveillance of the footpath area.
- Would the approval of these applications, even with extended hours of access, set an undesirable precedent for Council?

Notwithstanding any sympathy for the residents of the caravan park, some of whom genuinely appear to have concerns with regard to their security, the proposed restrictions to public access to the foreshore are at odds with State Government policy (as set out in SEPP Coastal Management 2018) to maintain existing, safe access to and along the foreshore.

State and Council's policy is to enhance public foreshore access opportunities – not further restrict them as proposed here – in order to meet community and local government expectations. It is considered that issues raised by the residents (being predominantly safety and privacy) are most appropriately addressed in the initial planning and design process (park design, unit location and layout, setbacks, landscaping etc) and Section 68 local government approvals (for the installation of the units).

The developers of the caravan park benefitted from a land swap agreement whereby they received Crown Land in exchange for allowing unrestricted public access to the foreshore. This land swap allowed the developer to develop ten (10) additional caravan sites in the park.

The requirement to provide public access along the foreshore was established in 2009 (by way of a condition of the consents). Since then, the applicant has modified the consents a number of times to allow a number of the caravan sites to be located closer to the public footway. The current applications now seek to impose a time limit on the public access to manage the perceived security concerns resulting from the proximity of the footpath to the units.

On the balance of consideration of the above issues and statutory planning requirements, it is recommended that the subject application be refused.

RECOMMENDATION:

That Development Application D94/0015.10 for an amendment to Development Consent D94/0015, Development Application T4/2794.07 for an amendment to Development Consent T4/2794 and Development Application PN1074.10 for an amendment to Development Consent PN1074.10 for additions to existing caravan park at Lot 11 DP 1206666; No. 2 Barneys Point Road Banora Point be refused for the following reasons:

- 1. The development does not satisfy Section 4.15 of the Environmental Planning and Assessment Act 1979, particularly Section (a)(i) - any environmental planning instrument, as it relates to the Tweed Local Environmental Plan 2014.**

The proposal is not considered to be consistent with the objectives of Zone RE2 (Private Recreation) which include:

- providing a range of recreational settings and activities and compatible land uses, and**
- protecting and enhancing the natural environment for recreational purposes,**

- 2. The development does not satisfy Section 4.15 of the Environmental Planning and Assessment Act 1979, particularly Section (a)(i) - any environmental planning instrument, as it relates to the State Environmental Planning Policy (SEPP) Coastal Management 2018.**

The proposal is not considered to be consistent with the provisions of the SEPP as it relates to development on land within the Coastal Environment Area and Coastal Use Area and the requirement to avoid an adverse impact on existing public open space and safe access to and along the foreshore for members of the public, including persons with a disability.

- 3. The development does not satisfy Section 4.15 of the Environmental Planning and Assessment Act 1979, particularly Section (e) – the public interest. The proposal is not considered to be in the public interest in that it seeks to restrict public access on a public footway along the foreshore.**

REPORT:

Applicant: Palm Lake Works Pty Ltd
Owner: Walter Elliott Holdings Pty Ltd
Location: Lot 11 DP 1206666; No. 2 Barneys Point Road Banora Point
Zoning: RE2: Private Recreation
Cost: \$0

The Site

The site is an existing caravan park on Barneys Point Road identified as Palm Lake Resort. While the site is approved as a caravan park, the site consists of substantial manufactured homes and associated community facilities within a gated estate. The site is directly adjacent to the Tweed River on the eastern boundary and Wetlands to the west. The Pacific Highway is located to the south of the site, elevated as the entry to Barneys Point Bridge.

The entire caravan park is zoned RE2 – Private Recreation pursuant to the Tweed Local Environmental Plan (TLEP) 2014. Caravan Parks are permissible with development consent within this zone.

The land to the west is a Deferred Matter under TLEP 2014 and as such the applicable zoning is 7(a) - Environmental Protection under TLEP 2000. This land is partially owned by the Roads and Maritime Authority and partially by the Land and Property Management Authority (Crown).

The site is mapped as being bushfire prone and subject to flooding.

Background

Site History

The subject site has had an extensive development history. A number of S96 (now referred to as S4.55) applications to modify the original approvals have already been considered by Council in order to rectify historical non-compliance issues.

Three separate original development consents make up the Caravan Park use approved over the site, with each original consent building on the prior approval. These original development consents include:

- Permit Number **PN1074** was granted approval on 14 November 1967 for a 'caravan park and holiday units';
- Development Consent No. **T4/2794** was granted approval on 17 March 1986 for the 'extensions to an existing caravan park to accommodate thirty six (36) movable dwelling sites'; and
- Development Consent No. **D94/0015** was granted approval on 24 June 1994 for the 'additions to existing Caravan Park'. The plans show five additional caravan sites within the park.

The result of these three development applications was a caravan park that comprised a total of 180 sites with a mix of long and short term sites. This was established in the NSW Land & Environment Court *Blackington Pty Limited v Tweed Shire Council* (s.68 Appeal).

There have been several amendments to the three consents above. The amendments incorporated changes to the functionality of the caravan park and have gradually reduced the number of sites within the facility, while increasing the area of the sites. A summary of the relevant development history is outlined below.

Reference	Description	Determination
D94/0015.04 T4/2794.01 PN1074.04	Amendment to governing consents (D94/0015, T4/2794 and PN1074) to allow for a layout comprising 148 long-term sites resulting for road realignment and some sites being enlarged.	Approved on 17/08/2009

All sites were nominated as long term sites.

It was noted in the assessment of the applications that the built form would be determined under licensing provisions with this approval relating to site configuration only.

These modification applications first introduced Condition 13 which stated:

'No temporary or permanent dwelling or private facility or other structure apart from the perimeter road is permitted within 20m of the Mean High Water Mark of the Tweed River.'

At this time Condition 14 was also introduced which stated:

'Provision must be made for traversable public pedestrian access to and along the foreshore of the Tweed River adjacent the full length of Lot 5 DP828639 and Lot 382 DP755740 being the land the subject of this development. A public benefit covenant (benefitting Tweed Shire Council) shall be imposed on the land to accommodate the public pedestrian access prior to installation of any structures on the land.'

D94/0015.05 T4/2794.02 PN1074.05	Amendment to governing consents to remove seven (7) long term sites to reduce number of approved sites from 148 to 141 sites.	Approved on 06/11/2012
--	---	------------------------

Conditions 13 and 14 remained unchanged.

On 17 December 2012, a vegetation management plan (VMP) for the site was approved by the NSW Office of Water. This clearly showed the provision of a 1.8m wide pedestrian path on the site, adjacent to a glass fence.

D94/0015.06
T4/2794.03
PN1074.06

Amendment to governing consents to reduce the number of long term sites from 141 to 114 sites.

Approved on
22/04/2013

The applicant in their submissions requested that Condition 13 be deleted and replaced with a condition which would not restrict development within 20m of the high water mark. It was submitted that this amendment would not impact on the useability of the foreshore which was 'protected' with the implementation of the footway easement and that modifying this condition would not impede the public access or use of the foreshore.

Condition 13 was deleted and replaced with the following condition 13A:

'As shown on Site Plan Issue D5 dated 29 May 2013 prepared by Zoran Architecture, no temporary or permanent dwelling or private facility or other structure is permitted to the east (riverward) of the following features:

- (a) *The existing or proposed perimeter road being Road 3, Road 4, Road 5, connecting road between Road 10 and Road 11, Road 14 and terminal end of Road 1; and*
- (b) *Lots 94, 104, 105, 107 and 108.'*



It is noted that amending Condition 13 reduced the 20m foreshore buffer allowing units to be developed closer to the foreshore and consequently the foreshore

footpath, with the subsequent proximity of the units to the footpath now one of the issues for the residents.

Condition 14 remained unchanged.

D94/0015.07 T4/2794.04 PN1074.07	Amendment to governing consents to reduce the number of long term sites from 114 to 112.	Approved on 17/12/2013
--	--	------------------------

Condition 13A and 14 remained unchanged.

D94/0015.08 T4/2794.05 PN1074.08	Amendment to governing consents to reduce the number of long term sites from 112 to 97 sites.	Approved on 09/09/2014
--	---	------------------------

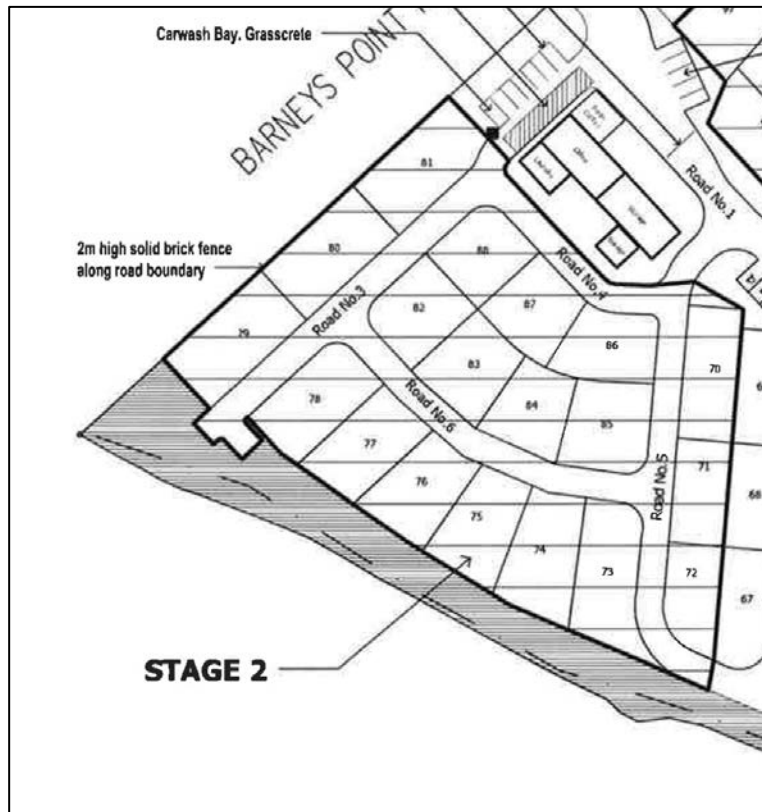
The applicant requested that Condition 13A be amended to reflect the proposed layout.

Notwithstanding an amended layout, it was again submitted that the modification would have no impact on the approved caravan park's ability to provide quality public access to the foreshore and that the existing riverfront esplanade would remain unchanged.

Condition 13A was deleted and replaced with Condition 13AA:

As shown on the Site Plan Drawings No M1202-D7 prepared by Palm Lake Works dated 1 July 2014, no temporary or permanent dwelling or private facility or other structure is permitted to the east (riverward) of the following features:

- (a) The existing or proposed perimeter road being Road 3 and Road 5, connecting road between Road 10 and Road 11, Road 14 and terminal end of Road 1; and*
- (b) Lots 73, 74, 75, 76, 77, 78 and 79.*



This amendment allowed for sites to be located closer to the foreshore area and the public pathway.

Condition 14 remained unchanged.

D94/0015.09
T4/2794.06
PN1074.09

Amendment to governing consents to increase the number of long term sites from 97 to 110 sites and to increase the formal communal open space area.

Approved on
07/12/2015

The applicant requested that Condition 13AA be updated to reflect the updated site plan.

The applicant also requested that Condition 14 be deleted. In support of this, it was submitted that:

- The operation of the easement was not practical;
- The residents did not want public access here;
- Security would be compromised;
- Public did not have access to private facilities located on this riverfront, yet unauthorised access could not be controlled;
- Legibility and permeability of the pathway is non-existent given that it was a 'dead end';
- Maintaining access is a burden on the management costs with home owners paying for maintenance of pathway, boat ramp, pontoon, etc.

During this notification period approximately 40 submissions were received from residents of the caravan park supporting the removal of Condition 14.

On 3 March 2016, Council advised the applicant that the removal of Condition 14 was not supported as the land being proposed for the additional dwellings in these applications was the subject of negotiations between the land owners and the state government, with the relevant land being available subject to public access to the foreshore being provided.

The applicant subsequently modified the application such that the deletion of Condition 14 was no longer proposed.

The application was reported to Council with a recommendation to refuse (bushfire related issues). However following a deferral to allow the applicant an opportunity to submit further information, the application was approved by delegated authority.

Condition 13AA and 14 remained unchanged.

Establishment of the public access

As outlined above, D94/0015.04, T4/2794.01 and PN1074.04 were the S96 modification applications which first introduced Condition 14 in August 2009.

Historically the approved caravan park occupied Lot 382 in DP755740 and Lot 5 in DP828639 in the part of the site that was previously zoned 6(b) Open Space (Recreation) in the TLEP 2000 where a caravan park was permitted subject to consent. Over the years, the applicants utilised a lease from the Crown to use the adjoining Crown land for recreation and part of the driveway entrance – though this aspect of the site utilisation was never formally part of the development consents prior to 2009. These modification applications sought to bring in the Crown Land as part of the development consent.

Council's legal advice at the time advised that this could be done within a S96 modification application, subject to no part of the Zone 7(a) Environmental Protection (Wetlands and Littoral Rainforest) being used as part of the approved caravan park, including its use for passive recreation.

The Land Property Management Authority (LPMA) provided owners consent with the modification applications (D94/0015.04, T4/2794.01 and PN1074.04) based on discussions with the applicant relating to a potential 'land swap' of foreshore land of equal or greater area.

Owners Consent documentation submitted with these applications refers to '*in principle agreement to a land exchange*' and states that

*'such agreement should be predicated on achievement of development consent, approval for road closing and other terms relating to plan preparation, easement for infrastructure and **right of access to adjoining land, payment of costs and construction and maintenance of works on foreshore lands**'.*

It was noted in the assessment of the applications (Council report) that the applications specifically stated that *'dedication of foreshore land is not proposed as part of this modification'*. However permanent structures were shown on the Crown Land, indicating that the applicant was agreeable to Crown Lands 'land swap' conditions.

Further, the applicant referred in the application to *'works proposed (and management measures relating to same) within the Tweed River foreshore to be subject to a separately prepared plan of management associated with potential foreshore dedication linked to ongoing discussions with the Department of Lands'*.

The provision of this public access to the foreshore was a significant factor in the assessment of these applications, given that it facilitated the applicant in accessing Crown Land and enabled the proposal to comply with the provisions of a number of relevant plans and policies in place at the time, as is summarised below:

Tweed Local Environmental Plan 2000

The modified consents were assessed against the TLEP 2000 (which applied to the site at the time).

Clause 31 of the LEP relates to development adjoining water bodies with an objective to *'provide adequate public access to waterways.'* In accordance with the clause, consent must not be granted to development on land to which this clause applies unless Council is satisfied that *'adequate arrangements for public access to and use of foreshore areas have been made in those cases where the consent authority considers that public access to and use of foreshore areas are appropriate and desirable requirements'*.

Accordingly, in the assessment of D94/0015.04, T4/2794.01 and PN1074.04 (Council report), it was noted that *'as provided by LPMA, provision of a foreshore reserve would establish continuous public foreshore access in this location. In accordance with the original consent the appropriate distance is considered to be 20m (formerly one chain).'*

It was considered that *'subject to the recommended conditions of consent, Clause 31 is considered to have been adequately addressed.'*

SEPP (North Coast Regional Environmental Plan) 1988 (Repealed)

Clause 15 (Development control—wetlands or fishery habitats)

Clause 15 stated that Council shall not consent to an application to carry out development for any purpose within, adjoining or upstream of a river or stream, coastal or inland wetland, coastal or inland wetland unless it has considered (inter alia) *'whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve.'*

In the assessment of the applications, it was noted that the Department of Industry and Investment NSW (I&I NSW), formerly NSW Fisheries, had requested that the foreshore area be conditioned, and that accordingly Conditions 13 and 14 were included. The assessment noted that subject to the recommended conditions of consent, the proposed development was considered suitable having regard to Clause 15 of the REP.

Clause 32B (Development Control – coastal lands)

Clause 32B stated that Council must not consent to the carrying out of development which would impede public access to the foreshore and accordingly it was noted in the assessment that the development did not restrict access to a foreshore.

Clause 81 (Development Control – Development adjacent to the ocean or a waterway)

Clause 81 stated that Council shall not consent to a development application for development on land within 100 metres of the ocean or any substantial waterway unless it is satisfied that there is a sufficient foreshore open space which is accessible and open to the public within the vicinity of the proposed development and that development is consistent with the principles of any foreshore management plan applying to the area. It was noted that appropriate conditions were recommended to ensure that adequate foreshore space was managed in accordance with the appropriate management plans.

SEPP No 71 – Coastal Protection (Repealed)

The aims of this policy included protecting and improving existing public access to and along coastal foreshores and ensuring that new opportunities for public access to same are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore. In determining a development application, Council was specifically required to consider retaining and improving existing public access to and along the coastal foreshore for pedestrians or persons with a disability and opportunities to provide new public access for same.

In the assessment of the application, it was noted that the provision of a foreshore reserve would establish continuous public foreshore access at this location and in accordance with the original consent that the appropriate distance was considered to be 20m (one chain).

Modifications to foreshore area/pedestrian access

As above, subsequent modification applications were approved which reduced the 20m foreshore area, gradually allowing development to encroach into this initially identified foreshore area.

In D94/0015.09, T4/2794.06 and PN1074.09, the applicant sought to delete Condition 14 as it was considered that public access was no longer compatible with the residential development on the site. Though the modification applications were amended to remove this amendment, the assessment report to Council on these applications advised as follow:

‘This was actually what the modification was originally requesting, consistent with the submissions. However, public access to the foreshore was a trade off during the land exchange process that enabled the applicant to acquire the closed road reserve that is now consolidated into the subject land and is the portion of land that the applicant seeks to place the additional 10 sites. This public access to the foreshore was viewed as a positive outcome for the wider community in return for the road being closed and the land sold by the public authority. Therefore, Council would not support the removal of this condition given the history of the applications.’

Following consultation with the applicant, the request for the deletion of this Condition was removed from the application.

In 2018, Council received a complaint that the applicant had closed public access to the pathway. Investigations by the Compliance Unit resulting in the re-opening of the footpath and the current modification applications.

Current proposal

The current modification applications seek to amend a condition of the consents which requires the provision of a public access along the foreshore. The proposed change involves amendments to the overall site plan to include the addition of security gates at either end of the Right of Footway easement benefitting Tweed Shire Council and the amendment to Condition 14 of all three consents.

It is proposed by the applicant that the security gates be closed from 5pm to 7am daily to provide for the security of the residents of the approved caravan park on the same property. It is submitted that the inclusion of these gates allows for the easement to be publically accessed during daylight hours, when the path may be used for recreational purposes. However closing the gates at night would allow for the security of those nearby residents and limits the use of the path during the night for 'non-social' activities.

It is stated that the locking of the gates could be managed by the caretakers of the caravan park who reside on the property, with the gates being appropriately signed to ensure these closing times are sufficiently communicated to the public and the path checked at closing time by the caretaker to ensure that no-one remains on the path.

The applicant submits that the proposal is a reasonable solution to what is a challenging situation between Council's desire to provide public access along the foreshore and the protection of the security and safety of the residents of the caravan park.

Conditions to be amended

It is proposed that Condition 1AAAAA be deleted and replaced with Condition 1AAAAAA showing the security gates:

Condition 1AAAAA

The caravan park shall have a layout comprising 107 long term sites as detailed within the Site Plan Drawings No M1202-D7 Rev E, prepared by Palm Lake Works dated 30/05/17 (as approved by S96 Applications D94/0015.09, T4/2794.06 and PN1074.09 in July 2017), except where varied by the condition of this consent. Sites 100-019 shall accommodate RV style homes similar to Plan TWE-XXX-XXX dated 12/06/17 prepared by PalmLake Works.

Condition 1AAAAAA

The caravan park shall have a layout comprising 107 long term sites as detailed within the Site Plan Drawings No M1202-D7 Rev F, prepared by Palm Lake Works dated 12/06/2018 (as approved by S96 Applications D94/0015.09, T4/2794.06 and PN1074.09 in July 2017), except where varied by the condition of this consent. Sites 100-019 shall accommodate RV style homes similar to Plan TWE-XXX-XXX dated 12/06/17 prepared by PalmLake Works.

It is also requested that Condition 14 be deleted and replaced with Condition 14A which reflects the restricted hours of public access:

Condition 14:

Provision must be made for traversable public pedestrian access to and along the foreshore of the Tweed River adjacent the full length of Lot 5 DP 828639 and Lot 382 DP 755740 being the land the subject of this development. A public benefit covenant (benefitting Tweed Shire Council) shall be imposed on the land to accommodate the public pedestrian access prior to installation of any structures on the land.

Condition 14A

*Provision must be made for traversable public pedestrian access to and along the foreshore of the Tweed River adjacent the full length of **Lot 11 on DP 120666**, being the land the subject of this development, **between hours of 7am and 5pm every day**. A public benefit covenant (benefitting Tweed Shire Council) shall be imposed on the land to accommodate the public pedestrian access prior to installation of any structures on the land.*

Referrals

Department of Crown Lands

As the Department of Industry - Crown Lands was instrumental in the land swap which facilitated the land public access, the applications were referred to them for comment.

They advised that the security concerns raised by the proponent are appreciated as this issue also confronts many Holiday Parks on Crown foreshore lands. However, Crown Lands policy is to preserve public access to Crown foreshore lands. In a number of cases involving Crown foreshores on the North Coast the contemporary trend is to enhance public foreshore access opportunities process – not further restrict them – in order to meet community and local government expectations. These issues are addressed through the Crown Holiday Park planning process (park design, landscaping etc) and S.68 local government approvals.

In this case it was noted the proponent had provided no details of security concerns or justification for the proposal.

Notwithstanding this, as the current public pedestrian foreshore access arrangements comprise a Right of Footway through freehold land benefitting Council, it was advised that the proposed operation restrictions to the existing arrangements are primarily a matter for Council.

Roads and Stormwater Unit

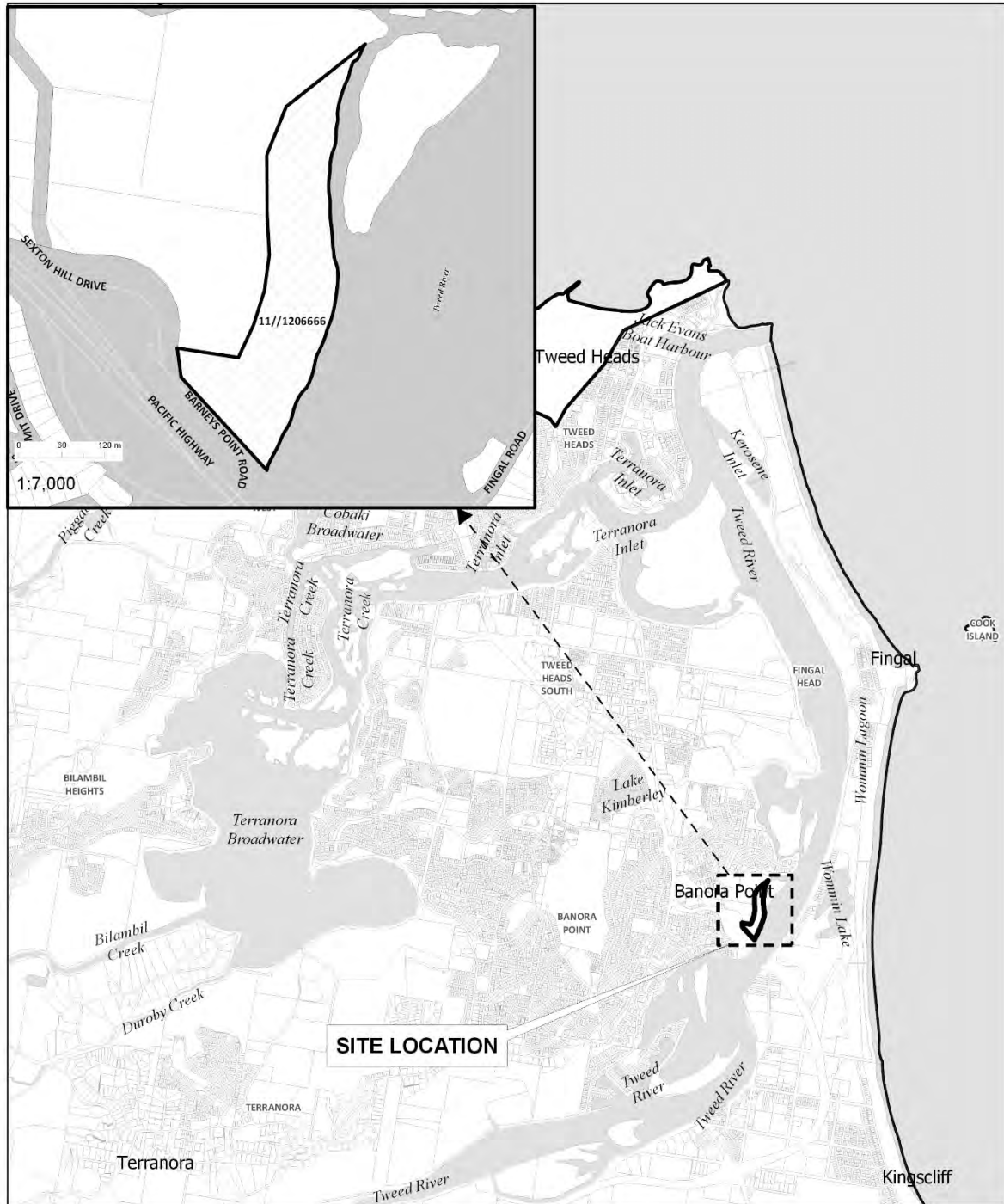
The modification applications were referred to Council's Roads and Stormwater Management Unit for comment. It was noted that the current public access arrangement was an agreed outcome of negotiations to close other public land within the site which has now been utilised as part of the caravan park development and that the deposited plan confirms a public footway 3m wide along the river foreshore, in an easement benefitting Tweed Shire Council. It was further noted that the current easement provides no restrictions on public use for the footway, and ideally Council would not support a proposal to do so. The request to limit access between 5pm-7am is unreasonable and unduly prevents public enjoyment of the land for the purpose it was presumably created. The proposed hours do not reflect dusk to dawn hours for most of the year, including late afternoon and early morning times which are popular for walking, exercising and fishing before and after work times.

It was suggested that should consideration be given to restricting public access to the foreshore that consideration be given to more reasonable timeframes for closure of the footway.

Building Unit

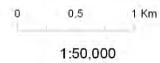
The application was referred to Council's Building Unit who raised no objection subject to the fence and the gates (including any opening position of the gates) being located on the subject property. Various other conditions are recommended for the construction of the fence and the gates.

SITE DIAGRAM:



Site Plan

Lot 11 DP 1206666
 2 Barneys Point Road, Banora Point
 Modification applications:
 D94/0015.10, PN1074.10 and T4/2794.07



Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaim all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. The information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations is "Dig before You Dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.



Coordinate System - MGA Zone 55
 Datum - GDA 94

Cadastre: 18/07/2018
 © NSW LPI & Tweed Shire Council

© NOT SCALE
 COPY ONLY - NOT CERTIFIED

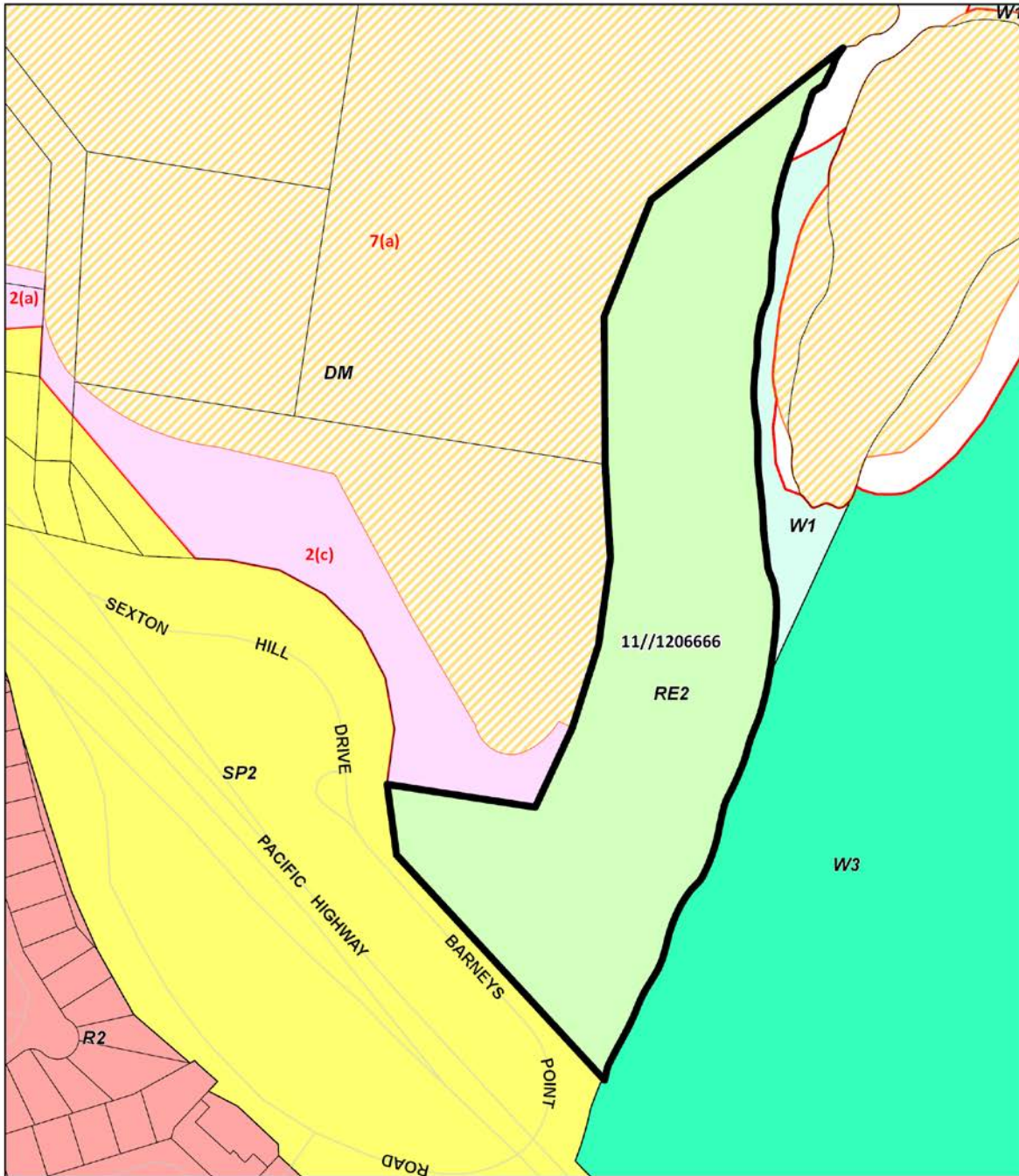
Civic and Cultural Centre
 3 Tumbulgum Road
 Murwillumbah NSW 2484
 PO Box 816
 Murwillumbah NSW 2484

T: (02) 6670 2400 / 1300 292 672
 F: (02) 6670 2483
 W: www.tweed.nsw.gov.au
 E: planning@tweed.nsw.gov.au



Date Printed: 03 October, 2018

ZONING MAP:



- | | |
|--|--|
| <p>Subject Land</p> <ul style="list-style-type: none"> Subject Land <p>Tweed Local Environmental Plan 2014</p> <ul style="list-style-type: none"> R2 Low Density Residential RE2 Private Recreation SP2 Infrastructure W1 Natural Waterways | <ul style="list-style-type: none"> W3 Working Waterways DM, Deferred Matter <p>LEP 2000 (as at 2014)</p> <ul style="list-style-type: none"> 2(a) Low Density Residential 2(c) Urban Expansion 7(a) Environmental Protection (Wetlands and Littoral Rainforest) |
|--|--|



Site Plan - Local Environmental Plan

Lot 11 DP 1206666
 2 Barneys Point Road, Banora Point
 Modification applications:
 D94/0015.10, PN1074.10 and T4/2794.07

© Land and Property Information (LPI) and Tweed Shire Council

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaim all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a "Dig before you Dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.

Doc# P1818 25 October 2018

AERIAL PHOTOGRAPH:



1:3,000 @ A4 Portrait
 0 30 60 m
 GDA
 Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geoidetic Datum of Australia 1994
 Grid: Map Grid of Australia, Zone 56

TWEED SHIRE COUNCIL
 Civic and Cultural Centre
 3 Tambulgham Road
 Murwillumbah NSW 2484
 PC Box 819
 T | (02) 6570 2400 | 1300 292 872
 F | (02) 6570 2429
 W | www.tweedshire.nsw.gov.au
 E | planning@tweedshire.nsw.gov.au

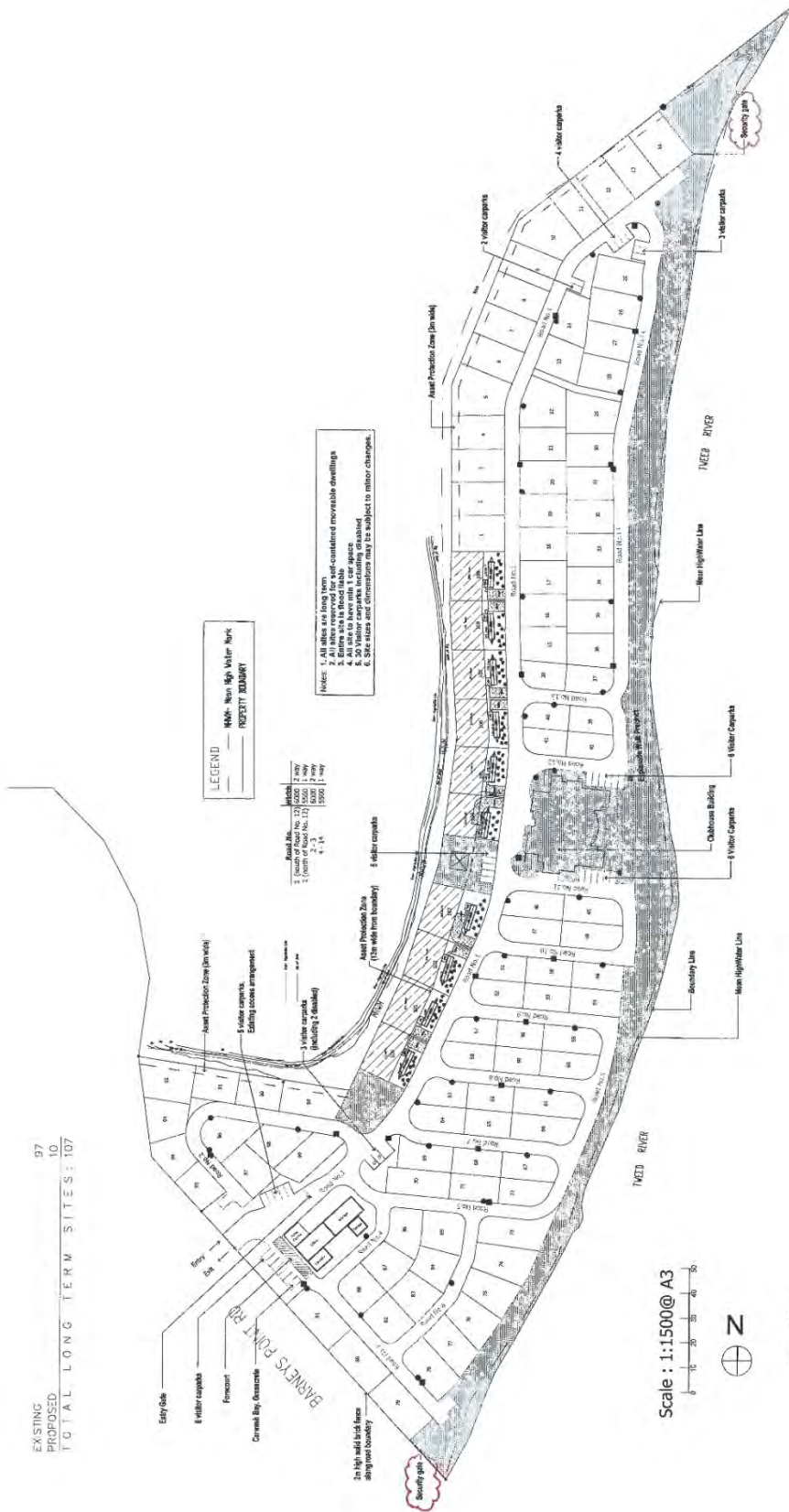
Aerial Photography April 2018

Lot 11 DP 1206666
 2 Barneys Point Road, Banora Point
 Modification applications:
 D94/0015.10, PN1074.10 and T4/2794.07

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

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a "Dial before You Dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.

DEVELOPMENT PLANS:

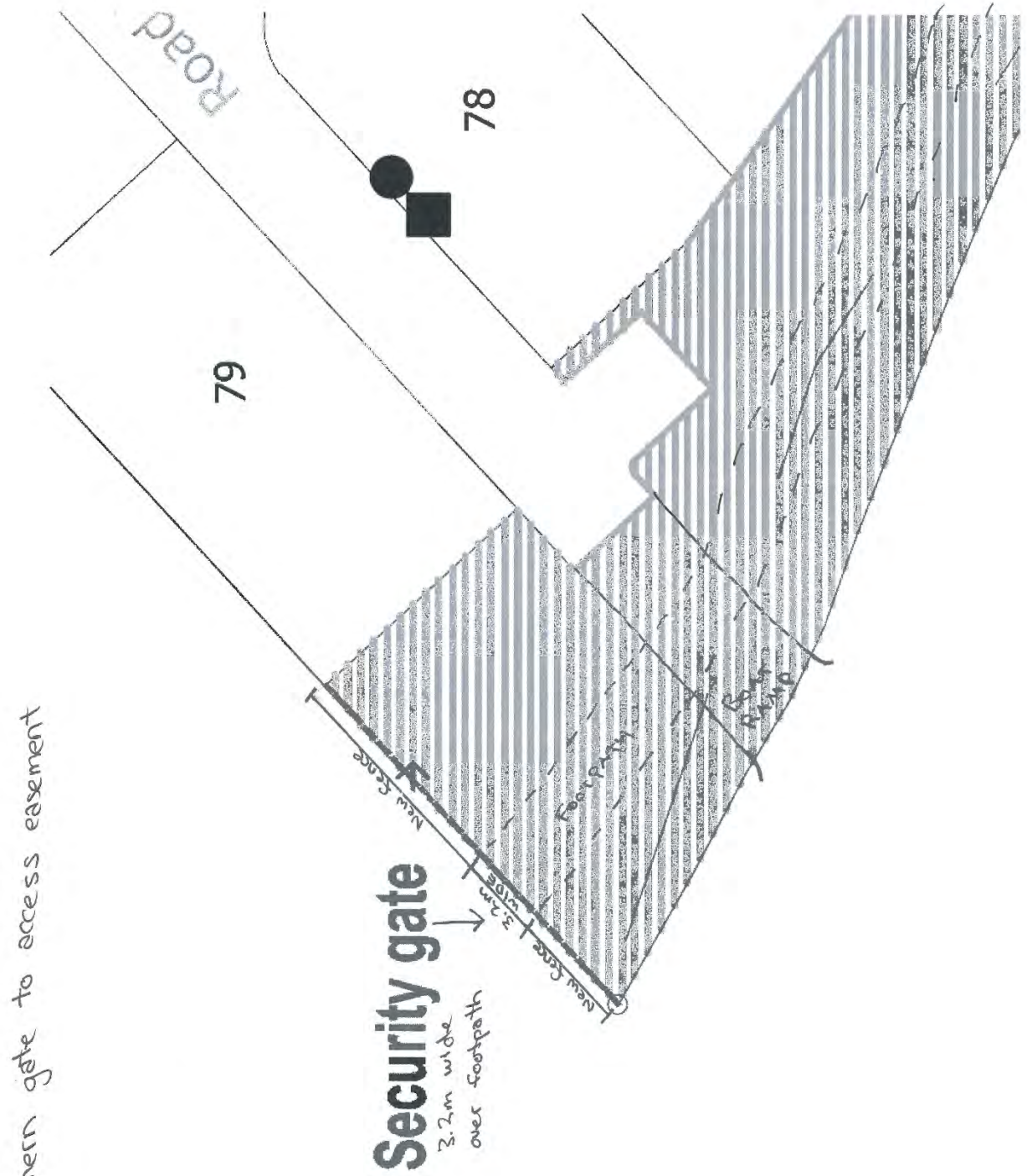


Palmlake Works
 PH: 07 5552 1300 FAX: 07 5562 1399
 Email: info@palmlake.com.au
 Website: www.palmlakereport.com.au

DRAWING REFERENCE NO.	DRAWING TITLE	DEVELOPMENT NAME	DRAWN
M 1202 - D7	SITE PLAN	TWEED RIVER	MR
REV	COMMENTS	DATE	DRWN
C	AMENDED SITE PLAN	20/11/14	SC
D	AMENDED SITE PLAN	12/12/14	SC
E	AMENDED SITE PLAN	30/09/17	SC
F	NOTATION CHANGES	22/02/18	EJ

ADDRESS	PROJECT NORTH	SHEET No.
LOT: 107, 101, 101B, 100B1 & LOT 1, 101B2/2599		01 / 01
SHEET 2 BARNEYS POINT ROAD		
SUBURB BANORA POINT		
P CODE 2486	STATE NSW	

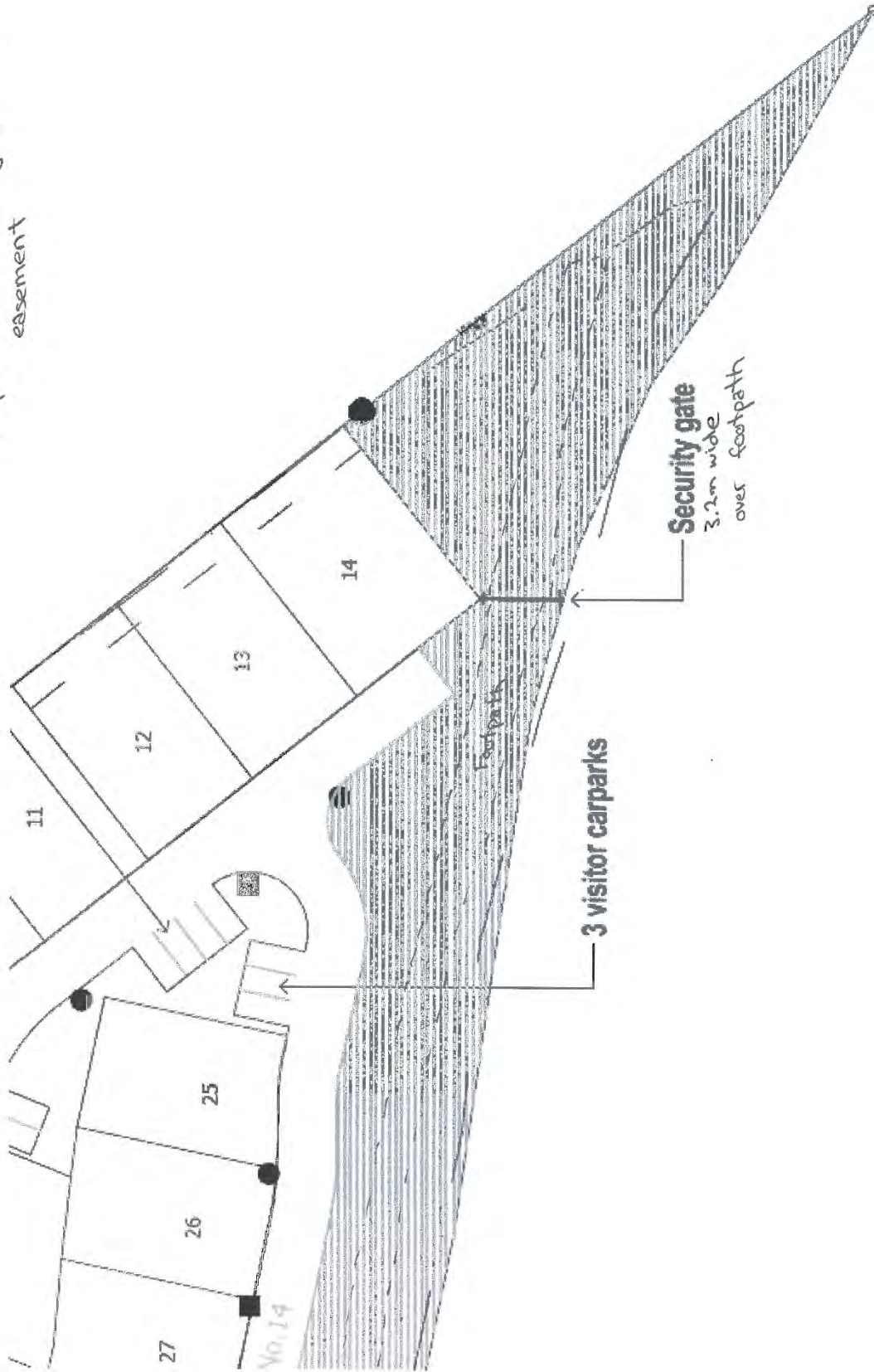
Copyright
 PALMLAKE GROUP OR ANY OF ITS SUBSIDIARIES OR OTHER GROUP COMPANIES OR ANY OTHER PERSONS SHALL NOT BE USED FOR THE REPRODUCTION OF THE SUBJECT PROPERTY, OR ON BEHALF OF PALMLAKE GROUP.
 ABN 77 916 457 981 ACN 005 277 038
 PALMLAKE GROUP
 LAWSON ST SOUTHPORT QLD 4215
 PO BOX 10479 SOUTHPORT BC QLD 4215
 PH: 07 5552 1300 FAX: 07 5562 1399
 Email: info@palmlake.com.au
 Website: www.PalmlakeReport.com.au



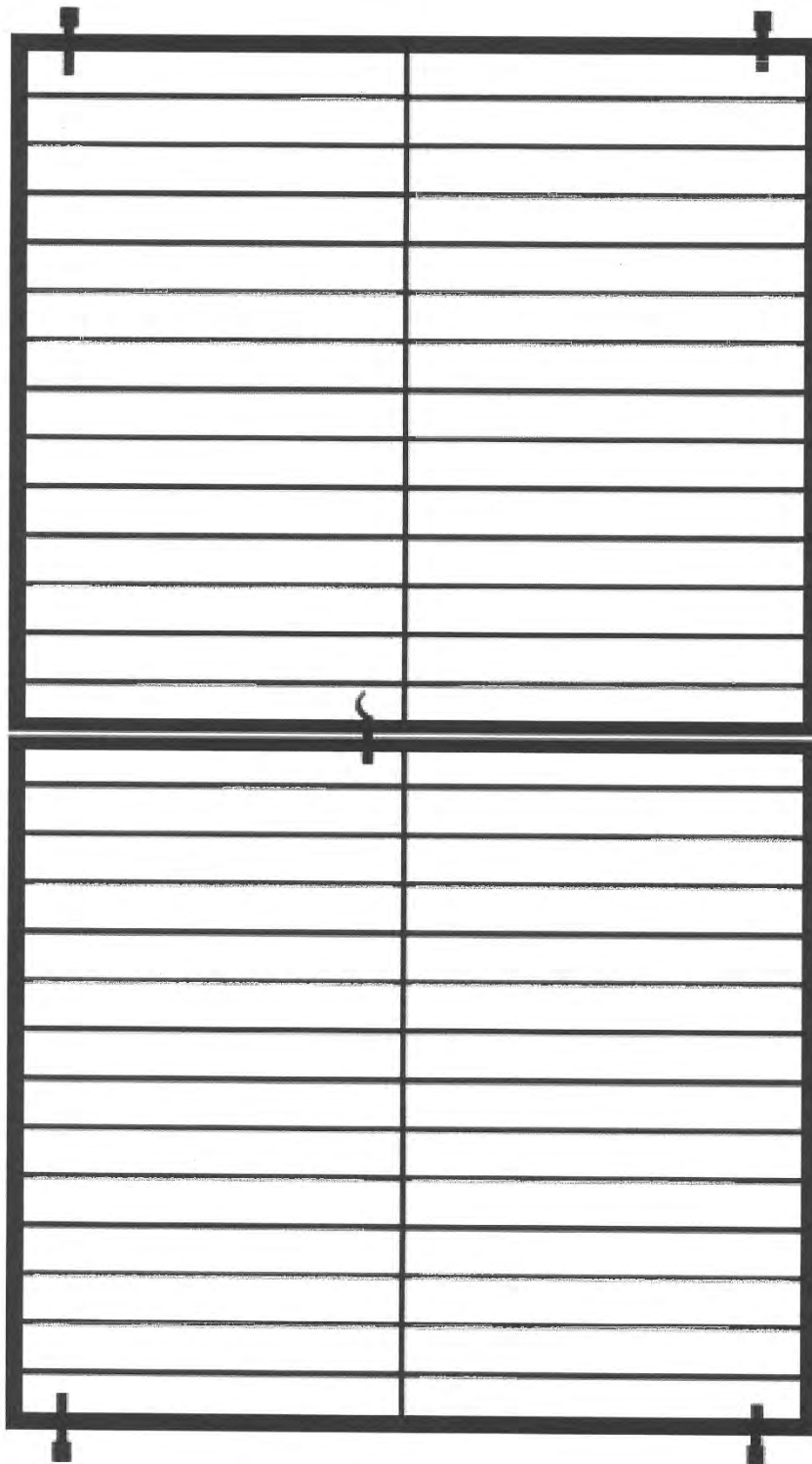
Proposed southern gate to access easement

Not to scale

Proposed northern gate to access easement



Not to scale



Example gate style

Proposed security gates detail

Material – aluminium steel

Dimensions - 3.2m wide by 2.1m high

Lock – one way lock to be installed (allowing automatic internal exit)

Palm Lake Resort Tweed River

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Section 4.55 (Modification of consents - generally) (cf previous s96)

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

Comment:

The minor physical alterations covered by this application are considered to be of minimal environmental impact and as such can be considered under a Section 4.55 application.

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

Comment:

The erection of gates and a restriction on the hours of access to the public footway is considered to fall within the scope of works which can be undertaken under a Section 4.55(1A) application in that the development as modified would be substantially the same as that approved under D94/0015, PN1074 and T4/2794 being extensions to an existing caravan park at Lot 11 DP 1206666; No. 2 Barneys Point Road Banora Point.

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Comment:

The applications were notified for a period of two (2) weeks from Wednesday 8 August 2018 to Wednesday 22 August 2018. During this time, there were 24 submissions received in support of the application (all from residents at the development) with some submitters indicating support for a complete restriction on public access to the footway. In addition there was correspondence for a substantial number of residents (prior to the acceptance of the modification applications) seeking that Council restrict access to the public footpath.

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

Comment:

The key issues raised in the submissions were as follows:

- The development houses vulnerable older Australians who purchased their homes in the belief that they could retire with peace and security.
- Residents are elderly (with some having health issues) and are concerned for their personal safety.
- Council has a responsibility to protect the elderly residents on the site.
- The pathway is adjacent to private residences and goes nowhere, with no access directly to the foreshore from the path.
- Site is close to an anti-social behaviour hotspot in the adjacent park and area under the M1 bridge (rubbish dumping, illegal camping, drug dealing, unleashed dogs, etc)
- There have been a number of arrests for drug-dealing close-by with drug paraphernalia found at the end of the path. Since the removal of the gates, there has been a break-in to one of the dwellings on the site.
- The glass fence adjoining the pathway is a target for vandalism.
- Houses close to the glass fence lack privacy.
- The only people who would be using this easement at night would be up to no good and non-social activities – locking the gates would deter ‘undesirables’ and the drug dealers, drug users, alcoholics and homeless who frequent the area under the nearby bridge.
- The use of bicycles and skateboards on the pathway by members of the public presents a risk of accidents to elderly residents walking on the path given the speed and reduced width of the footpath.
- Residents can no longer enjoy evening strolls on the path now that it is open to the general public.
- Notices erected on the marina, pontoons and boat ramps advising that they are private and off-limits are not visible at night – Noted in one submission that public are currently accessing these areas.
- Concern in relation to the issue of insurance costs and increases due to use of and damage to Palm Lake property along the pathway.
- The path is not lit at night and so if anyone injures themselves they may sue Council.
- Unlike other areas (eg Anchorage Island) no bollards have been installed to restrict parking adjacent to Palm Lakes entry.
- There was no public access to the foreshore in the original caravan site – so the current owners who converted a public eyesore into an attractive place to live must be accorded the same rights of restricted access as the original park owners.
- The proposal to lock the gates at night is a reasonable compromise allowing for security for the residents at night and general access to the walkway during the day.
- Some residents expressed a preference for no public access.

Security

It is not disputed that the current residents do not have concerns with regard to their perceived security, however these are on outcome of the development of the caravan sites and the dwellings on same and not the establishment of a public access to the foreshore.

The right of public access through the site was established in 2009 prior to the development of the caravan park in its current format. As outlined earlier in this report the appropriate response to manage safety and security on the site is in the site planning and development - dwelling location and orientation, setbacks, fencing, opportunities for surveillance etc. The applicant has on two occasions sought to reduce the setback of some of the caravan sites from the foreshore footpath and in each case provided assurances that the foreshore area or access would not be impacted. These modifications, together with the S68 approvals to locate the dwellings on the site, have resulted in a situation where a number of dwellings (south-eastern boundary) are located within 10m of the footpath. However, the requirement for a public access to the rear of these sites was clearly identified in the development consents and was registered on the deposited plan as an easement.

There is an existing fence (glass fence and metal post and rail in sections) to the north of the public access that clearly demarcates the public access area with access to the caravan park restricted.

The residents have raised concerns in relation to potential antisocial behaviour from members of the public on the walkway at night. It is questionable whether restricting access to the general public, thereby reducing activation of the area and casual surveillance by walkers/fishermen/etc along this area would be a positive element in deterring anti-social or criminal behaviour. The closure of the footpath to the general public after 5pm may make this area more attractive to those who seek a more secluded environment.

More appropriate responses may be the provision of lighting along the footpath, surveillance of the area by park management, etc.

Access to private property

The applicant/property owners have erected signs advising of restricted access to the pontoons/boat ramps etc on the foreshore. It is clear that access to these areas is restricted.

Liability and Maintenance costs

To allow for the footpath to be added to the Roads and Stormwater Management Unit asset register, the applicant would be required to provide confirmation that this pathway has been constructed to the necessary standard, set out in standard drawing S.D.013 Footpath and Cycleway Details. This can be managed outside of this application.

(3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.*

The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Section 4.15 (1) (Evaluation)

(1) Matters for consideration-general

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

- (a) the provisions of:*
 - (i) any environmental planning instrument, and*

Comment:

State Environmental Planning Policies

Coastal Management SEPP 2018

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*, including the management objectives for each coastal management area, by:

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.

The site is mapped under the SEPP as being in 100m proximity of a coastal wetlands, Coastal Environment Area and Coastal Use Area.

Clause 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.*

The proposal to erect gates and to restrict public access to the footpath will not adversely impact on the adjacent coastal wetland.

Clause 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.*

It is not considered that the proposal would impact on the biophysical, hydrological (surface and groundwater) or ecological environment, the coastal environmental values and natural coastal processes, water quality, marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, Aboriginal cultural heritage, practices and places or the use of the surf zone.

The proposal will, however, impact on existing access to and along the foreshore for members of the public by restricting the hours of access from 7am to 5pm. This is considered unreasonable. Recreational uses of the foreshore path including walking and fishing, with much of this activity likely to be outside the nominated opening hours.

Clause 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 relevant issue with this clause is public access which was addressed above. The physical installation of the gates is not considered to be of significance in terms of their bulk, scale or size.

Clause 16 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

The subject site is outside of the areas covered by Tweed Shire Coastline Management Plan 2005, Coastal Zone Management Plan for the Tweed Coast Estuaries 2013 and Coastal Zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting).

Tweed Local Environmental Plan 2014

Clause 1.2 – Aims of the Plan

As set out in subclause (2), the particular aims of this Plan are as follows:

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

Clause 2.3 – Zone objectives and Land use table

The site is zoned RE2, Private Recreation. The objectives of the zone are to:

- *Enable land to be used for private open space or recreational purposes.*
- *Provide a range of recreational settings and activities and compatible land uses.*
- *Protect and enhance the natural environment for recreational purposes.*

Development permitted without consent in this zone (Item 2) is limited to *Environmental facilities*; and *Environmental protection works*.

Development permitted with consent (Item 3) includes the following:

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

Waste or resource management facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities.'

Any other development not specified in Item 2 and 3 is prohibited (Item 4).

The use of the caravan park for residential accommodation has been established in earlier approvals on the site. While the erection of gates on the walkway is not specified, it would be reasonable to conclude that such minor works would be permissible with consent.

However the proposal is considered to be inconsistent with the objectives of the zone, specifically the objectives to:

- Provide a range of recreational settings and activities and compatible land uses.
- Protect and enhance the natural environment for recreational purposes.

Other Specific Clauses

There are no other relevant clauses

North Coast Regional Plan 2036 (NCRP)

The North Coast Regional Plan 2036 is a 20-year blueprint for the future of the North Coast. The NSW Government's vision for the North Coast is to create the best region in Australia to live, work and play thanks to its spectacular environment and vibrant communities. The proposal is not inconsistent with this plan.

- (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 Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

Comment:

There is no Draft SEPP or REP relevant to this proposal

- (iii) *any development control plan, and*

Comment:

Tweed Development Control Plan

A1-Residential and Tourist Development Code

The proposal is not inconsistent with any of the controls in this part.

- (iiia) *any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*

Comment:

There are no relevant planning agreements or draft planning agreements.

(iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*

Comment:

Clause 92(1)(a) which related to the Government Coastal Policy has been repealed (31 August 2018). Clauses 93 and 94 are not relevant.

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

As outlined above the site is outside of the area covered by the Tweed Shire Coastline Management Plan 2005, Coastal Zone Management Plan for the Tweed Coast Estuaries 2013 and Coastal Zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting).

(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,*

Comment:

Context and Setting

At face value, this proposal may appear to be a reasonable compromise – the public access is maintained, albeit restricted to between 7am and 5pm daily with the residents having exclusive access to the foreshore at all other times.

However this 'solution' requires consideration of the following questions:

- Is the proposal to place restrictions on public access to the foreshore at odds with the Council's obligations to maintain public access to the foreshore (SEPP Coastal Management 2018)?
- Should public access be restricted to compensate for a lack of consideration of CPTED principles in the initial design process?
- Restricting public access to 7am to 5pm is unreasonable, particularly for those whose leisure time is likely to be outside of these hours and those who wish to access the foreshore for fishing - but how is a 'reasonable' public access timeframe determined?
- Will restricting access to the general public improve safety and minimise the risk of anti-social behaviour? This may result in less activation of the path with reduced casual surveillance of the footpath area.
- Would the approval of these applications, even with extended hours of access, set an undesirable precedent for Council?

Notwithstanding any sympathy for the residents of the caravan park, some of whom genuinely appear to have concerns with regard to their security, the proposed restrictions to public access to the foreshore are at odds with State Government policy (as set out in SEPP Coastal Management 2018) to maintain existing, safe access to and along the foreshore.

State and Council's policy is to enhance public foreshore access opportunities – not further restrict them as proposed here – in order to meet community and local government expectations. It is considered that issues raised by the residents (being predominantly safety

and privacy) are most appropriately addressed in the initial planning and design process (park design, unit location and layout, setbacks, landscaping etc) and Section 68 local government approvals (for the installation of the units).

The developers of the caravan park benefitted from a land swap agreement whereby they received Crown Land in exchange for allowing unrestricted public access to the foreshore. This land swap allowed the developer to develop ten (10) additional caravan sites in the park. The requirement to provide public access along the foreshore was established in 2009 (by way of a condition of the consents). Since then, the applicant has modified the consents a number of times to allow a number of the caravan sites to be located closer to the public footway. The current applications now seek to impose a time limit on the public access to manage the perceived security concerns resulting from the proximity of the footpath to the units. Whilst redesign of the affected sites is unlikely to be a viable option at this stage, consideration can be given to better management of the interface area – provision of lighting, surveillance, etc.

Social impacts

Council, in association with the NSW Office of Environment and Heritage, is currently in the process of preparing a Coastal Management Program for the Tweed River (Draft Tweed River Estuary Coastal Management Program) to identify sustainable ways to manage the Tweed River Estuary. The Plan will determine actions that can be implemented by Council, government agency stakeholders and the community to achieve the right balance between the many different uses and to protect nature, scenic and recreational values, livelihoods and cultural practices.

While this document is yet to be finalised, a community values report (January 2017) has been published based on the outcomes from two surveys conducted as part of the Tweed River Estuary Management Program process. Key messages from the community survey included:

- The river's natural setting provides an important recreational opportunity and there is general support for a wide range of passive and active, water and shore-based pursuits.
- Management priorities included improving public accessibility to the waterway (including disabled access).
- In terms of future management there were a range of ideas and considerations put forward including improved boating access and recreational fishing and improved conditions for passive recreational uses.

While the community values report did not specifically refer to the subject site, it did highlight the passive recreational value that foreshore access provide.

(c) The suitability of the site for the development,

The public access which the applicant seeks to restrict is an existing easement. It is acknowledged that the pedestrian access is not a through-way and that pedestrians/cyclist must currently enter and exit the site via Barney's Point Road. However this does not limit the recreational value of the walkway or natural amenity that this foreshore area provides. Similar walks exist at Anchorage Island in Tweed Heads.

While there are currently no proposals to extend the foreshore access onto adjoining lands, the future possibility of such should not be ignored. Nor should the impact that restricting public access to established foreshore areas could have on the connectivity of same.

(d) *Any submissions made in accordance with this Act or the regulations,*

Comment:

The applications attracted a substantial response from residents in the caravan park, all supporting the proposal for restricted public access, with some residents indicating support for a complete exclusion of public access to the foreshore. The issues raised in the submissions are addressed earlier in this report.

(e) *The public interest.*

Comment:

While all the submissions received have supported the proposal, this is not necessarily an indication of community support for the proposal or a measure of the public benefit. The residents have a vested interest in supporting the application (which would allow them exclusive use of the foreshore area after 5pm every evening and before 7am every morning). An absence of submissions from non-residents objecting to the proposal cannot be taken to be tacit acceptance of the proposal by the community. Regardless of a lack of objections, Council has a responsibility to consider the proposal in the wider context of the public interest and to safeguard the rights of the community.

It is not considered that the proposal, which seeks to restrict the community's access to the foreshore between 7am and 5pm is in the public interest.

Consideration of the reasons given by the consent authority for the grant of the consent as modified that is again sought to be modified.

As set out earlier, the planning history on the site is quite complex with three separate development consents being modified over time to a point where all three consents now have the same conditions. The original development consents on the site was issued in 1967, 1986 and 1994, before Council had to nominate reasons for approving applications.

However the assessment report for D94/0015.04, T4/2794.01 and PN1074.04, which first introduced Condition 14 had the following statement which read like a reason for approval and this has been re-assessed in determining the modification.

Reason 1

Clause 31 of Tweed LEP 2000 provides that consent must not be granted to land that adjoins the mean high water mark of a waterbody, within such distance as is determined by the consent authority of the mean high water mark unless it is satisfied that (amongst other things):

“adequate arrangements for public access to and use of foreshore areas have been made in those cases where the consent authority considers that public access to and use of foreshore areas are appropriate and desirable requirements.”

As provided by LPMA, provision of a foreshore reserve would establish continuous foreshore access in this location.

Subject to the recommended conditions of consent, Clause 31 is considered to have been adequately addressed.'

Reason 2

Subject to the recommended conditions of consent the proposed development is considered suitable having regard to Clause 15 of the SEPP/REP

Where the SEPP/REP in question was North Coast Regional Environmental Plan 1988 and Clause 15 required that Council not consent to an application to carry out development for any purpose within, adjoining or upstream of a river unless it has considered (inter alia) 'whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve.'

Reason 3

Appropriate conditions of consent have been recommended to ensure adequate foreshore space is managed in accordance with appropriate management plans

(In accordance with Clause 81 of North Coast Regional Environmental Plan 1988 which required sufficient foreshore open space which is accessible and open to the public within the vicinity of a development.)

Reason 4

Having regard to Clause 8 matters for Consideration under SEPP 71 provision of a foreshore reserve would establish continuous public foreshore access in this location..... ..Subject to the recommended conditions of consent the proposed development (S96 Modifications) is considered to satisfy the provisions of SEPP71.

Comment

While the applicant is not seeking to remove the public easement, it is considered that the proposal to restrict the hours of access would substantially affect the useability of same, especially for anyone who works standard hours or who may wish to access the foreshore for fishing.

(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

OPTIONS:

OPTION 1

- A. That Development Application D94/0015.10 for an amendment to Development Consent D94/0015, Development Application T4/2794.07 for an amendment to Development Consent T4/2794 and Development Application PN1074.10 for an amendment to Development Consent PN1074.10 for additions to existing caravan park at Lot 11 DP 1206666; No. 2 Barneys Point Road Banora Point be **refused** for the following reasons:

1. The development does not satisfy Section 4.15 of the Environmental Planning and Assessment Act 1979, particularly Section (a)(i) - any environmental planning instrument, as it relates to the Tweed Local Environmental Plan 2014.

The proposal is not considered to be consistent with the objectives of Zone RE2 (Private Recreation) which include:

- providing a range of recreational settings and activities and compatible land uses, and
- protecting and enhancing the natural environment for recreational purposes,

2. The development does not satisfy Section 4.15 of the Environmental Planning and Assessment Act 1979, particularly Section (a)(i) - any environmental planning instrument, as it relates to the State Environmental Planning Policy (SEPP) Coastal Management 2018.

The proposal is not considered to be consistent with the provisions of the SEPP as it relates to development on land within the Coastal Environment Area and Coastal Use Area and the requirement to avoid an adverse impact on existing public open space and safe access to and along the foreshore for members of the public, including persons with a disability.

3. The development does not satisfy Section 4.15 of the Environmental Planning and Assessment Act 1979, particularly Section (e) – the public interest. The proposal is not considered to be in the public interest in that it seeks to restrict public access on a public footway along the foreshore.

- B. The landowner to be instructed to remove any gates erected in the foreshore area.

OPTION 2

- A. That Development Application D94/0015.10 for an amendment to Development Consent D94/0015, Development Application T4/2794.07 for an amendment to Development Consent T4/2794 and Development Application PN1074.10 for an amendment to Development Consent PN1074.10 for additions to existing caravan park at Lot 11 DP 1206666; No. 2 Barneys Point Road Banora Point **(restricting the hours of public access to the foreshore footpath on site to 7am to 5pm daily) be approved subject to amended conditions set out under.**
- B. That the Right of Footway easement on Lot 11 DP 1206666; No. 2 Barneys Point Road Banora Point benefitting Tweed Shire Council be amended to restrict the hours of public access to between 7am and 5pm daily.

Draft Amendments to the Conditions of Consent of Development Consent D94/0015, T4/2794 and PN1074 (as previously modified).

1. Condition No. 1AAAAA is to be deleted and replaced with Condition No. 1AAAAAA which reads as follows:

1AAAAAA The caravan park shall have a layout comprising 107 long term sites as detailed within the Site Plan Drawings No M1202-D7 Rev F, prepared by

Palm Lake Works dated 12/06/2018 (as approved by S96 Applications D94/0015.10, T4/2794.07 and PN1074.10 in October 2018), except where varied by the condition of this consent. Sites 100-019 shall accommodate RV style homes similar to Plan TWE-XXX-XXX dated 12/06/17 prepared by PalmLake Works.

2. Condition No. 14 is to be deleted and replaced with Condition No. 14A which reads as follows:

14A. Provision must be made for traversable public pedestrian access to and along the foreshore of the Tweed River adjacent the full length of Lot 11 DP 120666, being the land the subject of this development, between hours of 7am and 5pm every day. A public benefit covenant (benefitting Tweed Shire Council) shall be imposed on the land to accommodate the public pedestrian access prior to installation of any structures on the land.

3. Condition 14.1 to be inserted as follows:

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

[GEN0115]

4. Condition 14.2 to be inserted as follows:

14.2 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]

5. Condition 14.3 to be inserted as follows:

14.3 The owner is to ensure that the security gates are 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. Condition 14.4 to be inserted as follows:

14.4 The fence and security gates, including the swing of the gates, are to be located and occur within the subject property.

[GENNS01]

7. Condition 14.5 to be inserted as follows:

14.5 Prior to the commencement of work erecting the security gates, 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]

8. Condition 14.6 to be inserted as follows:

14.6 The erection of security gates 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]

9. Condition 14.7 to be inserted as follows:

14.7 Prior to work commencing in erecting the security gates, 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]

10. Condition 14.8 to be inserted as follows:

14.8 **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]

11. Condition 14.9 to be inserted as follows:

14.9 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]

12. Condition 14.10 to be inserted as follows:

14.10 During construction of the security gates, 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]

13. Condition 14.11 to be inserted as follows:

14.11 Commencement of work in erecting the security gates, 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]

14. Condition 14.12 to be inserted as follows:

14.12 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]

15. Condition 14.13 to be inserted as follows:

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

[DUR0395]

16. Condition 14.14 to be inserted as follows:

14.14 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]

17. Condition 14.15 to be inserted as follows:

14.15 It is the responsibility of the applicant to restrict public access to the construction

works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.

[DUR0415]

18. Condition 14.16 to be inserted as follows:

14.16 Excavation

- a. All excavations and backfilling associated with the erection or demolition of the fence and security gates must be executed safely and in accordance with WorkCover 2000 Regulations.
- b. All excavations associated with the erection or demolition of the fence and security gates must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

19. Condition 14.17 to be inserted as follows:

14.17 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]

20. Condition 14.18 to be inserted as follows:

14.18 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]

21. Condition 14.19 to be inserted as follows:

14.19 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]

22. Condition 14.20 to be inserted as follows:

14.20 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]

23. Condition 14.21 to be inserted as follows:

14.21 Prior to the issue of a final Occupation Certificate, all conditions of consent are to

be met.

[POC1055]

OPTION 3

If Council is of a mind to approve the application but has reservations in relation to the restricted hours of access proposed (7am to 5pm daily) and the impact that this would have on the useability of the foreshore area, consideration could be given to approving the application subject to less restrictive hours of public access. In this event, consideration could be given to the following motion:

- A. That Council determine appropriate hours of restricted access to the public foreshore pedestrian pathway at Lot 11 DP 1206666; No. 2 Barneys Point Road Banora Point.
- B. That Development Application D94/0015.10 for an amendment to Development Consent D94/0015, Development Application T4/2794.07 for an amendment to Development Consent T4/2794 and Development Application PN1074.10 for an amendment to Development Consent PN1074.10 for additions to existing caravan park at Lot 11 DP 1206666; No. 2 Barneys Point Road Banora Point (**restricting the hours of public access to the foreshore footpath as determined in Part A above**) be approved subject to amended conditions set out hereunder.
- C. That the Right of Footway easement on Lot 11 DP 1206666; No. 2 Barneys Point Road Banora Point benefitting Tweed Shire Council be amended to restrict the hours of public access as determined in Part A above.

Draft Amendments to the Conditions of Consent of Development Consent D94/0015, T4/2794 and PN1074 (as previously modified).

1. Condition No. 1AAAAA is to be deleted and replaced with Condition No. 1AAAAA which reads as follows:

1AAAAA The caravan park shall have a layout comprising 107 long term sites as detailed within the Site Plan Drawings No M1202-D7 Rev F, prepared by Palm Lake Works dated 12/06/2018 (as approved by S96 Applications D94/0015.10, T4/2794.07 and PN1074.10 in October 2018), except where varied by the condition of this consent. Sites 100-019 shall accommodate RV style homes similar to Plan TWE-XXX-XXX dated 12/06/17 prepared by PalmLake Works.

2. Condition No. 14 is to be deleted and replaced with Condition No. 14A which reads as follows:

14A. Provision must be made for traversable public pedestrian access to and along the foreshore of the Tweed River adjacent the full length of Lot 11 DP 1206666, being the land the subject of this development, **between hours of 7am and 5pm every day**. A public benefit covenant (benefitting Tweed Shire Council) shall be imposed on the land to accommodate the public pedestrian access prior to installation of any structures on the land.

3. Condition 14.1 to be inserted as follows:

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

[GEN0115]

4. Condition 14.2 to be inserted as follows:

14.2 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]

5. Condition 14.3 to be inserted as follows:

14.3 The owner is to ensure that the security gates are 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. Condition 14.4 to be inserted as follows:

14.4 The fence and security gates, including the swing of the gates, are to be located and occur within the subject property.

[GENNS01]

7. Condition 14.5 to be inserted as follows:

14.5 Prior to the commencement of work erecting the security gates, 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]

8. Condition 14.6 to be inserted as follows:

14.6 The erection of security gates 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]

9. Condition 14.7 to be inserted as follows:

14.7 Prior to work commencing in erecting the security gates, 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]

10. Condition 14.8 to be inserted as follows:

14.8 **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]

11. Condition 14.9 to be inserted as follows:

14.9 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]

12. Condition 14.10 to be inserted as follows:

14.10 During construction of the security gates, 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]

13. Condition 14.11 to be inserted as follows:

- 14.11 Commencement of work in erecting the security gates, 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]

14. Condition 14.12 to be inserted as follows:

- 14.12 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]

15. Condition 14.13 to be inserted as follows:

- 14.13 Building materials used in the construction of the fence and security gates are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

16. Condition 14.14 to be inserted as follows:

- 14.14 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]

17. Condition 14.15 to be inserted as follows:

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

[DUR0415]

18. Condition 14.16 to be inserted as follows:

- 14.16 Excavation
- a. All excavations and backfilling associated with the erection or demolition of the fence and security gates must be executed safely and in accordance with WorkCover 2000 Regulations.
 - b. All excavations associated with the erection or demolition of the fence and security gates must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

19. Condition 14.17 to be inserted as follows:

14.17 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]

20. Condition 14.18 to be inserted as follows:

14.18 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]

21. Condition 14.19 to be inserted as follows:

14.19 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]

22. Condition 14.20 to be inserted as follows:

14.20 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]

23. Condition 14.21 to be inserted as follows:

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

[POC1055]

OPTION 1 IS RECOMMENDED.

CONCLUSION:

The developers of the caravan park benefitted from a land swap agreement with The Department of Industry – Crown Lands whereby they received Crown Land in exchange for allowing unrestricted public access to the foreshore. This land swap allowed the developer to develop ten (10) additional caravan sites in the park with the applicant modifying the consents a number of times to allow a number of the caravan sites to be located closer to the public footway. The current applications now seek to limit the public access to manage the perceived security concerns resulting from the proximity of the footpath to the units.

The applicant has submitted that the intention of the proposal is to provide security for the residents of the caravan park with the easement would be publically accessible between 7am and 5pm daily when the path may be used for recreational purposes, but that the gates would be closed at night to allow for the security of nearby residents and to limit the use of the path during the night for “non-social” activities.

Notwithstanding any sympathy for the residents of the caravan park, who have expressed concerns with regard to their security, the proposed restrictions to public access to the foreshore are at odds with State Government policy (as set out in SEPP Coastal Management 2018) to maintain existing, safe access to and along the foreshore.

State and Council’s policy is to enhance public foreshore access opportunities – not further restrict them as proposed here – in order to meet community and local government expectations.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

N/A

c. Legal:

The proponent may appeal the decision if refused.

d. Communication/Engagement:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

19 [PR-CM] Development Application DA18/0073 for a Truck Depot, Plant Nursery, Rural/Landscaping Material Supplies, Office and Alterations and Additions to Existing Dwelling at Lot 1 DP 1091576; No. 188 Tweed Coast Road Chinderah

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:

Consent is sought for the construction of a truck depot, rural landscaping material supplies, plant nursery, office and ancillary alterations and additions to the existing dwelling house and tree removal. Additionally, there is some tree removal required along Tweed Coast Road to comply with Tweed Shire Council and Austroads sight distance requirements for the existing access point of the site.

The subject site is legally referred to as Lot 1 DP 1091576 and more commonly referred to as No.188 Tweed Coast Road, Chinderah. The site has an approximate land area of 1.832 hectares. The site is currently comprised of a small dwelling/rural cottage which appears to have been constructed in the 1960's and an existing shed, which appears to have been constructed sometime between 2009 and 2015 (based on aerial imagery).

The subject site currently has an approval for use as storage warehouse of gravel and landscape supplies (approved under DA08/1000 on 01/05/2009) and as a depot (approved under DA05/1416 on 20/02/2006). No retail operations were approved under either DA05/1416 or DA08/1000.

The subject site is zoned RU2 Rural Landscape.

The application is being reported to Council as there were nine objections received during the notification period (four of these submissions were received after the submission period closed) which raised concerns with the consistency of the development with the RU2 zone, traffic safety and overdevelopment of the site.

The subject development has been assessed on its merits and is recommended for approval.

RECOMMENDATION:

That Development Application DA18/0073 for a truck depot, plant nursery, rural/landscaping material supplies, office and alterations and additions to existing dwelling at Lot 1 DP 1091576; No. 188 Tweed Coast Road Chinderah be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans listed in the below table, except where varied by the conditions of this consent.

Plan title	Plan No.	Project No.	Drawn by	Dated	Issue
Locality Plan	01	17035	Story Design and Drafting	19/06/2018	E
Proposed Site Plan	02	17035	Story Design and Drafting	19/06/2018	E
Existing residence floor plans	03	17035	Story Design and Drafting	19/06/2018	E
Existing residence elevations	04	17035	Story Design and Drafting	19/06/2018	E
Shed plan	05	17035	Story Design and Drafting	19/06/2018	E
Shed elevations 1 and 2	06	17035	Story Design and Drafting	19/06/2018	E
Shed Elevations 3 and 4	07	17035	Story Design and Drafting	19/06/2018	E
Landscaping Bays and Carparking	08	17035	Story Design and Drafting	19/06/2018	E

[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. 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 the road reserve. 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. Any application under Section 138 must include details to vegetation removal. [GEN0245]
5. The roadworks are to be carried out in accordance with Councils Development Design and Construction Specifications. [GEN0265]
6. 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]
7. To ensure that the building is provided with a satisfactory level of fire safety the following works are required:
- i) Smoke alarms shall be installed in the ground floor (class 6 portion) and first floor (class 4 portion) of the building (raised former dwelling) in accordance with Part E of the NCC - BCA 2016. A certificate from a licensed electrician certifying that the smoke alarms have been connected to the consumer mains power is to be submitted to the nominated PCA prior to the issue of an occupation certificate.
 - ii) The ground floor (class 6 portion) and first floor (class 4 portion) of the building (raised former dwelling) are to be fire separated in accordance with Part C of NCC-BCA 2016.
 - iii) The ground floor load bearing internal walls are to be upgraded where necessary to achieve the Fire resistance level as required by Specification C1.1 of the NCC-BCA 2016. [GENNS01]
8. The applicant shall not remove, damage or disturb native vegetation unless otherwise approved by Council's General Manager or delegate. [GENNS02]
9. The entire 8031.66 square metre 'Rehabilitation Zone' as shown on Figure 6 Designated Regeneration Zones in *Habitat Restoration Plan 188 Tweed Coast Road Chinderah dated June 2018 prepared by Planit Consulting Pty Ltd* shall be described as the 'Conservation Area' for the purposes of this consent, to be protected and managed for conservation purposes in perpetuity. [GENNS02]
10. The Conservation Area shall be subject to a habitat restoration program in accordance with a site based Habitat Restoration Plan approved by Council. [GENNS02]
-

11. Provision of a sealed industrial standard access in accordance with Section A2 - "Site Access and Parking Code" of Council's consolidated Tweed Development Control Plan and Council's "Driveway Access to Property - Part 1 " Design Specification, extending a minimum of 3.0m inside the subject property. [GENNS03]
12. Provision of a short Channelised right Turn (CHR(S) and short Auxiliary Left Turn (AUL(S)) on Tweed Coast Road, generally in accordance with Appendix B in the Traffic Impact Assessment dated 07/12/2017 compiled by Bitzios Consulting and complying with the Austroads and RMS Guides to Road Design. [GENNS03]
13. This consent grants approval for use of the "existing metal shed" for storage of machinery (including minor/routine maintenance (oil changes etc)) to be utilised in the landscape supplies area and nursery. No heavy mechanical work is permitted onsite. [GENNS04]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

14. Pursuant to Section 4.17 of the Environmental Planning and Assessment Act, 1979 (as amended) and Clause 97 of the Environmental Planning and Assessment Regulations, 2000 development consent No. DA05/1416 dated 20/02/2006 and development consent DA08/1000 dated 01/05/2009 shall be surrendered by lodgement of the prescribed information suitably executed, PRIOR to the issue of a Construction Certificate. [PCC0005]
15. The developer shall provide 25 car parking spaces including parking for the disabled (as required) and 12 truck bays in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code and AS2890 [PCC0065]
16. 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:
85.3066 Trips @ \$1283 per Trips \$65,668.80

(\$1,137 base rate + \$146 indexation)
(\$43,779.20 has been subtracted from this total as this development is deemed an 'Employment Generating Development')
CP Plan No. 4
Sector6_4
- (b) Extensions to Council Administration Offices
& Technical Support Facilities
0.216689 ET @ \$2187.14 per ET \$473.93
(\$1,759.90 base rate + \$427.24 indexation)
CP Plan No. 18

[PCC0215]

17. 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: 0.3166 ET @ \$13,632 = \$4,315.90
Sewer: Nil

[PCC0265]

18. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the (public infrastructure - insert / delete as applicable) works as set out in Council's fees and charges at the time of payment.

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Occupation Certificate is issued.

[PCC0275]

19. In accordance with Section 4.68 of the Environmental Planning and Assessment Act 1979 (as amended), a Construction Certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any Long Service Levy payable

under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid (as applicable). Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

20. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional runoff or ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

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

[PCC0865]

22. The proponent shall submit plans and specifications with an application for construction certificate for the following road works and any associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils Development Design and Construction specifications.

ROADWORKS

- (a) Construction of an intersection layout for the proposed access in accordance with "Austroads Guide to Road Design" (current version), including Part 4A - "Unsignalised and Signalised Intersections", giving particular attention to sight distance.

The roadworks are to be based on Bitzios Consulting drawing titled 'Initial access concept layout' dated 22 November 2017 version A. The plans are to be prepared by a qualified practicing civil engineer.

[PCC0875]

23. Prior to the issue of a Construction Certificate for subdivision works, the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
(b) four copies of detailed engineering plans and specifications, *prepared in accordance with Development Design Specification D13 - particularly Section D13.09*. The detailed plans shall include but are not limited to the following:
- earthworks

- roadworks/furnishings
- sedimentation and erosion management plans

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

24. Permanent stormwater quality treatment shall be provided in accordance with the following:

- a) The Construction Certificate Application shall include a detailed Stormwater Management Plan (SWMP) for the occupational or use stage of the development prepared in accordance with Annexure B of Councils *Development Design Specification D7 - Stormwater Quality*.
- b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the *Tweed Urban Stormwater Quality Management Plan* and Councils *Development Design Specification D7 - Stormwater Quality*.
- c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.
- d) Specific Requirements to be detailed within the Construction Certificate or Section 68 stormwater application include:
 - i. Detailed design plans (Construction Issue) of the proposed stormwater management devices, including basins shape, invert levels and levels across the whole development in accordance with Stormwater Management Plan report, Version 1 submitted by Planit, dated 13/09/2018.
 - ii. Details of groundwater table location within the plans and interaction with bio-basin devices.
 - iii. Reference in the plans to Bioretention Maintenance Plan prepared by Planit, submitted to Council as a response to further information on 11/09/2018.
 - iv. Detailed Erosion and Sediment Control plans including staging of construction of Bioretention basins and/or sediment trapping raingardens.

[PCC1105]

25. 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]

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

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

[PCC1155]

27. The peak stormwater flow rate that may be discharged from the site, in events of intensity up to the ARI 100 year design storm, shall be less than pre-development flow rates as per the Stormwater Management Plan report, Version 1 submitted by Planit, dated 13/09/2018. This can be achieved by On site stormwater detention (OSD) utilising above and or below ground storage.

[PCC1165]

28. 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]

29. Prior to the issue of a construction certificate the applicant is required to lodge an application to install/operate an onsite sewerage management system under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with an approval.

Any approval to install an on site sewage treatment and disposal system shall comply with the recommended on site sewage treatment and disposal method as detailed in the On-site Sewage Management Assessment for Proposed Nursery, Landscaping Supplies and Truck Depot Office for 188 Tweed Coast Road, Chinderah NSW 2487 prepared by HMC Environmental Consulting Pty Ltd dated April 2018 (Report NO: HMC2018.073) including all recommendations of that report and any addendum to the report or to the satisfaction of Councils General Manager or his delegate.

[PCC1285]

30. Prior to the release of the construction certificate details demonstrating compliance with the requirements listed below are to be submitted to and approved by the nominated PCA;

- i) Smoke alarms shall be installed in the ground floor (class 6 portion) and first floor (class 4 portion) of the building (raised former dwelling) in accordance with Part E of the NCC - BCA 2016.**
- ii) The ground floor (class 6 portion) and first floor (class 4 portion) of the building (raised former dwelling) are to be fire separated in accordance with Part C of NCC-BCA 2016.**

- iii) The ground floor load bearing internal walls are to be upgraded where necessary to achieve the Fire resistance level as required by Specification C1.1 of the NCC-BCA 2016.

[PCCNS01]

31. A detailed plan of any vegetation clearing required to achieve acceptable lines of sight, within the Tweed Coast Road Reserve is to be submitted and approved by Councils General Manager or delegate prior to the issue of a Construction Certificate. An Arborist with a minimum Australian Qualification Framework (AQF) Level 5 in Arboriculture is required to be onsite during any vegetation removal within the Tweed Coast Road Reserve.

[PCCNS01]

32. The applicant shall amend the Habitat Restoration Plan (HRP) 188 Tweed Coast Road Chinderah dated June 2018 prepared by Planit Consulting Pty Ltd as follows:

- a. Include a revised schedule of timing and program of works based on the following management phases:
 - i. Establishment Phase - Minimum of six (6) months
 - ii. Maintenance Phase - Minimum of five (5) years
- b. Include specific details of primary establishment phase works to include all planting (including minimum 12 week post planting maintenance period), treatment of all environmental weeds, the installation of all fencing/bollards, baseline monitoring and reporting.
- c. Provide details of permanent fauna friendly fencing around the perimeter of the habitat restoration area or alternative barrier (i.e. bollards) to restrict inappropriate access.
- d. Include additional shrub and understory species within the planting schedule of minimum five (5) species per habit to improve structure and diversity of the planting module within the Reconstruction/Revegetation zone. Species shall be diagnostic of a Swamp sclerophyll forest and/or Swamp oak floodplain forest of the NSW North Coast, Sydney Basin and South East Corner bioregions - Endangered Ecological Community. Plant density shall achieve one (1) native plant per square metre within this zone. The amended HRP shall be submitted and approved by Council prior to issue of the first of any construction certificate or prior to commencement of any works onsite whichever occurs first.

[PCCNS02]

33. Stormwater infrastructure shall be designed in a manner that minimises encroachment within the Conservation Area.

[PCCNS02]

34. The boundary of the Conservation Area and alignment of tree protection fencing along that boundary shall be shown on all relevant civil engineering plans. Tree protection fencing shall be of specifications generally in accordance with *Australian Standard AS4970:2009 Protection of trees on development sites* unless otherwise approved by Council's General Manager or delegate.

[PCCNS02]

35. Prior to the issue of a construction certificate the Applicant shall obtain a building information certificate from Council for existing structure nominated as "metal

shed” on the submitted plans. The application for building certificate shall be lodged with council within 30 days of receiving this consent accompanied by the following information:

- a) A report prepared by a certified Structural Engineer, detailing the structural adequacy of the building.

[PCCNS02]

36. The existing dwelling within the subject site is proposed to have some additions to accommodate the nursery retail. The dwelling floor would have to be raised to the minimum habitable floor level of 3.8m AHD. This level is to be shown at detailed design / construction certificate stage of the development.

[PCCNS03]

37. The Stormwater Management Plan report, Version 1 submitted by Planit, dated 13/09/2018 proposes minimal earthworks for the site with excavation depths of no more than 1m and minor potential filling of the site. Council’s DCP A3 states that commercial lots in this vicinity may be filled to a maximum height of 2.2m AHD. If at detailed design/ construction certificate stage, filling of the commercial lot is proposed, the maximum level of the filling has to comply with Council’s DCP A3.

[PCCNS04]

PRIOR TO COMMENCEMENT OF WORK

38. 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]

39. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved Management Plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

40. 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]

41. 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]

42. 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]

43. 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]

44. 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]

45. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land or is likely to effect the integrity of the adjoining land, the person causing the excavation to be made must comply with the following:

- (a) The person must, at the person's own expense:
 - (i) preserve and protect the building / property from damage; and
 - (ii) if necessary, underpin and support the building in an approved manner.
- (b) The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0765]

46. Road works in accordance with a development consent must not be commenced until:

- (a) a Construction Certificate for the subdivision work has been issued in accordance with Councils Development Construction Specification C101 by:
 - (i) the Consent Authority, or
- (b) the person having the benefit of the development consent:
 - (i) has appointed a Principal Certifying Authority,
 - (ii) has appointed a Certifying Engineer to certify the compliance of the completed works.
The Certifying Engineer shall be a Professional Engineer (Civil) with National Engineering Register (NER) or a Registered Surveyor. Documentary evidence is to be provided to Council demonstrating currency of the above accreditation, and
 - (iii) has notified the Consent Authority of the appointment,
 - (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Certifying Engineer and Community Liaison Officer is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and
- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the roadworks.

[PCW0815]

47. The Proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the Defects Liability Period for the Subdivision works.

[PCW0835]

48. 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.

[PCW0985]

49. 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]

50. A Community Liaison Officer is to be nominated prior to the commencement of works. The community officer's details and contact number are to be displayed on the project sign at the works. The Officer is expected to communicate and address any complaints from the public in a professional and timely manner.

[PCWNS01]

51. Tree protection fencing shall be installed in accordance with *Australian Standard AS4970:2009 Protection of trees on development sites* and approved civil engineering plans around the boundary of the Conservation Area prior to commencement of works on site.

[PCWNS02]

52. Prior to commencement of work the applicant must provide evidence of a contractual agreement made between the applicant and an ecological restoration contractor (Minimum Certificate IV in Conservation and Land Management) to implement and complete all establishment and maintenance phase works specified in the approved Habitat Restoration Plan.

[PCWNS02]

DURING CONSTRUCTION

53. 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]

54. 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]

55. 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]

56. 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]

57. 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]

58. 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]

59. 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]

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

[DUR0415]

61. The finished floor level of the building should finish not less than 225mm above finished ground level.

[DUR0445]

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

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

[DUR0645]

63. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council's General Manager or his delegate.

[DUR0985]

64. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of an Occupation Certificate.

[DUR0995]

65. 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]

66. 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]

67. All works shall be carried out in accordance with Councils Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works.

[DUR1075]

68. All hazardous and/or dangerous goods shall be handled and stored in a designated area away from stormwater drains. The designated area is to be:

- (a) Roofed;
- (b) Provided with a sealed floor; and

Bunded so as to hold 110% of the total quantity of goods stored. Bunded area(s) shall not be flood-labile and shall be provided with pump out facilities.

[DUR1635]

69. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.

[DUR1685]

70. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.

[DUR1695]

71. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia. [DUR1705]
72. Pursuant to the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility. [DUR1725]
73. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works. [DUR1795]
74. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.
- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
 - (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
 - (c) That site fill areas have been compacted to the specified standard.
 - (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing (including trenches for services) has been completed in accordance with Table 8.1 of AS 3798-2007. [DUR1805]
75. During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:
- (a) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.
 - (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement. [DUR1825]
76. 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 any use or occupation of the buildings. Should any restoration works be deemed unsatisfactory and require further work by Council, then it is expected that the applicant will reimburse Council the costs of such works. [DUR1875]

77. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, cycleways - formwork/reinforcement
- (h) Final Practical Inspection - on maintenance
- (i) Off Maintenance inspection

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

The fee for the abovementioned inspections shall be invoiced upon completion of all subdivision works, and subject to the submission of an application for a 'Subdivision Works Compliance Certificate'.

[DUR1895]

78. 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]

79. The works are to be completed in accordance with Tweed Shire Councils Development Control Plan, Part A5 - Subdivision Manual and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

80. 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]

81. 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]

82. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

83. 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]

84. During construction, a "Satisfactory Inspection Report" is required to be issued by Council for all s68h2 permanent Stormwater Quality Control Devices, prior to backfilling. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection.

[DUR2445]

85. 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]

86. 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]

87. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

88. 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]

89. 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]

- 90. **Any vegetation removal undertaken within The Tweed Coast Road Reserve, shall be carried out in accordance with the approved vegetation removal plans for the Tweed Coast Road Reserve.**

[DURNS01]

- 91. **Following completion of vegetation removal/trimming within the Tweed Coast Road Reserve the work area is to be restored level with the surrounding verge area after the works**

[DURNS01]

- 92. **In the event that any threatened species, populations, ecological communities or their habitats not addressed as part of the development application are discovered/encountered during operations appropriate Plans of Management for those species must be prepared to the satisfaction of the General Manager or delegate and/or if required the NSW Department of Environment and Heritage. No further site clearing will take place until any respective Plan(s) of Management is/are approved.**

[DURNS01]

- 93. **Tree protection fencing shall remain in place for the duration of the construction phase unless otherwise approved by Council's General Manager or delegate.**

[DURNS01]

- 94. **Works shall be undertaken in accordance with the approved Habitat Restoration Plan**

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

- 95. **Prior to any use or occupation of the buildings, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.**

[POC0005]

- 96. **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]

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

[POC0225]

- 98. **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]

99. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications.

[POC0755]

100. Upon completion of the road works, Work as Executed plans are to be provided to Council in accordance with Councils Development Design Specification D13.

The plans are to be endorsed by a Registered Surveyor OR Consulting Engineer certifying that the plans accurately reflect the work as executed.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.

[POC0765]

101. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. Written approval from Councils General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.

[POC0865]

102. Prior to the issue of an Occupation Certificate, the applicant shall produce a copy of the "Satisfactory Inspection Report" issued by Council for all s68h2 permanent Stormwater Quality Control Devices.

[POC0985]

103. Prior to the occupation of any building and prior to the issue of any occupation certificate approval to operate the on-site sewage management facility under Section 68 of the Local Government Act 1993 shall be obtained from Council.

[POC1040]

104. 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]

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

[POC1055]

106. At a minimum, all establishment phase habitat restoration works shall be completed to a level specified in the approved Habitat Restoration Plan prior to the issue of the first of any occupation certificate or commencement of use of the development whichever occurs first. The habitat restoration works shall be maintained at all times to the satisfaction of the Council's General Manager or delegate.

[POCNS01]

107. Prior to any use or occupation of the buildings a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the public infrastructure works - road works (minimum as tabled in Council's fees and charges current at the time of payment) which will be held by Council for a period of 6 months from the date of issue of the final Occupation Certificate.

It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[POCNS01]

108. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to any use or occupation of the buildings. Any work carried out by Council to remove material from the roadway will be at the Developers expense.

[POCNS02]

109. Prior to any use or occupation of the buildings, the applicant must also apply to Council for a Compliance Certificate for Subdivision Works. This may require obtaining individual Compliance Certificates for various civil works components such as (but not limited to) the following:

(a) Roadworks

Note:

All compliance certificate applications for the roadworks must be accompanied by documentary evidence from the developers Certifying Engineer, certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.

[POCNS03]

110. The six (6) months Defects Liability Period commences upon approval of the Occupation Certificate or use of the development (including interim).

[POCNS04]

USE

111. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

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

[USE0175]

113. Hours of operation are restricted to the following hours:

Trucks:

- * 7.00am to 4.30pm - Mondays to Fridays.
- * No movements on Saturdays, Sundays, or Public Holidays.

Other commercial activities:

- * 7.00am to 5.00pm - Mondays to Fridays.
- * 7.00am to 2.00pm - Saturdays.
- * No operations are to be carried out on Sundays or Public Holidays.

All deliveries and pickups relating to the operations are to occur within the approved hours.

[USE0185]

114. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

[USE0225]

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

[USE0245]

116. The development shall be carried out in accordance with the provisions of the Site Management Plan for 188 Tweed Coast Road, Chinderah prepared by Planit Consulting Pty Ltd dated October 2018 (Issue C) except where varied by Council's General Manager or delegate or conditions of consent.

[USE0305]

117. All loading/unloading to take place within the boundary of the subject property.

[USE0525]

118. With the exception of grease and oil changes and general cleaning, no mechanical repair work or maintenance of vehicles shall be carried out at the site without the prior approval of Council's General Manager or delegate.

[USE0855]

119. All wastes shall be collected, stored, and disposed of to the satisfaction of the General Manager or delegate.

[USE0875]

120. All hazardous and/or dangerous goods shall be stored in accordance with requirements of SafeWork NSW and Council's General Manager or delegate.

[USE1035]

121. The following activities are not permitted within the Conservation Area for the life of the development unless otherwise approved by Council's General Manager or delegate

- 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;
- iv. Depositing of any fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the protected area
- v. Keeping or permitting the entry of domestic animals or any other animals that are not indigenous to the conservation area; and
- vi. Performance of any other acts which may have detrimental impact on the values of the conservation area.

[USENS01]

122. Habitat restoration works shall be carried out in accordance with the approved Habitat Restoration Plan.

[USENS01]

123. The conservation area shall be afforded adequate protection for the life of the development.

[USENS01]

124. The exportation or importation of waste (fill or spoil) from or to the site must be in accordance with the provisions of the Protection of the Environment Operations Act 1997, the NSW Environmental Protection Authority (EPA) “Waste Classification Guidelines”, and any requirements of NSW EPA.

[USENS01]

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

[USENS02]

126. The truck depot is restricted to a maximum of 12 trucks.

[USENS03]

REPORT:

Applicant: Mr MG O'Keefe and Mrs JM O'Keefe
Owner: Mr Mark G O'Keefe & Mrs Julie M O'Keefe
Location: Lot 1 DP 1091576; No. 188 Tweed Coast Road Chinderah
Zoning: RU2 - Rural Landscape
Cost: \$120,000

Background:

This application seeks development consent for a truck depot, plant nursery, rural/landscaping material supplies, office and alterations to an existing dwelling.

The site is the subject of two (2) development consents being for a depot (DA05/1416) and storage warehouse of gravel and landscape supplies (DA08/1000).

The consent seeks to significantly expand on both of the approved uses and to obtain approval for a plant nursery, to extend the existing shed for use as an office ancillary to the plant nursery and rural landscaping supplies. Should this application be granted consent conditions have been applied requiring the surrender of DA05/1416 and DA08/1000 prior to the issue of construction certificate.

The retail plant nursery area of the proposal will be located in the south eastern corner of the site directly behind the existing dwelling, with the sales area proposed under the existing dwelling (which is to be raised).

The truck depot will be located behind this area towards the south-western corner of the site, behind the existing shed (and proposed office extension).

The landscaping supply bays will be provided towards the northern boundary.

The onsite parking for visitors associated with the retail plant nursery will be located to the east of the proposed landscaping bays in the location of the area approved under DA05/1416 and DA08/1000.

It is noted that the physical area approved for use on the site under DA05/1416 and DA08/1000 appears to have significantly increased (gravel pad larger than that approved under the aforementioned consents has existed onsite since 2009). Though upon inspection of the site the physical use of areas appeared to be in accordance with the consent, as at the time of inspection there were no vehicles parked onsite and stockpiled material appeared to be within the originally approved area. Should the application not be supported by Council compliance action may be investigated to ensure the site is operation in accordance with the conditions of development consents DA05/1416 and DA08/1000.

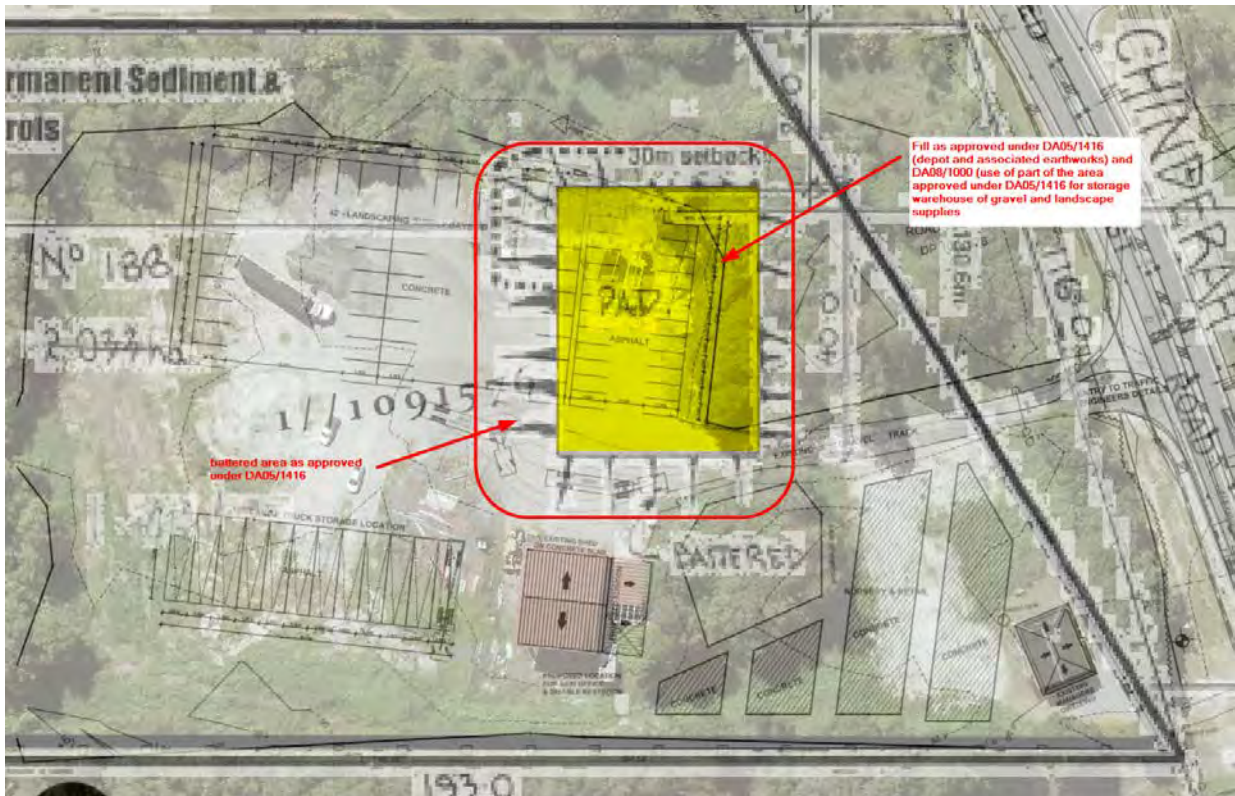


Figure 1: 2018 aerial imagery, with DA05/1416 plan and current proposed plan overlaid (source: TSC GIS, weave, file for DA05/1416 and extract from submitted plans under the subject application)

Truck Depot

The depot will store 12 large vehicles at the rear of the southern portion of the site. This storage is unrelated to the proposed business onsite. The storage area will be sealed with asphalt. One (1) staff member is to be employed per truck (12 employees/drivers).

Hours of Operation are:

- Trucks will depart the site at approximately 7:00am and return to the site by 4:30pm, Monday to Friday;
- No vehicle movements are proposed on Weekends or Public Holidays, in accordance with EPA noise restrictions.

The submitted Site Management Plan advises that all specialist maintenance and service is undertaken offsite. Onsite servicing/maintenance activities associated with the truck depot will include scheduled fluid changes, lubrications (grease and oil changes), general repair works and cleaning.

Rural/Landscaping Material Supplies and Plant Nursery

The retail operations onsite will include the proposed rural landscaping material supply business and plant nursery. The plant nursery will be established within the dedicated locations in the south-eastern corner of the site as outlined below. It is intended to sell plants grown on benches and onsite. Further details are as follows;

- 42 landscaping supply storage bays for the storing of stockfeed, grains, seeds, fertilizers, soils, mulches, aggregates, potting mixes and other landscape supplies;
- 25 vehicle parking bays for visitors and staff;
- 4 plant nursery designated areas for the storage of plants on benches sold to the public, and

- Two (2) staff members are proposed to be employed between the nursery and landscape supplies

Hours of operations are proposed:

7:00am to 5:00pm during the week and 7:00am to 2:00pm on Saturday;

- Customers are expected to arrive 7.00am to 5.00pm Monday to Friday and 7.00am to 2.00pm Saturday.
- Public Holidays are not included for the sale operations.

Office Extension/shed

The office premises include the alterations and additions to the existing metal shed located on the site towards the south side boundary. The proposed area of the office premises is 37m² and includes a disabled rest room within the south-eastern corner of the extension. The office will be used for administrative, clerical and technical pursuits of the proposed rural landscaping material supplies and plant nursery use of the site.

The existing shed is to be used for the storage of machinery used onsite and for minor maintenance activities such as oil changes and cleaning etc. (as advised above no other mechanical maintenance work is proposed onsite).

Notwithstanding the above, it is noted that following a review of Councils available records no consent for the existing shed could be located. The applicant advised that the shed was constructed with the understanding that the structure was exempt under the (Exempt and Complying Development Code) 2008 (SEPP (E&C) 2008). However, the shed does not meet the requirements under the SEPP (E&C) 2008 as a "farm building" as the site is not used for agricultural purposes and the shed exceeds the size for a "shed" other than a "farm building" to be classed as exempt development.

Accordingly, this consent will approve the use of the shed for the storage of machinery and equipment associated with the use of the site as a nursery and landscape supplies. A Building Information Certificate will be required in lieu of a Construction Certificate. Conditions with this regard have been applied.

Alterations and Additions to Dwelling House

It is proposed to raise the existing Dwelling House to utilise the new undercroft area of the residence for the selling of plants to customers on benches including a sales counter. A new concrete slab and posts are proposed for this area.

Site Details:

The site is known as No. 188 Tweed Coast Road, Chinderah. The allotment has a total area of 1.832ha and a 130m frontage to Tweed Coast Road.

The site has an existing approved use for the purposes of a whole use of site for storage warehouse of gravel and landscape supplies.

The site is surrounded by a variety of uses such as rural residential living, the Chinderah Golf Course and Noble Lakes Golf Course to the east. Agricultural activities are located to the south of the subject site with the Chinderah Industrial estate being located less than 1km to the north. TSC Sewage treatment works is located to the west of the subject site.



Figure 2: Aerial Imagery (source: TSC GIS, weave)

Development history:

DA05/1416: depot and associated earthworks at then current Lot B DP 33290, No. 188 Tweed Coast Road Chinderah

Depot was approved for storage of 2 trucks a trailer excavator and bobcat – extracted from 2005 DA 79C Assessment report. The application was assess to allow the storage of 4 large vehicles within the onsite depot.

DA08/1000: use of site for storage warehouse of gravel and landscape supplies at Lot 1 DP 1091576; No. 188 Tweed Coast Road, Chinderah

- *The addition of a small, ancillary wholesale operation incorporating gravel and landscape supplies relative to the applicant's earthmoving and landscaping business*
- *Placement and storage of excess fill and landscape materials (namely mulch and bush rock) in his ownership at the end of projects*
- *Distribution of the materials to retail operators for sale or for use in future projects*
- *No retail operations*
- *Up to 200m³ Materials to be stored will be located on the authorised fill pad with permanent installation of sedimentation and erosion control measures in order to contain any loose materials*

During the assessment of DA08/1000 it was noted that the middle of the site was cleared of vegetation between 2001 and 2004. The current owners stated that they had cleared vegetation from June 12-15, 2004 prior to the TPO becoming operative 7 July 2004.

Councils then ecologist advised the following:

“The site is mapped under the Tweed Vegetation Management Strategy 2004 as being of very high ecological value and to be covered with Broad-leaved Paperbark / Swamp She-oak Closed Forest to Woodland, listed as an Endangered ecological Community under the Threatened Species Conservation Act. This original vegetation has been cleared apparently prior to the introduction of the 2004 Tree Preservation Order, although vegetation remains as a buffer around the boundary of the site and should be retained for both ecological and visual reasons.

The main ecological issues relevant to the site and proposal are to ensure adequate erosion and sediment control is provided and to avoid any clearing or damage to remaining vegetation on the site, including anything that would alter the hydrological regime for wetland dependent vegetation. No earthworks are proposed (apart from those required for entry roadworks in accordance with Engineering comments), these aspects may be adequately conditioned”.

DA08/1000.01: amendment to Development Consent DA08/1000 for use of site for storage warehouse of gravel and landscape supplies
*DA08/1000.01 was lodged with Council 09/07/2010
The application was withdrawn as the proposed modification was not classed as substantially the same development. It appears that vehicles were being stored onsite which were not in accordance with the conditions issued under DA08/1000. The following is an extract from the file:*

“the Section 96 application would be withdrawn as the scope of the amendments was clearly beyond the original consent. The applicant would need to provide further detail in a future development application should they wish to proceed with amendments to operations on site.

The applicant expressed a desire to obtain further information from Council in relation to TRCP charges, the draft LEP zoning and the removal of fallen and unstable trees on the boundary of the property that may constitute a hazard for cattle grazing and fencing on an adjacent property.

It was concluded that the applicant would initially submit further correspondence to Council in order to withdraw DA08/1000.01”.

The application was considered by the following units:

Development Assessment;
Building;
Environmental Health (including OSSM);
Development Engineering;
Water and Waste Water Engineering;

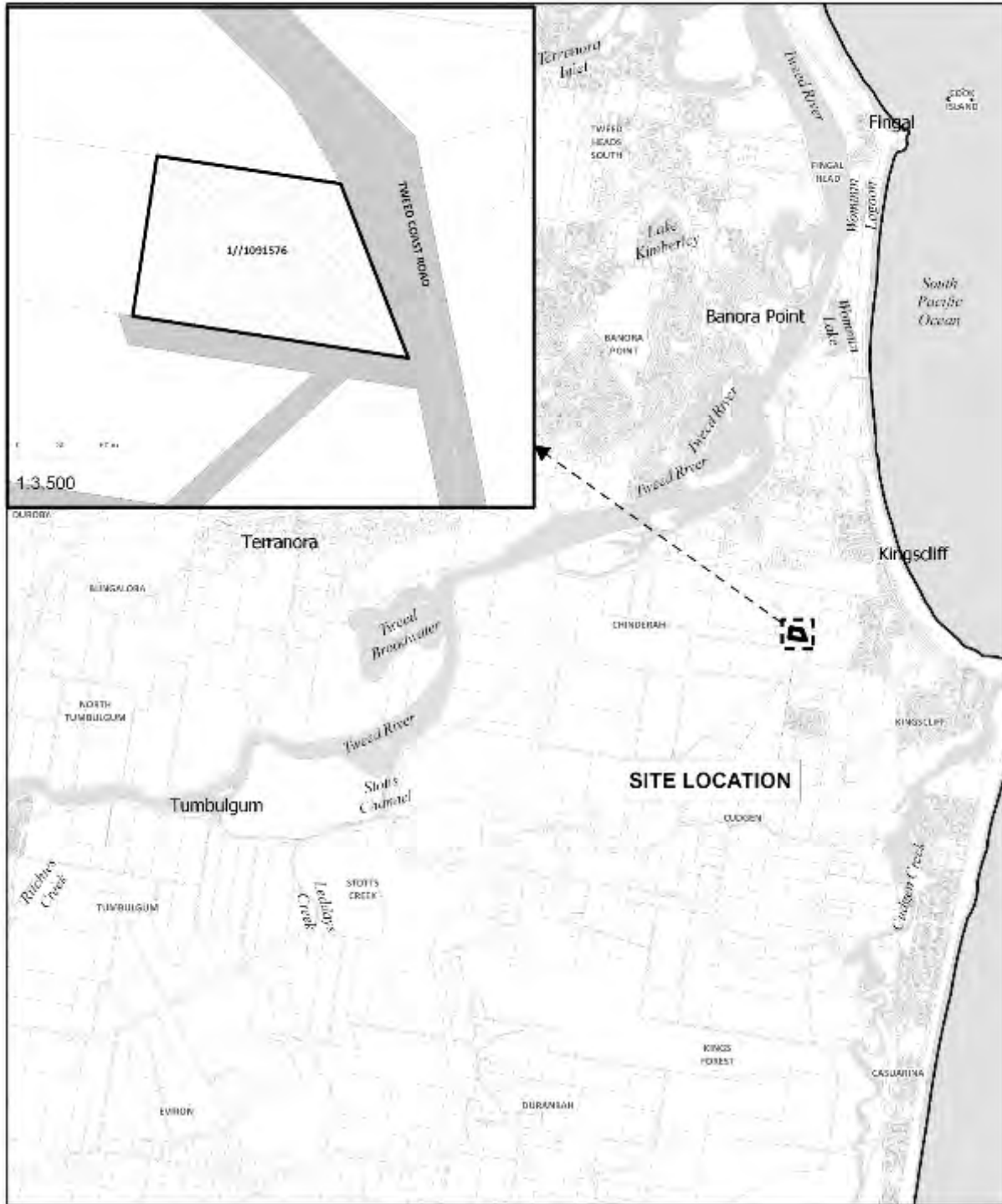
Natural Resource Management;
Flooding and Stormwater Engineering; and
Traffic Engineering

No objections were raised, subject to appropriate conditions being applied.

The subject application was advertised and notified for a period of 14 days from 21 February 2018 to 7 March 2018. During this period, 9 submissions were received. Four of these submissions were received after the submission period closed, two of the submissions were from the same objectors. Further details and response to the submissions is provided further within this report.

The estimated cost of works for the subject application is \$120,000.

SITE DIAGRAM:



Site Plan

Lot 1 DP 1091576
No. 188 Tweed Coast Road CHINDERAH



Disclaimer: While every care has been taken to ensure the accuracy of this data, Tweed Shire Council is not responsible for errors or omissions, or for any consequences arising from the use of the information. It is recommended that users verify the accuracy of the information before using it for any purpose. The information is provided as a guide only and should not be used as a basis for any decision. The information is provided as a guide only and should not be used as a basis for any decision. The information is provided as a guide only and should not be used as a basis for any decision.



Code: 12/09/2018
Of Spatial Services & Tweed Shire Council

Civic and Cultural Centre
5 Tumbulgam Road
Murrumbidgee NSW 2464
Phone 519
Murrumbidgee NSW 2464



Coordinate System: WGA Zone 56
Datum: GDA 94

Scale: 1:1000
GDA 94 - NZL 1110

T: (02) 9519 2400 F: (02) 252 610
E: (02) 6410 2405
W: www.tweedshire.gov.au
E: info@tweedshire.gov.au

Date Printed: 22 September, 2018

AERIAL:



11,500 0/44 Portray
 0 10 20 m
 60 475 5741
 0000 0000 0000 0000
GDA
 Geospatial Data Australia
 Geospatial Data Australia
 Geospatial Data Australia
 Geospatial Data Australia

TWEED
 Shire Council
 11/1091576
 11/1091576
 11/1091576
 11/1091576

Aerial Photography April 2018
 Lot 1 DP 1091576
 No. 188 Tweed Coast Road CHINDERAH

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

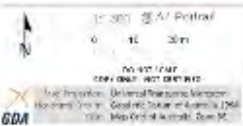
Copyright: All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of the publisher. This document is the property of the publisher and is loaned to you for your use only. It is not to be distributed, copied, or otherwise used without the prior written permission of the publisher. Date Printed: 12 September 2018

ZONING:



Subject Land Tweed Local Environmental Plan 2014 LEP 2000 (as at 2014)

- Subject Land
- RU2 Rural Landscape
- 1(a) Rural
- DM, Deferred Matter
- 5(a) Special Uses



Site Plan - Local Environmental Plan

Lot 1 DP 1091576
No. 188 Tweed Coast Road CHINDERAH

3D Land and Property Information (LPI) and Tweed Shire Council



GDM - All information is subject to the accuracy of the data provided. GDM does not warrant the accuracy of the information provided. The information is provided for informational purposes only. It is not to be used for any other purpose. The information is provided on the basis that the user is responsible for their own actions. The information is provided on the basis that the user is responsible for their own actions. The information is provided on the basis that the user is responsible for their own actions. The information is provided on the basis that the user is responsible for their own actions.

DEVELOPMENT/ELEVATION PLANS:

PRELIMINARY DA DRAWINGS



**PROPOSED LANDSCAPE SUPPLIES,
DEPOT & NURSERY DEVELOPMENT**
LOT 1 DP 1091576
188 TWEED COAST ROAD,
CHINDERA, NSW.
LAND SIZE - approx 18,332 m²

client: **MR MARK O'KEEFE**
 project: **Commercial Development**
 address: **188 TWEED COAST RD, CHINDERA, NSW**

drawing number: **01**
 drawing date: **21/06/2018**

project number: **17103**
 zone: **E**
 council: **SR**
 client: **Sam Ray**

LOCALITY PLAN

no.	area	description	bill no.	date	description	bill
1	18,332	188 TWEED COAST RD	18			
2	18,332	188 TWEED COAST RD	18			
3	18,332	188 TWEED COAST RD	18			
4	18,332	188 TWEED COAST RD	18			
5	18,332	188 TWEED COAST RD	18			

STORY DESIGN + DRAFTING
 www.storydesign.com.au info@storydesign.com.au
 0415 484 728 PO Box 3851 Brisbane Town QLD 4270
 QBSA Lic # 1193264

© 2018 Story Design + Drafting. All rights reserved. This drawing is the property of Story Design + Drafting and is not to be used in any other project without the written consent of Story Design + Drafting.



Document: 17103
 Version: 2, Version Date: 09/10/2018

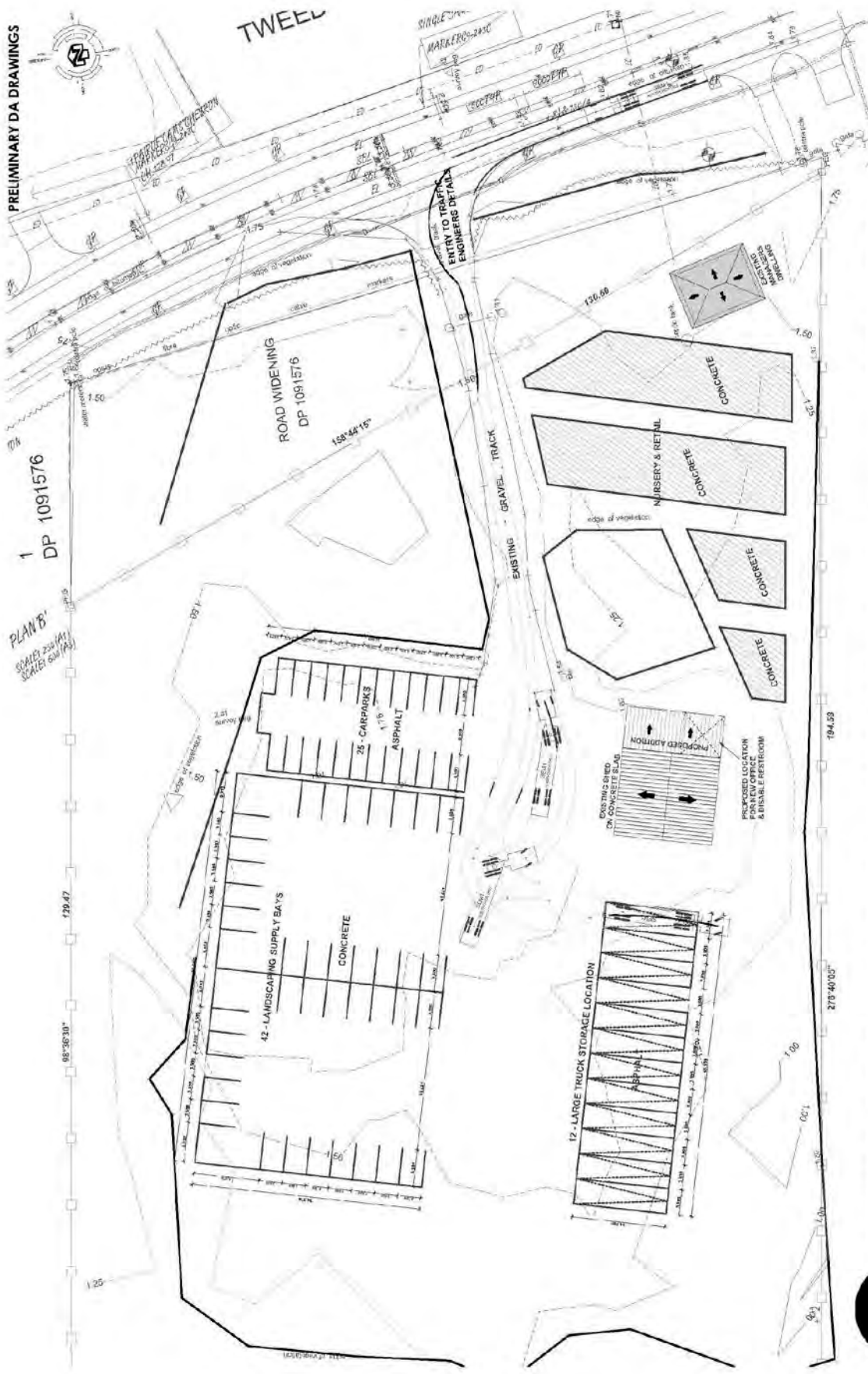
PRELIMINARY DA DRAWINGS

1 DP 1091576

PLAN B
SCALE 250:1
(SEE SHEET 1)



TWEED



client: Mr MARK O'NEE
 project number: 17033
 drawing number: 02
 drawing title: PROPOSED SITE PLAN
 scale: 1:500
 date: 27/06/2018
 author: SR
 checker: Sam Ray

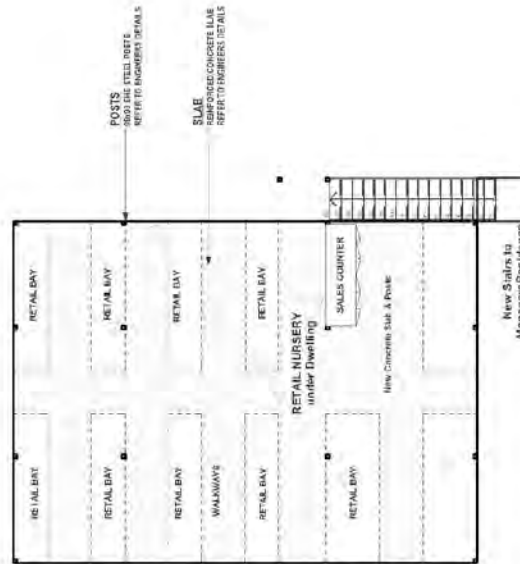
REV	DATE	DESCRIPTION	BY	CHKD
1	27/06/2018	ISSUE FOR PERMIT	SR	SR
2	27/06/2018	ISSUE FOR PERMIT	SR	SR
3	27/06/2018	ISSUE FOR PERMIT	SR	SR
4	27/06/2018	ISSUE FOR PERMIT	SR	SR
5	27/06/2018	ISSUE FOR PERMIT	SR	SR

STORY DESIGN + DRAFTING
 www.storydesign.com.au info@storydesign.com.au
 0415 484 738 PO Box 3651 Burleigh Town QLD 4220
 QBSA Lic # 1135264



Document No: 17033
 Version: 2, Variation Date: 08/10/2018

PRELIMINARY DA DRAWINGS



STORY DESIGN + DRAFTING
 WMSLEY DESIGN CONSULTANTS
 11/1111 BIRCH STREET, BIRCHMOUNT QLD 4202
 QBSA Lic # 1128284

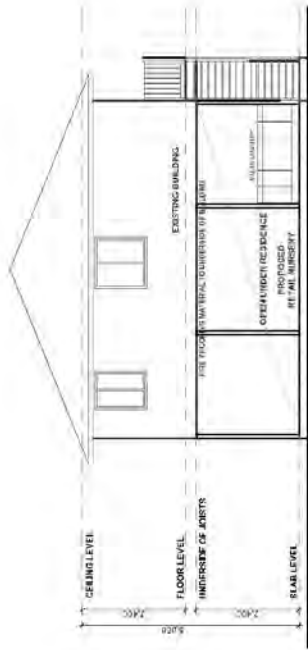
Document No: 180735
 Version: 2, Version Date: 08/10/2018

REV.	QTY	DESCRIPTION	DATE	REV.	CODE	DESCRIPTION	DATE
A	1	ISSUED FOR PERMITS	18/09/2018				
B	1	ISSUED FOR PERMITS	18/09/2018				
C	1	ISSUED FOR PERMITS	18/09/2018				
D	1	ISSUED FOR PERMITS	18/09/2018				
E	1	ISSUED FOR PERMITS	18/09/2018				
F	1	ISSUED FOR PERMITS	18/09/2018				

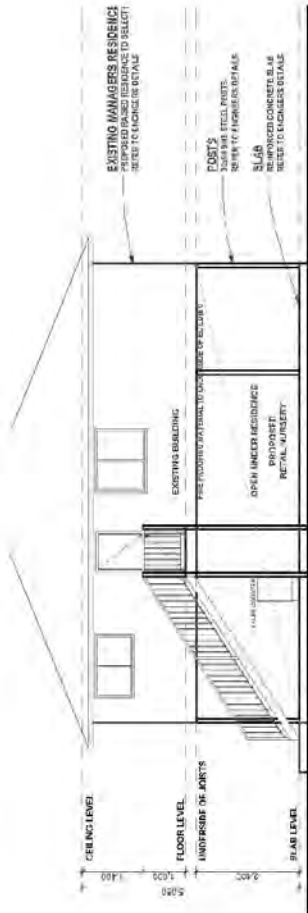
PROJECT NUMBER	17035	DRAWING NUMBER	03	DRAWING DATE	21/04/2018
CLIENT	MR MARK O'KEEFE	PROJECT NAME	188 WHEEL COAST RD. CHINGBERA NSW	ESTIMATED DATE	
SCALE	1:100	DATE			
DESIGNER	SR	CHECKER	SR		
DRAWN	Sam Ray				

EXISTING RESIDENCE FLOOR PLANS

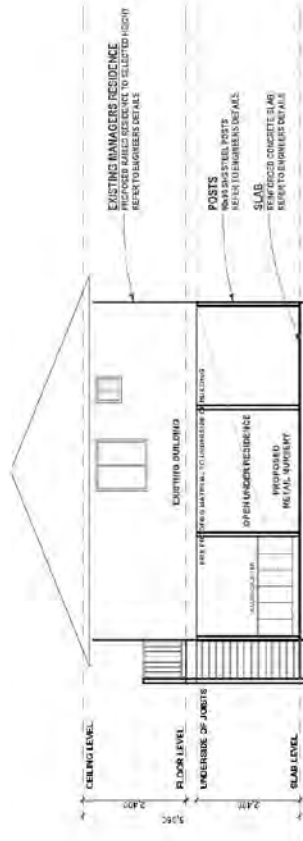
PRELIMINARY DA DRAWINGS



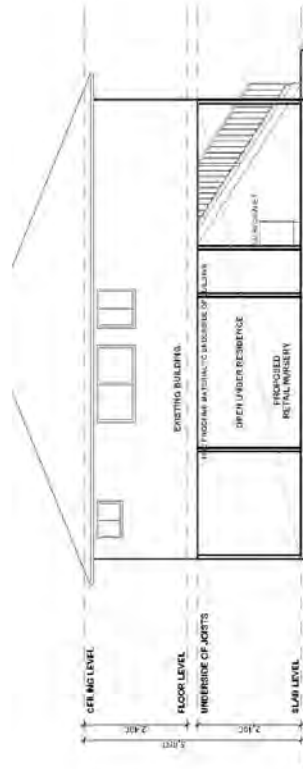
ELEVATION 01
1:100



ELEVATION 02
1:100



ELEVATION 03
1:100



ELEVATION 04
1:100



STORY DESIGN + DRAFTING
www.storydesign.com.au
100/1000 Springvale Rd
Geelong VIC 3216
GSTA Lic # 1252624

Document No: 180735
Version 2, Vision Date: 09/10/2018

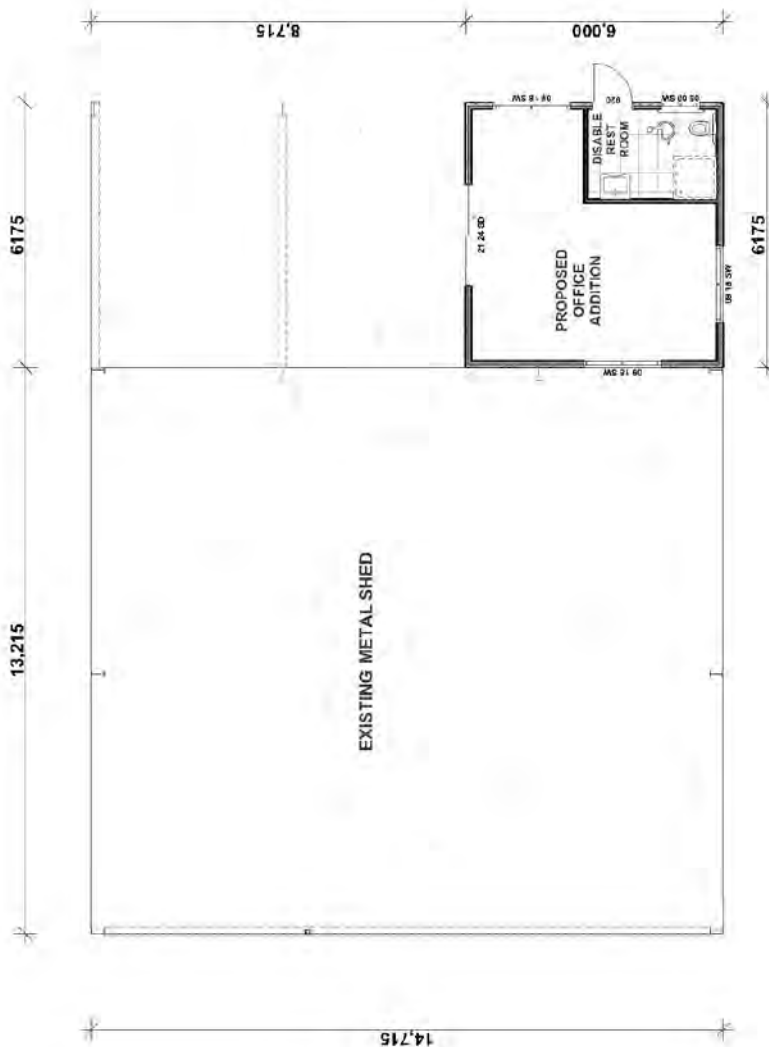
REV	DATE	DESCRIPTION	BY	CHKD	DATE
1	15/08/17	PRELIMINARY	SR	SR	
2	20/08/17	REVISIONS	SR	SR	
3	20/08/17	REVISIONS	SR	SR	
4	20/08/17	REVISIONS	SR	SR	
5	20/08/17	REVISIONS	SR	SR	
6	20/08/17	REVISIONS	SR	SR	

CLIENT: M MARK O'KEEFE
PROJECT: Commercial Development
188 TWEEDE COAST RD,
CHINDERA, NSW

PROJECT NUMBER: 17035
JOB NO: 17035
SCALE: 1:100
SHEET: 04 OF 04
DRAWN BY: SR
CHECKED BY: Sam Ray

DATE: 21/06/2018
DRAWING SHEET: EXISTING RESIDENCE ELEVATIONS

PRELIMINARY DA DRAWINGS



REV	DATE	DESCRIPTION	BY	CHK	DATE	REVISION
A	14/08/18	ISSUE FOR CONSTRUCTION	SR			
B	20/09/18	REVISION DRAINAGE	SR			
C	06/07/18	ISSUED FOR DA APPROVAL	SR			
D	13/08/18	REVISION FOR APPROVAL	SR			
E	13/08/18	REVISION FOR APPROVAL	SR			

CLIENT: Mr MARK O'KEEFE
 PROJECT: Commercial Development
 188 TYNEO COAST RD,
 CHINDOLA, NSW

PROFESSOR: SR
 NAME: Sam Ray

DRAWING NUMBER: 05
 DRAWING TITLE: SHED PLAN

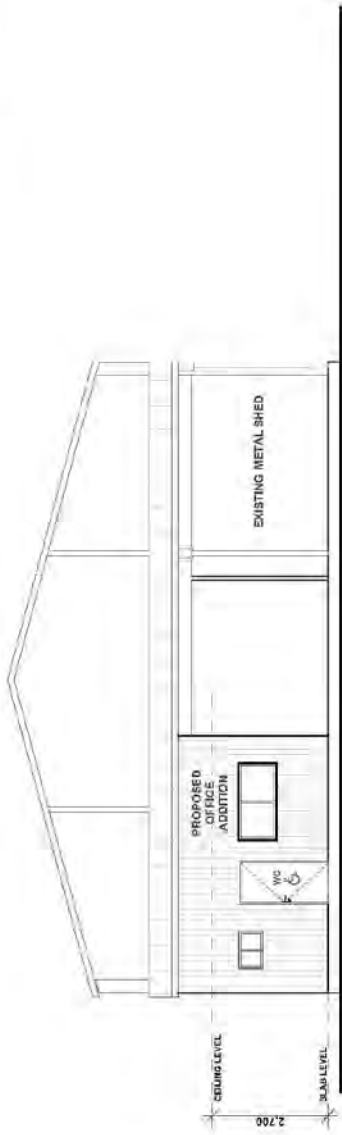
DATE: 21/06/2018

STORY

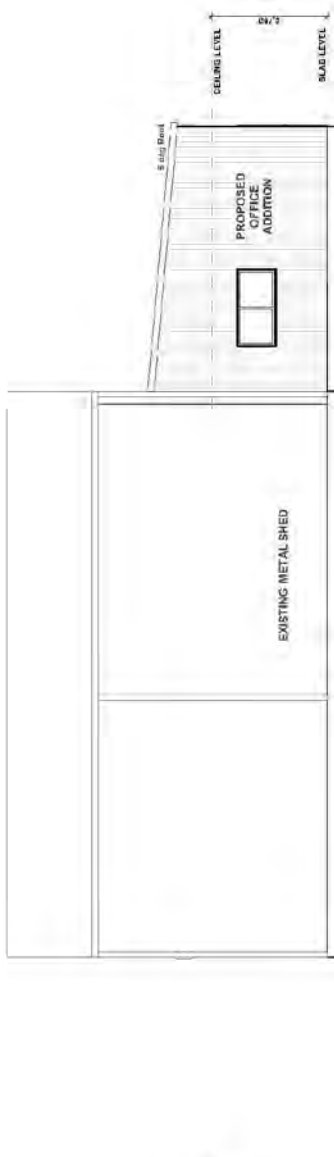
STORY DESIGN + DRAFTING
 www.storydesign.com.au info@storydesign.com.au
 OFFICE: 324 7131 PC Box 3031 Surleigh Town QLD 4220
 GSTSN LUC # 1156254

Document No: 180735
 Version: 2, Version Date: 09/10/2018

PRELIMINARY DA DRAWINGS



SHED ELEVATION 1
1:100



SHED ELEVATION 2
1:100



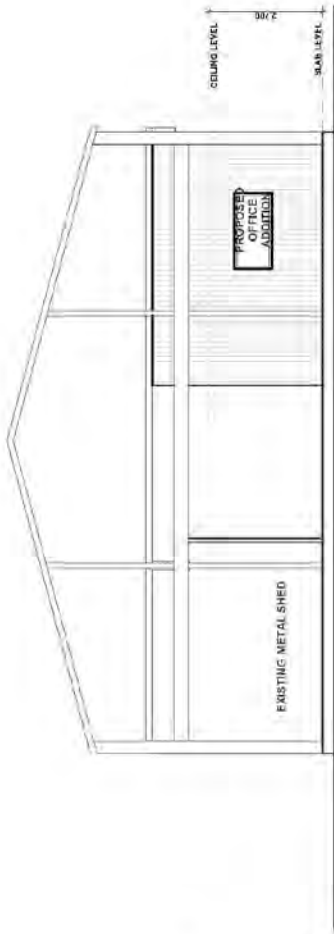
STORY DESIGN + DRAFTING
 100A Macquarie Street, Newcastle NSW 2300
 Phone: 081 422 7777 | Fax: 081 422 7778
 Email: info@storydesign.com.au
 CRSA Lic # 11552-AN

Drawn by: [Name] / 10/17/18
 Version: 2, Version Date: 09/10/2018

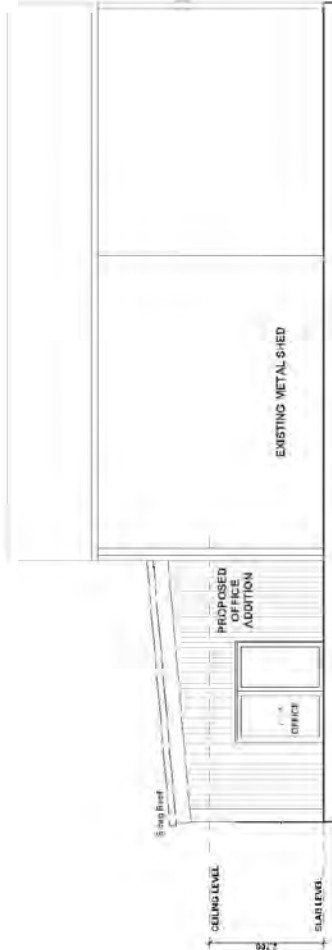
REV.	DATE	DESCRIPTION	BY	CHKD
A	10/17/18	ISSUED FOR PERMIT	SR	SR
B	10/17/18	REVISIONS	SR	SR
C	10/17/18	REVISIONS	SR	SR
D	10/17/18	REVISIONS	SR	SR
E	10/17/18	REVISIONS	SR	SR

CLIENT: Mf MARK O'KEEFE
PROJECT NAME: 17035 PROPOSED OFFICE ADDITION
SCALE: 1:100
DATE: 21/06/2018
PROJECT NO: 06
PROJECT TYPE: SHED ELEVATIONS 1 & 2
CLIENT CONTACT: Sam Ray
CLIENT ADDRESS: Commercial Development, 188 Tweed Coast Rd, CHINDEKA, NSW

PRELIMINARY DA DRAWINGS



SHED ELEVATION 3
1:100



SHED ELEVATION 4
1:100



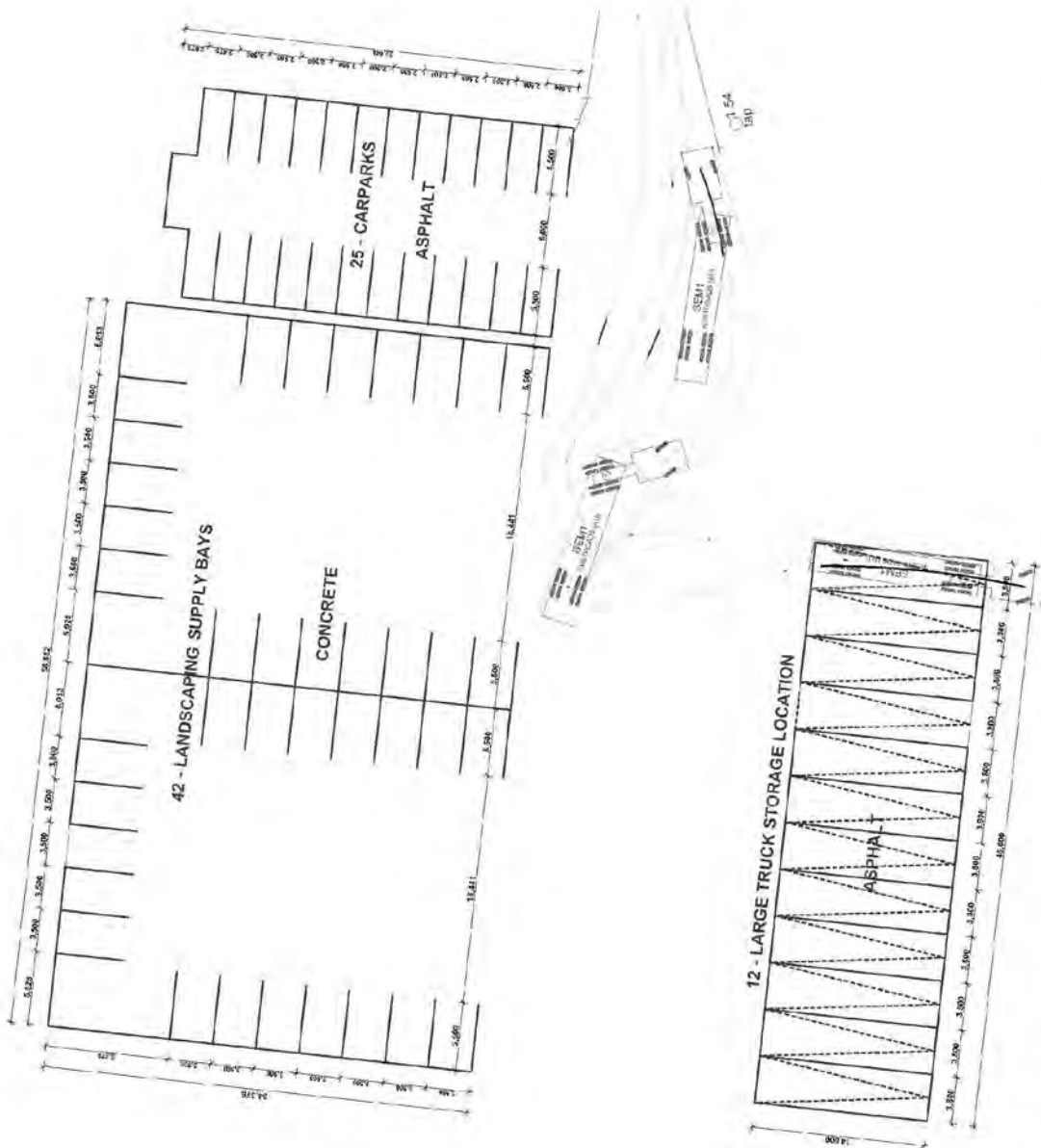
STORY DESIGN + DRAFTING
 8/89 Goughy Rd
 PO Box 3311 Beresfield NSW 2322
 QBSL Lic# 112624

Document No: SD1705
 Version: 2, Version Date: 05/10/2018

REV	DATE	DESCRIPTION	BY	CHK	DATE	COMMENTS
1	18/09/18	PRELIMINARY	SR			
2	24/09/18	DESIGN DEVELOPMENT	JAP			
3	27/09/18	REVISIONS	JAP			
4	17/10/18	FINAL	SR			

(Sheet) **07** | DRAWING TITLE: **SHED ELEVATIONS 3 & 4**
 PROJECT: **17035** | DATE: **21/06/2018**
 DRAWN BY: **SR** | CHECKED BY: **SR**
 CLIENT: **Commercial Development** | SCALE: **1:100**
 ADDRESS: **188 TWEE COAST RD, CHINDERA, NSW**

PRELIMINARY DA DRAWINGS



CLIENT: **MR MARK O'KEEFE**
 PROJECT NUMBER: **17035**
 ADDRESS: **Commercial Development**
188 TWEED COAST RD,
CHINDERA, NSW

DATE: **21/06/2018**

SCALE: **1:300**

DRAWN BY: **SR**
 CHECKED BY: **SR**
 DESIGNER: **Sam Ray**

REV.	DATE	DESCRIPTION	BY	DATE	REVISION
1	2018/06/21	PRELIMINARY	SR		
2	2018/06/21	REVISED DIMENSIONS	SR		
3	2018/06/21	REVISED DIMENSIONS	SR		
4	2018/06/21	REVISED DIMENSIONS	SR		

STORY DESIGN + DRAFTING
 16/65 BARKING ROAD, WILSONS PROMENADE, SYDNEY NSW
 151111111 - 151111111
 151111111 - 151111111
 151111111 - 151111111



Document No: **17035**
 Version: **2**, Version Date: **08/10/2018**

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:

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

- (i) *to conserve or enhance areas of defined high ecological value,*
- (j) *to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.*

The proposed development is considered to be generally in accordance with the aims of this plan having regard to its nature, the existing operations of the site and the fact that the land uses are permissible in the subject zone.

Clause 2.3 – Zone objectives and Land use table

The subject site is mapped as RU2 Rural Landscape under the Tweed Local Environmental Plan 2014. The objectives of the RU2 zone are identified as follows:

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

RU2 assessment as extracted from the SEE:

The proposal is considered to meet the objectives of the RU2 Rural Landscape zone as follows:

- *The proposed development in particular the Rural/ Landscaping Material Supplies is a supporting use for primary industry production, supplying the local area and surrounds with the sale of stockfeeds, grains, seeds, fertilizers, soils, gravel, potting mix etc. used in farming, primary industry production and other non-rural practices.*
- *The proposed development maintains the rural landscape character of the land and surrounding properties by proposing non-intensive works on the site, retaining the streetscape amenity of Tweed Coast Road through existing screening and proposing supporting uses for primary industry production.*
- *The proposal includes compatible land uses including those that are permissible with consent within the RU2 Rural Landscape zone pursuant to TLEP 2014. The proposal includes a Truck Depot, Rural/ Landscaping Material Supplies, Plant Nursery and Office all of which are permissible uses within a rural and farming nature and are similar to those surrounding the site. Many surrounding activities also require the use of haulage and heavy vehicle use/storage in conjunction with farming and primary production pursuits, and as such it is considered that the proposal is cognisant of the rural landscape character of the land.*
- *The proposed Truck Depot, Rural/ Landscaping Material Supplies, Plant Nursery and Office does not contravene the desire to provide for a range of tourist and visitor accommodation-based land uses within the zone.*

- *The retention of the vegetation within the site provides for suitable screening of the development and therefore the streetscape character of Tweed Coast Road will be retained.
The proposal represents an efficient, non-intensive and sustainable use of the land and is consistent with the objectives of the RU2 Rural Landscape zone. A Truck Depot, Rural/ Landscaping Material Supplies, Plant Nursery and Office is permissible with consent in the RU2 zone pursuant to TLEP 2014. The provisions of the applicable clauses of the TLEP 2014 in relation to the proposal have been assessed and have been provided further in this report.*

The proposed development is for a truck depot, plant nursery, rural/landscaping material supplies, office (ancillary to onsite uses: plant nursery and rural/landscaping material supplies) and alterations to existing dwelling.

The TLEP 2014 definitions of the proposed development are as follows, all uses are permissible with consent.

Truck depot means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.*

**In accordance with the approved Site Management Plan for 188 Tweed Coast Road, Chinderah the following condition*

plant nursery means a building or place the principal purpose of which is the retail sale of plants that are grown or propagated on site or on an adjacent site. It may include the on-site sale of any such plants by wholesale and, if ancillary to the principal purpose for which the building or place is used, the sale of landscape and gardening supplies and equipment and the storage of these items.

Note.

landscaping material supplies means a building or place used for the storage and sale of landscaping supplies such as soil, gravel, potting mix, mulch, sand, railway sleepers, screenings, rock and the like.

The subject application which includes an expansion to previous uses as approved under DA05/1416 (depot and associated earthworks) and DA08/1000 (use of site for storage warehouse of gravel and landscape supplies), the addition of a plant nursery and associated office and alterations to an existing dwelling is considered suitable development for the site for the following reasons:

- The proposed development is permissible with consent on land zoned RU2;
- The development footprint is screened from the Tweed Coast Road; and adjoining properties which includes dwelling (both approximately 150m at the closest point from the proposed development), *maintaining the existing rural landscape of the area;*
- The development includes the works which are generally contained within the existing footprint of the site, see image below, *maintaining the existing character of the area;*



Figure 3: Proposed plan transposed over aerial imagery (source: Extract from submitted DA Plans and Aerial Image extracted from TSC GIS, weave)*

*scale for plans and Aerial are not exact

- The hours of the proposed operations are consistent with rural industries;
- The landscaping supplies may assist in rural industries within the area; and
- The proposed conditions of consent are considered to ensure that the development is compatible with surrounding land uses.

Accordingly, the proposed development is permissible with consent on land zoned RU2 and is considered suitable development given Clause 2.3 of the LEP.

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

Not applicable as no subdivision is proposed.

Clause 4.3 - Height of Buildings

The objectives of this clause are as follows:

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

The subject site is mapped as having a maximum building height of 10m. The proposed development includes lifting the existing dwelling to a height of 7.0m whilst the existing shed has a maximum height of 7.83m. Accordingly, complies with clause 4.3.

Clause 4.4 – Floor Space Ratio

Not applicable the subject site is zoned RU2.

Clause 4.6 - Exception to development standards

The subject application does not seek any exception to development standards.

Clause 5.4 - Controls relating to miscellaneous permissible uses

The subject application does not seek consent for any miscellaneous uses.

Clause 5.10 - Heritage Conservation

The subject site is not mapped as being within a Heritage Conservation area. The site is not mapped under the Aboriginal Cultural Heritage Management Plan.

Clause 5.11 - Bush fire hazard reduction

No bushfire hazard reduction work is proposed. The site is located within land mapped as bushfire buffer and is comprised of non-combustible materials.

Clause 7.1 – Acid Sulfate Soils

Class 3 Acid Sulfate Soils are identified on the subject site.

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

Council's Environmental Health Officer has reviewed this aspect of the proposed development and has not returned any objections, subject to compliance with the Councils Acid Sulfate Soil Management Plan for Minor Works, conditions with this regard have been applied. As such, the proposed development is considered to be acceptable having regard to Acid Sulfate Soils.

Clause 7.2 - Earthworks

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

The proposed development application includes earthworks only to establish a driveway and foundations, the submitted application details no more than 1.0m of cut is proposed and minor fill for levelling slabs will be required. The proposed earthworks are consistent with the objectives of Clause 7.2. General conditions

would apply.

Clause 7.3 – Flood Planning

The objectives of this clause are as follows:

- (a) *to minimise the flood risk to life and property associated with the use of land,*
- (b) *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) *to avoid significant adverse impacts on flood behaviour and the environment.*

The subject site is mapped as having a design flood level of 3.3m RL, with an adopted habitable floor level of 3.8m RL and is affected by the Probable Maximum Flood.

The existing dwelling within the subject site is proposed to have some additions to accommodate the nursery retail. The dwelling floor would have to be raised to the minimum habitable floor level of 3.8m AHD, conditions with this regard have been applied.

Clause 7.4 - Floodplain risk management

Not applicable, the proposed development is not a development type referred to under Clause 7.4

Clause 7.5 - Coastal risk planning

The subject land is not identified as being subject to coastal risk.

Clause 7.6 - Stormwater Management

The land is zoned RU2. Accordingly, Clause 7.6 is not applicable.
Notwithstanding this, the lawful point of discharge is discussed further within this report.

Clause 7.8 – Airspace operations

Not applicable – the subject site is not mapped on the *Obstacle Limitation Surface Map or the Procedures for Air Navigation Services Operations Surface Map for the Gold Coast Airport*

Clause 7.9 - Development in areas subject to aircraft noise

Not applicable – the subject site is not mapped within the ANEF contours.

Clause 7.10 - Essential Services

All essential services are made available to the subject site.

The development includes an On-Site Sewage Management system.

Other Specific Clauses

There are no other clauses specific to the subject application that have not been considered elsewhere within this report.

North Coast Regional Plan 2036 (NCRP)

In March 2017 the NCRP 2036 was introduced. 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*

The site is mapped as being within the coastal strip.

Consideration of the planning principles, which will guide growth on the North Coast, is required to be undertaken in determining an application.

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.

Assessment:

The site is not nominated within an urban growth area under this plan

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.

Assessment:

The development site is mapped under this plan as being within the sensitive coastal strip. The proposed development not considered to impact 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.

Assessment:

Not applicable to the subject site.

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 No. 55 - Remediation of Land

The objectives 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. In particular it is noted that this SEPP states that a consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

During the assessment of the application it was apparent that over time the site operations had increased in comparison to the approved site plan for DA05/1416 and DA08/1000.

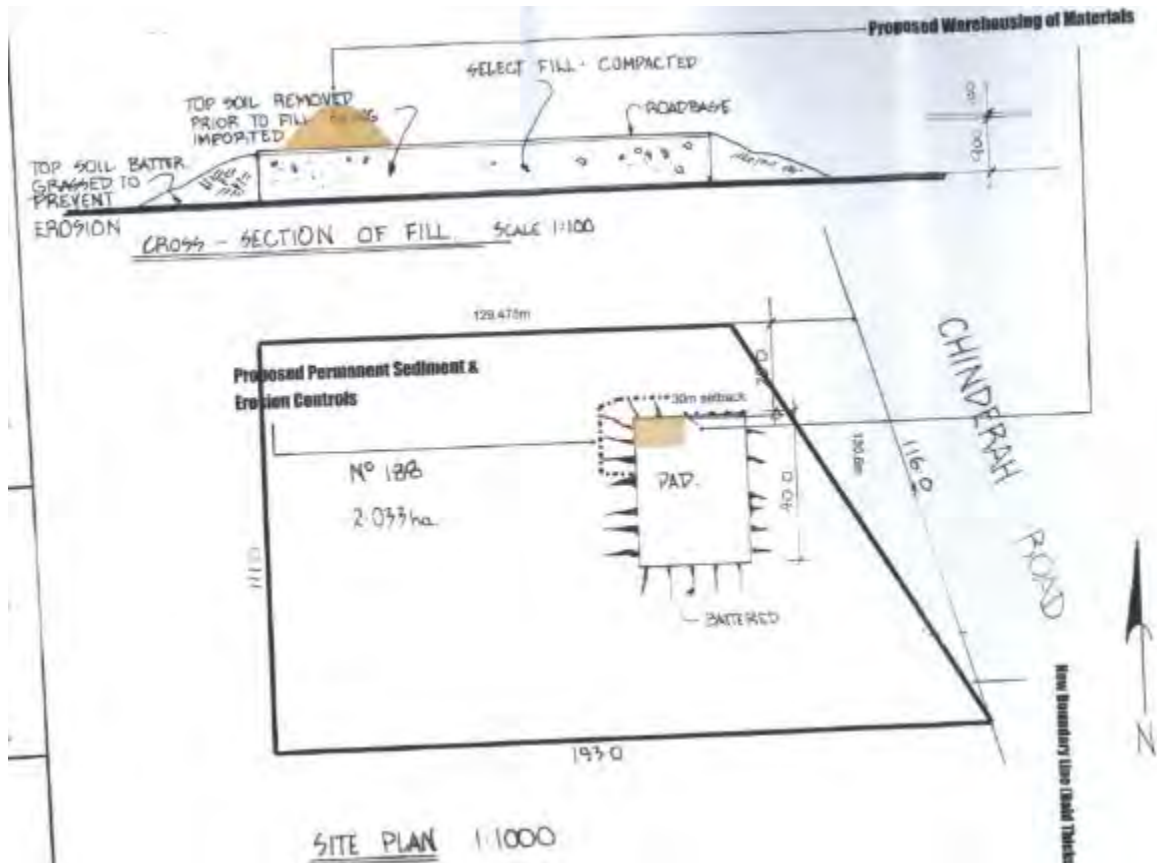


Figure 4: Site plan for DA05/1416 and DA08/1000 (source: extract from Council file)



Figure 5: Aerial photographs dated 2007 – 2016 (source: extracted from TSC GIS, weave)

Accordingly, a request for further information was sent to the applicant advising the following:

Existing site operations appear larger than the approval pad and works area. Further information is required with respect to the source of waste (fill) material placed on the site including confirmation from a suitably qualified person that that material is free from contamination and acid sulfate soil.

An Imported Fill Assessment for 188 Tweed Coast Road, Chinderah NSW prepared by HMC Environmental Consulting Pty Ltd dated July 2018 (HMC 2018.153) was submitted. The report included a previous investigation carried out by BorderTech in 2005 for the original fill imported to the site.

Upon review of the abovementioned report Councils Environmental Health Officer advised the following:

“Results for contaminants of potential concern are below investigation criteria for the proposed land use. HMC have confirmed that in relation to potential site contamination associated with the placement of imported fill on the site, 188 Tweed Coast Road, Chinderah is suitable for the proposed depot land use and no further investigation or remediation is required”.

Given the above information it is considered that contamination of the land is unlikely. No further consideration of contaminated land required.

SEPP (Infrastructure) 2007

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by:

- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.*

Clause 101 Development with frontage to classified road

- (1) The objectives of this clause are:*
 - (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

This clause applies to the development as Tweed Coast Road is mapped as a local classified road and the development will result in increased trips to and from the site.

- (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
 - (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*

Comment: Tweed Coast Road is the only option for vehicle access to the site.

- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*

Comment: The subject application was referred to Councils Traffic Engineer who advised the following:

"The site has direct access to the Tweed Coast Road which is a major arterial road with a posted speed limit of 80km/h. The road is currently 2 lane (one each way) and in recent years has been upgraded under the Federal Black Spot programme to widen the shoulders and install a centre painted median. The crash history in this section was the result of southbound vehicles losing control on the slight right hand curve.

The site is 1.2km/h south of the Pacific Highway and generally peak hour traffic on Tweed Coast Road is higher northbound in the AM and southbound in the PM.

The site has two existing accesses to the road with the major access to the north (approx 25m wide) currently utilised by heavy vehicles. Currently the road shoulder is approximately 1.5m wide with 3.5m lanes and a 1.5m painted median separation".

Traffic:

A review has been carried out by the consultant to determine the traffic generation by the site and its impact on the adjacent road network. The assessment is considered thorough and acknowledges the existing background traffic and the importance of the Tweed Coast Road. Interestingly, there is no comment provided on the current site's use.

The applicant has provided data showing Tweed Coast Rd in the morning has a peak hour flow of 63% northbound and 61% southbound in the PM.

Estimated peak hour traffic generation for the site is 46 in the AM (25 in, 21 out) and 34 in the PM (15 in and 19out).

Based on the background traffic (northbound and southbound on Tweed Coast Road) the consultants modelled the appropriate treatment required and recommended that a Short Channelised right Turn (CHR(S)) and a Short Auxiliary Left Turn Treatment (AUL(S)) be installed on Tweed Coast Road. This will enable heavy vehicles to wait in the centre of the road for an appropriate gap in the northbound traffic flow. A short left auxiliary lane will enable vehicles to pass a turning vehicle with only minor changes in speeds.

The consultants advised that the above treatments are not required should the Tweed Coast Road be upgraded to a 4 lane configuration in the future. However, should additional intersections, for example a roundabout, be installed at the Crescent Street, a limitation on maintaining the right turn into the site should be considered.

The proposed treatment is considered reasonable given the significance of Tweed Coast Road to the road network.



Figure 6: Proposed road treatments (source: extracted from Bitzios Traffic Impact Assessment Report, dated December 2017)

The report recommends minor tree removal (possibly two trees) within the road reserve (north of the access) to improve sight distances for drivers exiting the property and to comply with the Austroads recommendations for the expected road user.

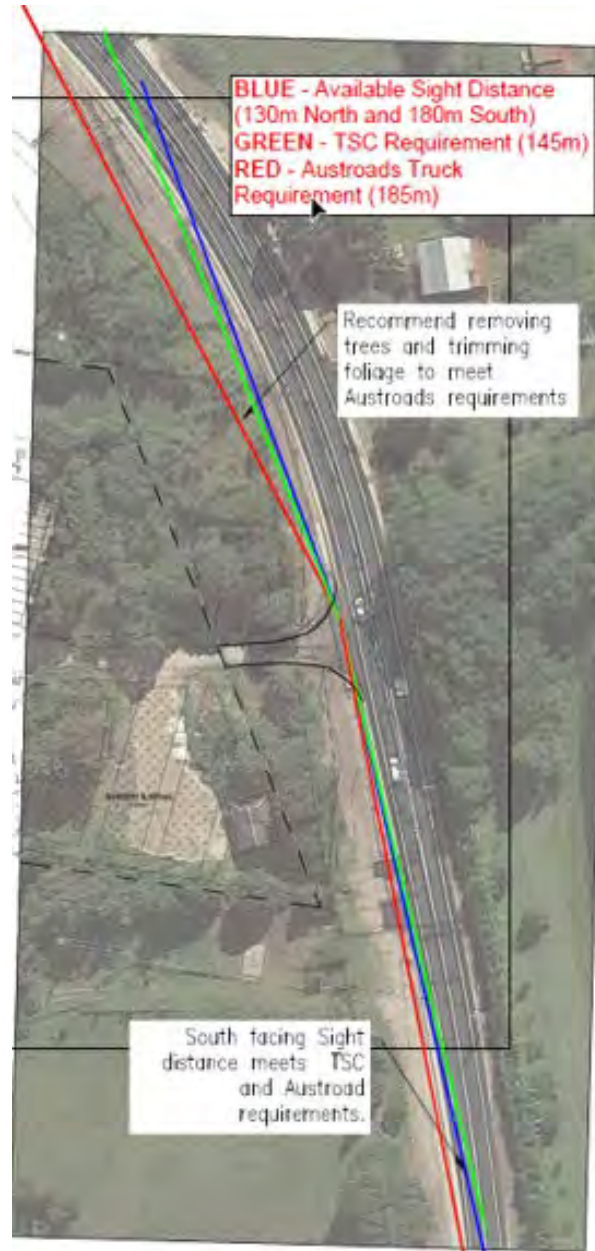


Figure 7: Proposed site lines and potential tree removal/trimming (source: extracted from Bitzios Traffic Impact Assessment Report, dated December 2017)

The issues raised have been adequately addressed by the Applicant in justifying the traffic volumes assessment on Tweed Coast Road and the proposed treatments to address safe ingress and egress.

Accordingly, the proposed development is not considered to adversely impact the safety, efficiency and ongoing operation of the classified road. Conditions with this regard have been applied

- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

A dwelling is a development type which is sensitive to traffic noise, however in this instance the dwelling is existing and the only works associated with the dwelling is to raise the dwelling above the 1:100 flood level. Accordingly, considering the nature of works proposed to the subject dwelling a condition requiring acoustic treatment has not been conditioned. Additionally, it has been noted that should the subject application not be supported by Council the existing dwelling will remain without triggering any requirements for acoustic treatments.

Notwithstanding the above, it noted that the Tweed Coast Road has been earmarked for expansion to four (4) lanes. Once this has been completed the existing dwelling will only be setback approximately 13.0m from the roadway (currently the dwelling is setback approximately 25.0m from the roadway). However, it is noted that should this application not be supported by Council the existing dwelling will remain in its current location and condition.

The remainder of the development is not a development type that is sensitive to traffic noise or emissions.

The SEPP (Infrastructure) 2007 is considered satisfied.

SEPP (Rural Lands) 2008

The site is located in land zoned RU2 Rural Landscape and is also identified as being regionally significant farm land.

Clause 2 Aims of Policy

The aims of this Policy are as follows:

- (a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,*
- (b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,*
- (c) to implement measures designed to reduce land use conflicts,*
- (d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,*
- (e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.*

Part 2 Rural Planning Principles

Clause 7 Rural Planning Principles

The Rural Planning Principles are as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*

- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The subject site is not identified as State significant farmland. A majority of the subject parcel is identified as being unsuitable for agriculture and a portion is only suitable for grazing rather than cultivation.

Given the existing approval on the site and the identified agricultural values of the land, the proposed development is unlikely to compromise the principles identified within this SEPP.

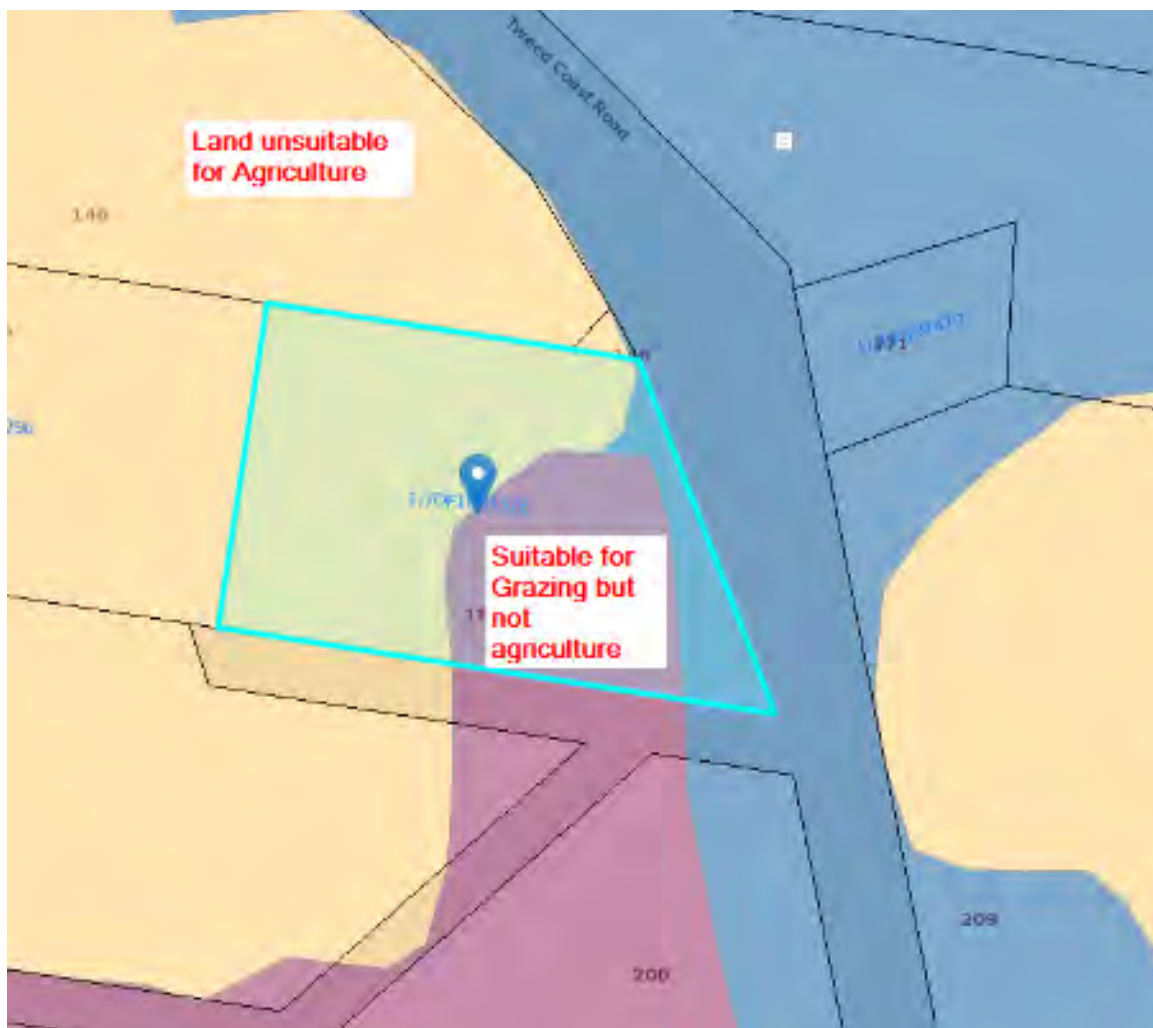


Figure 8: Agricultural Land Suitability (1998) (source: extracted from TSC GIS, weave)

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

State Environmental Planning Policy (Coastal Management)

Clause 21 - 'Saving and Transitional Provisions' of the SEPP apply to the subject development. This DA was lodged prior to the adoption of this policy on 3 April 2018.

Clause 21 advises:

- 1) *The former planning provisions continue to apply (and this Policy does not apply) to a development application lodged, but not finally determined, immediately before the commencement of this Policy in relation to land to which this Policy applies.*

Notwithstanding the above, the subject site was mapped as being a *coastal proximity wetland area* under the then draft plan.

Clause 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.*

A unit of swamp sclerophyll vegetation to the south of the site has recently been mapped as a Coastal Wetland under the current SEPP (Coastal Management) 2016, hence the subject site being mapped as land within proximity to wetland.

It is noted however that transitional arrangements are applicable to this application. The wetland was not formerly identified as a SEPP 14 Coastal Wetland for the purposes of assessment of this application. Additionally, Councils Biodiversity Planner advised the following:

“The proposal is supported. It is considered that any adverse cumulative impact on the sites ecological values as a result of the proposed development could be avoided or minimised and managed to an acceptable level through conditions of approval”.

The proposal is considered consistent with the objectives and provisions of this draft SEPP.

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

The development is located on a rural zoned site with an approximate land area of 1.832HA. Accordingly, the development is considered to generally comply with all provisions of Section A1, excluding the required front setback.

The only works proposed in relation to the existing dwelling (constructed in the early – mid 60’s) is to raise the dwelling, in order to achieve compliance with flood requirements. This also allows the use of the undercroft area to provide retail sales for the nursery within the existing footprint.

It is noted that the existing dwelling is setback as close as 1.8m and up to 3.28m from the front boundary (approximately 25m from Tweed Coast Road). This is the result of a subdivision (boundary adjustment) of the past lot being Lot B DP 33290 to dedicate area to Council for road widening purposes.

Should the application have included the construction of a new dwelling or further amendments to the dwelling the application would have been required to comply with the minimum 6.0m setback.

A2-Site Access and Parking Code

In accordance with Section A2 site Access and Parking, the following onsite parking is required.

Land Use	Quantity	Type	Parking Rate	Parking Required	Parking Supplies
Office and Shed	60m ² GFA	Staff/ Visitors	1 space per 50m ² GFA.	1.2	25 standard bays 12 truck bays
Plant Nursery/ Landscape Material Supplies	2 staff members	Staff	1 space per staff.	2	
	Approximately 2,500m ² (nursery)	Visitors	1 space per 600m ² site area. Must be a minimum of 5 spaces.	5	
7,500m ² (landscape)					
Rural Supplies	Approx 7,500m ²	Visitor	10% of site to be spaces/ access lanes	Approximately 750m ²	
Truck Depot	12 staff/ drivers	Staff	1 space for each service vehicle plus 1 space per drive.	12 truck 12 staff cars	
Total Car Spaces				21 standard 12 truck bays 750m² of site	25 standard bays 12 truck bays 1,190m ² of site

The application was reviewed by Councils Traffic Engineer with this regard who advised that the submitted car parking plan and proposed numbers are accepted to satisfy the requirements of DCP A2. Conditions with this regard have been applied.

A3-Development of Flood Liable Land

The subject site is entirely affected by the 1 in 100 year ARI storm event. The following levels apply for the site.

The subject site is mapped as having a design flood level of 3.3m RL, with an adopted habitable floor level of 3.8m RL and is affected by the Probable Maximum Flood. Accordingly, Section A3 applies; notably including:

- (i) On each allotment a maximum of 50% of the plan area of the lot may be occupied by structures, buildings, stockpiles and/or fill that exceed RL 2.2m AHD.
- (ii) On each allotment. Flow obstructions (defined as fill, structures, buildings, stockpiles and the like above RL 2.2m AHD) are to be located so that at least

50% of any cross section of the lot, transverse to the direction of flood flow, is clear of flow obstructions. This is to provide a local flood path on each allotment.

The application was referred to Councils Flooding and Stormwater Engineer who advised the following:

*The existing dwelling within the subject site is proposed to have some additions to accommodate the nursery retail. The dwelling floor would have to be raised to the minimum habitable floor level of **3.8m AHD**.*

Conditions with this regard have been applied.

The remainder of the site is proposed to be established as a commercial enterprise comprising a nursery, depot and landscape supplies business. Therefore, the levels of the remainder of the site (except for the dwelling) can be lower than the Design Flood Level.

Commercial and industrial development will be required to make adequate provision of flood free storage areas for stock and equipment susceptible to water damage.

Conditions with this regard have been applied.

The Stormwater Management Plan provided by Planit proposes minimal earthworks for the site with excavation depths of no more than 1m and minor potential filling of the site. Council's DCP A3 states that commercial lots in this vicinity may be filled to a maximum height of 2.2m AHD. If at detailed design filling of the commercial lot is proposed, the maximum level of the filling has to comply with A3. Conditions with this regard have been applied.

The proposed development is considered to comply with the requirements of A3.

Please note that stormwater and lawful points of discharge are discussed further within this report.

A11-Public Notification of Development Proposals

In accordance with Section A11 of the Tweed Development Control Plan 2008, the subject application was advertised and notified for a period of 14 days. During this period five submissions were received, with an additional four submissions being received after the notification period ended. These are discussed further within this report.

B9-Tweed Coast Strategy

Section B9 provides a broad overview of major strategic planning issues relevant to the Tweed Coast. The proposal is consistent with B9 and does not contravene the intended urban structure, centres hierarchy or design principles relating to the Tweed Coast or specific provisions relating to riparian buffers to Cudgen Creek and the mean high water mark, as the site is not located within these buffers.

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

Not applicable to the subject application.

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

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

The subject site is nominated as Coastal Land and therefore this clause applies. The proposal is not inconsistent with the Coastal Policy as previously detailed within this report as it comprises depot on a rural zoned site. The development will not restrict access to any foreshore areas is considered acceptable in this regard.

Clause 92(1)(b) Applications for demolition

The proposal includes some minor demolition works. Accordingly, the application has been considered in accordance with Clause 92(1). Appropriate conditions have been included.

Clause 93 Fire Safety Considerations

Clause 93 Environmental Planning & Assessment Regulation 2000.

“Clause 93 Fire safety and other considerations

- (1) This clause applies to a development application for a change of building use for an existing building, being a development application that does not seek the rebuilding, alteration, enlargement or extension of the building.”

Clause 93 does not apply as the proposal includes building works.

Clause 94 Buildings to be upgraded

Clause 94 Environmental Planning & Assessment Regulation 2000.

Pursuant to Clause 94 of the regulation a consent authority is to take into consideration the following:

94. Consent authority may require buildings to be upgraded

- (1) This clause applies to a development application for development comprising the rebuilding, alteration, enlargement or extension of an existing building where:
 - (a) the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, as it was before any such work was commenced, measured over its roof and external walls, or
 - (b) the measures contained in the building are inadequate:
 - (i) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or

- (ii) to restrict the spread of fire from the building to other buildings nearby.
- (2) In determining a development application to which this clause applies, a consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.
- (3) The matters prescribed by this clause are prescribed for the purposes of section 79C (1) (a) (iv) of the Act.

The alterations and additions proposed to the dwelling will change its classification from a Class 1a to a Class 4 and 6. Accordingly, upgrading works will be undertaken in accordance with the National Construction Code in respect of fire separation of the ground floor portion (class 6) from the first floor portion (class 4). A condition with this regard has been included.

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

The site is not located under any coastal zone management plans.

Tweed Shire Coastline Management Plan 2005

The subject site is not located within an area that is affected by the Tweed Shire Coastline Management Plan 2005.

Tweed Coast Estuaries Management Plan 2004

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

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

Not applicable to the subject site.

- (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 fronts a local classified road, with approximate daily trip rates of 17,000.

The site is currently operated on small scale as a depot and storage warehouse of gravel and landscape supplies. No retailing from the site is currently permitted.

A small rural dwelling/cottage is located upon the land and appears to have been constructed during the early 1960's. Under past assessments this dwelling has been noted as having existing use rights.

Remnant sensitive vegetation is located on the boundaries of the property with an area of vegetation situated between the house, road, existing filled pad and area subject to approval under this application. The existing vegetation screens the site/development from Chinderah Road and the public domain.

To the south of the site land is utilised for Council infrastructure and unformed Road Reserve (20.0m wide), adjoining the unformed road reserve is a 1.5HA site which is comprised of a single dwelling which is setback from the proposed development by approximately 100m.

Immediately to the north of the site is a vacant 3 hectare site which provides access to the adjoining site located to the rear/west of the subject site. The site to the rear of the subject site is comprised of a single dwelling and associated structures. The dwelling is setback from the proposed dwelling by approximately 150m and screened by an existing landscaped buffer. This buffer is conditioned to be retained under the subject application.

Further to the north is the Chinderah Golf Course and the Chinderah Industrial Estate and the Pacific Highway.

Farming activities also occur within the immediate area including grazing of cattle and the adjustment and training of horses. A sand quarry is also in operation further to the south.

The land is bushfire prone and designated as 'regionally significant farmland' and 'other rural land'. However, the land is mapped as "unsuitable for agriculture".

Access, Transport and Traffic

The subject application includes the following uses:

Truck Depot

Proposed storage of 12 large vehicles ancillary to another business off site.

Trucks will depart at 7am and return by 4:30pm

No vehicle movements on weekends or public holidays

One staff member per truck (12 staff/drivers)

Landscaping materials and plant nursery

42 landscaping supply storage bays

25 vehicle parking bays for customers and staff

Retention of dual access to the property from Tweed Coast Road

Hours of operation 7am to 5pm weekdays and 7am to 2pm on Saturdays

Two staff members employed

Office extension

Used for administrative purposes

As detailed previously with this report the subject application was referred to Councils Traffic Engineer who subject to conditions has supported the proposed access, traffic generation and onsite parking requirements. Comments were provided as follows:

“The site has direct access to the Tweed Coast Road which is a major arterial road with a posted speed limit of 80km/h. The road is currently 2 lane (one each way) and in recent years has been upgraded under the Federal Black Spot programme to widen the shoulders and install a centre painted median. The crash history in this section was the result of southbound vehicles losing control on the slight right hand curve.

The site is 1.2km/h south of the Pacific Highway and generally peak hour traffic on Tweed Coast Road is higher northbound in the AM and southbound in the PM.

The site has two existing accesses to the road with the major access to the north (approx 25m wide) currently utilised by heavy vehicles. Currently the road shoulder is approximately 1.5m wide with 3.5m lanes and a 1.5m painted median separation”.

Traffic:

A review has been carried out by the consultant to determine the traffic generation by the site and its impact on the adjacent road network. The assessment is considered thorough and acknowledges the existing background traffic and the importance of the Tweed Coast Road. Interestingly, there is no comment provided on the current site’s use.

The applicant has provided data showing Tweed Coast Rd in the morning has a peak hour flow of 63% northbound and 61% southbound in the PM.

Estimated peak hour traffic generation for the site is 46 in the AM (25 in, 21 out) and 34 in the PM (15 in and 19out).

Based on the background traffic (northbound and southbound on Tweed Coast Road) the consultants modelled the appropriate treatment required and recommended that a Short Channelised right Turn (CHR(S)) and a Short Auxiliary Left Turn Treatment (AUL(S)) be installed on Tweed Coast Road. This will enable heavy vehicles to wait in the centre of the road for an appropriate gap in the northbound traffic flow. A short left auxiliary lane will enable vehicles to pass a turning vehicle with only minor changes in speeds.

The consultants advised that the above treatments are not required should the Tweed Coast Road be upgraded to a 4 lane configuration in the future. However, should additional intersections, for example a roundabout, be installed at the Crescent Street, a limitation on maintaining the right turn into the site should be considered.

The proposed treatment is considered reasonable given the significance of Tweed Coast Road to the road network.



Figure 9: Proposed road treatments (source: extracted from Bitzios Traffic Impact Assessment Report, dated December 2017)

The report recommends minor tree removal (possibly two trees) within the road reserve (north of the access) to improve sight distances for drivers exiting the property and to comply with the Austroads recommendations for the expected road user.



Figure 10: Proposed site lines and potential tree removal/trimming (source: extracted from Bitzios Traffic Impact Assessment Report, dated December 2017)

The issues raised have been adequately addressed by the Applicant in justifying the traffic volumes assessment on Tweed Coast Road and the proposed treatments to address safe ingress and egress.

Accordingly, the proposed development is not considered to adversely impact the safety, efficiency and ongoing operation of the classified road. Conditions with this regard have been applied

Flora and Fauna

The application was referred to Council's Natural Resource Management (NRM) Unit, a comprehensive assessment was undertaken which in summary acknowledged that the site supported areas of remnant *vegetation classified under the Tweed Vegetation Management Strategy 2004 (TVMS) as Swamp She-oak Closed Forest to Woodland (Vegetation Code 601) grading to Broad-leaved Paperbark Closed Forest to Woodland (VC 401)*, which were considered representative of a candidate Endangered Ecological Community (EEC) listed under the Biodiversity Conservation Act 2016 (BC Act).

Tweed Coast Comprehensive Koala Plan of Management 2015:

The site occurs within the Southern Tweed Coast Koala Management Area. The units of vegetation mapped across the site are categorised as Secondary Class A Koala Habitat (TCKHS 2011) and subsequently defined as Preferred Koala Habitat for the purposes of the TCCKPoM.

There was no preferred Koala Food Trees as scheduled under the TCCCKPoM were recorded onsite or evidence of Koala activity

The remnant vegetation onsite is assigned a 'Very High' Ecological Status, whilst the areas beyond the line of remnant vegetation have been highly disturbed/modified providing limited habitat value.



Figure 11: Remnant vegetation (orange shading) and location of a single Macadamia tetraphylla (as taken from the BTF&FA)

The Vegetation on the subject site forms part of a broader 3.2 ha tract of remnant vegetation extending to the south and west of the subject site. Connectivity to a mosaic of remnant vegetation to the east is fragmented by the Tweed Coast Road. The site does not occur within a bioregional wildlife corridor.

A unit of swamp sclerophyll vegetation to the south of the site has recently been mapped as a Coastal Wetland under the current SEPP (Coastal Management) 2016. It is noted however that transitional arrangements are applicable to this application. The wetland was not formerly identified as a SEPP 14 Coastal Wetland for the purposes of assessment of this application.



Figure 12: Plan prepared by the NRM Unit depicting the line of vegetation overlaid

Accordingly a request for further information was sent to the applicant requiring further details in relation to *encroachment of development within areas of significant habitat and buffer zones to significant habitat*.

A request to this information was received by Council and referred to the Natural Resource Management Unit for review.

Following a review of the information submitted with regards to the above, Councils Natural Resource Management Unit advised that the proposal is supported and 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. Conditions with this regard have been applied.

Assessment Summary:

Legislation & Policy	Section(s)	Comment
<i>Environmental Planning & Assessment Act (1979)</i>	Section 5A (significant effect on threatened species, populations or ecological communities, or their habitats)	<ul style="list-style-type: none"> Remnant units of Swamp She-oak Closed Forest to Woodland onsite are considered representative of a candidate Endangered Ecological Community (EEC) listed under the <i>Biodiversity Conservation Act 2016</i> (BC Act) described as Swamp oak floodplain forest of the NSW North Coast, Sydney Basin and South East Corner bioregions Remnant units of Broad-leaved Paperbark Closed Forest to Woodland onsite are considered representative of a candidate EEC listed under the BC Act described as Swamp sclerophyll forest on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions A single <i>Macadamia tetraphylla</i> specimen (approximately 5 m in height) was recorded within the Tweed Coast Road reserve to the north of the access crossover. <i>M. tetraphylla</i> is listed as a 'Vulnerable' threatened species under the federal <i>Environment Protection and Biodiversity Conservation Act 1999</i> and state BC Act. 12 records of this species were returned within a 5 km radius of the site No threatened fauna species have either been previously recorded onsite or recorded during the assessment period 17 threatened fauna species were considered to have a moderate to high likelihood of occurrence on the subject site based on records and habitat suitability by Council's NRM Unit. Adequate protection is to be provided to the EEC community No significant effect on threatened species, populations or ecological communities, or their habitat is anticipated Conditions of consent have been recommended to lessen the impact on EEC, threatened species habitat and <i>M. tetraphylla</i>
	Section 79 (C)	The development generally satisfies 79(C)(1)(b) subject to conditions of consent in order to lessen the direct and indirect impact on ecologically significant values
<i>Threatened Species Conservation Act 1995</i>	Section (94) & Schedules 1, 1A, 2 and 3	Refer to notes above.
<i>SEPP 44 Koala Habitat Protection</i>		Applies. The site exceeds 1 ha in area. 'Potential koala habitat' for the purposes of the SEPP 44 does not occur onsite No further consideration necessary.
<i>Local Land Services Act 2013</i>		Applies - The land is zoned RU2 Rural Landscape Exemptions apply to approvals issued under the EP&A Act (Clause 600)

Legislation & Policy	Section(s)	Comment
<i>Tweed Coast Comprehensive Koala Plan of Management 2015</i>	Section 5	Satisfies Part 5 of the TCCKPoM

(c) Suitability of the site for the development

Surrounding Landuses/Development

Surrounding land uses mainly comprise of rural and rural residential pursuits immediately adjoining the property.

To the south of the site land is utilised for Council infrastructure and unformed Road Reserve (20.0m wide), adjoining the unformed road reserve is a 1.5HA site which is comprised of a single dwelling which is setback from the proposed development by approximately 100m.

Immediately to the north of the site is a vacant 3 hectare site which provides access to the adjoining site located to the rear/west of the subject site. The site to the rear of the subject site is comprised of a single dwelling and associated structures. The dwelling is setback from the proposed dwelling by approximately 150m and screened by an existing landscaped buffer. This buffer is conditioned to be retained under the subject application.

Further to the north is the Chinderah Golf Course and the Chinderah Industrial Estate and the Pacific Highway.

Farming activities also occur within the immediate area including grazing of cattle and the adjustment and training of horses. A sand quarry is also in operation further to the south.

Topography

The site is relatively flat and comprised of the existing dwelling, depot and storage of gravel and landscape supplies. Minimal earthworks are required for footings.

Stormwater

The applicant provided a Stormwater Management Plan prepared by Planit Consulting dated May 2018. The report proposes a stormwater strategy that involves a series of linear, pipeless bioretention raingardens/swales. The bioretention raingardens are paired with high flow weirs and level spreaders and are proposed to treat stormwater quality as well as mitigate stormwater quantity through onsite detention of flows encroaching into the proposed hardstand areas.

The application was referred to Councils Stormwater Engineer, who following the submission of additional detail from the application has advised that the proposed management system is sound for a constrained site.

It was noted however, that most of the basins will cause ponding on the hardstand areas, even for the 1 year ARI storm events. It was acknowledged that this is not preferable however, given the site's constraints and the maintenance plan submitted, the application can be supported subject to the applied conditions.

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

Public Submissions Comment

The application was advertised in accordance with DCP No. 11.

The advertising period was between the 21 February 2018 and 7 March 2018. During this period, 9 submissions were received. Four of these submissions were received after the submission period closed, two of the submissions were from the same objectors. The issues are outlined below, with the applicants response following.

Issue	Council response
<p><i>Traffic Safety/cumulative impacts: Does the intersection meet design specifications for sight lines for trucks and cars, turning lanes being a retail development</i></p>	<p>As addressed throughout this report the application was supported by a Traffic Impact Assessment report, prepared by a suitably qualified Traffic Engineer. Additionally, the application was reviewed by Councils Traffic Engineer who, subject to conditions has supported the application, subject to conditions.</p>
<p><i>Vegetation Clearing, unauthorised clearing has occurred in the past 10 years. The application does not provide any detail in regards to impacts on the existing vegetation onsite.</i></p>	<p>Based on Councils historic Aerial Imagery, it is noted that clearing on site occurred sometime between 2001 and 2004.</p> <p>A review of past applications has revealed that the land owners were questioned by Council with this regard. The result was that vegetation was cleared from June 12-15, 2004 prior to the TPO becoming operative 7 July 2004. With Councils Ecologist at the time (2008) advising the following:</p> <p><i>“The site is mapped under the Tweed Vegetation Management Strategy 2004 as being of very high ecological value and to be covered with Broad-leaved Paperbark / Swamp She-oak Closed Forest to Woodland, listed as an Endangered ecological Community under the Threatened Species Conservation Act. This original vegetation has been cleared apparently prior to the introduction of the 2004 Tree Preservation Order, although vegetation remains as a buffer around the boundary of the site and should be retained for both ecological and visual reasons.</i></p> <p><i>The main ecological issues relevant to the site and proposal are to ensure adequate erosion and sediment control is provided and to avoid any clearing or damage to remaining vegetation on the site, including anything that would alter the hydrological regime for wetland dependent vegetation. No earthworks are proposed (apart from those required for entry roadworks in accordance with Engineering comments), these aspects may be adequately conditioned”.</i></p>

Issue	Council response
<i>Overdevelopment of the site</i>	Based on Aerial Mapping it does not appear that any vegetation has been removed/cleared since the issue of DA08/1000 in 2009. The subject site does not have a mapped Floor Space Ratio, additionally the site is not suitable for agricultural land uses. The development will be screened from the road reserve and adjoining properties.
<i>Adverse financial impact on competing businesses that operate in industrial areas</i>	This is not a planning consideration
<i>Signage will detract from rural landscape</i>	There is no signage proposed as part of the subject application. Condition's ensuring that any future signage proposed is subject to separate approval (where statutorily required) has been applied
<i>The site is flood prone, will an environmental impact study be undertaken- Provided information not sufficient</i>	The application was referred to Councils Flooding and Stormwater Engineer who advised the following: <i>The existing dwelling within the subject site is proposed to have some additions to accommodate the nursery retail. The dwelling floor would have to be raised to the minimum habitable floor level of 3.8m AHD. Conditions with this regard have been applied.</i> <i>The remainder of the site is proposed to be established as a commercial enterprise comprising a nursery, depot and landscape supplies business. Therefore, the levels of the remainder of the site (except for the dwelling) can be lower than the Design Flood Level.</i> <i>Commercial and industrial development will be required to make adequate provision of flood free storage areas for stock and equipment susceptible to water damage. Conditions with this regard have been applied.</i> <i>The Stormwater Management Plan provided by Planit proposes minimal earthworks for the site with excavation depths of no more than 1m and minor potential filling of the site. Council's DCP A3 states that commercial lots in this vicinity may be filled to a maximum height of 2.2m AHD. If at detailed design filling of the commercial lot is proposed, the maximum level of the filling has to comply with A3. Conditions with this regard have been applied.</i>
<i>The site does not have a dwelling entitlement therefore the dwelling cannot be approved.</i>	The proposed development is considered to comply with the requirements of A3 To determine if the subject site enjoys the benefits of a dwelling entitlement a Clause 12D test (Interim Development Order) is required to be undertaken. Notwithstanding this, the dwelling has been acknowledged previously as having existing use rights under the Environmental Planning and Assessment Act 1979. The dwelling appears to have been constructed in the early-mid 60's.
<i>Contrary to strategic planning/Contrary to the RU2 objectives/Adhoc development contrary to good planning.</i>	The subject site is not nominated under a specific land use within the draft Kingscliff Locality Plan (KLP). The proposed development is permissible with consent on land zoned RU2. Detailed comments can be found within the TLEP 2014 clauses 1.2 aims of this plan and Clause 2.3 zoning and land use table assessment of this report.

Issue	Council response
<i>Development 'not fair' as other RU2 lots cannot be developed</i>	The subject application is seeking consent for uses permitted on land zoned RU2. The land is not suitable for farming and is not State Significant farmland.
<i>Increased adverse amenity impacts such as increased noise, increased dust, stormwater runoff on adjoining residential properties:</i>	As part of Councils assessment a request for further information was sent to the applicant. Part of the request for further information was that a <i>Site Management Plan that includes but is not limited to the hours of operation, proposed site operations including machinery and equipment, management of noise, water, and air pollution, and waste management</i> be submitted to Council for consideration. A Site Management Plan for 188 Tweed Coast Road, Chinderah prepared by Planit Consulting Pty Ltd dated July 2018 (Issue B) was submitted. The report included management techniques for the following environmental health impacts: <ul style="list-style-type: none"> - Noise and vibration - Air quality and dust control management - Machineries, workshops, and dangerous goods handling and storage - Herbicide, pesticide, and fungicide management relating to the plant nursery. <p>Other features of the Site Management Plan including traffic management, sediment and erosion control, waste management, and vegetation management may require assessment by relevant Council staff as required.</p> <p>Management of potential amenity impacts has been considered by Councils Environmental Health Officers for both the construction works and ongoing operation of the site.</p> <p>The site is currently approved as a depot with associated earthworks (DA05/1416) and a storage warehouse for gravel and landscape supplies (DA08/1000). The proposal will include a similar land use with the inclusion of retail rural and landscaping supplies, plant nursery, and storage of large vehicles.</p> <p>Councils Environmental Health Unit are satisfied that amenity can be appropriately managed via conditions of consent. Conditions with this regard have been applied.</p>
<i>Bitzios recommendations within the traffic report should be adopted as conditions of consent.</i>	Councils Traffic Engineer has reviewed the subject application and has endorsed the development. In particular the following condition has been applied: <i>Provision of a short Channelised right Turn (CHR(S)) and short Auxiliary Left Turn (AUL(S)) on Tweed Coast Road, generally in accordance with Appendix B in the Traffic Impact Assessment dated 07/12/2017 compiled by Bitzios Consulting and complying with the Austroads and RMS Guides to Road Design.</i>
<i>The site is suspected as being used as a waste transfer facility, contrary to the existing consents</i>	The application is assessed against the development proposed within the DA form, Statement of Environmental Effects and associated plans and accompanying information.

Issue	Council response
<i>The fill onsite may be contaminated</i>	<p>During the assessment of the application it was apparent that over time the site operations had increased in comparison to the approved site plan for DA05/1416 and DA08/1000.</p> <p>Accordingly, a request for further information was sent to the applicant advising the following:</p> <p><i>Existing site operations appear larger than the approval pad and works area. Further information is required with respect to the source of waste (fill) material placed on the site including confirmation from a suitably qualified person that that material is free from contamination and acid sulfate soil.</i></p> <p>An Imported Fill Assessment for 188 Tweed Coast Road, Chinderah NSW prepared by HMC Environmental Consulting Pty Ltd dated July 2018 (HMC 2018.153) was submitted. The report included a previous investigation carried out by BorderTech in 2005 for the original fill imported to the site.</p> <p>Upon review of the abovementioned report Councils Environmental Health Officer advised the following:</p> <p><i>“Results for contaminants of potential concern are below investigation criteria for the proposed land use. HMC have confirmed that in relation to potential site contamination associated with the placement of imported fill on the site, 188 Tweed Coast Road, Chinderah is suitable for the proposed depot land use and no further investigation or remediation is required”.</i></p> <p>Given the above information it is considered that contamination of the land is unlikely.</p>
<i>The vehicles will be serviced onsite causing contamination issues</i>	<p>The SEE advises that minor maintenance activities including servicing/maintenance activities associated with the truck depot and machinery for use onsite associated with the landscape supplies and nursery. These will include scheduled fluid changes, lubrications (grease and oil changes), general repair works and cleaning. . Additionally discussion with the planning consultant from Planit Consulting on 23/8/18 advised that other than the trucks being stored on the site, machinery is limited to small fork lift and bob cat operations. Loose material within the bays will be loaded onto vehicles as required within approved hours of operation. Councils Environmental Health department have reviewed this component of the application and are satisfied that compliance with the site management plan will ensure no contamination will occur</p>
<i>The application does not provide a noise impact assessment.</i>	<p>As part of Councils assessment a request for further information was sent to the applicant. Part of the request for further information was that a <i>Site Management Plan that includes but is not limited to the hours of operation, proposed site operations including machinery and equipment, management of noise, water, and air pollution, and waste management</i> be submitted to Council for consideration.</p> <p>A Site Management Plan for 188 Tweed Coast Road, Chinderah prepared by Planit Consulting Pty Ltd dated July 2018 (Issue B) was submitted. The report included management techniques for the following environmental health impacts:</p> <ul style="list-style-type: none">- Noise and vibration- Air quality and dust control management- Machineries, workshops, and dangerous goods handling and storage

Issue

Council response

- Herbicide, pesticide, and fungicide management relating to the plant nursery.

Other features of the Site Management Plan including traffic management, sediment and erosion control, waste management, and vegetation management may require assessment by relevant Council staff as required.

Management of potential amenity impacts has been considered by Councils Environmental Health Officers for both the construction works and ongoing operation of the site.

The site is currently approved as a depot with associated earthworks (DA05/1416) and a storage warehouse for gravel and landscape supplies (DA08/1000). The proposal will include a similar land use with the inclusion of retail rural and landscaping supplies, plant nursery, and storage of large vehicles.

Councils Environmental Health Unit are satisfied that amenity can be appropriately managed via conditions of consent. Conditions with this regard have been applied.

Insufficient detail regarding the removal of waste

See comment above regarding a site management plan (Section 6.7 Waste Management and Minimisation will be enforced). Conditions with this regard have been applied.

Clearing of trees in the road reserve requires council consent that has not been provided

The application has been discussed with Councils Senior Engineer - Assets and Maintenance, Traffic Engineer and Supervisor – Recreation Services. No concerns have been raised in relation the required removal.

Conditions have been applied to ensure works are undertaken by a Level 5 AQF arborist.

Inconsistency with development description in the SEE and appended traffic assessment

The subject application seeks consent for the construction of a Truck Depot, Rural landscaping material supplies, plant nursery, office and ancillary alterations and additions to the existing dwelling house and tree removal. Further details with this regard can be found within the background section of this report.

The following has been extracted from the submitted Traffic Impact Assessment report by Bitzios Consulting, dated 07/12/2017. The development and operational details are considered consistent with that being assessed under the subject application.

3. PROPOSED DEVELOPMENT

3.1 DEVELOPMENT DETAILS

The proposed development is to consist of a new office and shed, landscape bays for bulk landscape supplies, truck parking bays and a retail nursery with home office. The development components are detailed in Table 3.1.

Table 3.1: Development Components

Development Component	Quantity
Office attached to Shed	60m ² GFA
Landscape Bays – Bulk Rural Supplies	40 storage bays, Approximately 7500 m ²
Retail Nursery/ Landscape Material Supplies	Approximate 2200m ²
Truck Depot (Attached to Rural Supplies Use)	12 parking bays
Car Parks	25 car spaces
Private dwelling	1 top floor managers dwelling

The proposed development will be accessed via a two-way all-movement vehicular driveway on Tweed Coast Road. Car parking is provided on-site for visitors and staff.

Issue

Council response

3.2 PROPOSED OPERATIONAL DETAILS

The operational details of the proposed development will consist of the following:

- trucks will depart the development at approximately 7:00am and return to the development by 4:30pm;
- hours of operation are expected to be 7:00am to 5:00pm during the week and 7:00am to 2:00pm on a Saturday;
- it is understood rural and landscaping supplies will only be available for large scale purchase, with small scale orders (i.e. public with trailer or utility vehicle) not being catered for by the landscape supplies aspect of the site;
- the majority of traffic exiting the site is expected to travel north toward the Pacific Motorway, Upper Tweed and the Gold Coast. Approximately 25% of traffic may travel south via the Pacific Motorway; and
- there will be two (2) staff members employed at the nursery, landscape and rural supplies and one (1) staff member employed per truck.

It should be noted that the following assessment has applied the 'development peak' periods, 7:00am-8:00am and 4:00pm-5:00pm, for traffic analysis purposes. Whilst these periods are outside of the surveyed Tweed Coast Road network peak times, the largest expected impact from the proposed development will be during employee arrival/departure (opening and closing times) and as such is considered to be the most conservative assessment.

The plant nursery does not appear to comply with the LEP definition and is therefore prohibited

In accordance with the Tweed Local Environmental Plan 2014 a **plant nursery** means a building or place the principal purpose of which is the retail sale of plants that are grown or propagated on site or on an adjacent site. It may include the on-site sale of any such plants by wholesale and, if ancillary to the principal purpose for which the building or place is used, the sale of landscape and gardening supplies and equipment and the storage of these items.

Note. Plant nurseries are a type of retail premises—see the definition of that term in this Dictionary.

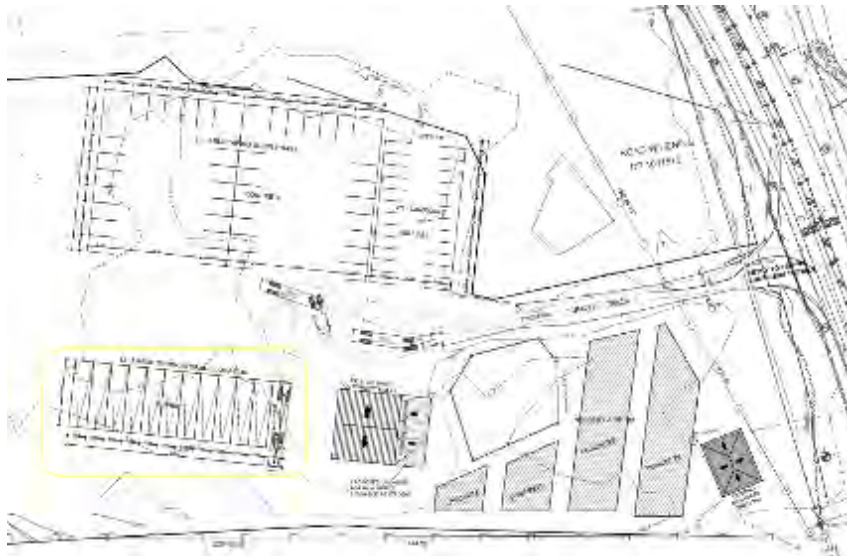
The SEE advises that the nursery will grow plants on benches onsite.

A plant nursery is Permitted with consent on land zoned RU2.

Is development description correct and consistent with application

As advised above the development seeks consent subject application seeks consent for the construction of a Truck Depot, Rural landscaping material supplies, plant nursery, office and ancillary alterations and additions to the existing dwelling house and tree removal.

Truck depot means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like



Permitted with Consent on land zoned RU2

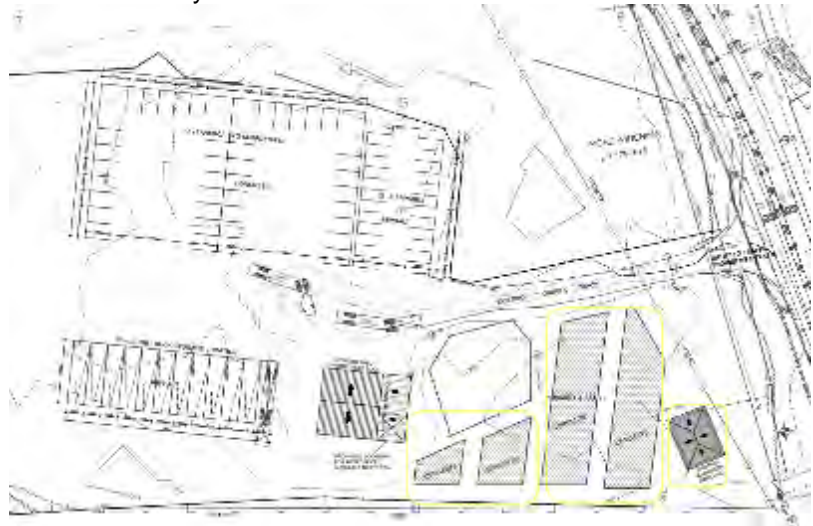
Issue

Council response

plant nursery means a building or place the principal purpose of which is the retail sale of plants that are grown or propagated on site or on an adjacent site. It may include the on-site sale of any such plants by wholesale and, if ancillary to the principal purpose for which the building or place is used, the sale of landscape and gardening supplies and equipment and the storage of these items.

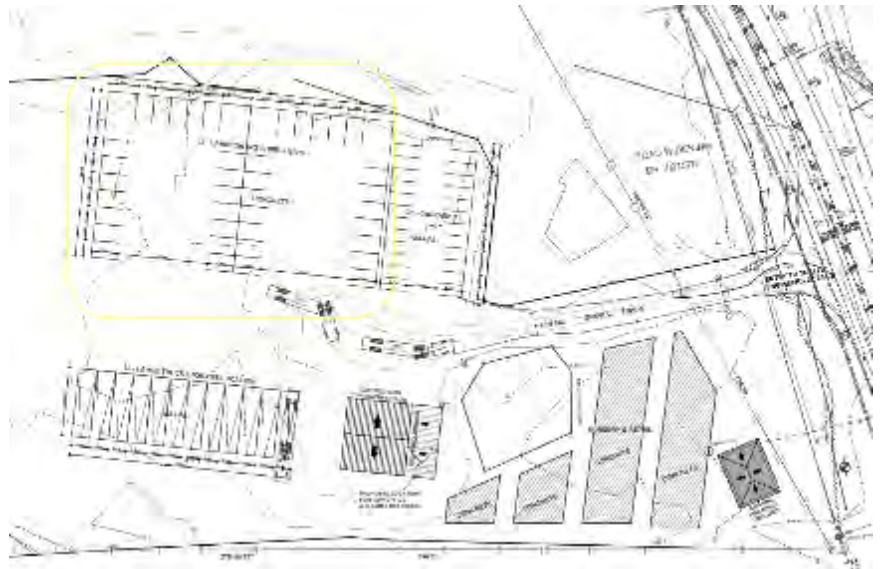
Note.

Plant nurseries are a type of retail premises—see the definition of that term in this Dictionary.



Permitted with consent on land zoned RU2

landscaping material supplies means a building or place used for the storage and sale of landscaping supplies such as soil, gravel, potting mix, mulch, sand, railway sleepers, screenings, rock and the like.



Permitted with consent on land zoned RU2

The development includes alterations and additions to the existing metal shed located on the site towards the south side boundary for use as an office.

The SEE advises that the shed is for the storage of machinery and will include minor/routine maintenance (oil changes etc) the machinery will be

Issue	Council response
	those utilised in the landscape supplies area and nursery. Heavy mechanical work will be done offsite – conditions to be applied
	The proposed area of the office premises is 37m ² and includes a disabled rest room within the south-eastern corner of the extension.
	<i>The office will be used for administrative, clerical and technical pursuits of the proposed Rural Landscaping Material Supplies and Plant Nursery use of the site and not the truck depot.</i>
	Accordingly, the office is ancillary to the onsite uses. Conditions with this regard will be applied.

Applicant's response to submissions:

Issue 1. Land use permissibility and whether the proposed development is consistent with the zoning of the site as RU2- Rural Landscape pursuant to Tweed Local Environmental Plan 2014.

A number of residents have expressed their concerns regarding the permissibility of the proposed uses on the site considerate of the land zoning pursuant to TLEP2014. The subject site is zoned RU2 – Rural Landscape in which has an objective to:

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

The site does not contain primary agricultural soils and given that it is heavily fragmented and already approved and used as a depot, the opportunity for using the land for extensive grazing or pasture improvement is restricted. Accordingly, the proposal seeks to establish land uses on the site that would contribute to rural activities in the wider area through the provision of rural supplies and services. The Rural/ Landscaping Material Supplies facility would provide materials and goods for sale such as stockfeeds, grains, seeds, fertilizers, soils, gravel, potting mix etc. to assist agricultural productivity and rural landscapes.

Significant screening along each boundary of the development site is provided by existing vegetation. This means that the landscape character is being retained and will ensure that there will be limited opportunity to view the site and onsite uses from surrounding land.

The proposed office is ancillary to the proposed facilities and essential to their operation.

The proposed development is consistent with the zone objectives.

Issue 2. Amenity issues concerning visual, noise, dust and odour

The site has dense vegetation boarding it. Apart from minor clearing to improve sight distances at the site's entrance, no vegetation removal is proposed as part of the application. Therefore, the intensification of the site is suitably concealed in all directions and as a result will not cause adverse visual amenity in the local area. The proposed site coverage for the uses is reasonably expected in the local area and is somewhat expected as a result of the requirements for car parking, site access and manoeuvrability within the site. These are of course in addition to the built form use proposed (e.g. Rural/ Landscaping Material Supplies bays).

The peak activity time for the development will be 7:00am - 8:00am and 4:00pm - 5:00pm as mentioned in Bitzios original TIA document and their subsequent Traffic Impact Letter. The estimated development traffic generation is relatively low. That is, the estimated development traffic generation is in the order of 46 trips in the AM peak hour and 34 trips in the PM peak hour, which equates to 1 vehicle entering or existing the site every 1.3 to 2 minutes. The development has

ameliorated undue noise pollution as a result of its proposed operational times including the trucks departing early in the morning at 7:00am and returning late at 4:30pm.

The rural and landscaping supplies will be available for large scale purchases, with small scale purchases not being catered for by the landscape supplies aspect of the site. This reduces the likely traffic intensity of the site.

Noise impacts have also been considered with regard to staffing. Only two (2) staff members are expected to be employed at the nursery, landscape and rural supplies and one (1) staff member employed per truck. This means that there will be limited vehicles entering and exiting the site for staff.

The site proposes an increase in impervious areas as a mechanism to reduce the dust load as a result of the proposed development. This includes retaining the existing gravel track within the site, supplying a concrete base for the Rural/Landscaping Material Supplies and Plant Nursery in addition to incorporating an asphalt base for the storage of the trucks. The spatial separation of the site from surrounding residences and the retention of the vegetation are also factors that will limit potential for dust pollution.

Odour was raised as a concern from the public notification period. The proposal does not include any potential odour polluting uses nor is located within an odour polluting area. The proposed development will not in anyway cause adverse odour amenity issues to surrounding residents.

Issue 3. Traffic impacts relating to safety and potential for increased traffic accidents.

The overwilling main concern regarding the proposed development was traffic safety and the risk of traffic accidents as a result of the increased intensification of the proposed development. The development submitted to Council incorporated a Traffic Impact Assessment prepared by Bitzios. The report found to implement the following initiatives to reduce the traffic related impacts the development may have:

1. Proposing operation times for the development, particularly the Depot operation on site, reducing the number of vehicles entering and existing the site off peak;
2. Having a limited number of expected employees for the Plant Nursery and Rural/ Landscaping Materials Supplies at two (2) staff members and only one (1) staff per truck;
3. The Rural/ Landscaping Material Supplies will only be for large purchase, with small scale orders not being catered for by the landscape supplies aspect of the site;
4. The sites location being in close proximity to the Pacific Motorway. This allows long hauls to conveniently utilise the motorway apposing travelling through urban residential areas;
5. Vegetation trimming is incorporated within the allocated road reserve north of the site to achieve an appropriate sight distance. This will improve safety of motorists travelling 'around the bend' on Tweed Coast Road.
6. The following recommendations have been incorporated for the development regarding site access in order to improve visibility and safety around the bend of the road:
 - a. Northbound on Tweed Coast Road be upgraded to include a short AUL treatment (left-in pocket); and
 - b. Southbound on Tweed Coast Road be upgraded to include a short CHR(S) treatment (right-in turn).

In addition, additional truck movement on Tweed Coast Road resulting from the proposed development is not expected to result in adverse safety impacts. This is because the proposed development includes:

- The provision of turn pockets removes the probability of trucks disrupting through traffic, and
- No trucks impeding the ingress and egress of surrounding driveways.

A Traffic Impact response letter has been prepared by Bitzios Consulting and includes a detailed analysis of comparison of traffic survey datasets, adopted AM and PM peak hours, forecast growth rate and development traffic generation. In summary the proposed development has incorporated many initiatives to reduce the potential for traffic accidents on Tweed Coast Road as a result of the increase in intensity from the site. It is considered from a traffic engineering/planning perspective that such initiatives are a suitable means to ensure traffic safety on Tweed Coast Road and to existing residents in the local area.

Issue 4. Need for the development in the local area

A number of submissions related to the developments 'need' in the local area considering similar uses in the Shire. Activity and growth in the Tweed continues to generate a need for supporting services and facilities.

The proposal seeks to establish land uses on the site that would contribute to rural activities in the wider area through the provision of rural supplies and services. The Rural/ Landscaping Material Supplies facility would provide materials and goods for sale such as stockfeeds, grains, seeds, fertilizers, soils, gravel, potting mix etc. to assist agricultural productivity and rural landscapes.

The depot facility will assist with the demand for parking trucks in the Shire, which is a direct response to increased activity and growth in the Shire.

Issue 5. Stormwater Drainage and Management.

A stormwater management plan has been prepared as part of this response to further information. The stormwater management plan indicates the site incorporates five (5) catchment areas and includes a series of bioretention basins in order to treat the stormwater quality and quantity. The proposed stormwater arrangement considers the total impervious surface areas proposed and reduces the affect of stormwater to surrounding residents particularly 200 Tweed Coast Road. For further information please review the enclosed Stormwater Management Plan.

Issue 6. On-site Sewage System Design

An On-site Sewage Management Assessment has been prepared by HMC Environmental in which proposes ETA beds and a high uptake vegetation zone buffering the south border of the proposed beds. This design system has been suitably considered with regard to the stormwater management plan. The On-site Sewerage Management Assessment concludes, it is considered that the recommendations listed within the report are sufficient to attain an acceptable level of environmental impact from the proposed upgrade of the existing on-site sewerage management system to serve the expected occupancy of the dwelling and the staff office amenities in the shed.

We trust that the above information is sufficient to respond to Council's Request for Further Information as provided in Council's letter dated 12th March 2018. We respectfully request Council to continue assessment and believe additional public consultation is not required and assessment can be finalised as per the *Environmental Planning and Assessment Act 1979*.

(e) Public interest

The proposal has been investigated and is considered to be suitable to the site; unlikely to cause any significant long term negative impacts to the surrounding built and natural environment and meets all of Council's applicable requirements within the TLEP and relevant DCPs. The application has been assessed by Council's technical officers; with no objections being raised subject to the attached conditions of development consent. The proposed development is therefore considered to warrant approval.

OPTIONS:

1. Approves the application subject to conditions
2. Refuses the application for reasons specified and write to the owner to ensure they understand the parameters of their existing consents and specify any variations to these provisions will require a new Development Application, modified applications and/or building certificates.

Council Officers recommend Option 1.

CONCLUSION:

The proposed depot 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.

The development is not considered to result in a significant impact to the amenity or uses of the surrounding sites. Appropriate conditions have been applied.

Adequate documentation has been provided by the applicant, and a full assessment has been undertaken based on all relevant issues. The proposal is considered suitable and appropriate for the subject site, given its permissibility under the sites zoning.

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.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

N/A

c. Legal:

The applicant has rights of appeal to the NSW Land and Environment Court in respect of any Council determination.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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

SUBMITTED BY: Development Assessment and Compliance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Provider**

SUMMARY OF REPORT:

UPDATED SUMMARY SINCE 16 AUGUST 2018

This development application for the construction of a telecommunications facility at Lot 6 DP 866255 No. 233 Byangum Road, Murwillumbah (Murwillumbah Golf Club) was reported to the Council meeting on 16 August 2018 with a recommendation to approve the application subject to conditions.

Following consideration of the application, Council resolved that this item be deferred for a Workshop with the proponent and that an invitation be forwarded to the Principal and the President of the Parents and Citizens Association of the Adventist College and a representative from the Australian Radiation Protection and Nuclear Safety Authority (ARPANSA) to also attend.

A workshop was held on Thursday 27 September 2018 and was attended by the following external parties:

Proponent:

Mr Benjamin Davis, Senior Consultant Urbis on behalf of Nokia
Mr Tim Brosnan, Subject Matter Expert - Town Planner - Nokia
Mr Charles de Fortier, Radio Frequency (RF) Engineer – Nokia

ARPANSA:

Dr Ken Karipidis, Assistant Director Assessment and Advice Section, Radiation Health Services Branch of ARPANSA (telephone attendance).

Tweed Valley Adventist College:

Mr Paul Fua, Principal

Ms Michele Wilson, Assistant Principal

Ms Courtney Tyler, Chaplain, Tweed Valley Adventist College.

The main focus of the workshop was electromagnetic energy (EME) and the safety associated with same with Dr Karipidis responding to questions in relation to ARPANSA's safety limits, how the limits are devised, and the conflicting information on EME impacts on the internet.

The main outcomes from this discussion was that:

- ARPANSA undertook a review of the current safety limits in 2014 and are currently reviewing the standards, however the major premise will remain the same;
- The current safety standards have an applied safety principle built in, and it was noted that the predicted EME at Tweed Valley Adventist College was 0.061% of that limit;
- The NSW Department of Education policy position on preferring that telecommunications facilities not be located within 500m of a school is at odds with the ARPANSA Guidelines and direction of Federal Government;
- The Radio Frequency (RF) EME exposure from a mobile phone and AM radio is significantly greater than that associated with a base tower;
- Unlike ionising radiation (eg X-rays), there are no cumulative effects in terms of RF EME exposure.

The discussion also focussed on the potential for the proponent to consider an alternative site or to co-locate to an existing facility. The proponent indicated that the subject site was the preferred site for coverage and that co-location to an existing facility would not alleviate the need for a major site in this area. The provision of a small cell network (lower towers at a greater density) would not function without a major base station.

Tweed Adventist College expressed concern at the impact that the tower would have on parents' perceptions and a possible withdrawal of students from the school and requested that Council consider an alternative location.

Following the workshop, the recommendations of this report remain unchanged. While it is clear that Tweed Adventist College has residual concerns in relation potential health impacts, Australian Standard RPS3 is an authoritative and scientifically credible standard to protect the health and safety of people and the environment from the harmful effects of radiofrequency EME. It is not appropriate for a consent authority to set aside or disregard this standard or the expert advice of ARPANSA.

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

SUMMARY OF ORIGINAL REPORT

A development application was received by Council on 5 February 2018 proposing the construction of a 30m high monopole with the installation of three panel antennae, 11 non-

EME emitting remote radio units and one 600mm dish antenna taking the overall height of the structure to 33.2m at Lot 6 DP 866255 No. 233 Byangum Road, Murwillumbah (Murwillumbah Golf Club).

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

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

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

The site is located on bushfire prone land and the proposal requires the provision and maintenance of a 10m Asset Protection Zone (APZ) around the facility. The initial proposal submitted required the removal of three (3) trees to accommodate this APZ and to provide sufficient clearance from the mast. However the applicant has amended the proposal to retain all trees at this location, with branch pruning restricted to two (2) trees. The application has been accompanied by a Bushfire Protection Assessment Report and Tree Retention Plan (incorporating an Arboricultural Impact Assessment report) indicating that the surrounding trees can be retained.

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

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

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

The site is located approximately 265m from the grounds of Tweed Valley Adventist College (being approximately 564m to the nearest classroom and 692m to the nearest Primary level

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

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

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

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

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

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

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

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

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

RECOMMENDATION:

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

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Urbis and dated January 2018 and Site Layout Plan No S2646-P1 Rev 05 and Site Elevation Plan No S2646-P2 Rev 05 prepared by Nokia Networks Pty Ltd and dated 8 June 2018, except where varied by the conditions of this consent.**

[GEN0005]
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**

[GEN0115]
- 3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the Developer's expense.**

[GEN0135]
- 4. The owner is to ensure that the proposed structure is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.**

[GEN0300]
- 5. Vegetation management is to be undertaken in accordance with the Arboricultural Impact Assessment dated 24 June 2018 prepared by Independent Arboricultural Services pursuant to amendments prescribed in Condition 11. Pruning of trees shall be limited to those trees identified as Tree 819 and Tree 820 in Site Photos (pp. 22 and 23) of the report. No vegetation shall be removed to facilitate or maintain the development unless otherwise approved by Council's General Manager or delegate.**

[GENNS01]
- 6. The development shall be carried out in accordance with the recommendations of the Bushfire Protection Assessment Report prepared by Ecological Australia and dated 25 June 2018.**

- (a) An Asset Protection Zone of 10m is to be provided around the telecommunications mast and equipment shelter as identified in the Bushfire Protection Assessment Report.
- (b) An Asset Protection Zone is to be implemented and maintained in a manner that it is free of surface/elevated fuels and contains minimum canopy cover.
- (c) Construction material shall be able to withstand 40kW/m² of radiant heat and withstand ember penetration of the structure (ODU).
- (d) External cabling to be underground where possible, or shielded, as outlined in Section 2.3 of the Bushfire Protection Assessment Report.
- (e) Electricity shall be underground wherever practicable. Where overhead electrical transmission lines are installed:
 - No lines are to be installed with short pole spacing, unless crossing gullies, and
 - No part of a tree shall be closer to a powerline than the distance specified in the *ISSC 3 Guide for the Management of Vegetation in the Vicinity of Electricity Assets* (ISSC 2016).

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. Prior to the issue of a Construction Certificate, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved by the Principle Certifying Authority. The CEMP shall be consistent with the Guideline for the Preparation of Environmental Management Plans (DIPNR, 2004). A copy of the approved plan shall be submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:
 - a) Hours of work;
 - b) Contact details of site manager;
 - c) Traffic and pedestrian management;
 - d) Noise and vibration management;
 - e) Construction waste management;
 - f) Erosion and sediment control; and,
 - g) Flora and fauna management.
8. A Traffic Control Plan in accordance with AS1742 and the latest version of the NSW Government Roads and Maritime Services (RMS) publication "Traffic Control at Work Sites" shall be prepared by an RMS accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.
9. The Structural elements of the telecommunications facility are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0125]

[PCC0865]

[PCC0945]

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

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

[PCC1155]

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

- (a) Alignment of tree protection fencing in accordance with Australian Standard AS4970:2009 Protection of trees on development sites.
- (b) An amended plan of proposed areas of low pressure water excavation (as shown on Page 8 of the report) for any underground services, earth electrode and associated conductor cable installation within the Tree Protection Zone.

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

[PCCNS01]

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

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

[PCCNS02]

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

[PCCNS03]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0005]

15. The erection of the structure and associated equipment in accordance with this development consent must not be commenced until:

(a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and

(b) the person having the benefit of the development consent has:
(i) appointed a principal certifying authority for the building work, and
(ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and

(c) the principal certifying authority has, no later than 2 days before the building work commences:

(i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
(ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

(d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:

(i) appointed a principal contractor for the building work, and
(ii) notified the principal certifying authority of any such appointment, and
(iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

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

[PCW0225]

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

(a) showing the name, address and telephone number of the principal certifying authority for the work, and

- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

DURING CONSTRUCTION

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

[DURNS02]

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

[DUR0005]

20. Should any Aboriginal object or cultural heritage (including human remains) be discovered all site works must cease immediately and the Tweed Byron Local Aboriginal Land Council (TBLALC) Aboriginal Sites Officer (on 07 5536 1763) are to be notified. The find is to be reported to the Office of Environment and Heritage. No works or development may be undertaken until the required investigations have been completed and any permits or approvals obtained, where required, in accordance with the National Parks and Wildlife Act, 1974.

[DUR0025]

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

Monday to Saturday from 7.00am to 5.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

[DUR0375]

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

[DUR0395]

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

[DUR0405]

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

[DUR0415]

26. Excavation

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

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

[DUR0425]

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

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

[DUR1005]

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

[DUR1015]

29. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

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

[DUR2185]

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

[DUR2205]

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

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

34. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

35. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

[POC0355]

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

[POC1055]

37. Prior to the issue of an Occupation Certificate or immediately prior to the commissioning of telecommunication facility whichever occurs first, the nominated Project Arborist shall provide to Council's General Manager or delegate a certification report that includes the following information:

- (a) Confirmation that all works have been undertaken in accordance with Australian Standard *AS4970 - 2009 Protection of trees on development sites*, industry best standards, the approved Arboricultural Impact Assessment Dated 24 June 2018 prepared by Independent Arboricultural Services and details of any remedial actions recommended by the Project Arborist to avoid/minimise disturbance of existing vegetation.
- (b) A brief assessment of the condition of the trees, details of any deviations from approved essential tree protection management actions/measures and if applicable evaluation of any remedial actions undertaken to mitigate impact on existing vegetation as a result of project works.

[POCNS01]

USE

38. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

39. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.
[USE0175]
40. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.
[USE0225]
41. All wastes shall be collected, stored, and disposed of to the satisfaction of the General Manager or his delegate.
[USE0875]
42. In the event that the telecommunications facility is no longer required or the equipment becomes obsolete, it is to be removed and the site restored, to a condition that is similar to its condition before the facility was constructed.
[USENS01]
43. The installation of the communications infrastructure must be in compliance with the following:
- (a) ARPANSA, Australian Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency fields - 3khz to 300GHz, in Radiation Protection Standard RPS3 2002, ARPANSA ; Australian, clause 5.7, pages 28-29, as amended from time to time: and
 - (b) The Australian Communication Industry Forum Code 'ACIF' C564:2004 (December 2004).
[USENS02]
44. The applicant is to provide certification to the General Manager or his delegate of the operation of the telecommunications facility in accordance with the approved electromagnetic energy (EME) levels within thirty (30) days after the operation of the tower, and again at a twelve month interval.
[USENS03]
45. The telecommunications facility is not to cause adverse radio frequency interference with any airport, port or Commonwealth Defence navigational or communications equipment.
[USENS04]

REPORT:

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

Background:

Application details

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

Development consent is sought for:

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

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

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

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

Site selection

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

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

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

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



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

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



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

Site details

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

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

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

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

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

Surrounding Area

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

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

Strength of the Electromagnetic field

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

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

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

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

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

Pre-lodgement Community Consultation

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

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

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

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

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

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

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

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

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

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

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

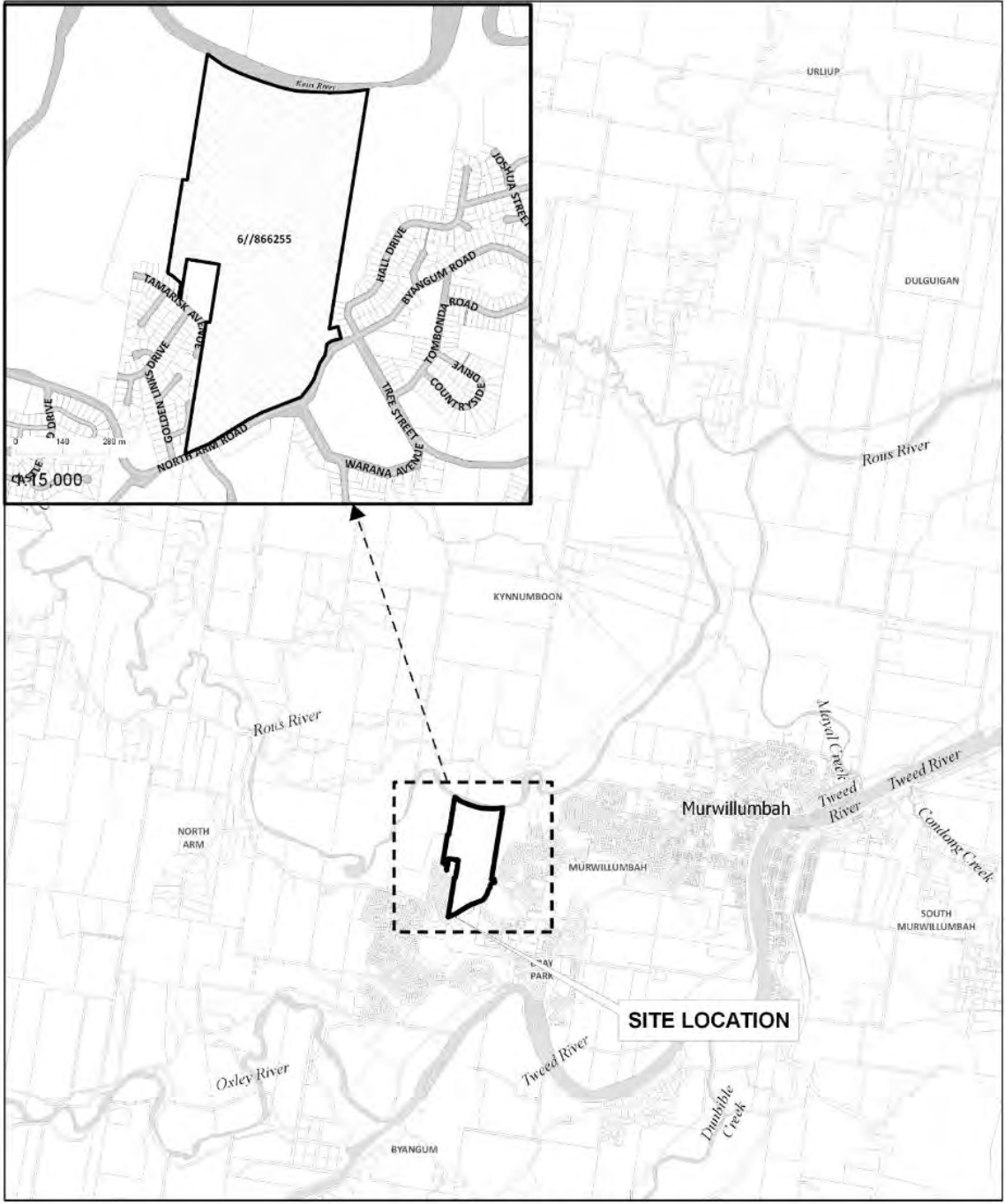
- Potential impact on visual amenity
- Possible property devaluation
- Possible alternative location, and
- Electromagnetic emissions and public health and safety.

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

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

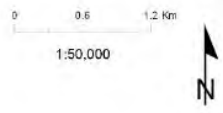
Based on the consultation undertaken, Optus determined to proceed with a development application.

SITE DIAGRAM:



Site Plan

Lot 6 DP 866255
 No. 233 Byangum Road, MURWILLUMBAH



Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavation a "Dial before You Dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.

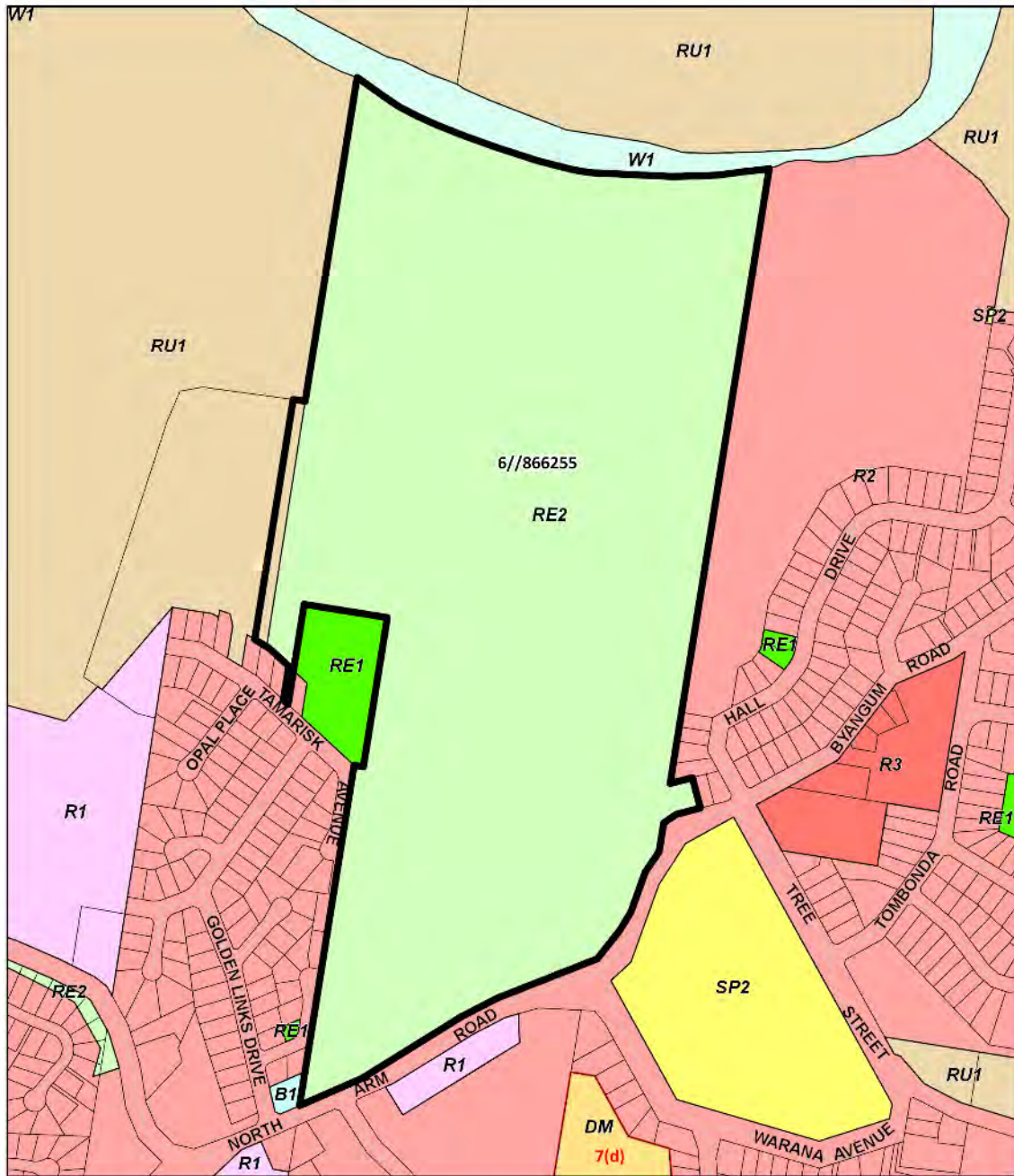
GDA
 Cadastre: 18/07/2018
 © NSW LPI & Tweed Shire Council
 Coordinate System - MGK Zone 56
 Datum - GDA 94
THIS IS A PRELIMINARY COPY ONLY - NOT CERTIFIED

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: planning@tweed.nsw.gov.au



Date Printed: 03 August, 2018

ZONING MAP:



Subject Land

Subject Land

Tweed Local Environmental Plan 2014

- B1 Neighbourhood Centre
- R1 General Residential

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

- W1 Natural Waterways
- DM, Deferred Matter

LEP 2000 (as at 2014)

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

1:6,000 A4 Portrait
 0 60 120 m
 COPY ONLY - NOT COPY RIGID
 Map Prepared: Universal Transverse Mercator
 Horizontal Datum: Geocentric Datum of Australia 1984
 GDA

Site Plan - Local Environmental Plan

Lot 6 DP 866255
 No. 233 Byangum Road, MURWILLUMBAH

© Land and Property Information (LPI) and Tweed Shire Council



Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties, expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all Liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a "Dig before You Dig" check must be made by calling 1100. The information contained in this document remains valid for 30 days only from the date of supply.
 Date Printed: 30 August 2018

AERIAL PHOTOGRAPH:



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

TWEED
Civic and Cultural Centre
3 Turrubidgum Road
Murwillumbah NSW 2484
PO Box 816
Murwillumbah NSW 2484

GDA
Map Projection: Universal Transverse Mercator
Horizontal Datum: Geocentric Datum of Australia 1994
EARTH: Map Grid of Australia, Zone 56

Aerial Photography April 2018

Lot 6 DP 866255
No. 233 Byangum Road, MURWILLUMBAH

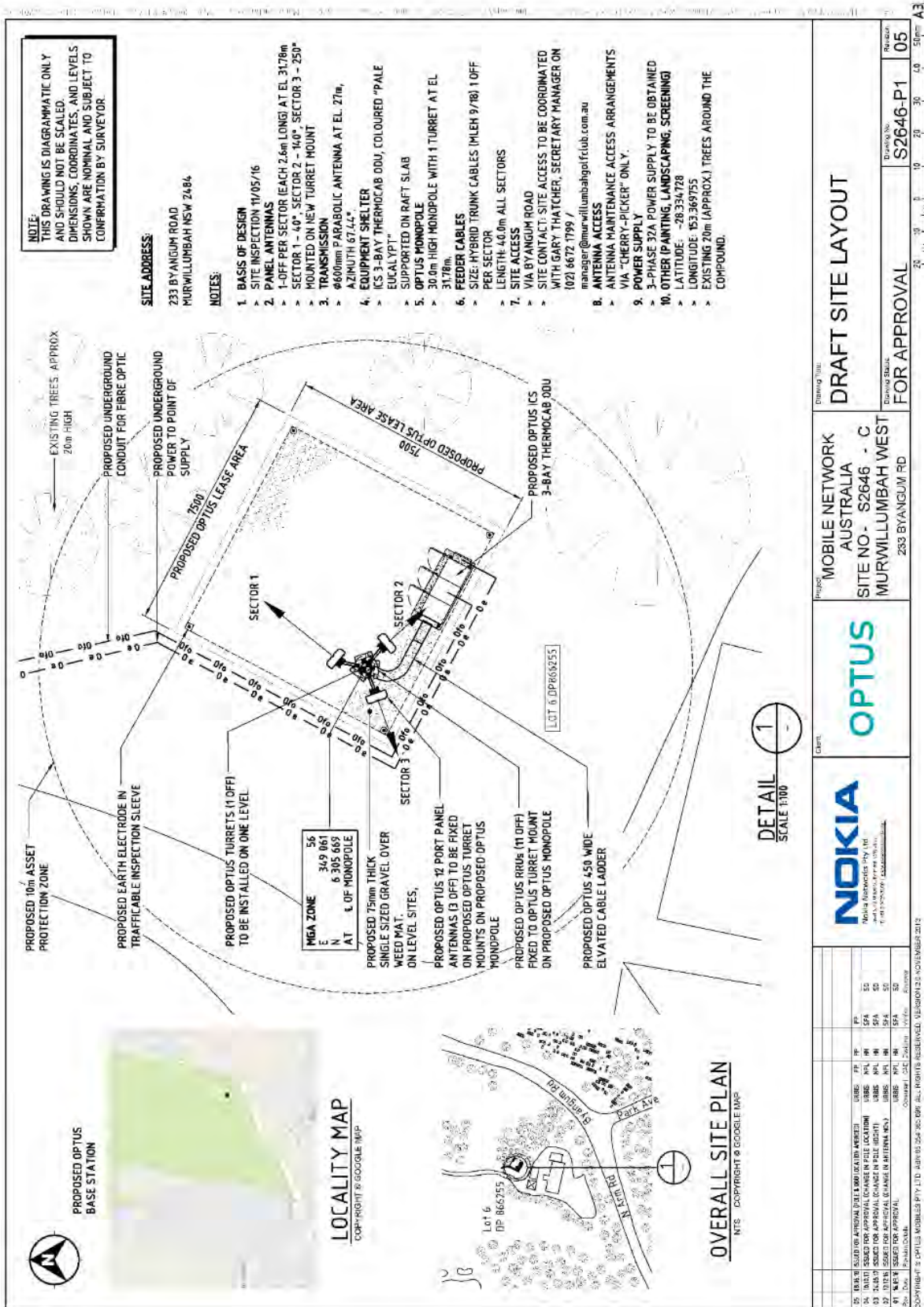
© 2018 Imagery - Tweed Shire Council
© Cadastre - Tweed Shire Council
Boundaries shown should be considered approximate only.

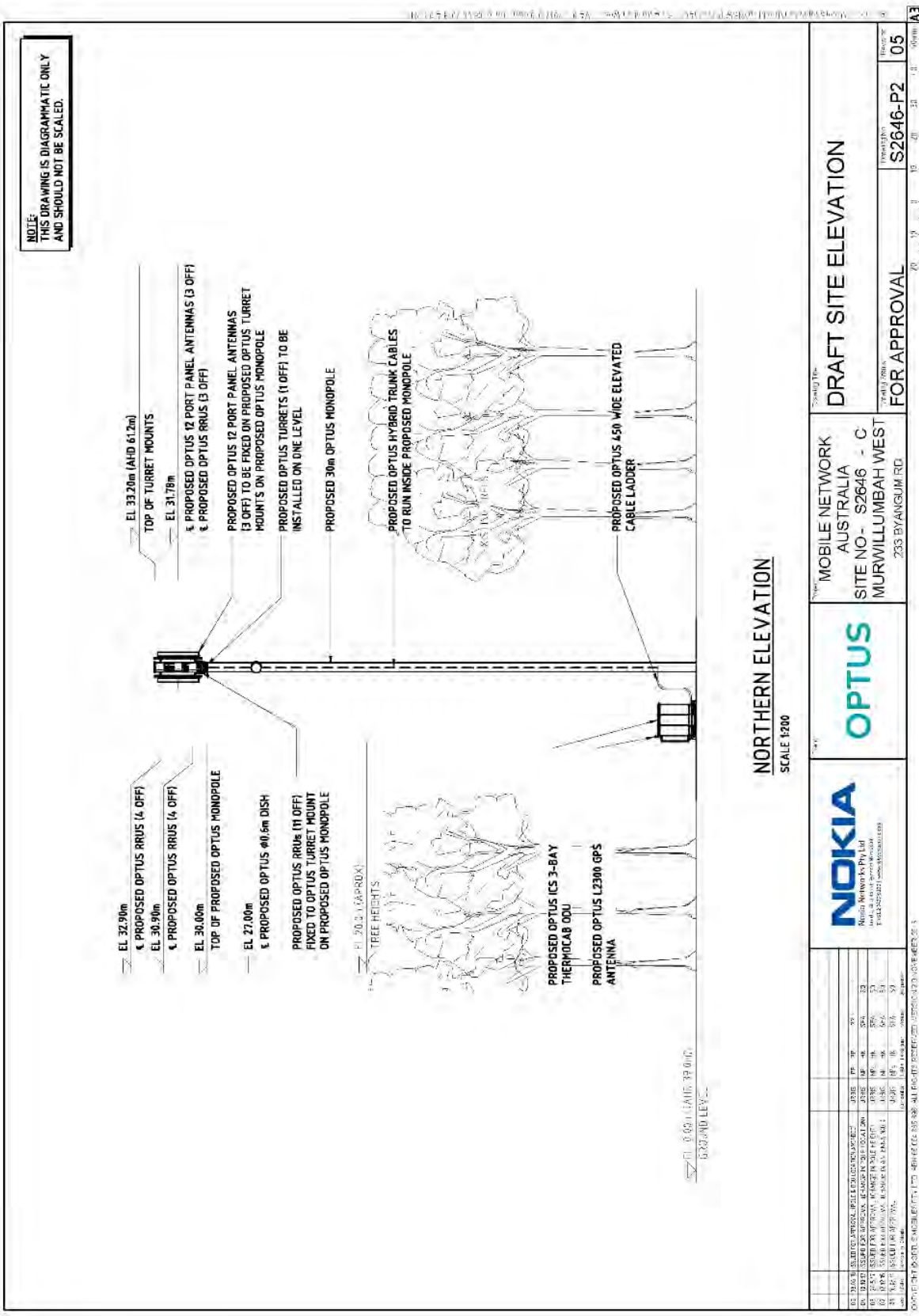
Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties, expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a "Dig Before You Dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.

LOCATION CONTEXT MAP:



DEVELOPMENT PLANS:





NOTE: THIS DRAWING IS DIAGRAMMATIC ONLY AND SHOULD NOT BE SCALED.

NORTHERN ELEVATION
SCALE 1:200

<p>Nokia Mobile Networks Pty Ltd Level 20, 100 Market Street Sydney NSW 2000 Tel: 61 2 9211 8000</p>		<p>Optus</p>		<p>MOBILE NETWORK AUSTRALIA - S2646 - C SITE NO - S2646 - C MURWILLUMBAH WEST 233 BYANGUM RD</p>		<p>DRAFT SITE ELEVATION FOR APPROVAL S2646-P2 05</p>	
--	--	--------------	--	--	--	--	--

PHOTOGRAPH MONTAGES:

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



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



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



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



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



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



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



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



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



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

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



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



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

Federal Legislation:

Telecommunications Act 1997

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

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

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

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

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

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

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

Therefore the proposal requires development consent.

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

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

Tweed Local Environmental Plan 2014

Clause 1.2 – Aims of the Plan

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

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

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

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

Clause 2.3 – Zone objectives and Land use table

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

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

The objectives of the RE2 - Private Recreation zone are:

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

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

Environmental facilities; Environmental protection works

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

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

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

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

Clause 4.3 - Height of Buildings

This clause relates to the height of a building. As defined in the *Environmental Planning and Assessment Act 1979*, a **building** includes part of a building, and also

includes any structure or part of a structure (including any temporary structure or part of a temporary structure), but does not include a manufactured home, moveable dwelling or associated structure within the meaning of the Local Government Act 1993.

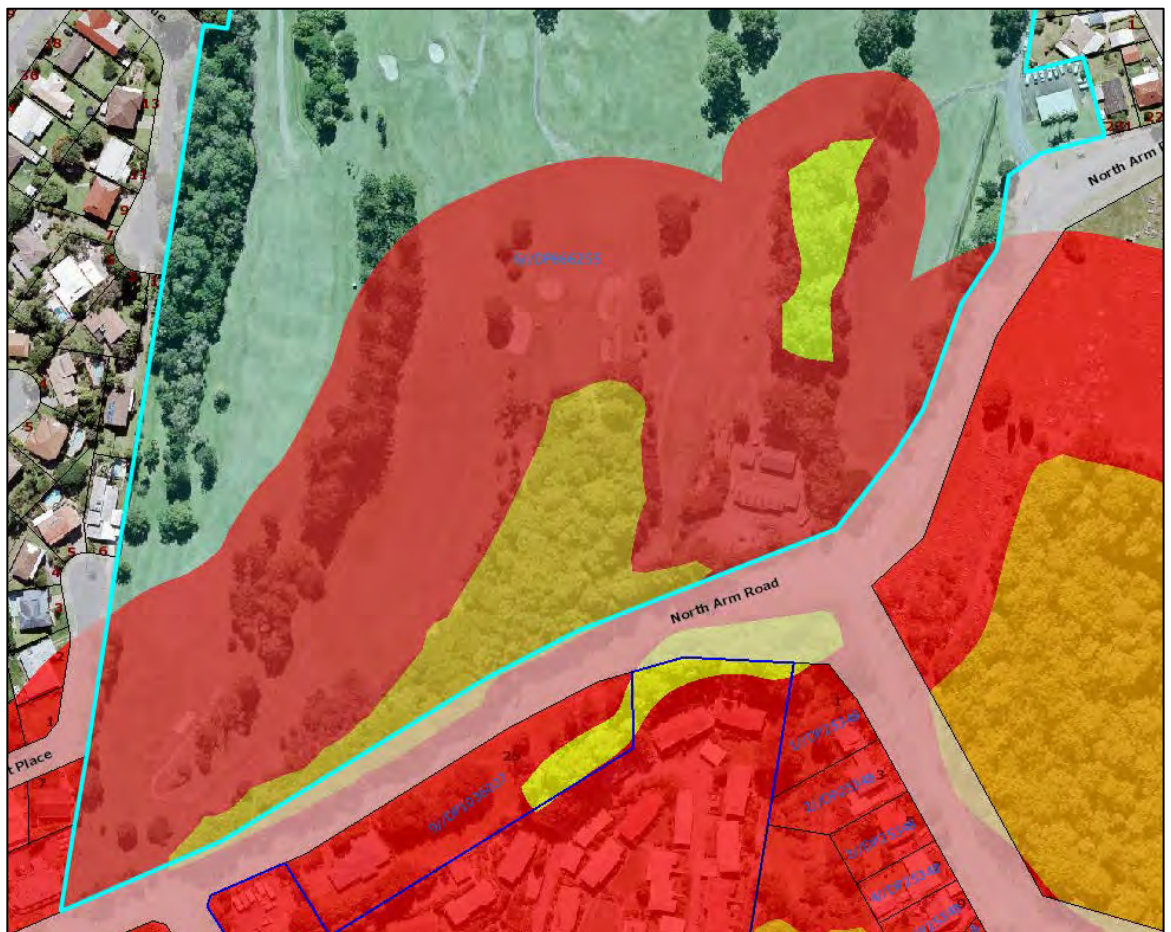
Further the LEP defines **building height (or height of building)** as meaning:

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

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

Clause 5.11 - Bush fire hazard reduction

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



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

Figure 12: Bush fire prone land mapping

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

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

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

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

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

Clause 7.1 – Acid Sulfate Soils

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

North Coast Regional Plan 2036 (NCRP)

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

State Environmental Planning Policies

SEPP No. 55 - Remediation of Land

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

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

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

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

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

SEPP (Infrastructure) 2007

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

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

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

NSW Telecommunications Facilities Guidelines including Broadband

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

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

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

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

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

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

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

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

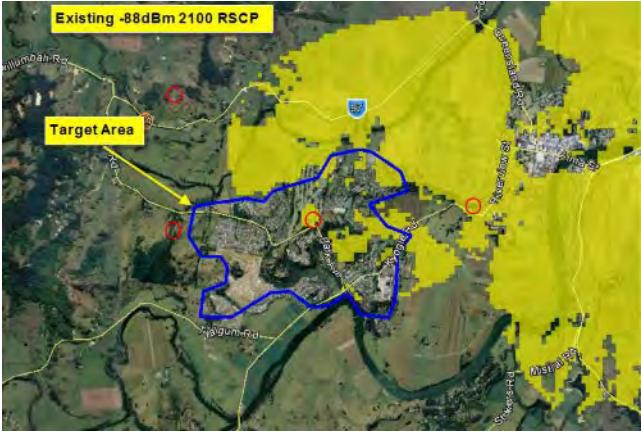
Table 1: Assessment of the proposal against the NSW Telecommunications Facilities Guidelines


Principle	Assessment
<i>Principle 1: A telecommunications facility is to be designed and sited to minimise visual impact</i>	
<p>a) <i>As far as practical, a telecommunications facility that is to be mounted on an existing building or structure should be integrated with the design and appearance of the building or structure.</i></p>	<p>N/A - The proposal does not relate to a telecommunication facility that is to be mounted on an existing building or structure. Therefore this principle is not considered to be applicable to the proposed development.</p>
<p>(b) <i>The visual impact of telecommunications facilities should be minimised, visual clutter is to be reduced particularly on tops of buildings, and their physical dimensions (including support mounts) should be sympathetic to the scale and height of the building to which it is to be attached, and sympathetic to adjacent buildings.</i></p>	<p>The proposed development is not located on top of an existing building, however it is considered that the visual impact associated with the proposal is required to be minimised, as per this principle.</p> <p>This is addressed in more detail later in this report where it is determined that the visual impact of the structure is considered to be acceptable. By their nature, telecommunications equipment is generally located at elevated locations or on tall structures, meaning that some visual impact is unavoidable. However, having regard to the existing vegetation in the area, the distance from significant public viewing locations and the level of traffic on Byangum Road, the proposed location is considered reasonable.</p> <p>To minimise the visual impact further, a condition has been included in the</p>

Principle	Assessment
	recommendation requiring the submission and approval of a schedule of colours and finishes which results in a low contrast to the receiving landscape.
(c) <i>Where telecommunications facilities protrude from a building or structure and are predominantly backgrounded against the sky, the facility and their support mounts should be either the same as the prevailing colour of the host building or structure, or a neutral colour such as grey should be used.</i>	The proposed mast will be predominantly backgrounded against the sky only in close proximity to the site. Of greater significance is the potential visual impact that the mast would have in longer distance views where Wollumbin/Mount Warning or the Tweed Caldera provides the background. On this basis, it is recommended that the proposed schedule of colours relates to the landscape background when viewed from a significant viewing point such as the Tweed Regional Art Gallery Observatory Deck as opposed to the sky.
(d) <i>Ancillary facilities associated with the telecommunications facility should be screened or housed, using the same colour as the prevailing background to reduce its visibility, including the use of existing vegetation where available, or new landscaping where possible and practical.</i>	Ancillary equipment associated with the proposed telecommunications facility will be housed within an electronic equipment shelter located at the base of the monopole, which will be screened by surrounding landscape. A condition has also been included in the recommendation to address the schedule of colours and finished of this unit.
e) <i>A telecommunications facility should be located and designed to respond appropriately to its rural landscape setting.</i>	It is considered that the proposed development has been located and designed to minimise visual impacts. Although the facility will be visible in the landscape, particularly in close proximity to the site, existing vegetation and natural elevations in the land will provide screening to the proposed facility. Furthermore, the proposal incorporates a monopole design which is not inconsistent with existing electricity infrastructure within a rural landscape setting. It is considered that the proposed facility would not result in a significant visual impact on the rural landscape setting.


Principle	Assessment
<p>(f) <i>A telecommunications facility located on, or adjacent to, a State or local heritage item or within a heritage conservation area, should be sited and designed with external colours, finishes and scale sympathetic to those of the heritage item or conservation area.</i></p>	<p>The proposed facility is not located on, or adjacent to a State or local heritage item, or within a heritage conservation area. The proposal is considered acceptable in this regard.</p>
<p>(g) <i>A telecommunications facility should be located so as to minimise or avoid the obstruction of a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.</i></p>	<p>The distinctive, steeply rising Wollumbin /Mount Warning set in the openness of the Tweed River Valley means that there is frequent access across the Shire and beyond to long and wide views of this iconic landmark. This means that at a significant number of locations across the Shire, there is likely to be a view of Wollumbin /Mount Warning. However Council must consider whether the view is significant and if so whether it is obstructed.</p> <p>As illustrated in Figure 6 earlier in this report, the proposal will be visible in the mid-ground in views of Wollumbin/Mount Warning from the Byangum Road.</p> <p>However this is not considered to be a 'significant' view. It is considered to be a 'linear viewing situation' where the observer appreciates a sequence of views from a series of locations as they move through the landscape. The subject site is located approximately 12km from Wollumbin/Mount Warning and as the observer travels west past the subject site, more expansive views of Wollumbin/Mount Warning will be available. Further it is not considered that the view at this location would be 'obstructed'. The mast will not break the skyline and is not dissimilar from existing electricity infrastructure in the rural area. The requirement for the applicant to paint the structure to provide for a low contrast to the background will further minimise the visibility of the mast in views of Wollumbin/Mount Warning.</p>

Principle	Assessment
	<p>The proposal may be visible in long range views from the Tweed Regional Art Gallery – Observation Deck, which is considered to be a ‘point viewing situation’ where a single view is appreciated and the view is static in nature. Such views can be considered to be more significant than linear viewing situations (such as from a public road) in that the view doesn’t change with space or time and the observer has the ability to choose the duration of the viewing experience and to appreciate finer details and more intricate components of the landscape.</p> <p>However, given the separation distance between the proposal and Wollumbin/Mount Warning in the view shed (approximately 12km between the two points), the proposed mast would not obstruct the view of Wollumbin/Mount Warning.</p> <p>The proposal may be visible in distance mid-ground of views of the Tweed Caldera from the Observation Deck. However given the separation distance between the Observation Deck and the proposal (3.3km) with the intermediate topography and landscaping, it is likely that only a portion of the mast might be seen (if it is visible at all). Subject to a painted finish which provides a low contrast with the background, the mast is not likely to be highly visible in this expansive viewshed and is not likely to dominate the existing landscape character.</p> <p>The proposal is not likely to be visible in long range views of Wollumbin/Mount Warning from Lion’s Lookout, Murwillumbah given the elevation of the proposal site and the tree screening at the lookout with restricts the views of lower lying sites.</p> <p>This issue of visual impact is addressed in more detail later in this report.</p>
<p>(h) <i>The relevant local government authority must be consulted where the pruning, lopping, or removal of any tree or other vegetation would</i></p>	<p>While the applicant is proposing the pruning of two trees, these are not the subject of a Tree Preservation Order.</p> <p>As set out later in the report, Council's Natural Resource Management Unit has reviewed the proposal and has considered that it can</p>

Principle	Assessment
<p><i>contravene a Tree Preservation Order applying to the land or where a permit or development consent is required.</i></p>	<p>be supported subject to the imposition of appropriate conditions.</p>
<p>(i) <i>A telecommunications facility that is no longer required is to be removed and the site restored, to a condition that is similar to its condition before the facility was constructed.</i></p>	<p>It is recommended that a condition be included requiring the removal of the structure should the equipment become obsolete.</p>
<p>(j) <i>The siting and design of telecommunications facilities should be in accordance with any relevant Industry Design Guides.</i></p>	<p>The applicant has submitted details of an assessment of the siting and design using the Precautionary Approach Checklist set out in <i>Industry Code C564: 2011 Mobile Phone Base Station Deployment</i> (commonly referred to as the Deployment Code).</p>
<p>Principle 2: Telecommunications facilities should be co-located where possible</p>	
<p>(a) <i>Telecommunications lines are to be located, as far as practical, underground or within an existing underground conduit or duct.</i></p> <p>(b) <i>Overhead line, antennae and ancillary telecommunications facilities should, where practical, be co-located or attached to existing structures such as buildings, public utility structures, poles, towers or other radio-communications equipment to minimise the proliferation of telecommunications facilities and unnecessary clutter.</i></p>	<p>The applicant has stated that co-location on three other communications facility sites in the area was considered (as addressed earlier in this report). However, the three sites were indicated to be unsuitable for co-location being too far from the target coverage area.</p> 

Principle	Assessment
<p>(c) Towers may be extended for the purposes of co-location.</p> <p>(d) The extension of an existing tower must be considered as a practical co-location solution prior to building new towers.</p> <p>(e) If a facility is proposed not to be co-located the proponent must demonstrate that co-location is not practicable.</p> <p>(f) If development is for a co-location purpose, than any new telecommunication facility must be designed installed and operated so that the resultant cumulative levels of radio frequency emission of the co-located telecommunication facilities are within the maximum human exposure levels set out in the Radiation Protection Standard.</p> <p><i>Note: Co-location is 'not practicable' where there is no existing tower or other suitable telecommunications facility that can provide equivalent site technical specifications including meeting requirements for coverage objectives, radio traffic capacity demands and sufficient call quality.</i></p>	 <p>The subject site was identified by the applicant as the only viable option.</p>
<p>Principle 3: Health standards for exposure to radio emissions will be met</p>	

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

Principle	Assessment
<p><i>not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority Australia</i></p>	<p>is not formalised. The subject site is outside of the OLS plan area.</p>  <p>Murwillumbah Airfield - Obstacle Limitation Surface</p> <p>The proposal is considered to be acceptable having regard to the above matter.</p>
<p>(b) <i>The telecommunications facility is not to cause adverse radio frequency interference with any airport, port or Commonwealth Defence navigational or communications equipment, including the Morundah Communication Facility, Riverina.</i></p>	<p>The applicant has advised that the base station is designed to create no electrical interference problems with other radio based systems and complies with the requirements of relevant Australian standards in this regard.</p>
<p>(c) <i>The telecommunications facility and ancillary facilities are to be carried out in accordance with the applicable specifications (if any) of the manufacturers for the installation of such equipment.</i></p>	<p>The applicant has advised that the proposal would be developed in accordance with the relevant Australian Standards/technical specifications.</p>

Principle	Assessment
(d) <i>The telecommunications facility is not to affect the structural integrity of any building on which it is erected.</i>	N/A
(e) <i>The telecommunications facility is to be erected wholly within the boundaries of a property where the landowner has agreed to the facility being located on the land.</i>	Owners consent has been submitted with the application which identifies a 7.5m x 7.5m lease area.
(f) <i>The carrying out of construction of the telecommunications facilities must be in accordance with all relevant regulations of the Blue Book – ‘Managing Urban Stormwater: Soils and Construction’ (Landcom 2004), or its replacement.</i>	This matter can be appropriately addressed through the imposition of appropriate conditions of development consent.
(g) <i>Obstruction or risks to pedestrians or vehicles caused by the location of the facility, construction activity or materials used in construction are to be mitigated.</i>	This matter can be appropriately addressed through the imposition of conditions of development consent, including the submission and approval of a construction traffic management plan.
(h) <i>Where practical, work is to be carried out during times that cause minimum disruption to adjoining properties and public access. Hours of work are to be restricted to between 7.00am and 5.00pm, Mondays to Saturdays, with no work on Sundays and public holidays.</i>	This matter can be appropriately addressed through the imposition of conditions of development consent, including a restriction on construction work to between 7.00am and 5.00pm Monday to Saturday.

Principle	Assessment
<p>(i) <i>Traffic control measures are to be taken during construction in accordance with Australian Standard AS1742.3-2002 Manual of uniform traffic control devices – Traffic control devices on roads.</i></p>	<p>As above, this matter can be appropriately addressed through the imposition of conditions of development consent, including the submission and approval of a construction traffic management plan.</p>
<p>(j) <i>Open trenching should be guarded in accordance with Australian Standard Section 93.080 – Road Engineering AS1165 – 1982 – Traffic hazard warning lamps.</i></p>	<p>There is not anticipated to be any open trenching outside of the site.</p>
<p>(k) <i>Disturbance to flora and fauna should be minimised and the land is to be restored to a condition that is similar to its condition before the work was carried out.</i></p>	<p>The applicant has undertaken an assessment of the proposal in accordance with the <i>Environmental Protection & Biodiversity Conservation Act 1999</i> to determine whether the proposal would have a significant impact on matters of national environmental significance.</p> <p>The assessment found that one Threatened Ecological Community (Lowland Rainforest of Subtropical Australia) may occur in the area. There were 55 listed threatened species and 30 migratory species, seven of which have a status of critically endangered.</p> <p>The applicant has amended the proposal so that there is no tree removal proposed, though directional pruning of two trees will be required to achieve the necessary clearances.</p> <p>There is the potential for impacts on flora and fauna during the construction phase. To address this, a condition has been included in the recommendation requiring the approval of a construction and environmental management plan prior to the issue of a construction certificate.</p> <p>It has been determined that the proposed works are unlikely to have a significant impact on any Matters of National Environmental Significance.</p>

Principle	Assessment
	<p>Council's NRM Unit has undertaken a detailed assessment of the proposed development with regard to potential impact upon flora and fauna. No records or evidence of threatened flora or fauna were recorded during site inspections of the subject area. NRM are satisfied that the proposed development will not significantly impact native vegetation or the environment providing adherence to conditions of consent.</p>
<p>(l) <i>The likelihood of impacting on threatened species and communities should be identified in consultation with relevant state or local government authorities and disturbance to identified species and communities avoided wherever possible.</i></p>	<p>The NRM assessment accepts that the proposed development will not have a significant impact upon the local population of those threatened species known or likely to occur onsite.</p>
<p>(m) <i>The likelihood of harming an Aboriginal Place and / or Aboriginal object should be identified. Approvals from the Department of Environment, Climate Change and Water (DECCW) must be obtained where impact is likely, or Aboriginal objects are found.</i></p>	<p>A Due Diligence assessment has been undertaken by Urbis in accordance with the <i>Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW</i>. This concludes that the ground has already been disturbed to provide roads and sheds and that the landscape does not indicate the presence of Aboriginal objects. It is concluded that an Aboriginal Heritage Impact Permit (AHIP) is not required and that the work can proceed with caution.</p> <p>The site is not identified in Council's Aboriginal Cultural Heritage Management Plan mapping as either a known or predictive site of heritage significance. Nevertheless, it is recommended that a condition be included in any consent issued with regard to unexpected finds.</p>

Principle	Assessment
<p>(n) <i>Street furniture, paving or other existing facilities removed or damaged during construction should be reinstated (at the telecommunications carrier's expense) to at least the same condition as that which existed prior to the telecommunications facility being installed.</i></p>	<p>The proposed development is not located in close proximity to any street furniture or the like identified over. In this regard there is considered to be no anticipated negative impacts.</p>

Conclusion:

Having regard to the assessment provided above, the proposed development is considered to be generally consistent with the four principles set out in the NSW Telecommunications Facilities Guidelines. Therefore, the proposal is assessed as complying with the provisions of Clause 115(3) of the Infrastructure SEPP.

SEPP (Rural Lands) 2008

The aims of this policy are to facilitate the orderly and economic use and development of rural lands for rural and related purposes; reduce the potential for land use conflicts by identifying Rural Planning and Rural Subdivisions Principles; and the identification of State Significant Agricultural Land.

The site is not identified as State Significant Agricultural Land. An area of the site, approximately 5,240sqm (1.2% of the site area), on the western boundary of the golf course is mapped as being Regionally Significant Farmland under the Northern Rivers Farmland Protection Project. However this will not be impact by the proposal.

SEPP (Coastal Management) 2016

The State Environmental Planning Policy (Coastal Management) 2018 commenced on 3 April 2018 and guides development in coastal areas, including land adjacent to beaches, estuaries, coastal lakes, coastal wetlands and littoral rainforests. It promotes appropriate and sensitive development in our coastal areas, recognising they are some of the most socially, environmentally and economically valuable lands in NSW.

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

13 Development on land within the coastal environment area

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

14 Development on land within the coastal use area

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*

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

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

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

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

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

Tweed Development Control Plan 2008

A2 - Site Access and Parking Code

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

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

A16 - Preservation of Trees or Vegetation

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

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

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

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

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

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

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

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

Tweed Shire Coastline Management Plan 2005

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

Tweed Coast Estuaries Management Plan 2004

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

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

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

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

EME and Health

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

It should be noted that this is a policy of the Department of Education and relates to their advice to departmental schools only. The specification of a 'preferred' separation distance appears to be based on a precautionary approach. However, the policy has no statutory status in the assessment of development applications for mobile telecommunications facilities.

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

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

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

Visual Impact

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

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

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

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

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

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

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

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

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

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

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

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

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

- Period of view –** This is classified as short term (less than 1 minute), moderate term (1-120 minutes) or long term (>120 minutes) and is dependent on the route the observer is following and the mode of transport (walking, car, etc).
- Number of viewers –** This is a measure of the likely number of viewers with low being less than 100 people per day, moderate being 100-1,000 people per day and high being more than 1,000 people per day.
- Distance zone -** This is a measure of how far the subject is from the viewer where distances of greater than 1.5km is considered to be the background, between 200m and 1.5km is considered to be the middle ground and distances of less than 200m is considered to be the foreground.
- Visibility -** The rationale for the assessment of visibility is that a proposal is highly visible if many people can see the proposed development at relatively close distances over a long period.
- A proposal is moderately visible if a medium number of people can see it at a medium distance over a moderate period or many people will see it over a short period.
- Alternatively, a proposal has a low visibility if it is essentially not visible.
- Visual absorption capacity –** Is a measure of the landscape ability to absorb physical changes without transforming its visual character and quality.
- Visual impact rating** This is an assessment of the visibility of a proposal against the visual absorption capacity of the landscape.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Flora and Fauna

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

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

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

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

The understory was generally disturbed and consisted of weedy species and juvenile Norfolk Island Pines.

- The nearest vegetation consists of one very large *Eucalyptus microcorys* (Tallowwood) (Tree 820) and one semi-mature/juvenile Brushbox (*Lophostemon confertus*) (Tree 819).

Impacts to tree 820 and 819 generally limited to:

- Pruning of one limb
- Underground services (electricity and fibre optic cables) within TPZ (not likely to impact tree 819)
- Installation of a monopole and associated equipment shelter.
- Installation of four (4) earth electrodes with trafficable inspection sleeves which generally includes:

- Four (4) 150mm diameter by 500mm deep inspection sleeve (PVP pipe) with a 10mm earthing rod and 75mm core drill extending 3m deep.
- Four (4) lightning conductor bonding cables at a depth of 500 mm connecting a lower leg of the monopole to an earthing rod.
- Minor changes to ground surface within the 7.5m x 7.5m leased area to facilitate weed mat installation and gravel placement.
- No impacts to canopy cover to achieve APZ requirements is considered necessary based on Bushfire Report which specifies a 10m APZ (max 15% canopy cover) from the proposed infrastructure which has already been achieved without the need for further vegetation removal.
- No significant adverse impacts to other vegetation are anticipated.
- Extent of canopy pruning in the short term has been considered. Details regarding any long term canopy impacts (i.e. on-going pruning) have not been considered as part of the arborists report despite surrounding trees having potential to grow higher than the proposed monopole given sufficient time i.e. another ~30 years - Brush Box (mature height of 40m or more), Hoop Pine (mature height of 60m) and Tallowood (40m to occasionally more than 60m).

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

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

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

Construction

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

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

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

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

Noise

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

(c) Suitability of the site for the development

Necessity for the proposal

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

Surrounding Landuses/Development

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

Soils

The applicant has submitted a geotechnical Investigation report prepared by AW Geotechnical Pty Ltd and dated November 2016. The report advises that the site is

unlikely to be affected by acid sulphate soils. No water table was encountered during the testing nor expected in the proposed footing depth.

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

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

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

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

- iv. Indicates that there must be a more suitable site (as demonstrated by Telstra)
- v. Having regard to the proposed location of the tower so close to the community and on a main road, requests that Council decreases the visual impacts via a different site, camouflage and/or painting.

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

These issues have all been addressed earlier in this report.

(e) Public interest

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

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

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

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

OPTIONS:

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

Option 1 is recommended.

CONCLUSION:

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

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

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

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

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

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

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

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

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

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

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

d. Communication/Engagement:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Attachment 2. Environmental EME Report (ECM 5468262)

21 [PR-CM] Rural Land Strategy for Adoption

SUBMITTED BY: Strategic Planning and Urban Design

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Provider**

SUMMARY OF REPORT:

At its meeting of 6 September 2018 Council resolved the following in respect of a further report on the draft Rural Land Strategy (“the Strategy”):

“That this item be deferred to be considered at the next meeting of the Council to be held 25 October 2018.”

In determining this resolution, the Councillors requested that community members Mr. Douglas Jardine and Mr. David Hammill be invited to a Councillors Workshop to provide further feedback on the Draft Strategy and matters raised by Mr. Hammill in a Community Access Meeting prior to the 6 September meeting. This workshop was held on Thursday 11 October.

Discussion at the workshop focused primarily on strategies to address broader affordable housing and homelessness issues, with Mr. Jardine and Mr. Hammill putting forward the case for Council to support and expanded use of dual occupancy and secondary dwellings in rural zones. Council officers highlighted that this issue is addressed more broadly in the Strategy through support for further investigations into providing greater housing diversity in rural areas, such as a widened permissibility of dual occupancy and secondary dwellings on certain sized rural lots, it is not a specific purpose of the Draft Strategy to resolve housing affordability in the Shire. There was no Council decision making that occurred at the Workshop.

This report also provides additional information in relation to a number of issues more recently raised by Council including:

- function centres in the RU2 Rural Landscape zone;
- processing and packaging hubs in RU1 Primary Production zone;

- open zones in the RU1 and RU2 zones, and
- secondary dwellings on lots greater than 10ha.

Refined actions relating to each of these points were developed in response to feedback received during community engagement for previous stages of the project which have been included in the final RLS document. While the intention of actions proposed in the Strategy have been to provide greater flexibility, in many cases, the RLS will not give immediate effect to those actions. Rather, their implementation would be the outcome of Council endorsed consideration of various land use investigations, guidelines and planning controls completed during the implementation phase of the Strategy.

The draft Strategy seeks to provide opportunities for innovation, diversification, and value-adding in Tweeds rural areas with the overarching objective of meeting the intent of the nine policy directions, including, protection of agricultural. While the nine policy directions previously adopted by Council provide clear intent for the future of rural land, it will be the role of the supplementing suite of land use investigations, guidelines and development controls that will give effect to those proposed actions.

Any amendments to the LEP or Tweed Development Control Plan 2008 (the DCP) will need to undergo the rigor of further technical assessment, community consultation, assessment through the Gateway process managed by the Department of Planning and Environment (for LEP amendments), and reports to Council for changes to both the LEP and DCP, providing further safeguards prior to a final resolution of Council.

In addition, it is proposed that an annual report be presented to Council through which implementation and impacts can be monitored, providing Council with the opportunity to consider refinements and further amendments to the Strategy.

Draft Tweed Rural Land Strategy 2036 is attached to this report and recommended for adoption.

RECOMMENDATION:

That:

- 1. The Draft Rural Land Strategy (“Tweed Rural Land Strategy 2018-2036”) as attached to this report be adopted;**
- 2. An implementation plan (“Implementation Plan 2018/36”) be prepared and reported on annually;**
- 3. Public notice of the Council’s decision to adopt the *Tweed Rural Land Strategy 2036* and preparation and annual reporting of the *Implementation Plan 2018/36* is published in the Tweed Link; and**
- 4. A copy of *Tweed Rural Land Strategy 2036* is made available to the Director-General of the Department of Planning and Environment or their delegate for endorsement in accordance with Section 9.1 (Ministerial Direction 1.2) of the *Environmental Planning and Assessment Act 1979*.**

REPORT:

On 3 May 2018 Council resolved to defer a report on adoption of the “the Strategy” for a workshop with the Combined Tweed Rural Industry Association. A Councillor workshop was held on 15 June 2018.

A subsequent report was presented to the Planning Committee meeting held 5 July 2018 presenting the Strategy for adoption. Council resolved to defer the report for a workshop with the Department of Primary Industries (DPI).

A Councillor workshop was held with DPI on 18 July 2018, and an additional meeting was convened between DPI and Council officers on 1 August 2018.

A further report was presented to Council’s 6 September 2018 providing an update on discussion held with DPI and proposed that the Strategy be adopted.

At its meeting of 6 September 2018 Council resolved the following in respect of a further report on the draft Rural Land Strategy (“the Strategy”):

“That this item be deferred to be considered at the next meeting of the Council to be held 25 October 2018.”

In determining this resolution, the Councillors requested that community members Mr. Douglas Jardine and Mr. David Hammill be invited to a Councillors Workshop to provide further feedback on the Draft Strategy and matters raised by Mr. Hammill in a Community Access Meeting prior to the 6 September meeting. This workshop was held on Thursday 11 October.

This report also provides additional information in relation to a number of issues more recently raised by Council including:

- function centres in the RU2 Rural Landscape zone;
- processing and packaging hubs in RU1 Primary Production zone;
- open zones in the RU1 and RU2 zones, and
- secondary dwellings on lots greater than 10ha.

Open zones

In response to concerns previously raised by Council about the use of the ‘open zone’ approach to increasing flexibility in the range of potential landuses in rural zones, the wording of this action was amended prior to exhibition in 2017 to read in Action 63:

“Amend Tweed LEP 2014 to increase the range of permissible with consent landuses in the RU1 and RU2 zones”.

The implementation outcome of this action is intended to be:

“A greater diversity of landuses are made permissible with consent in Tweed LEP 2014, including small rural and related commercial and retail development. Innovation, value-adding and diversification of landuses consistent with the objectives of the zone, and

planning provisions are supported. Potentially incompatible landuses are listed as prohibited in the LEP."

Issues raised in relation to the 'opening' of zones have been dealt with in prior versions of the Strategy which proposes that a review of the landuse table in the LEP be undertaken to consider options for increasing flexibility in the rural zones; no changes are proposed.

Objectives of zones, DCP provisions and planning assessment guidelines

While concerns about the potential impacts of additional housing is acknowledged, the Strategy has proposed that concurrent with amendment of the LEP (making certain housing types permissible with consent) relevant planning controls will be prepared through amendments to Tweed Development Control Plan 2008 (DCP) and other supporting guidelines to ensure desirable planning, design, agricultural and environmental outcomes.

Any amendments to the LEP and DCP will require further technical assessment, review from the Department of Planning and Environment (for planning proposals seeking to amend the LEP), consultation with the community, and a range of government agencies prior to bringing a report to Council for further consideration.

In addition, this report proposes that an annual report of progress be presented to Council. Such a report would provide a further 'safeguard' and opportunity to review the implementation of the Strategy and associated impacts. Such a process would provide Council with the additional opportunity to consider refinements to actions, and further amendments to the Strategy. Council is at liberty to rescind, amend or add an action at any time.

Secondary dwellings and Dual Occupancy (detached)

A secondary dwelling is defined as being of a floor area of not more than 60 square metres or 20% of the total floor area of the principle dwelling, and is often referred to as a 'granny flat'.

The concept of introducing secondary dwellings as permissible with consent in RU1 Primary Production and RU2 Rural Landscape zones were first raised in the early stages of the project by landowners who lived on relatively small holdings and did not wish to sell but wanted a 'live-in' resident to maintain the property (fences, roads, weed control, livestock etc.).

The approach proposed in the Strategy has been more conservative than that implemented by adjoining and other rural and regional councils who have chosen to make these landuses permissible with consent throughout their dominant rural zones.

By restricting secondary dwellings to allotments of at least 10 hectares, and dual occupancy (detached) to 40 hectares or more in the RU1 and RU2, a precautionary approach has been adopted in terms of minimising potential for land use conflict. Such an approach will allow further assessment and refinement with future updates of the Strategy.

The role of guidelines and development controls

The Strategy, through facilitating production of guidelines and development controls, seeks to ensure that potential adverse impacts are considered and relevant controls are developed to ensure that these impacts are avoided, minimised or offset; for example, Action 86 proposes that:

“Prepare planning objectives, principles, guidelines and development standards for the siting, design, appearance including identification of building envelopes and exclusion areas which protect the productive capability of the land, scenic amenity of the site or locality, and environmental values, consistent with the character of the locality, and where development does not hinder the proper and orderly development of urban areas, and does not create unreasonable or uneconomic demands for the provision of public infrastructure, amenities or services and other matters deemed appropriate for dwellings in rural Tweed.”

In addition, it is proposed that a net environmental benefit be accrued from any approval to construct a dwelling, as mentioned in Actions 32 which reads:

“Guidelines and assessment criteria are developed to quantify the extent of offsets required to compensate for the benefit of an additional house.”

The details of these controls will be developed as part of the implementation stage of the strategy.

While under these changes a landowner may be able to lodge a development application for a secondary dwelling, it does not mean that a dwelling will be approved. As with other forms of development requiring consent proposed under the Strategy, the protection of agricultural land has been a guiding principle which will be considered when drafting local planning controls and requirements prior to making any changes to the LEP. In addition, consideration must be given to other site specific physical and planning constraints such as identified above (Action 86).

By way of example from other councils, the type of controls that might be included in an amended Tweed LEP could include:

- The development will not impair the use of the land for agriculture or rural industries, and
- Each dwelling will use the same vehicular access to and from a public road, and
- Any dwelling will be situated within 100 metres of each other, and
- The land is physically suitable for the development, and
- The land is capable of accommodating the on-site disposal and management of sewage for development, and
- The development will not have an adverse impact on the scenic amenity or character of the rural environment.

While these are examples only, they provide an indication of the types of controls capable of being included in the LEP; in addition, these would be supported by additional requirements to be included in the DCP and any supporting guidelines yet to be prepared.

Making secondary dwellings and dual occupancy (detached) permissible with consent in the RU1 and RU2 zones will not lead to further subdivision and fragmentation of rural land unless Council resolved to amend the LEP and reduce the minimum lot size which is not proposed in the Strategy.

Feedback received during community consultation leading up to preparation of the Strategy has been overwhelming supportive of actions proposing greater housing diversity, with a common comment being that it will provide a supplementary income to assist in the upkeep of the property and potential to diversify into alternative farming practices.

While the Department of Primary Industry has raised concerns about the potential impact on agricultural land, they acknowledge the ability to include such dwellings when well located, with agreement reached about having officers from the department involved in the development of planning controls to support protection of agricultural land.

The introduction of secondary dwellings and other forms of housing into the rural zones with negligible impact will rely upon the ability of guidelines and development controls to properly enforce the objectives of the zone and secure desirable outcomes on the ground. The development and content of these supporting guidelines and development controls will occur during the implementation phases of the project.

Options to proceed with Secondary Dwellings

While the Strategy is proposing to introduce Secondary Dwellings into the RU1 and RU2 zones on allotments at least 10 hectares in size, several alternative approaches exist, including:

- Delete actions relating to the introduction of Secondary Dwellings and consider re-exhibiting the Strategy, or
- Defer for further investigations as part of the housing supply and demand analysis proposed for completion as part of the implementation of the Strategy, or
- Retain the existing waiver on payment of development contribution to urban areas, and apply development contribution charges in the rural zones.

If Council wishes to delete actions relating to housing flexibility (secondary dwellings, and detached dual occupancy), guidance of whether this variation would constitute a requirement for the Strategy to be re-exhibited would be sought.

Wedding functions

Concerns about the potential negative impacts of poorly designed, located or managed event facilities such as used for wedding functions is acknowledged and has been discussed in detail with Byron Shire Council when they were investigating options to facilitate and better management of these events. Further discussion with Byron Council and other Councils will be of benefit when implementing Action 77 in the Strategy which reads:

“Prepare guidelines and planning provisions for the operation of wedding functions in rural areas”.

In implementing Action 77 there is opportunity to address key issues such as mitigating potential for land use conflict, noise, traffic, lighting, hours of operation and other amenity based issues. These guidelines and planning provisions could be developed in coordination with neighbouring councils.

Packaging and processing hub

The concept of a well located packaging and processing hub is based on the desire to limit vehicle movements between source of production and processing. Many rural properties already undertake packaging, and some have established and approved processing facilities as a part of their legitimate rural operation, which to the passer-by usually looks like a typical farm shed.

Not all rural land is high quality, a point raised in a number of submissions during exhibition of documents in earlier stages of the project, and as such this issue relates as much to scale, location, and design as it does about any potential impact on productive or potentially productive agricultural land.

The ability to harvest and deliver to a nearby processing facility, or other on farm 'value adding' processes may in fact encourage greater local agricultural production and employment opportunities. By way of example, during recent community engagement associated with the draft Kingscliff Locality Plan, one attendee expressed an opinion about the desirability of a processing facility at Cudgen to support value-adding of sweet potatoes which are currently oversupplied in the national market.

However as with other actions, there is a need to have clarity and direction in appreciation of context, character, potential amenity impacts, scale, and design outcomes. A small cluster processing facility in a rural setting with appropriate development controls and guidelines could be designed to fit in with the existing or desired future character of a locality. There may also be clear benefits and links to Tweeds network of rural villages where additional employment and residential opportunities could occur.

While some of the most intensive agricultural production happens in the RU1 zone, small area intensive and boutique agriculture is increasing. As such this action seeks to provide flexibility should a concept for a processing hub present itself, regardless of whether located in a rural or industrial area.

Changes made since previous report to Council

In addition to changes previously reported to council, the following changes have been made to the Strategy:

- Minor editorial and grammatical changes;
- Insertion of the flow chart to the end of Part 2b Implementation Plan, showing implementation pathways and process where an amendment to the LEP and DCP are proposed simultaneously (as seen in report to the 6 September Planning Committee Meeting), plus a brief explanation of the process on the previous page, and

- Action 59, Processing and packaging hub, has been amended to add the word 'Investigate' to the commencement of the action which now reads "Investigate, amending Tweed LEP 2014 to make Rural Industries permissible with consent in the RU1 Primary Production zone."

Previously reported to Council

The Strategy has previously been reported to Council and presented detailed discussions of a range of matters which can be referenced in conjunction with this report. Discussion of the following items can be viewed in reports to Council of 3 May, 5 July, and 6 September 2018 which include:

- Public consultation and submission review;
- The '40 hectare Rule';
- Increased flexibility in the RU1 and RU2 zones;
- Small lot clusters;
- R5 Large Lot Residential and subdivision;
- Subdivision for primary production purposes;
- Allotments split by infrastructure;
- Dwellings constructed without consent;
- Response to Department of Primary Industries meeting with Council, and
- Amendments relating to Rural Land Sharing Communities.

OPTIONS:

1. Adopt the recommendations of this report and in doing so adopt the draft Tweed Rural Land Strategy 2036, prepare an Implementation Plan 2018/36 and notify the public via the Tweed Link about the decision to do so, or
2. Adopt the Strategy subject to further amendments as directed by Council, prepare an Implementation Plan and notify the public via the Tweed Link about the decision to do so.

Note: If Council resolves to delete actions relating to housing flexibility (secondary dwellings, detached dual occupancy), guidance on whether this variation would constitute a requirement for the Strategy to be re-exhibited would be required.

3. Defer consideration of the report.

Option 1 is the recommended option.

CONCLUSION:

Following deferral of the Strategy to the 25 October, a Councillor Workshop was convened on Thursday 11 October 2018 at which Doug Jardine and David Hammill were invited to discuss the Strategy.

Within the context of this and previous workshops Council has raised concerns about 'open zones', secondary dwellings, wedding functions, and packaging and processing hubs, which have been discussed in this report.

Discussion at the workshop focused primarily on strategies to address broader affordable housing and homelessness issues, with Mr. Jardine and Mr. Hammill putting forward the case for Council to support and expanded use of dual occupancy and secondary dwellings in rural zones. Council officers highlighted that this issue is addressed more broadly in the Strategy through support for further investigations into providing greater housing diversity in rural areas, such as a widened permissibility of dual occupancy and secondary dwellings on certain sized rural lots, it is not a specific purpose of the Draft Strategy to resolve housing affordability in the Shire. There was no Council decision making that occurred at the Workshop.

While the Strategy identifies a diverse range of actions derived through extensive consultative processes, the implementation of many actions will require further consultation and detailed investigations. Similarly, any amendments to the LEP or DCP will also require reporting to both Council and the Department of Planning and Environment, and a resolution of Council will be required prior to recommendations being implemented and actions completed.

Annual reporting on implementation of the Strategy will provide a further opportunity to monitor and reassess the impacts of actions as they are implemented.

The Strategy has been developed through a staged process, which involved a comprehensive and diverse community engagement, and more than seven Councillor Workshops, and has resulted in a balanced approach to future development and management of rural land through a blend of actions which support the nine policy directions previously endorsed by Council.

Minor editorial and grammatical changes have been made but no substantive changes since the previous report to Council.

The Strategy is attached to this report and is recommended for adoption by Council.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Implementation of the strategy will be both time consuming and may require additional resources and coordination between Council divisions and government agencies. An estimate of the budgetary implications and scheduling of each proposed action has been identified in the Implementation Plan to the Strategy.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1. Tweed Rural Land Strategy 2036 (ECM 5594209)
- Attachment 2. Draft Tweed Rural Land Strategy response to submissions received during public exhibition – 17 November 2017 – 28 February 2018 (ECM 5227704)
- Attachment 3. Rural Land Strategy – Additional amendments resulting from internal review previously reported to Council (ECM 5227706)
- Attachment 4. Rural Land Strategy – Additional amendments resulting from meeting with DPI and relating to rural land sharing communities (ECM 5504394)
-

22 [PR-CM] Draft Tweed Shire Council Animal Pound - Rehoming and Minimising Euthanasia Policy

SUBMITTED BY: Development Assessment and Compliance

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

ROLE: **Provider**

SUMMARY OF REPORT:

Updated Summary since 6 September 2018

Council at its Planning Committee meeting held 6 September 2018 resolved as follows:

"that this item be deferred to be considered at the next meeting of the Council to be held 25 October 2018."

The report is now referred back to Council for consideration and determination.

Original Summary of report

Following earlier enquiries from The Mayor regarding the current rates of euthanasia of companion animals in Council's Animal Impounding Facility (The Pound) at Stotts Creek, the Director Planning and Regulation and Compliance Unit staff have been investigating recent best practice of other councils in terms of strategies to increase opportunities for the rehoming and to minimise the incidence of euthanasia among those impounded animals. This has led to some very productive consultation meetings between Council staff, The Mayor and representatives from the Friends of the Pound (FoP). It has also been positive in terms of reviewing current Pound procedures.

Our research found that Tweed's rate of euthanasia of companion animals rates compares relatively well with other NSW Councils, and across the general industry. However, it was acknowledged that there are a proportion of those euthanised animals which may be able to be saved through a tightening up of Pound procedures and approach, including a more pro-active communication with rescue and welfare organisations for those animals who have only failed assessments on the basis of non-life threatening, behavioural conditions.

It is therefore recommended that Council endorse the public exhibition of the attached Draft Tweed Shire Animal Impounding Facility (The Pound) - Rehoming and Minimising Euthanasia Policy.

It is expected that any new Policy can readily be adapted should the proposed new Pound/Rehoming Centre development.

RECOMMENDATION:

That:

- 1. Council endorses the public exhibition of the attached Draft Tweed Shire Animal Impounding Facility (The Pound) Rehoming and Minimising Euthanasia Policy be placed on public exhibition for a period of 28 days, and accepts public submissions for a period of 42 days as per Section 160 of the Local Government Act 1993; and**
- 2. A further report be brought back to Council following the public exhibition.**

REPORT:

BACKGROUND:

Initial Enquiries on Companion Animal Euthanasia Rates

Following earlier enquiries from The Mayor regarding the current rates of euthanasia of companion animals in Council's Animal Impounding Facility (The Pound) at Stotts Creek, the Director Planning and Regulation and Compliance Unit staff have been investigating recent best practice of other councils in terms of strategies to increase opportunities for the rehoming and to minimise the incidence of euthanasia among those impounded animals. This has led to some very productive consultation meetings between Council staff, The Mayor and representatives from the Friends of the Pound. It has also been positive in terms of reviewing current Pound procedures.

Our research found that Tweed's rate of euthanasia of companion animals compare relatively well with other NSW Councils, and across the general industry. However, it was acknowledged that there are a proportion of those euthanised animals which may be able to be saved through a tightening up of Pound procedures and approach, including a more pro-active communication with rescue and welfare organisations for those animals who have only failed assessments on the basis of non-life threatening, behavioural conditions.

Relevant Legislation

All NSW Councils are bound to manage the humane treatment of companion animals through several significant forms of legislation.

The first is the Prevention of Cruelty to Animals Act 1979 (POCTA). This Act primarily applies to a broader community obligation to respect the rights and welfare of all animals and to treat them in a humane way. POCTA is generally administered with the highest authority by the Royal Society for the Prevention of Cruelty to Animals (RSPCA) and NSW Police. Councils generally play a support role for these agencies in any complaints or investigations into offences under POCTA, in addition to their general companion animal regulation activity.

The other legislation which affects NSW Councils more directly are the Companion Animals Act 1998, the Companion Animals Regulation 2008, and the Impounding Act 1993. The NSW State Government's Office of Local Government also provides a strong direction to NSW Councils on the implementation of this legislation through a series of regular policy directives and circulars, and the management of a centralised data base for the collection of companion animal activity, registration and performance across all councils.

In terms of the above legislation and policies, the main statutory obligations for Councils to perform are summarised below:

- Provision for an animal holding facility that provides temporary shelter and care for animals seized by Council Rangers or surrendered by members of the public.
- Investigate complaints regarding roaming dogs, cats, livestock and dog attacks. In exercising their powers, Council Rangers either attempt to return the animals to their owners, or impound them.

For those animals that are surrendered or impounded, Councils have an obligation to care for them, and seek to rehome the animals where possible. Unfortunately there will be circumstances where some animals will be unsuitable for rehoming due to being aggressive, significantly injured or feral. The Companion Animals Act prohibits the sale of an animal declared or proposed to be declared a restricted breed or dangerous dog or menacing dog. This prohibition extends to the sale, adoption, rescue or rehoming of these animals.

For those animals assessed as unsuitable for rehoming, the legislation provides Councils with directions on the humane euthanasia of the animals. There are also related veterinary codes and standards of practice that guide these procedures. Both qualified vets and Council officers with appropriate levels of training are prescribed authority to carry out the procedures. The main circumstances and statutory timeframes that provide this option for Councils are as follows:

- A companion animal that is surrendered can be euthanised without any holding period in a Council pound.
- A companion animal which has been microchipped and has been impounded must be held for a minimum period of 14 days before they can be euthanised.
- A companion animal which has not been microchipped and has been impounded must be held for a minimum period of 7 days before they can be euthanised.
- There are instances of extreme injuries or animal conditions which necessitate the emergency euthanasia of animals.

Section 64(2) of the Act outlines that feral and infant companion animals may be destroyed prior to the standard holding period in accordance with any adopted Council policy. Tweed Council currently does not have a separate adopted Feral & Infant Animals Policy.

Feral companion animals are generally received in a poor condition, are difficult to handle and accommodate and are not suitable to be re-homed. Caging feral companion animals causes stress on the animal.

Infant companion animals require vast amounts of resources and time to raise, have a low resistance to diseases and are generally unlikely to survive being impounded.

This Policy authorises the humane euthanasia of feral or infant companion animals prior to the standard holding period if it is based on advice provided by a veterinarian.

In relation to feral animals Section 64 of the Companion Animals Act states:

"In accordance with any policy that has been adopted by the council in relation to the management of feral or infant companion animals, destroy the seized or surrendered animal concerned before the end of any such period referred to in subsection (1), which relates to the legislative impounding period.

Accordingly in accordance with Council policy any feral animal that has been brought to the pound should be euthanised as soon as possible after it has been impounded."

The legislation also requires Councils to prepare a Companion Animals Management Plan (CAMP) to provide a strategic overview of their roles and responsibilities, as well as to establish more proactive measures to promote the responsible and humane care of companion animals, through programs such as microchipping, registration, desexing, environmental protection and community health and wellbeing. Tweed Council first adopted its CAMP in 2010, and subsequent review in 2013.

Tweed Council's Companion Animal Regulatory and Care Actions

Tweed Shire Council has been one of the more proactive of North Coast Councils in recent decades in companion animal promotion and care.

Council's Current Animal Impounding Facility (The Pound) Operations

The subject site has a legal description of Lot 1 DP 590220 Bartletts Road Eviron. The site currently contains a series of single storey, inter-connecting buildings that accommodate the administrative office, stores and animal cage facilities, and animal exercise yards. The Pound is serviced by a formalised, hard stand car park, consisting of approximately 16 spaces.

The site is adjoined by Council's Stotts Island Landfill Facility, a private quarry, and agricultural land.

All available utilities are connected to the site.

The site is relatively low-lying and is subject to flooding in periods of major rain events.

Pound operations for dogs and cats commenced on current site in 1960s.

More substantive building structures and extensions were advanced through DAs in 1989, 2001 and 2005.

The Pound has evolved as both an impounding centre as well as a re-homing centre, in conjunction with the not-for-profit organisation, Friends of the Pound (FoP), who commenced activity at the Pound in July 2000.

FoP has a primary purpose to re-home animals, and provides volunteers to assist Council Pound Attendants in the general care of animals and cleaning of the facility.

It also provides direct services and education of the public in desexing, microchipping and registration of animals.

A good working relationship has been established with Council through a Memorandum of Understanding.

The Pound is open to the public between 10.00am and 4.00pm all days except public holidays.

The Pound is only suitable for the impounding of dogs cats and other small animals abandoned or surrendered in the Tweed Shire.

Proposal for a New Pound and Rehoming Centre

Council staff are currently working on a proposal to relocate Council's existing Animal Pound facilities at Stotts Creek and to develop a new Council Pound and Rehoming Centre on an alternative site of another nearby Council owned property identified as Lot 1 DP 34555, No. 719 Eviron Road, Eviron.

The opportunity for this proposal has arisen as a result of Council's Waste Unit Masterplan process for the Stotts Creek Resource Recovery Centre (SCRRC) that will provide guidance on future development of the entire site. As part of a program of works identified through the Masterplan process, the relocation of the current Animal Pound facilities is required prior to a significant number of the early works being able to commence.

The property at No. 719 Eviron Road is considered to have a number of significant superior site location advantages when compared to the current Pound site, which is a major safety and liability risk in terms of its deteriorating state of buildings and services, susceptibility to being cut off from access during major weather and flood incidents, as well as its general incompatibility of safety and welfare for both Council staff and volunteers and the impounded animals, as well as poor access and amenity for the public visiting the site.

The new alternative site is located in a much higher position (mostly flood free) and rural setting, and provides a great opportunity to provide a more contemporary and functional facility to accommodate both Council's companion animal regulatory service, as well as an enhanced rehoming centre for Council's not-for-profit partner, Friends of the Pound (FOP), who have provided an important volunteer assistance to the day-to-day running of the existing Pound and care for the animals over several decades.

Council is interested in establishing a co-located Council Pound/FOP Rehoming Centre facility similar to that operated by the Gold Coast City Council and the Australian Welfare League Queensland at Coombabah.

Funding is being sought to cover the full range of approvals, construction and project management to the point of hand over to Council of the new facility.

Council's Current Euthanasia Procedures and Recent Rates of Rehoming

Council has been guided by the broader strategic direction of its Companion Animal Management Plan. The Plan was first adopted by Council on 16 March 2010, and has been the subject of a further adopted update on 20 June 2013.

At an operational level, Council's Compliance Unit has developed a series of internal procedures documents to guide the day-to-day management of its Companion Animal responsibilities and actions.

The main procedure relating to the Unit's rehoming and euthanasia activities is provided in the extract below:

"6. Euthanasia Procedure

Unfortunately any animal that is deemed not suitable to be re-homed for purposes associated with their behaviour and/or the health of an animal will be euthanised. Pound

attendants are required to provide information relating to their observations associated with an animal to the senior pound attendant. The final determination on an animal remains the responsibility of the Team Leader Compliance, Senior Ranger, Impounding Officer or Veterinarian.

Documents relating to an animals temperament may include statements from the public, investigations and information provided by Rangers or a surrender form submitted by the owner.

The euthanasia of animals is to be performed ONLY by authorised officers or veterinarians and the storage, recording and safe keeping of any drugs and chemicals associated with the facility is the responsibility of the Senior Ranger or Impounding Officer.

a) Assessment

Prior to any animal being made available for sale it is vet checked and temperament assessed. The health assessment is in accordance with Part 5 (c) of this manual. Types of behaviour that Council deem inappropriate by an animal for re-homing are as follows:

Dog:

- *Nuisance behaviours such as:*
 - *continually escaping from a yard that is secure for dogs*
 - *continually barking which effects the amenity of the neighbourhood*
- *The killing of another animal*
- *Aggressive behaviour*
- *An attack/bite on a person*
- *Feral dog*

Cat:

- *Feral cat/semi-feral cat*

The semi-feral cat is a cat that is not owned by any one individual, but is generally friendly to people and may be fed by several households. Feral cats are associated with human habitations and may be fed by people or forage in rubbish, but are wary of human interaction.

b) Feral Animals

In relation to feral animals Section 64 of the Companion Animals Act states:

"In accordance with any policy that has been adopted by the council in relation to the management of feral or infant companion animals, destroy the seized or surrendered animal concerned before the end of any such period referred to in subsection (1), which relates to the legislative impounding period.

Accordingly in accordance with Council policy any feral animal that has been brought to the pound should be euthanised as soon as possible after it has been impounded.

Council has developed these guidelines and policy to help ensure that only animals deemed suitable by Council officers are released back into the community so that public safety and amenity are maintained."

In terms of administering these procedures, Council has two contracted local veterinary firms who attend Council's Pound on a weekly basis (alternating weeks) to conduct animal health checks, and perform euthanasia procedures when required.

In terms of accountability of rates of rehoming and euthanasia of impounded animals, NSW Councils must enter details of all animals through the NSW Office of Local Government's Companion Animals Register. Whilst the annual results of all council's performance are published on the Office's web site, there has been very limited analysis of comparative performance or benchmarking.

As part of the consultation on the most recent announcement of the review of the Companion Animals Regulation 2008, the NSW Office of Local Government has included a Regulatory Impact Statement (dated 13 March 2018), which does provide some more up-to-date, state-wide data on the composite activities of NSW Councils for the period of 2008 to 2016, including the number of companion animal rehoming euthanasia activity (dogs and cats), restricted breeds and dangerous dogs, reported dog attacks, and animal registration and microchipping.

Drawing from the tables of rehoming/euthanasia rates in the above RIS document, for the year 2015/16, and as a composite of all NSW Councils, the rates of euthanasia as a proportion of all animals impounded were as follows:

Dogs – 18.79%

And

Cats – 45.36%

From an on-line desktop research, the following other comparative analysis has been undertaken for NSW Councils:

Getting 2 Zero Web Site – "The Benefits of Council Funding Co-operative Desexing Programs"

"In NSW, the only state that has gathered and published its state-wide Council figures, and over 60% of impounded and surrendered cats have been euthanised for many years.

However, Gold Coast City Council has more than halved its cat euthanasia rate over the last 10 years to 15% of all incoming cats for the whole city of over half a million people.

Desexing is more effective than focussing on registration and microchipping. NSW State Pound data has demonstrated that long term compulsory registration and microchipping alone have not significantly reduced the proportion of cats euthanised in NSW. On average, 64% of cats were euthanised in NSW in 2010/11, a reduction of less than 4% since 2005/06."

Dian Chuw Kim Hoon, School of Veterinary Science, University of Queensland, "The Unwanted Dog and Cat Problem in Australia":

From the NSW Office of Local Government web site reporting, the average rate of euthanasia among all impounded animals in NSW in 2010/11 were: 28.2% for dogs and 64% for cats.

In benchmarking these statistics, Tweed Council has performed very well in recent years. The contributors to Tweed's favourable results have been the establishment of an excellent Pound facility, the volunteer assistance and rehoming services provided by the Friends of the Pound, and a dedicated and well trained Pound and Ranger staff.

The tables provided below indicate a breakdown of the rehoming and euthanasia activity of Council in since 2010/11 for both dogs and cats.

Rehoming and Euthanasia Rates for Impounded Dogs

YEAR	TOTAL	RESTRICTED	DANGEROUS	UNSUITABLE	UNABLE TO REHOME	OWNER REQUEST	ILLNESS/ SICK	FERAL/ INFANT	TOTAL EUTH	TOTAL EUTH %	COUNCIL CONTROLLED EUTH %
2017/18	410	0	0	42	0	22	12	5	71	17.3	10.2
2016/17	571	0	0	101	0	12	1	2	116	20.3	17.0
2015/16	588	0	0	115	0	11	3	2	131	22.2	19.5
2014/15	637	0	0	92	0	21	9	3	125	19.6	14.4
2013/14	635	0	0	88	0	7	2	0	97	15.3	13.8
2012/13	679	3	0	77	0	13	7	0	102	15.0	11.3
2011/12	664	2	2	98	0	31	0	0	133	20.0	14.7
2010/11	504	1	2	74	1	27	1	0	106	21.0	14.6

Definition of Titles

Unsuitable – temperament - cannot be handled, aggressive, fence jumper, incident at the pound (attack) and not fit for sale (birth defect or sever injury and Friends of the Pound can't rehome or other rescue groups). Decision to euthanise animal is made by Council staff and the veterinarian undertaking vet check, based on criteria within a Council procedure.

Unable to rehome - unable to sell or rehome with Friends of the Pound or other rescue groups.

Owner Request - Owners tick the "euthanased" box on the Surrender Form (generally as a result of an incident).

Rehoming and Euthanasia Rates for Impounded Cats

YEAR	TOTAL	RESTRICTED	DANGEROUS	UNSUITABLE	UNABLE TO REHOME	OWNER REQUEST	ILLNESS/ SICK	FERAL/ INFANT	TOTAL EUTH	TOTAL EUTH %	COUNCIL CONTROLLED EUTH %
2017/18	291	0	0	25	0	2	21	12	60	20.61	8.59
2016/2017	236	0	0	43	1	2	14	22	82	34.74	18.22
2015/2016	247	0	0	58	0	2	6	20	86	34.81	23.48
2014/2015	204	0	0	20	0	0	17	16	53	25.98	9.80
2013/2014	253	0	0	39	0	3	7	22	71	28.06	15.41
2012/2013	192	0	0	32	0	1	10	20	63	32.81	16.66
2011/2012	223	0	0	80	0	2	not broken down	not broken down	82	36.77	35.87
2010/2011	294	0	0	86	0	8	not broken down	not broken down	94	31.97	29.25

Definition of Titles

Unsuitable – temperament - cannot be handled, aggressive, incident at the pound (scratching/biting) and not fit for sale (birth defect or sever injury and Friends of the Pound can't rehome). Decision to euthanise animal is made by Council staff and the veterinarian undertaking vet check, based on criteria within a Council procedure.

Unable to rehome - unable to sell or rehome with Friends of the Pound.

Owner Request - Owners tick the "euthanased" box on the Surrender Form (generally as a result of age or temperament).

Emerging Policy Trends in the Companion Animals Field

A number of NSW Councils have begun adopting new policies and practices on emerging international and national policy programs aimed at reducing the rates of euthanasia among impounded animals.

Two are the more prominent movements have been "No Kill" and "Getting 2 Zero".

Camden Council adopted a "No Kill" policy in 2016. In a report to Council, it was stated that:

"A "No Kill" shelter is defined as an animal shelter that does not kill healthy or treatable animals and where euthanasia is reserved for terminally ill animals or those considered dangerous to public safety.

A number of community change movements exist promoting a move to "No Kill" philosophy. An example includes "Getting 2 Zero". The philosophy of "Getting 2 Zero" is that 90% of impounded or surrendered animals are to be rehomed. "Getting 2 Zero" acknowledges that a percentage of animals (up to 10%) are not suitable for rehoming due to illness, behavioural problems and a poor prognosis of rehabilitation.

A number of organisations have resolved to become "No Kill" facilities. This commitment is to make every effort to adopt all re-homable animals. Examples of organisations making this commitment include Liverpool Council and the Animal Welfare League of NSW. Other councils working towards this goal include the City of Greater Geelong,

Gold Coast City Council, Moorabool Shire Council, Fraser Coast Shire and Greater Shepparton City Council.”

Camden Council's current responsible pet ownership program initiatives include:

- *“Responsible Pet Ownership program aimed at educating children and residents on the importance of microchipping and name tags on animals;*
- *Independent breed and temperament assessment of impounded animals believed to be dangerous/aggressive/restricted;*
- *Council officers attempt to return stray dogs and cats home if microchipped and registered rather than impounding;*
- *Offer of free name tags for all animals released;*
- *Working with approximately 30 rescue organisations to rehome animals that haven't been adopted;*
- *Subsidised de-sexing program to reduce the number of unwanted animals;*
- *Free microchipping days for dogs and cats;*
- *Bus advertising and regular educational days at schools and local events;*
- *PAWS in the PARK - an annual event raising awareness of responsible pet ownership; and*
- *Development and distribution of information books on responsible pet ownership.”*

The report to Council also states that:

“In addition to Council's current responsible pet ownership program, additional initiatives being considered or implemented to minimize the number of animals entering the animal holding facility and further increase the re-homing of impounded animals include:

- *The recent appointment of a dedicated Camden Council Companion Animal Ranger who will work at the Campbelltown Council Animal Care Facility to oversee the re-homing and care of Camden animals and provide enrichment;*
- *Flexible pricing options for impounded animals to encourage adoption, particularly for those animals that have been in the facility for extended periods of time;*
- *Obtaining detailed information from owners wishing to surrender their animal to ensure the animal is adopted out to a suitable family;*
- *Provision of exercise yards that are friendly and stimulating for the animals;*
- *Media releases for animals held longer than the mandatory holding periods;*
- *Creating information packages on adoption of an animals;*
- *Ensuring the provision of sufficient kennels and cattery enclosures to allow suitable animals to be kept an extended period of time until they are rehomed;*
- *Holding impounded animals for extended periods of time until sale or re-homing is achieved (this excludes animals deemed to be unsuitable for re-homing -- eg. dangerous, restricted. aggressive, significantly sick or injured).*

It is also proposed that Council develop a policy to establish clear guidelines on whether an animal is suitable for rehoming and to assist in decision making and transparency. The policy would be developed in consultation with Council's Companion Animal Advisory Committee and would require an independent assessment by a suitably qualified assessor to determine the suitability for re-homing of an animal considered aggressive or restricted."

Discussion of Strategies Suited to Tweed Council's Companion Animal Management

It is important that Tweed Council consider any emerging and innovative companion animal practices with a view towards ensuring that the organisation meets its current regulatory, probity, risk management and industrial relations obligations, as well as having adequate resourcing and expertise to implement these practices.

Prior to further investigating revised practices, further consultation sessions were held with relevant staff, The Mayor and FoP, posing the following range of issues:

- What are the potential range of opportunities and constraints in the new Pound/Rehoming Centre redevelopment proposal?
- What are the opportunities within the proposed expressions of interest process for Council's contracted veterinary services? Is it feasible to extend these services to behavioural assessments?
- What aspects of Council's current Euthanasia Procedure needs to be reviewed? Can this be extended to address those instances of injured animals which are yet to be impounded by Council?
- What elements of proactive action does Council need to take in terms of community education of responsible pet ownership, discount desexing, microchipping and registration?
- Any other ideas?

There was general agreement from these consultations of the scope to reduce current euthanasia rates at Council's Pound, primarily through a review and tightening up of Pound procedures and approach, including a more pro-active communication with rescue and welfare organisations for those animals who have only failed assessments on the basis of non-life threatening, behavioural conditions.

It was also considered that these changed procedures could be best supported and promoted through a new Council Policy, as provided in Attachment 1 of this report.

It is therefore recommended that Council endorse the public exhibition of the attached Draft Tweed Shire Council Impounding Facility (The Pound) Rehoming and Minimising Euthanasia Policy.

It is expected that any new Policy can readily be adapted should the proposed new Pound/Rehoming Centre development proceed.

OPTIONS:

1. That Council endorse the public exhibition of the Draft Tweed Shire Council Animal Impounding Facility (The Pound) Rehoming and Minimising Euthanasia Policy; or
2. That the matter be deferred for further information.

Option 1 is recommended.

CONCLUSION:

Following a detailed review of contemporary practice, it was found that the rate of euthanasia of companion animals at Council's Animal Pound compared relatively well with other NSW Councils, and across the general industry. However, it was acknowledged that there are a proportion of those euthanised animals which may be able to be saved through a tightening up of Pound procedures and approach, including a more pro-active communication with rescue and welfare organisations for those animals who have only failed assessments on the basis of non-life threatening, behavioural conditions.

COUNCIL IMPLICATIONS:

a. Policy:

It is proposed that once adopted, this Policy will replace an existing internal procedure document.

b. Budget/Long Term Financial Plan:

There are no budgetary impacts anticipated for this process.

c. Legal:

The relevant statutory framework for this Draft Policy is:

Prevention of Cruelty to Animals Act 1979 (POCTA). Local Government Act 1993
Companion Animals Act 1998
Companion Animals Regulation 2008
Impounding Act 1993

d. Communication/Engagement:

The public exhibition of the draft document will necessitate the following consultation actions under the Community Engagement Strategy:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Draft Tweed Shire Council Animal Impounding Facility (The Pound) Rehoming and Minimising Euthanasia Policy (ECM 5474624)

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

23 [CNR-CM] Arts Northern Rivers and Cultural Planning

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: Provider

SUMMARY OF REPORT:

This report is to review the contributions to Arts Northern Rivers (ANR) and Council's participation in the Regional Arts Board. The report also considers alternative options for Council's investment in Cultural Planning.

Council budgets annually for its contribution to ANR and has allocated \$28,931 in the 2018/2019 budget.

The ANR Memorandum of Understanding (MOU) signed in 2003 is no longer current and many changes have occurred in Council's cultural services and programs during the past 15 years. Council is significantly larger than other local governments contributing to ANR and has a range of investments in the Tweed Regional Gallery and Margaret Olley Art Centre, Tweed Regional Museum, Tweed Heads and Murwillumbah Auditoria, three libraries and community and cultural development programs including Aboriginal Community Development and a Cultural Planning Community Development Officer. This impacts the relevance of Tweed Shire Council's participation in ANR which is now increasingly focussed on delivering projects in its own right.

Council receives regular approaches from local arts practitioners to explore opportunities in the gap areas identified in the Tweed Shire Council Cultural Plan 2018/2021 including public art and placemaking, performing arts and cultural infrastructure development. The Community Development Officer - Cultural Planning is employed three days per week and it is increasingly difficult to deliver on the range of priorities in the Cultural Plan, place-making and public art, and infrastructure projects for the improvement and provision of cultural facilities.

This report proposes that the recurrent annual contribution to ANR is reallocated to Cultural Planning and the establishment of a Placemaking and Public Art grant program for Tweed Shire.

RECOMMENDATION:

That Council:

- 1. Advises Arts Northern Rivers that Tweed Shire Council will withdraw from the Arts Northern Rivers Board effective from 1 January 2019 and the 2018-2019 budget (\$28,931) is allocated as follows:**
 - a) \$14,465 to Arts Northern Rivers as a final contribution payment to 31 December 2018.**
 - b) \$10,279 to provide an additional one day per week from 1 January 2019 for the Community Development Officer – Cultural Planning.**
 - c) \$4,187 to prepare a Place-making and Public Art Grant Fund for a report back to Council prior to commencement in the 2019-2020 financial year.**

- 2. The recurrent budget allocation of \$28,931 (2018/2019) for Arts Northern Rivers be reallocated from 2019/2020 onwards as follows:**
 - a) \$20,558 (plus CPI) to permanently increase the budget allocation to employ the Community Development Officer - Cultural Planning for four days per week.**
 - b) Allocate \$8,373 on an annual recurrent basis for a grant fund commencing in July 2019 and administered according to the Place-making and Public Art Policy and procedures.**

REPORT:

BACKGROUND:

This report is to review the contributions to Arts Northern Rivers (ANR) and Council's participation in the Regional Arts Board. The report also considers alternative options for Council's investment in Cultural Planning.

ANR Governance

ANR is one of fourteen Regional Arts Boards funded by Create NSW. In 2014 Arts NSW (now Create NSW) commissioned a *Review of NSW Regional Arts Boards Governance* and at that time there were 101 regional Councils contributing to the finance and governance of the boards and seven Local Governments that were not contributing.

There is no formal agreement in place for the Regional Arts Board partnerships with Local Governments at a State level. An MOU was signed on 6 November 2003 by the Mayors of Ballina Shire Council, Lismore City Council, Byron Shire Council, Maclean Shire Council, Copmanhurst Shire Council, Pristine Waters Council, Grafton City Council, Richmond Valley Council, Kyogle Council, and Tweed Shire Council. Since signing the agreement there have been changes in local government participants, and in the governance structure as the MOU refers to a Regional Steering Committee which is now a Regional Board with finance and governance responsibilities. A copy of the MOU is attached to this report.

The ANR Board comprises Councillors representing the local governments and some community cultural representatives.

ANR Budget

ANR has approval for Arts NSW triennial funding of \$140,000 per annum for 2016-2019. In addition the participating Local Governments contribute annual funding. Tweed Shire Council has allocated \$28,931 in the 2018/19 budget for contributions to ANR. ANR also competes for project funding in the same rounds as other arts organisations and Councils in the region.

ANR Projects

At the time of the formation of ANR, the objectives of the partnership were to promote arts and culture and foster indigenous arts and cultural programs. The emphasis has changed and more direct project delivery is now the principle focus.

ANR projects have been funded through submissions to competitive rounds. Once projects are implemented ANR has also sought additional in kind support from Council for some projects.

One example is the project funding received for the "If These Halls Could Talk" project funded by Create NSW (formerly Arts NSW) (\$175,000) and in kind contributions from Councils and venues across the region were also requested. In Tweed Shire one hall, Tumbulgam Community Hall, was selected to participate in this project. This involved local workshops in the lead up to an event with Opera Qld in December 2016 and an exhibition hosted by Tweed Regional Gallery and Margaret Olley Art Centre.

Grant Fund Administration

ANR also administers grant funding on behalf of Regional Arts Create NSW through the Country Arts Support Program (CASP). The grants are modest however a review of CASP

successful projects on the Regional Arts NSW website for the past five years indicates only one successful application in 2015 for the Tweed Shire (see Attachment 2 CASP Summary).

Role of Regional Arts Boards

A review of the Regional Arts Boards was undertaken by Arts NSW with a range of findings that were published in January 2016. If Council resolves to continue the relationship between ANR and Council there are a number of issues that would need to be addressed:

- Clarification of the role of ANR with particular consideration to the direct delivery of arts projects, advocacy, arts development, coordination and promotion for artists, diversity of art and cultural forms and practice;
- Strategic input into planning and project development from Councils as funding contributors to ANR;
- Competition for funding across the region as ANR is participating in project delivery;
- Recognition of the various strengths and capacity of local governments in the region to better accommodate contributions to strategic initiatives in the region and an improved understanding of the strategic approach required to support larger local governments. For example, Tweed Shire has an extensive investment in the arts, heritage and cultural development with a range of infrastructure and skilled staff managing the Gallery and Museum and specialist staff in audience and program development, cultural planning, and community engagement (Aboriginal, disability and youth). This is a very different scale and level of capacity in comparison to other local governments contributing to the ANR Board.

Tweed Shire Council Cultural Planning

In December 2017 Tweed Shire Council adopted the Cultural Plan 2018/2021. The implementation of the plan requires the continued delivery of cultural services through the Tweed Regional Gallery and Margaret Olley Art Centre, the Tweed Regional Museum and the range of community development programs. In addition, there are significant resources required to deliver on the enhancement and building of cultural infrastructure, the promotion of performing arts, and the management of placemaking and public art.

The Community Development Officer - Cultural Planning is employed on a permanent basis for three days per week. This is a level of resourcing that requires constant resetting of priorities due to the persistent demands for new public art projects, infrastructure development, and funding submissions, and supporting Council's Cultural Plan across all Divisions.

The Placemaking and Public Art Policy was adopted in February 2014. The policy is due for review in 2018. The Public Art Reference Group and the procedures that have been developed for community applications for public art will also be reviewed. This is an opportunity to allocate a small amount of funding and to design a grant program to be more proactively engaged with the community on public art projects.

OPTIONS:

That Council:

1. Proceeds with the recommendation.
2. Continues to contribute financially to the Arts Northern Rivers Board.

CONCLUSION:

Since the formation of ANR and the signing of the original MOU in 2003, there have been significant changes in regional arts in that they are now constituted as Boards of Management with governance and financial responsibilities and directly delivering projects. Council has also changed with a more significant investment in cultural services and a greater capacity to manage its own arts promotion and local cultural development.

This report proposes that Council's investment in ANR would be more effective for the local community if it is reallocated to increase the available hours for the Community Development Officer - Cultural Planning and by investing directly into a local grant program for placemaking and public art. Council is consistently approached by the community to implement local projects and the review of the local CASP funds for 2014 to 2018 reveals that the Tweed Shire has received limited funding for such projects. This proposal would ensure a more consistent local investment from Council's budget.

COUNCIL IMPLICATIONS:

a. Policy:

Placemaking and Public Art Policy v1.3.

b. Budget/Long Term Financial Plan:

Withdraw from the Arts Northern Rivers Board effective from 1 January 2019 and the 2018-2019 budget (\$28,931) is allocated as follows:

- a) \$14,465 to Arts Northern Rivers as a final contribution payment to 31 December 2018.
- b) \$10,279 to provide an additional one day per week from 1 January 2019 for the Community Development Officer – Cultural Planning.
- c) \$4,187 to prepare a Place-making and Public Art Grant Fund for a report back to Council prior to commencement in the 2019-2020 financial year.

The recurrent budget allocation of \$28,931 (2018/2019) for Arts Northern Rivers be reallocated from 2019/2020 onwards as follows:

- a) \$20,558 (plus CPI) to permanently increase the budget allocation to employ the Community Development Officer - Cultural Planning for four days per week.
- b) Allocate \$8,373 on an annual recurrent basis for a grant fund commencing in July 2019 and administered according to the Place-making and Public Art Policy and procedures.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1. Arts Northern Rivers Memorandum of Understanding, 6 November 2003 (ECM 5515601)
- Attachment 2. Country Arts Support Program (CASP) Summary 2014-2018 (ECM 5515603)
-

24 [CNR-CM] Licence to Possums Community Preschool Association Inc

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:

Possums Community Preschool Association Incorporated has been operating a Community Pre-school four days per week (Tuesday to Friday) from premises known as Condong Hall located on Lot 1 in DP 263998 at 20 McLeod Street, Condong. Condong Hall is also currently utilised on Mondays by a playgroup, which is subject to separate negotiations and a future report to Council.

Possums Community Preschool Association Incorporated have applied and been granted funding for a number of infrastructure projects at Condong Hall. These projects have timelines dictated by the State and Federal funding. To ensure these projects can proceed in good time with the necessary risk and liabilities arrangements in place, a usage agreement is recommended in the form of a one year temporary licence over Lot 1 in DP 263998 at 20 McLeod Street, Condong for four days a week (Tuesday to Friday).

A concessional peppercorn rent amount is recommended to recognise Possums Community Preschool Association's incorporated status and their current contribution to the upkeep of Condong Hall. A concessional amount of \$20 per week for the first six months and \$40 per week for the final six months is recommended. These funds will be used to contribute directly to Council's costs of managing the building.

This Interim agreement will provide time for Council officers to continue discussions with users of Condong Hall to determine the most appropriate long term agreements.

RECOMMENDATION:

That:

- 1. Council enters into a Licence Agreement with Possums Community Preschool Association Incorporated over the premises known as Condong Hall located on Lot 1 in DP 263998 20 McLeod Street, Condong for use Tuesday to Friday for a term of one year.**
- 2. All necessary documents be signed under the Common Seal of Council.**

REPORT:

Possums Community Preschool Association Incorporated has been operating a Community Pre-school four days per week (Tuesday to Friday) from premises known as Condong Hall located on Lot 1 in DP 263998 at 20 McLeod Street, Condong, for an extended period of time.

Condong Hall is also currently utilised on Mondays by a playgroup, which is subject to separate negotiations and a future report.

Possums Community Preschool Association Incorporated have applied and have been granted funding for a number of infrastructure projects at Condong Hall, including: a cubby house; outdoor enclosed room; garden beds; and water play pump. These projects have timelines dictated by State and Federal funding. To ensure these projects can proceed in good time with the necessary risk and liability arrangements in place, a usage agreement is recommended in the form of a one year temporary licence over Lot 1 in DP 263998 at 20 McLeod Street, Condong for four days a week (Tuesday to Friday).

It is recommend that a concessional peppercorn rent amount is set to recognise Possums Community Preschool Association's incorporated status and their current contribution to the upkeep of Condong Hall. A concessional amount of \$20 per week for the first six months and \$40 per week for the final six months is recommended. These funds will be used to contribute directly to Council's costs of managing the building.

All future rent amounts are subject to pending calculations as part of Council's review of Leases and Licences which will be subject to a future Council report.

During the proposed initial one year term Council will continue discussions with users of Condong Hall to determine the most appropriate long term agreements.

OPTIONS:

1. Council enters into a one year licence with Possums Community Preschool Association Incorporated.
2. Council does not enter into a one year licence with the Possums Community Preschool Association Incorporated.

CONCLUSION:

Possums Community Preschool Association Incorporated have been granted funding for a number of infrastructure projects at Condong Hall that have timelines dictated by the funding. To ensure these projects can proceed in good time with the necessary risk and liabilities arrangements in place, a usage agreement is recommended.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

An amount of \$1560 will be received over the 12 months into A0061 Rents and Sundry income to provide budget to Condong Hall A2743 to part fund essential operational activities related to the management of the hall.

26 Weeks at \$20 per Week	\$520
26 Weeks at \$40 per Week	\$1040
Total for proposed 12 month licence period	\$1560

All future rent amounts are subject to pending calculations as part of Council's review of Leases and Licences which will be subject to a future Council report.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

On the 28 September Council officers met with Possums Community Preschool Association Incorporated to discuss the above options. Possum's requested a stepped approach to any rent amounts to allow adjustments to be made in their funding models and future budgets.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

25 [CNR-CM] Offer of Financial Assistance for the Tweed Coast Coastal Management Program

SUBMITTED BY: Natural Resource Management

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Provider Leader

SUMMARY OF REPORT:

The NSW *Coastal Management Act 2016* outlines the requirement and process for a local council to prepare a Coastal Management Program (CMP). A CMP sets the long-term strategy for the coordinated management of land within the coastal zone. Adoption by the local council and certification by the Minister for the Environment is required for a council to receive grant funding. These grants are provided through the Coastal Management Program of the Office of Environment and Heritage for implementation of management activities in the coastal zone. The Tweed Coastal Management Program will incorporate the relevant action items from the Kingscliff - Dreamtime Beach Coastal Zone Management Plan (adopted by Council May 2017) to ensure that all open coastline is incorporated into the one plan.

RECOMMENDATION:

That Council:

- 1. Accepts financial assistance of \$100,000 from the NSW Government's Coastal and Estuary Grants Program to complete the Tweed Coast Coastal Management Program.**
- 2. Votes the expenditure of this financial assistance.**

REPORT:

The NSW *Coastal Management Act 2016* outlines the requirement and process for a local council to prepare a Coastal Management Program (CMP). A CMP sets the long-term strategy for the coordinated management of land within the coastal zone. The Tweed Coastal Management Program will incorporate the relevant action items from the Kingscliff - Dreamtime Beach Coastal Zone Management Plan (adopted by Council May 2017) to ensure that all open coastline is incorporated into the one plan.

Adoption by the local council and certification by the Minister for the Environment is required for a council to receive grant funding. These grants are provided through the Coastal Management Program of the Office of Environment and Heritage for implementation of management activities in the coastal zone.

The previous coastal management document developed for the open coast was the Tweed Shire Coastline Management Plan, May 2005.

OPTIONS:

1. Council accepts the financial assistance and develops a Coastal Management Program for the Tweed Coast in accordance with the *Coastal Management Act 2016*.
2. Council does not accept the financial assistance and does not develop a Coastal Management Program for the Tweed Coast.

CONCLUSION:

In 2016, the Minister for the Environment announced a funding package of \$83.6 million available to local councils to develop and implement Coastal Management Programs. The commencement of the *Coastal Management Act 2016* provides the structure for development by councils, within the Integrated Planning and Reporting Framework, of long-term strategies for improved management of their coastal zone.

Development of a Coastal Management Program for the Tweed Coast will provide the mechanisms for improved management of the coastal zone and access to financial assistance for implementation of actions.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

The offer of financial assistance of \$100,000 is on a 50% basis. The matching funds from Council will come from the existing Coastal Management budget over two years.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

Community consultation is a key component in the development of a Coastal Management Program and a community engagement strategy will be developed for the project.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Letter of offer for financial assistance from the Office of Environment and Heritage (ECM 5548091)

26 [CNR-CM] Acceptance of Environmental Trust Grants - Natural Resource Management Unit

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
- 1.1.1 Biodiversity Management - To protect and manage the environment and natural beauty of the Tweed for current and future generations.

ROLE: Provider

SUMMARY OF REPORT:

This report seeks Council approval to accept three new grant offers from the NSW Environmental Trust.

RECOMMENDATION:

That Council accepts the following grant funds from the NSW Environmental Trust:

- 1. Conserving Cockatoos and Curlews on the Tweed Coast (2018/SL/0042) to the value of \$99,810.**
- 2. Upper Tweed River Estuary – Riparian and Aquatic Habitat Rehabilitation (2018/SL/0043) to the value of \$96,780.**
- 3. Small Farms Big Changes – Growing Positive Environmental Behaviours (2017/EG/0035) to the value of \$59,050.**

REPORT:

Natural Resource Management has prepared three successful grant proposals through the NSW Environmental Trust.

Conserving Cockatoos and Curlews on the Tweed Coast (2018/SL/0042) \$99,810

Tweed Shire has one of the highest levels of population growth in the State. Council is dedicated to mitigating the impacts associated with population growth to threatened fauna such as the Bush Stone-curlew and Glossy Black-cockatoo to ensure the ongoing survival of these iconic species in the Tweed.

This project will focus conservation efforts for the Bush Stone-curlew and Glossy Black-cockatoo on the Tweed Coast by managing known key threats, for example habitat loss and disturbance, and predation and disturbance by domestic pets and feral animals. Active conservation of Bush Stone-curlew on the Tweed Coast since 2012 has resulted in an increase in the local population of this species, which now represents a significant proportion of the Bush Stone-curlew population in NSW. This project will consolidate the conservation gains made to date in recovering the Tweed Coast Bush Stone-curlew population but also expand conservation actions into new areas of known habitat and expand conservation actions to protect the Glossy Black-cockatoo.

Upper Tweed River Estuary – Riparian and Aquatic Habitat Rehabilitation (2018/SL/0043) \$96,780

The project will stabilise eroding river banks using techniques that increase habitat connectivity and improve fish habitat in the upper Tweed River Estuary. Eroding river banks will be re-profiled, fenced to exclude stock and stabilised with native riparian vegetation. Hardwood logs will be incorporated into the river bank restoration works to increase the resilience of banks to erosion and provide structurally complex large wooden debris habitat. The project aims to engage landowners, recreational fishers and the broader community to improve understanding of the river ecosystem, its condition and key threats, and demonstrate appropriate restoration techniques.

Small Farms Big Changes – Growing Positive Environmental Behaviours (2017/EG/0035) \$59,050

The project will engage landholders of small farms and rural lots in the Tweed Shire leading to effective management of environmental weeds, improved soil conservation and biodiversity management on farms. A range of education tools such as workshops, field days, training sessions, use of various media and showcasing the work of local industry champions will be used to build natural resource management capacity. These approaches will be assessed to determine the most effective behaviour change education tools for improving environmental outcomes on small farms leading to development of methodology that could be used regionally or state wide to achieve similar outcomes.

OPTIONS:

That Council:

1. Accepts the grant funds from NSW Environmental Trust.
2. Does not accept the grant funds from NSW Environmental Trust.

CONCLUSION:

Acceptance of these three NSW Environmental Trust grants will enable continuation of beneficial community projects in the areas of threatened species conservation, pest management, waterway management and sustainable agriculture.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Council's financial commitment to these projects is limited to in-kind contributions. No expenditure will be required from general funds. *Conserving Cockatoos and Curlews on the Tweed Coast* includes funding for a project officer. *Upper Tweed River Estuary – Riparian and Aquatic Habitat Rehabilitation* and *Small Farms Big Changes – Growing Positive Environmental Behaviours* will be delivered with existing staff resources in the Waterways and Sustainable Agriculture Programs respectively

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

The projects have been developed in consultation with relevant stakeholders and will continue to develop and draw on existing community and professional networks to achieve the desired project outcomes.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

27 [CNR-CM] Renewable Energy Action Plan - Progress Update

SUBMITTED BY: Natural Resource Management

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

SUMMARY OF REPORT:

This report provides an update on the renewable energy projects underway or completed since the adoption of a Renewable Energy Action Plan for Council facilities (REAP). The plan established a target to self-generate 25% of Council's electricity demand from renewable sources by 2022, and 50% by 2025.

Council is on track to add over 570kW of solar to Council facilities, and self-generate over 6% of its total electricity demand from solar by the end of December 2018. Council will have the capacity to generate an estimated 1,300 MWh/pa of solar power by the end of December 2018, up from 300 MWh/pa since the REAP was adopted in November 2017.

By the end of this calendar year, Council will have invested close to \$450,000 and received an additional \$250,000 in grants, to generate annual savings of over \$200,000 from reduced electricity and demand charges.

RECOMMENDATION:

That Council receives and notes the progress made to install renewable energy at Council facilities consistent with the Renewable Energy Action Plan.

REPORT:

Since Council's adoption of a Renewable Energy Action Plan for Council facilities (REAP) in November 2017, significant progress has been made to reduce greenhouse gas emissions and achieve financial gains through reduced grid-electricity use.

In addition to the rooftop solar installed at the Tweed Regional Art Gallery (99kW) and Murwillumbah Depot (91kW) prior to the REAP, Council is on track to add over 570kW of solar to Council facilities, and self-generate over 6% of its total electricity demand from solar by the end of December 2018. Council will have the capacity to generate an estimated 1,300 MWh/pa of solar power by the end of December 2018, up from 300 MWh/pa since the REAP was adopted in November 2017.

By the end of this calendar year, Council will have invested close to \$450,000 and received an additional \$250,000 in grants, to generate annual savings of close to \$200,000 from reduced electricity and demand charges.

Rooftop solar installations at Tweed Heads Library (20kW), and Tweed Valley Lawn Cemetery (12.5kW) have been completed.

Since the appointment of a Project Officer – Energy in May 2018, solar projects at eight facilities have been scoped and called for tenders:

- A contract has been finalised to install 6kW at the Home and Community Care Centre at South Tweed.
- \$250,000 from the NSW State Government Stronger Country Communities Fund will enable rooftop solar installations at Tweed Regional Museum (38.4kW) and Tweed Regional Aquatic Centre (165kW), providing these facilities with up to 35% of their own electricity needs, and reduce their electricity bills by up to 30%.
- Tender responses are being reviewed to install solar panels on another five Council facilities:
 - Mooball Wastewater Treatment Plant (WWTP) (5kW)
 - 'Mech & Elec' Building, Kingscliff (30kW)
 - Kingscliff WWTP (99kW)
 - Bray Park Water Pump Station 02 (99kW)
 - Bray Park Water Treatment Plant (99kW)

Once installed, the new solar panels will reduce Council's contribution to greenhouse gas emissions produced from grid electricity equivalent to 432 tonnes of CO₂ each year, a 2% reduction compared to Council's emissions footprint in 2017/2018.

The remaining projects due for completion by 1 July 2019 are yet to be scoped, but Council resources are available to deliver these projects in line with the REAP schedule:

- Heating/Ventilation/Air Conditioning systems efficiency improvements
- Wastewater Treatment Plant operating/process control improvements
- Facility lighting upgrades to LED
- Stotts Creek organics processing facility (50kW solar)
- Tweed Heads depot (15kW solar)
- Administration Centre Tweed Heads (95kW solar)

OPTIONS:

1. That Council receives and notes the progress being made to implement the Renewable Energy Action Plan for Council facilities.
2. That Council requests further information on the progress of the Renewable Energy Action Plan for Council facilities.

CONCLUSION:

Significant progress is being made to install renewable energy at Council facilities consistent with Council's Renewable Energy Action Plan. The remaining projects outlined in the REAP due for completion by 1 July 2019 are yet to be scoped, but Council resources are available for project delivery to align with the REAP schedule.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

- State Government grant funds of \$250,000 have been pledged for solar at the Tweed Regional Aquatic Centre and Tweed Regional Museum.
- \$420,000 is assigned from Tweed Shire Council Water, Sewer and General Funds.
- \$200,000 in annual electricity savings will repay Council's capital investment in solar assets. Ongoing savings to be to renewable energy assets.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

Updates about renewable energy projects at Council facilities are provided in Tweed Link, and via Council's Sustainability e-newsletter, website, and social media.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1: Renewal Energy Action Plan (REAP) Projects Table
(ECM5593397)

28 [CNR-CM] Report from Tweed Valley Wildlife Carers 2017-2018

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
- 1.1.1 Biodiversity Management - To protect and manage the environment and natural beauty of the Tweed for current and future generations.

ROLE: Collaborator

SUMMARY OF REPORT:

Tweed Valley Wildlife Carers is a volunteer organisation that rescues and rehabilitates native fauna within Tweed Shire. Council provides annual funding to the group to assist with costs such as food and vet fees. The annual report highlights the types of native animals that are most vulnerable and main threats. Council supported Tweed Valley Wildlife Carers this financial year with a financial contribution of \$15,000.

RECOMMENDATION:

That Council receives and notes the Tweed Valley Wildlife Carers Annual Report 2018.

REPORT:

Tweed Valley Wildlife Carers is a volunteer organisation that rescues and rehabilitates native fauna within Tweed Shire. Council provides annual funding of \$15,000 to the group to assist with costs such as specialist animal feed and vet fees. The Tweed Valley Wildlife Carers Annual Report in Attachment 1 highlights the types of native animals that are most vulnerable and main threats.

In 2017-18, 2307 animals were collected or rescued. The most common reasons for needing rescue were: animal / bird found on the ground; motor vehicle collision; orphaned; unsuitable environment. The most common rescues were: birds; seabirds; reptiles; flying foxes and possums.

The volunteers took 3607 calls to the hotline and attended numerous fundraising, education and awareness events including several run by Council.

OPTIONS:

That Council:

1. Receives and notes the Tweed Valley Wildlife Carers Annual Report 2018.
2. Requests that further information be sought from Tweed Valley Wildlife Carers.

CONCLUSION:

Tweed Valley Wildlife Carers provide a highly-valued volunteer service within Tweed Shire, a region of richly diverse ecology and large numbers of threatened or endangered species of flora and fauna. The Annual Report provides a breakdown of the recorded 2307 animals collected or rescued over the past 12 months. It highlights the importance of this service to Tweed Shire and opportunities to value-add to projects and programs run by Council in maintaining and enhancing our region's biodiversity.

COUNCIL IMPLICATIONS:

a. Policy:

Financial Assistance to Licensed Not for Profit Native Animal Welfare Groups v1.0.

b. Budget/Long Term Financial Plan:

Council provides \$15,000 annual funding to Tweed Valley Wildlife Carers.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

The Annual Report has been provided by the Tweed Valley Wildlife Carers who also attended Council run community education and awareness initiatives such as the *Home Expo*, *Wild about Pottsville* and *Love Pets, Love Wildlife*.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Tweed Valley Wildlife Carers Annual Report 2018
(ECM 5494439)

29 [CNR-CM] RFO2018081 Design, Supply and Install PV System at Tweed Regional Aquatic Centre, Murwillumbah

SUBMITTED BY: Community and Cultural Services

FILE REFERENCE:

Valid



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

3 People, places and moving around
3.2 Places

ROLE: **Provider**

SUMMARY OF REPORT:

Request for Offer RFO2018081 was called to engage a suitably qualified and experienced organisation to design, supply and install a Photovoltaic (PV) Solar System at the Tweed Regional Aquatic Centre building located at Murwillumbah.

At the time of closing fourteen Offers were received.

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

RECOMMENDATION:

That in respect to Contract RFO2018081 Design, Supply and Install a PV Solar System at Tweed Regional Aquatic Centre, Murwillumbah:

1. Council awards the offer KAEFER Integrated Services Pty Ltd ABN 83 009 046 191 for the amount of \$183,982.50 (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:-**
- (d) **commercial information of a confidential nature that would, if disclosed:**
 - (i) **prejudice the commercial position of the person who supplied it, or**
 - (ii) **confer a commercial advantage on a competitor of the council, or**
 - (iii) **reveal a trade secret.**

REPORT:

Offer Background

Offer RFO2018081 was called to engage a suitably qualified and experienced organisation to design, supply and install a Photovoltaic Solar System at the Tweed Regional Aquatic Centre building located at Murwillumbah, New South Wales.

In March 2013 Council resolved to be self-sufficient in renewable energy. In October 2017 Tweed Shire Council undertook a Renewable Energy Study to establish achievable targets and identify practical actions that can be undertaken to achieve this objective.

The design, supply and installation of a solar Photovoltaic (PV) system at the Tweed Regional Aquatic Centre building located at Murwillumbah comprises of one of the thirty two energy efficiency and renewable energy projects recommended to be undertaken from 2016 -17 to 2024 – 25.

Request for Offer Advertising

Offers were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. The Request for Offers was advertised on 31 July 2018 in The Sydney Morning Herald. The Offer was also advertised on 30 July on Council's website.

Offer submissions closed at 4.00pm (local time) on at 4:00pm (local time) on 22 August 2018 in the Tender Box located in the foyer at the tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

Offer Addendums

There were three Offer Addendums (Notice to Bidders) issued before close of Offer.

Addendum No. 001 was issued on 7 August 2018 to advise Bidders of the Electrical and Structural plans for the building, preferred inverter location, current location of data connection and confirmation of electrical shutdowns processes.

Addendum No. 002 was issued on 14 August 2018 to provide Bidders with energy use data for the Tweed Regional Aquatic Centre Building.

Notice to Bidders 003 was issued on 20 August 2018 to provide Bidders with additional energy use data and further information regarding the data provided on the 14 August 2018.

Offer Submissions

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

Bidder	ABN
Akcome Power Pty Ltd	92 601 425 530
CB Energy	82 121 978 023
GEM Energy	25 164 579 382
Genevo Pty Ltd	96 169 083 210
Hawking Electrical	77 600 142 854
KAEFER Integrated Services Pty Ltd	83 009 046 191
MTS Solar	64 603 417 269

Bidder	ABN
OTI Power Pty.Ltd	21 601 633 845
QIS SOLARWISE	14 076 103 314
SAE Group	34 143 698 864
SmartConsult	72 707 145 236
The Green Guys Group	28 143 063 263
Solgen Energy Pty Ltd	21 131 625 600
True Value Solar	11 143 232 482

Offer Evaluation

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

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

Position
Daniel Boyle, Acting Project Manager Contracts
Michael Qualmann, Project Officer - Energy

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

Criterion	Document Reference	Weighting (%)
Assessed Offer Price (as adjusted)	Schedule 1A	50
Quality of Components	Schedule 1A,5	15
Management Systems (WH&S, Quality and Environmental)	Schedule 2	5
Insurances	Schedule 3	5
Warranties Offered	Schedule 3, 5	5
Sustainable Procurement	Schedule 4	5
Previous Experience / Capability	Schedule 6	5
Local Content	Schedule 6	10
	Total	100

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

- (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

OPTIONS:

That Council:

1. Council awards the offer RFO2018081 to KAEFER Integrated Services Pty Ltd ABN 83 009 046 191 for the amount of \$183,982.50 (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:

Council awards the Contract RFO2018081 to KAEFER Integrated Services Pty Ltd ABN 83 009 046 191 for the amount of \$183,982.50 (exclusive of GST).

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.6.

In accordance with Local Government (General) Regulations 2005.

b. Budget/Long Term Financial Plan:

Provision for the RFO2018081 Design, Supply and Install PV System at Tweed Regional Aquatic Centre, Murwillumbah is included in the 2018/2019 Budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. RFO2018081 Design, Supply and Install a PV System at Tweed Regional Aquatic Centre, Murwillumbah - Offer Evaluation Report (ECM 5593532).

(Confidential) Attachment 2. RFO2018081 Design, Supply and Install a PV System at Tweed Regional Aquatic Centre, Murwillumbah - Offer Evaluation Scoring Sheet (ECM 5593558).

30 [CNR-CM] Public Toilets - South Tweed Industrial Area

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
- 3.1 People
- 3.1.11 Public Toilets - To provide safe, accessible, clean and well located public toilets to meet community needs.

ROLE: Provider

SUMMARY OF REPORT:

At its meeting held 17 May 2018, Council resolved to seek the advice of the Tweed Heads Residents' Association and Tweed Heads Business Chamber, in regard the benefit of a public toilet in the South Tweed Heads industrial area and bring forward a report on the outcome of this consultation.

Letters were written to the Tweed Heads Residents' Association and Tweed Heads Business Chamber on 1 June 2018 in accordance with the resolution. At the time of writing this report, no response had been received from either organisation.

RECOMMENDATION:

That the report on Public Toilets - South Tweed Industrial Area be received and noted.

REPORT:

At its meeting held 17 May 2018, Council resolved to seek the advice of the Tweed Heads Residents' Association and Tweed Heads Business Chamber, in regard the benefit of a public toilet in the South Tweed Heads industrial area and bring forward a report on the outcome of this consultation.

Letters were written to the Tweed Heads Residents' Association and Tweed Heads Business Chamber on 1 June 2018 in accordance with the resolution. At the time of writing this report, no response had been received from either organisation.

Discussion

In considering the option of a public toilet in this area, it is noted that this area is a mix of light industrial and bulky good retail and that the majority of the bulky goods retail outlets provide public toilets within their outlets for use by customers.

An action in the Draft Shire Wide Open Space Strategy is to *develop a shire-wide Public Toilet Strategy to improve the quality, siting and distribution of public toilets.*

The development of this strategy will consider criteria for citing of public toilets, potential rationalising of existing facilities where appropriate, and prioritisation of available funding for upgrades to existing facilities to make them compliant with contemporary accessibility standards. The strategy will also consider design and operations to maximise safety and sustainability of the facilities.

It is noted that Council currently operates 62 public toilets across the Shire with the average annual cleaning and maintenance costs around \$14,500 per facility. The installation of new facilities needs to be carefully considered in the context of funding for required upgrade to existing facilities and on-going operational costs.

It is anticipated that this strategy will be undertaken in 2019.

OPTIONS:

1. Receive and note this report.
2. Resolve an alternate course of action.

CONCLUSION:

Council did not receive a response to the written requests to the Tweed Heads Residents' Association and Tweed Heads Business Chamber in accordance with the 17 May resolution of Council.

An action in the Draft Shire Wide Open Space Strategy is to *develop a shire-wide Public Toilet Strategy to improve the quality, siting and distribution of public toilets.* This strategy will consider the criteria for citing of public toilets. Council may consider this as the appropriate process for considering proposals for new facilities.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

There are no budget implications with the report recommendation. Should Council determine to pursue the installation of a public toilet, the costs of construction will be dependent upon the location and type of facility provided, availability of services and tenure of the land. The average annual maintenance costs for a public toilet is \$14,500.00.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

Council wrote to the Tweed Heads Residents' Association and Tweed Heads Business Chamber on 1 June 2018 in accordance with the 17 May resolution of Council seeking comment on the proposal. No response has been received.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

31 [CNR-CM] Report on Risk Assessment and Treatment Plan 2018 - Fingal Head - Coastal Public Safety Risk Assessment

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
3.1	People
3.1.8	Lifeguard Services - To reduce the human risk to beach users on the Tweed Coast through surf lifeguard services and education.

ROLE: **Provider**

SUMMARY OF REPORT:

In response to the unfortunate drownings at Fingal Headland over recent years, Surf Life Saving NSW conducted a Coastal Public Risk Assessment and Treatment Plan including Fingal Beach, Fingal Headland and Dreamtime Beach.

The key recommendations of the plan are:

- Coastal usage and incident data (e.g. drowning incidents, emergency callouts, lifesaving and lifeguard statistics) should be used when making informed decisions about the implementation of risk treatments for coastal safety.
- Land Managers and tourism organisations should ensure that patrolled locations and surf safety information is promoted through any websites, specific promotional material, newsletters and social media pages.
- Education and awareness programs should include standardised key safety messages which are recognised by the aquatic industry.
- Distribution of standardised surf safety collateral (e.g. brochures and flyers) to Fingal Holiday Park and any other coastal accommodation providers. Collateral could also be made available at local shops such as newsagents or bakeries.
- Tweed Shire Council to use the Signage and Access schedules as a guide for any future maintenance and signage reviews in the Fingal Head area.
- Consideration be given to the installation of a life ring at Fingal Headland.
- Consideration be given to the implementation of an Emergency Response Beacon at Dreamtime Beach.
- This document should be reviewed regularly to measure the effectiveness of any risk mitigation strategies and drowning prevention initiatives that have been implemented.

It should be noted that the recommendations are provided as options for guidance only and will not be binding to the Land Manager.

The recommendations are in no particular order in regards to prioritisation.

RECOMMENDATION:

That Council:

- 1. Receives and notes the report on Risk Assessment and Treatment Plan 2018 - Fingal Head - Coastal Public Safety Risk Assessment and implements the recommendations as resources are available.**
- 2. Undertakes to engage Australian CoastSafe to carry out a review of the 2013 Risk Assessment and Treatment Plan for the Tweed Local Government area.**

REPORT:

In response to the unfortunate drownings at Fingal Headland over recent years, Surf Life Saving NSW conducted a Coastal Public Risk Assessment and Treatment Plan including Fingal Beach, Fingal Headland and Dreamtime Beach.

With regard to the key recommendations, the report notes:

- The below recommendations are provided as options for guidance only and will not be binding to the Land Manager.
- The below recommendations are in no particular order in regards to prioritisation.
- Further explanation to the recommendations should also be referenced and can be found on the corresponding pages.

The key recommendations of the plan are:

- Coastal usage and incident data (e.g. drowning incidents, emergency callouts, lifesaving and lifeguard statistics) should be used when making informed decisions about the implementation of risk treatments for coastal safety.
- Land Managers and tourism organisations should ensure that patrolled locations and surf safety information is promoted through any websites, specific promotional material, newsletters and social media pages.
- Education and awareness programs should include standardised key safety messages which are recognised by the aquatic industry.
- Distribution of standardised surf safety collateral (e.g. brochures and flyers) to Fingal Holiday Park and any other coastal accommodation providers. Collateral could also be made available at local shops such as newsagents or bakeries.
- Tweed Shire Council to use the Signage and Access schedules as a guide for any future maintenance and signage reviews in the Fingal Head area.
- Consideration be given to the installation of a life ring at Fingal Headland.
- Consideration be given to the implementation of an Emergency Response Beacon at Dreamtime beach.
- This document should be reviewed regularly to measure the effectiveness of any risk mitigation strategies and drowning prevention initiatives that have been implemented.

Below are Council officer's responses to each of the recommendations:

Recommendation:

Coastal usage and incident data (e.g. drowning incidents, emergency callouts, lifesaving and lifeguard statistics) should be used when making informed decisions about the implementation of risk treatments for coastal safety.

Response:

Coastal usage and incident data is included in the methodology for determining the action planning priority in the risk assessment and treatment plan. The Coastal Public Safety Risk assessment and treatment Plan for the Tweed Local Government Area was completed in 2013 and is now over five years old. It would be useful for Council to review this plan with respect to the changes in population and beach usage on the Tweed coast over this period.

Recommendation:

Land Managers and tourism organisations should ensure that patrolled locations and surf safety information is promoted through any websites, specific promotional material, newsletters and social media pages.

Response:

Council will liaise with The Tweed Tourism Company to ensure that (local) surf safety information is promoted through their appropriate digital channels and marketing collateral.

Recommendation:

Education and awareness programs should include standardised key safety messages which are recognised by the aquatic industry.

Response:

Surf Life Saving NSW undertakes education and awareness programs as a component of the lifeguard service contract with Council. This includes programs with local schools either at the schools or on the beach where students are taught the importance of swimming between the flags, dangerous and safe swimming areas in the region and common hazards such as rip prevention and what to do if caught in a rip.

Recommendation:

Distribution of standardised surf safety collateral (e.g. brochures and flyers) to Fingal Holiday Park and any other coastal accommodation providers. Collateral could also be made available at local shops such as newsagents or bakeries.

Response:

Council will liaise with The Tweed Tourism Company to provide standardised surf safety collateral to coastal accommodation providers. Tweed Coast Holiday Parks will provide information at all the Tweed Coast Holiday Parks and Council will distribute same collateral to local shops.

Recommendation:

Tweed Shire Council to use the Signage and Access schedules to guide for any future maintenance and signage reviews in the Fingal Head area.

Response:

Council will use the Signage and Access schedules will guide any future maintenance and signage reviews in the Fingal Head area.

Recommendation:

Consideration be given to the installation of a life ring at Fingal Headland.

Response:

Crown Lands have installed a life ring on Dream Beach entry (figure 2), and are liaising with the Tweed Byron Aboriginal land Council with a view to installing one on Fingal Headland.

Recommendation:

Consideration be given to the implementation of an Emergency Response Beacon at Dreamtime beach.

Response:

Surf Life Saving NSW (SLS) are proposing the installation of a Permanent Emergency Response Beacon with a Camera at Dreamtime Beach (Figure 1). The camera is solar powered and installed using a screw anchor minimising disturbance or requirement for services. The same device has been installed at Noosa and this will be the first installation in NSW. SLS are hoping to have the camera installed mid to late October 2018.



Figure 1: Camera and pole proposed for Dreamtime Beach



Figure 2: Life ring installed on Dreamtime Beach. This is also the location of the proposed camera and pole.

Recommendation:

This document should be reviewed regularly to measure the effectiveness of any risk mitigation strategies and drowning prevention initiatives that have been implemented.

Response:

The document and effectiveness of mitigation strategies will be reviewed by Council in consultation with SLS.

2013 Risk Assessment and Treatment Plan - Tweed Local Government Area

In 2013 as part of Project Blueprint, Australian CoastSafe completed coastal risk assessments at all coastal locations in the Tweed Shire LGA. While the majority of the recommendations of this report have been implemented, recommendation 18 (below) requires consideration:

Recommendation 18:

Tweed Shire Council should utilise the 'Lifesaving Service Level Calculator' on an annual basis, or as population densities change significantly, to measure the extent of increased beach usage in proximity to the proposed Kings Forest property development at Cabarita.

This review has not been undertaken since the development of the plan. Considering the assessment is now five years old, Council should consider having the assessment and report reviewed by Australian CoastSafe.

OPTIONS:

1. Council receives and notes the report on Risk Assessment and Treatment Plan 2018 - Fingal Head - Coastal Public Safety Risk Assessment and recommendations and;
2. Council undertakes to engage Australian CoastSafe to carry out a review of the 2013 Risk Assessment and Treatment Plan for the Tweed Local Government area.
3. Council considers an alternate response.

CONCLUSION:

The Coastal Public Risk Assessment and Treatment Plan undertaken for Fingal Head utilises standard, robust methodology developed by Surf Life Saving NSW to assess public safety risks and make recommendations accordingly. The report provides clear recommendations for Council on how to manage risks at these sites.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Council is already undertaking the actions recommended within the report, and where recommendations call for increased activity in certain areas, this can be achieved within existing resources.

Should Council elect to have CoastSafe review the 2013 Risk Assessment and Treatment Plan for the Tweed Local Government area, this is estimated at between \$15,000 and \$20,000. These funds are available within current budget allocations.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

The Coastal Public Risk Assessment and Treatment Plan is a report based on an accepted risk assessment framework. Accordingly, the finding and recommendations are not subject to engagement.

The findings of the report will be communicated to the community through the Tweed Link.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Coastal Public Risk Assessment and Treatment Plan including Fingal Beach, Fingal Headland and Dreamtime Beach (ECM 5591637)

REPORTS FROM THE DIRECTOR ENGINEERING

32 [E-CM] RFO2018069 - Design, Supply and Install Six Solar PV Systems and Water and Wastewater Unit Sites

SUBMITTED BY: Infrastructure Delivery

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 Request for Offer RFO2018069 – Design, supply and install six solar photovoltaic (PV) systems at Water and Wastewater Unit Sites was called to engage a suitably qualified and experienced organisation to design, supply and install six PV systems at Water and Wastewater facilities with a total generation capacity of three hundred and thirty five (335) kilowatt peak (kwp).

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.

At the time of closing ten Offers were received.

RECOMMENDATION:

That in respect to Contract RFO2018069 Design, Supply and Install six Solar PV Systems at Water and Wastewater Unit Sites:

1. Council awards the offer Kaefer Integrated Services Pty Ltd ABN 83 009 046 191 for the amount of \$304,222.00 (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:-**
- (d) **commercial information of a confidential nature that would, if disclosed:**
 - (i) **prejudice the commercial position of the person who supplied it, or**
 - (ii) **confer a commercial advantage on a competitor of the council, or**
 - (iii) **reveal a trade secret.**

REPORT:

Offer Background

Offer RFO2018069 – Design, supply and install six solar photovoltaic (PV) systems at Water and Wastewater Unit Sites was called to engage a suitably qualified and experienced organisation to design, supply and install six PV systems at Water and Wastewater facilities.

In March 2013 Council resolved to be self-sufficient in renewable energy. In October 2017 Tweed Shire Council undertook a Renewable Energy Study to establish achievable targets and identify practical actions that can be undertaken to achieve this objective.

The design, supply and installation of six solar Photovoltaic (PV) systems at water and wastewater unit sites incorporates five of the thirty two energy efficiency and renewable energy projects recommended to be undertaken from 2016 -17 to 2024 – 25.

Request for Offer Advertising

Offers were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. The Request for Offers was advertised in the Sydney Morning Herald on Tuesday 10 July 2018, in the Brisbane Courier Mail and the Gold Coast Bulletin on the 7 July 2018 and in the Tweed Link on the 9 July 2018.

Offer submissions closed at 4.00pm (local time) on 29 August 2018 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

Offer Addendums

There were seven Offer Addendums (Notice to Bidders) issued before close of Offer.

Addendum No. 1 was issued to advise Bidders of the changed capacity for the WPS02 PV System at Bray Park and the schedule for the mandatory site inspections.

Addendum No 2 was issued to advise Bidders of the change of requirements regarding the structural roof assessments (Section 1.6.5 of Technical Specification).

Addendum No 3 was issued to advise Bidders of the extension of closing date to 8 August 2018, 4pm.

Addendum No 4 was issued to advise Bidders of the extension of closing date to 22 August 2018, 4pm.

Addendum No 5 was issued to advise Bidders to clarify the requirement of the endorsement of the Clean Energy Councils Solar Retailers Code of Conduct.

Addendum No 6 was issued to advise Bidders of the extension of closing date to 22 August 2018, 4pm and the amendments to Schedule 3 providing updated capacities and layout options for the Bray Park and Kingscliff sites.

Addendum No 7 was issued to advise Bidders of the amended Schedule 3 that provided updated capacities and layout options at the Kingscliff Water and Wastewater Treatment Plant and also provided Bidders advice from the Clean Energy Regulator.

Offer Submissions

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

Bidder	ABN
Allara Energy	13 141 158 081
CB Energy	82 121 978 023
Hawking Electrical	77 600 142 854
Kaefer Integrated Services Pty Ltd	83 009 046 191
MoreGreen Energy Pty Ltd	39 607 340 312
OTG Energy	35 620 080 837
SAE Group	34 143 698 864
SmartConsult	72 707 145 236
Solgen Energy Pty Ltd	21 131 625 600
Stralis Energy Pty Ltd	62 603 744 074

Offer Evaluation

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

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

Position
Dan Boyle – Acting Project Manager Contracts
Michael Qualmann – Projects Officer - Energy

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

Criterion	Document Reference	Weighting (%)
Assessed Offer Price (As adjusted) Value	Schedule 3	50%
Quality of Components	Schedule 5	15%
Warranties Offered	Schedule 3, 5	5%
Previous Experience and Capability	Schedule 7	5%
Management Systems (WH&S, Quality and Environmental)	Schedule 9	5%
Sustainable Procurement	Schedule 5	5%
Insurances	Schedule 5	5%
Local Content	Schedule 5	10%
	Total	100

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

- (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.

Kaefer Integrated Services Pty Ltd achieved the highest overall evaluation score and is therefore deemed as most advantageous option for Council.

OPTIONS:

That Council:

1. Awards the offer Kaefer Integrated Services Pty Ltd ABN 83 009 046 191 for the amount of \$304,222.00 (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:

Council awards the Contract RFO2018069 to Kaefer Integrated Services Pty Ltd ABN 83 009 046 191 for the amount of \$304,222.00 (exclusive of GST).

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.6.

In accordance with Local Government (General) Regulations 2005.

b. Budget/Long Term Financial Plan:

Provision for the RFO2018069 Design, Supply and Install Six Solar PV Systems and Water and Wastewater Unit Sites is included in the 2018/2019 Budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. RFO2018069 – Design, Supply and Install Six Solar PV Systems at Water and Wastewater Unit Sites – Offer Evaluation Report (ECM5591762).

(Confidential) Attachment 2. RFO2018069 – Design, Supply and install six solar PV systems at Water and Wastewater Unit Sites - Offer Evaluation Scoring Sheet (ECM5591597).

33 [E-CM] RFO2018105 Road Pavement Stabilisation Program 2018-2019

SUBMITTED BY: Roads and Stormwater

Valid



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Provider

SUMMARY OF REPORT:

Request for Offer RFO2018105 Road Pavement Stabilisation Program 2018 - 2019 was called to engage a suitably qualified and experienced organisation(s) to deliver the Tweed Shire Councils Road Pavement Stabilisation Program.

At the time of closing five Offers were received.

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

RECOMMENDATION:

That in respect to Contract RFO2018105 Road Pavement Stabilisation Program 2018 – 2019:

- 1. Council awards the offer to Stabilised Pavements of Australia ABN 90 002 900 736 for the amount of \$1,456,187.50 (exclusive of GST).**
- 2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council six monthly and at finalisation of the contract.**

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

REPORT:**Offer Background**

Offer RFO2018105 Road Pavement Stabilisation Program 2018 - 2019 was called to engage a suitably qualified and experienced organisation(s) to deliver the Tweed Shire Councils Road Pavement Stabilisation Program.

Request for Offer Advertising

Offers were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. The Request for Offers was advertised from 1 September 2018 in The Sydney Morning Herald on Tuesday 4 September 2018, in the Brisbane Courier Mail on 1 September 2018 and also in the Tweed Link on the 3 September 2018.

Offer submissions closed at 4:00pm (local time) on 26 September 2018 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 Offer Addendum (Notice to Bidders) issued before close of Offer.

Addendum No. 1 was issued on 24 September 2018 to advise Bidders their offered rates shall include a minimum of one training session for Tweed Shire Council Plant Operators and other nominated staff on road pavement methods and stabilisation techniques.

Offer Submissions

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

Bidder	ABN
Accurate Asphalt & Road Repairs Pty Ltd	41 096 051 311
Downer EDI Works Pty Ltd	66 008 709 608
Hiway Stabilizers Australia Pty Ltd	40 150 650 150
Stabilised Pavements of Australia	90 002 900 736
East Coast Asphalt & Concrete Edging Pty Ltd	51 755 877 285

Offer Evaluation

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

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

Position
Daniel Boyle, Acting Project Manager - Contracts
Cameron Maxwell, Acting Senior Engineer - Construction
Shaun Halberstater, Engineer - Assets & Maintenance

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

Criterion	Document Reference	Weighting (%)
Value for Money (Normalised Offer Price)	Schedule 3	50
Previous Contract Experience	Schedule 4	15
Management Systems (WH&S, Quality and Environmental)	Schedule 7	5
Proposed Subcontractors	Schedule 8	15
Insurances	Schedule 9	Yes / No Item
Sustainable Procurement	Schedule 10	5
Local Content	Schedule 11	10%
Business Associations	Schedule 13A	Yes/No Item
	Total	100

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

- (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.

Local content was evaluated and no Offers fell within the cost cap and therefore was not applied.

OPTIONS:

That Council:

1. Awards the offer RFO2018105 to Stabilised Pavements of Australia ABN 90 002 900 736 for the amount of \$1,456,187.50 (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:

Council awards the contract RFO2018105 to Stabilised Pavements of Australia ABN 90 002 900 736 for the amount of \$1,456 187.50 (exclusive of GST).

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy v1.6.

In accordance with Local Government (General) Regulations 2005.

b. Budget/Long Term Financial Plan:

Provision for the RFO2018105 Road Pavement Stabilisation Program 2018-2019 is included in the 2018-2019 Budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. RFO2018105 - Offer Evaluation Report (ECM5593434).

(Confidential) Attachment 2. RFO2018105 - Offer Evaluation Scoring Sheet (ECM5593435).

34 [E-CM] Natural Disaster Relief Assistance Grant Offer - 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: Provider

SUMMARY OF REPORT:

The South Murwillumbah Flood Levee provides protection from minor floods to the South Murwillumbah community and was severely damaged during the March 2017 event.

Council has been offered \$3,753,700 under the State and Federal Governments' Natural Disaster Relief and Recovery Arrangements (NDRRA) to fund the permanent restoration of the levee.

RECOMMENDATION:

That Council:

- 1. Accepts the offer of \$3,753,700 in Natural Disaster Relief and Recovery Arrangements funding from the New South Wales Government for the South Murwillumbah Flood Levee Repair project, and adjust the budget accordingly in the next Quarterly Budget Review.**
- 2. Executes all necessary documentation under the Common Seal of Council.**

REPORT:

The March 2017 flood event on the Tweed River following Ex-Tropical Cyclone Debbie caused widespread damage throughout the Shire and was a declared natural disaster. The South Murwillumbah Flood Levee provides protection from minor floods to the South Murwillumbah community and was severely damaged during the March 2017 event. Council installed a temporary repair immediately after the event to reinstate the levee. However, a permanent solution is required.

New South Wales Public Works Advisory (NSW PWA) have been engaged to design and manage the permanent levee repair project. The permanent repair will incorporate a rock revetment to stabilise the riverbank that supports the levee.

Council Officers lodged a claim under the State and Federal Governments' Natural Disaster Relief and Recovery Arrangements (NDRRA) on 30 June 2017. NSW Public Works Advisory (a separate unit to those managing the project on behalf of Council) is the assessing agency for Flood Mitigation assets on behalf of the NSW State Government.

An application was lodged for a total of \$4,075,960, however some of these costs were deemed ineligible by NSW PWA assessing officers and a final total of \$3,753,700 has been offered. It should be noted that this is an upper limit funding agreement and only actual expenditure up to the approved amount may be claimed.

Due to time constraints for accepting the offer, a letter of acceptance has already been sent to the NSW Government Department of Finance, Services and Innovation.

Council has until 30 June 2019 to complete damage restoration works in accordance with the offer. However, an extension for the South Murwillumbah Flood Levee Repair project has been submitted to allow construction works to spill over into the 2019/20 financial year.

Council is also required to submit a final certificate of expenditure within three months of completion of the restoration work. This certificate is to show the total expenditure of the work and compare it with the agreed estimated cost, a copy of Council's ledger is required to verify expenditure incurred.

OPTIONS:

1. Council accepts the Natural Disaster Relief and Recovery Arrangements funding offered and restores the South Murwillumbah Levee.
2. Council rejects the Natural Disaster Relief and Recovery Arrangements funding offered.

Option 1 is the recommendation of this report.

CONCLUSION:

The Natural Disaster Relief and Recovery Arrangements funding offered to Council for the South Murwillumbah Flood Levee Repair will restore minor flood protection to the South Murwillumbah community and minimise the financial impact of the event on Council. It is recommended that Council accepts this offer and completes the levee repair project.

COUNCIL IMPLICATIONS:

a. Policy:

Flood Risk Management v1.0.

b. Budget/Long Term Financial Plan:

Restoration of the South Murwillumbah Flood Levee is necessary and acceptance of this funding allocation minimises the impact on the financial position of Council. Any funding shortfall between the actual restoration value and the allocated NDRRA funding will be met by the Infrastructure Asset Management Reserve or by delaying some items on the capital works program.

A future report will be presented to Council summarising the financial impact of the March 2017 flood event across all asset categories of Council. This report will also summarise the external funding sources Council has secured (some are yet to be finalised) with details of the proposed mechanisms to fund any shortfalls.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

Parts of the South Murwillumbah Flood Levee are located on private land. All of the affected landowners have been contacted and consent for access requested where required.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Grant Offer Letter from Natural Disaster Relief Assistance Program (ECM 5367178).

35 [E-CM] Clarification on the Extent of Parking Contribution Waiver - Murwillumbah Central Business District / South Murwillumbah

SUBMITTED BY: Roads and Stormwater

nhm



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:

To stimulate economic growth in Murwillumbah following the disastrous flood events of 2017, Council resolved to support a general waiver on provision of car parks under the car parking development code for up to three spaces for new and expanding businesses for a twelve month period. The waiver was extended in July 2018 for twelve months to expire on 30 June 2019.

Following a car parking enquiry about a development in River Street, South Murwillumbah, questions were raised about what specific areas are eligible for the parking waiver. Although the proponent is not proceeding with this particular development, this report provides clarification to assist future enquires and in processing applications.

RECOMMENDATION:

That the parking waiver, adopted by Council at its meeting of 5 July 2018, apply to Zones B3 and B4 of the Murwillumbah Central Business District as defined in the Local Environmental Plan and the section of Zone B5 in South Murwillumbah located south of Alma Street.

REPORT:

To stimulate economic growth in Murwillumbah following the disastrous flood events of 2017, Council resolved to support a general waiver on provisions of car parks under the car parking development code for up to three spaces for new and expanding businesses for a twelve month period.

On 18 May 2017 Council resolved the following:

"that for a period of 12 months commencing 1 June 2017, a general amnesty/waiver on payment of upfront parking contribution fees or amnesty/waiver on provision of car parks under the car parking development code be provided and this amnesty/waiver be limited to a maximum of 3 (parking) spaces per new or expanding businesses in the Murwillumbah Central Business District and South Murwillumbah (specifically Prospero Street) region."

On 5 July 2018 Council resolved the following:

"that the car parking contribution plan for Murwillumbah CBD and Prospero Street be continued for another 12 months as the trial existed to expire 30 June 2019."

Following a car parking enquiry about a development in River Street, South Murwillumbah, questions were raised about the specific area included in the waiver as it has not been defined in previous Council reports and resolutions. Although the proponent is not proceeding with this particular development, this report will provide clarification to assist future enquires and processing applications.

Background

Contributions under Plan No.23 Offsite Parking are only imposed on new businesses in Central Business District (CBD) locations if they are unable to meet their car parking requirements under DCP-A2 Site Access and Parking Code. Additional parking is only necessary if the proposed development (such as a change of use) is a higher parking demand generator than the previously approved land use. An example would be a change from a shop to a café or to a medical centre. Like for like changes of use (i.e. from a shop to another shop) will not generate any contributions, so is not a barrier to new business.

The contribution approach recognises that CBD land is constrained, and it is not physically possible for most sites in a CBD to be reconfigured to fit additional parking spaces to meet the additional demand. This is particularly the case in Murwillumbah where the CBD is a heritage conservation area. The contribution is used to provide centralised public facilities – in Murwillumbah this is the multi-storey carpark adjacent to the Civic Centre.

Those areas outside of the CBD, which are generally less constrained and are further removed from the centralised public car parking facilities, are expected to provide all of their car parking requirements onsite and do not have the contribution alternative. This is the case for South Murwillumbah, where there are no contributions to waive.

The implications of the waiver are that new businesses may generate a shortfall in car parking for their staff and customers. The effect of long term shortfalls in onsite parking is the shortfall stays with the site forever in the form of a credit.

Uptake of the parking waiver

To date the following development applications have relied upon the waiver to meet car parking requirements:

- Two spaces waived for DA18/0064 - Nos. 22-26 Prospero Street, South Murwillumbah for a change of use to a hair salon.
- 1.19 spaces waived for DA17/0573 - No. 1 Brisbane Street, Murwillumbah for a mixed use development (Arts Precinct).
- Two spaces waived for DA18/0231 - No. 32 Murwillumbah Street, Murwillumbah for a café expansion (Keith's cafe).
- One space for DA18/0253 – Shop2/132 Murwillumbah Street, use of tenancy as a physiotherapy clinic.

There have been ten enquiries about the waiver and the actual cost to date, in terms of foregone contributions is \$115,431.

Proposed extent of the waiver

In the Local Environmental Plan (LEP) Zone B3 is the Commercial Core and B4 is Mixed Use. It is expected that the waiver should apply to these zones (Figure 1) in the CBD to stimulate economic growth. Zones B3 and B4 are in reasonable walking distance to the multi-level car park off Tumbulgum Street and/or the public car parks in Knox Park and next to Sunnyside.

The May 2017 resolution indicates that the waiver applies to Prospero Street only, whereas the original resolution refers to "*South Murwillumbah (specifically Prospero Street) region*". Given the original intention of the waiver was to stimulate economic growth after the flood, it is recommended to apply the waiver to the South Murwillumbah business precinct, specifically the section south of Alma Street, within Zone B5 of the LEP (Figure 1). Businesses outside Prospero Street in South Murwillumbah were also severely impacted by the flood and are still a reasonable distance for their staff and customers to access the public car park on River Street and to a lesser extent, the multi-level car park off Tumbulgum Road.

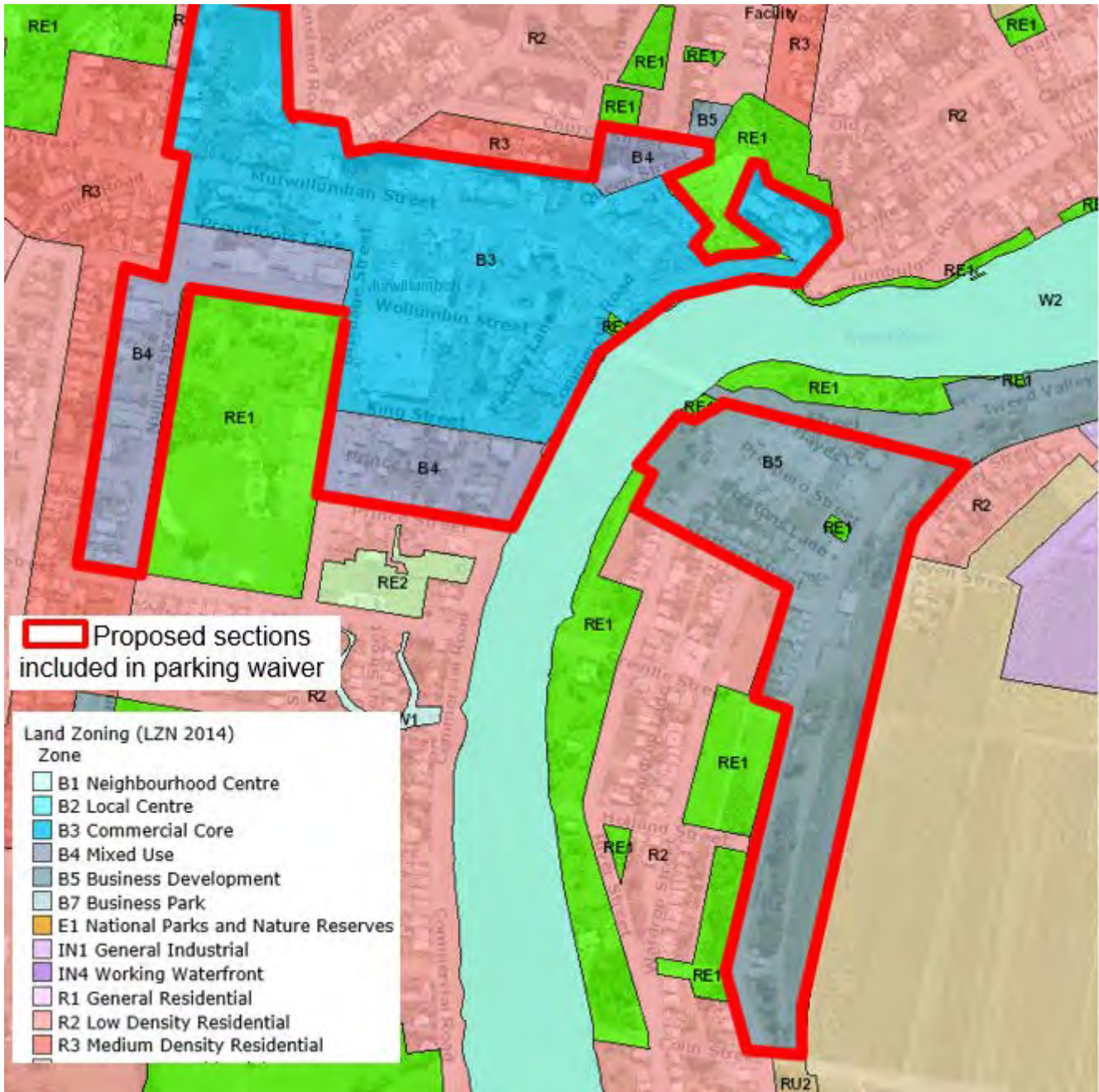


Figure 1. The proposed area of Murwillumbah CBD and South Murwillumbah eligible for the parking waiver.

Alternate option

Alternatively the waiver could be applied to the same parts of the Murwillumbah CBD as Contribution Plan 23 (Figure 2) rather than the whole business zone. This reduces the scope of the waiver.

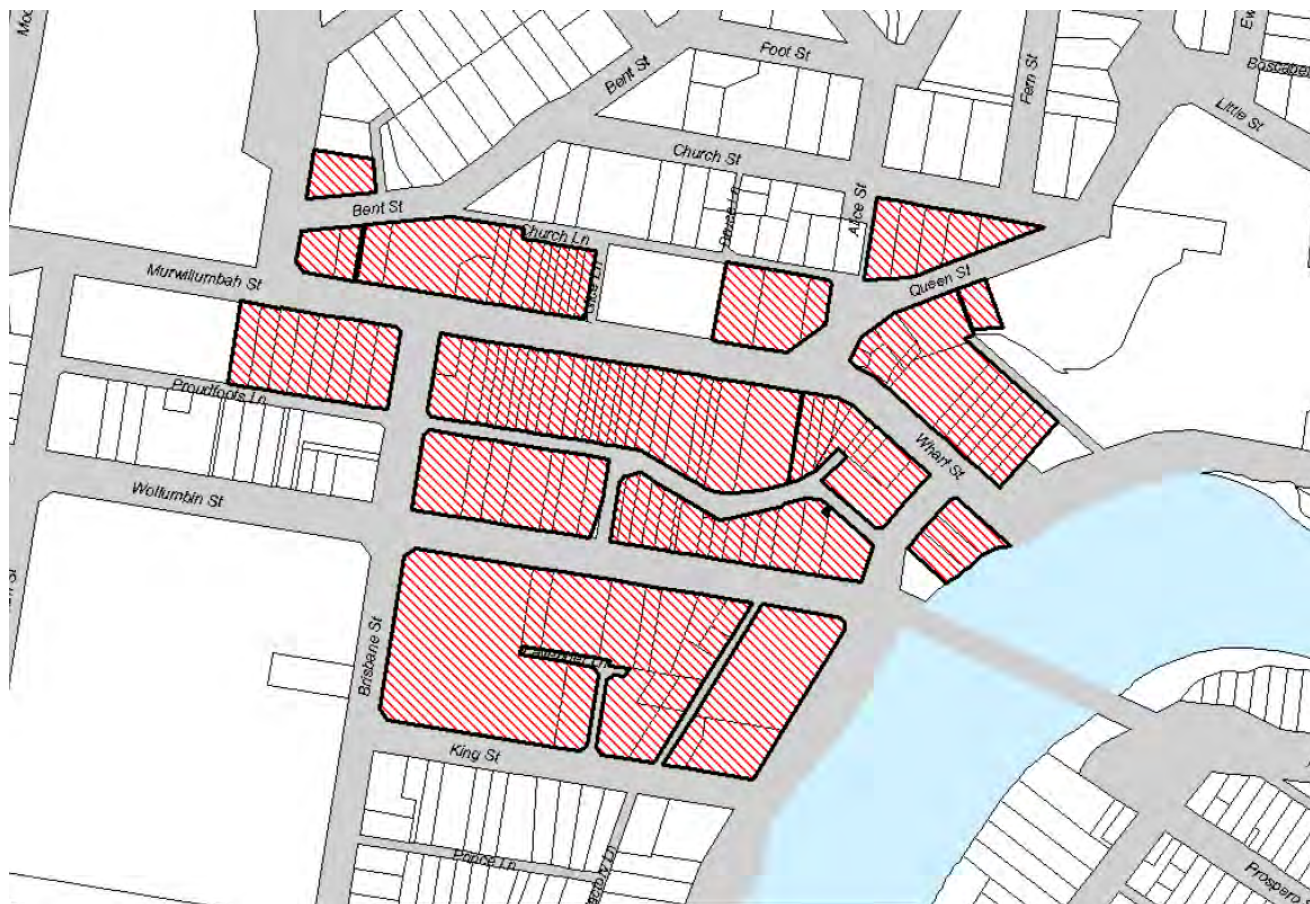


Figure 2. The waiver could be applied in Murwillumbah CBD to the same area as the as CP23.

OPTIONS:

That the parking waiver applies to a combination of the following:

- 1(a) Zones B3 and B4 of Murwillumbah CBD, or
- 1(b) The area of Murwillumbah CBD included in CP23 - Offsite Parking
- 2(a) The section of Zone B5 in South Murwillumbah, located south of Alma Street, or
- 2(b) Prospero Street, specifically

Options 1(a) and 2(a) are the recommendations of this report.

CONCLUSION:

This report seeks to clarify the areas to which the adopted parking waiver applies, the recommendation being the wider Business Zoned areas in Murwillumbah CBD and in South Murwillumbah, south of Alma Street

COUNCIL IMPLICATIONS:

a. Policy:

Council adopted a Business Investment Policy in August 2016, which includes a range of discounts, exemptions, deferrals and incentives for employment generating businesses and small businesses. The policy currently provides a deferred payment incentive for businesses subject to car parking contributions. Any contribution waivers proposed by Council should be implemented in the form of a revision to this Policy.

b. Budget/Long Term Financial Plan:

Whilst there is no car parking contribution plan for South Murwillumbah, the value of each space provided under the waiver based on the Murwillumbah CBD plan totals \$18,648. At some point in the future, Council may be required to fund the additional parking demand generated by the businesses. The total cost of the waiver to date in terms of foregone contributions is \$115,431.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

Council has previously advertised the parking waiver via media channels, and it is proposed to so similar to clarify the areas to which it applies.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

36 [E-CM] Funding Offer under the Country Passenger Transport Infrastructure Grants Scheme

SUBMITTED BY: Roads and Stormwater

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Provider

SUMMARY OF REPORT:

Council has been offered funding of \$62,000 under the Country Passenger Transport Infrastructure Grants Scheme (CPTIGS) to provide accessibility upgrades at bus stops across the Shire. Upgrades along Minjungbal Drive and Wharf Street will be prioritised, with works including paved connections from bus stops to footpaths and improved signage.

RECOMMENDATION:

That funding offered under the Country Passenger Transport Infrastructure Grants Scheme in the amount of \$62,000 be accepted and included in the next quarterly budget review.

REPORT:

Council has been offered \$62,000 to provide accessibility upgrades and improved bus stop signage at existing bus stops.

Upgrades are restricted to \$2000 per site and include paved connections from the stop to the footpath, removal of obstructions and improved bus stop signage. Improved facilities to store larger, more legible timetables will also be considered.

Bus stops at a minimum, to meet the Disability Standard for Accessible Public Transport should have:

- A firm, evenly graded boarding point, as level as possible;
- An unobstructed space large enough to allow for the deployment of a ramp so that a person with restricted mobility can safely get on and off the bus;
- A seamless transition between the bus stop and any connecting footpath, or the bus stop and the road where there is no footpath; and
- Clear signage indicating the location of the bus stop.

An accessibility audit will be conducted along the busiest routes (Minjungbal Drive and Wharf Street) to prioritise works. The community will also be invited to nominate sites to be upgraded with surplus funding from this grant and to inform future Country Passenger Transport Infrastructure Grants Scheme (CPTIGS) nominations.

Under the funding agreement all works must be completed by 7 September 2020.

OPTIONS:

1. That the \$62,000 of funding offered under the Country Passenger Transport Infrastructure Grants Scheme be accepted and included in the next quarterly budget review.
2. That the funding is not accepted.

CONCLUSION:

It is recommended that Council accepts the \$62,000 Country Passenger Transport Infrastructure Grants Scheme Grant to provide accessibility upgrades for Tweed bus stops.

COUNCIL IMPLICATIONS:

a. Policy:

Access and Inclusion v1.1.

b. Budget/Long Term Financial Plan:

If accepted, the \$62,000 of funding offered under the Country Passenger Transport Infrastructure Grants Scheme should be included in the next quarterly budget review.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

Inform - We will keep you informed.

The community will be invited to nominate minor upgrades at bus stops via the Tweed Link.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

37 [E-CM] Alteration of Locality Boundary between Chinderah and Kingscliff

SUBMITTED BY: Design

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Leader

SUMMARY OF REPORT:

Council has received an application to alter the locality boundary between Chinderah and Kingscliff by an affected property owner.

There are several affected properties which bound the Pacific Motorway and have no physical access from Chinderah. The only available access is via Kingscliff.

Upon inspection of the area it was determined that the logical boundary line for these properties would be best suited to be altered to Kingscliff.

All relevant land owners have been advised of the proposed change to the locality boundary and provided with the opportunity to comment on the amendment. No objections to the locality boundary alteration were received.

Where an existing extent of locality boundary is proposed to be amended, an application is required to be made to the Geographical Names Board NSW. The Board then follows the process outlined in Sections 8, 9 and 10 of the Geographical Names Act 1966, except in the case of minor amendments.

A minor amendment can be notified under the delegate authority of the Secretary (Geographical Names Board) where it affects less than ten (10) cadastral parcels. In this instance nine (9) cadastral parcels are affected.

It is recommended that Council makes application to the Geographical Names Board to alter the Locality Boundary between Chinderah and Kingscliff as shown in the body of this report.

RECOMMENDATION:

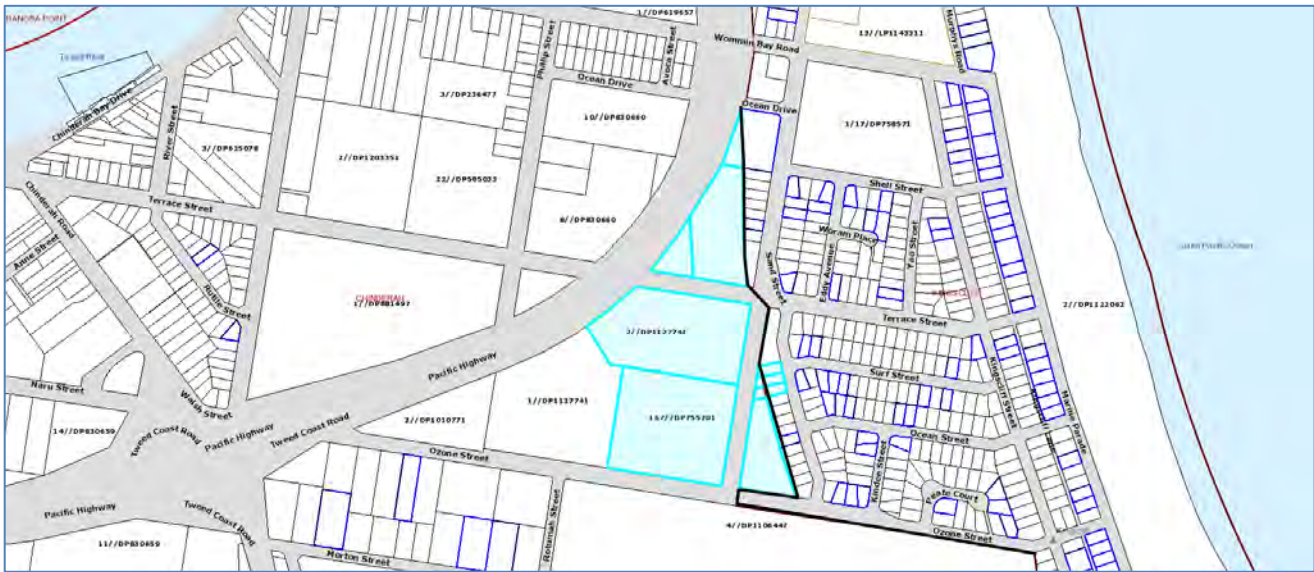
That Council makes application to the Geographical Names Board to amend the locality boundary between Chinderah and Kingscliff as per the body of this report.

REPORT:

Council has received an application to alter the locality boundary between Chinderah and Kingscliff by an affected property owner.

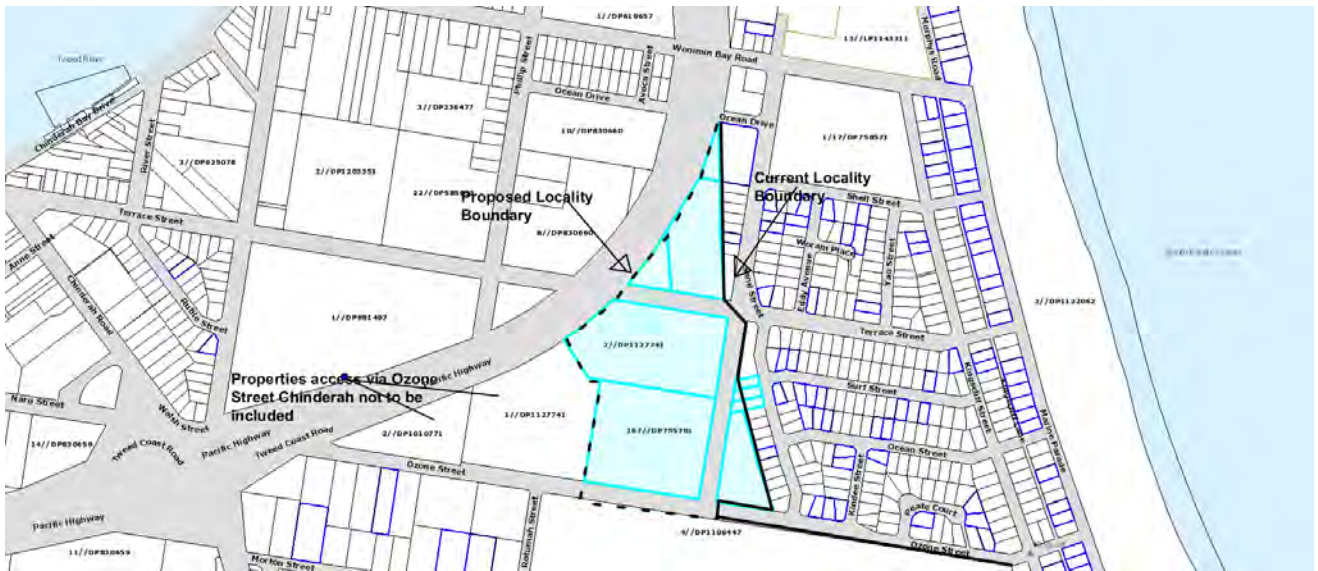
There are several affected properties which bound the Pacific Motorway and have no physical access from Chinderah (their current locality). The only available access is via Sand Street Kingscliff. Please refer to diagram 1.

Diagram 1 – Highlighted properties currently located in the suburb of Chinderah but only accessible via Kingscliff – heavy black line shows the current locality boundary



Upon inspection of the area it was determined that the logical boundary line for these properties would be best suited to be altered to Kingscliff. Diagram 2 shows the current and proposed locality boundaries

Diagram 2 - Currently locality boundary shown by heavy black line and the proposed new locality boundary by broken black line



All relevant land owners have been advised of the proposed change to the locality boundary and provided with the opportunity to comment on the amendment. No objections to the locality boundary alteration were received.

Where an existing extent of locality boundary is proposed to be amended, an application is required to be made to the Geographical Names Board NSW. The Board then follows the process outlined in Sections 8, 9 and 10 of the Geographical Names Act 1966, except in the case of minor amendments.

A minor amendment can be notified under the delegate authority of the Secretary (Geographical Names Board) where it affects less than ten (10) cadastral parcels. In this instance nine (9) cadastral parcels are affected.

OPTIONS:

1. Council makes application to the Geographical Names Board to amend the locality boundary between Chinderah and Kingscliff as per the body of the report.
2. Council accepts the currently ratified boundary as has already been gazetted between Chinderah and Kingscliff.

CONCLUSION:

Once an application has been made to the Geographical Names Board for a minor boundary alteration the Board will consider the application, and if approved under delegated authority, will advertise the proposal to the public allowing a period of 30 days for comments or objections to the proposal.

It is recommended that Council approves the making of an application to the Geographical Names Board to amend the locality boundary between Chinderah and Kingscliff as per the body of the report.

COUNCIL IMPLICATIONS:

a. Policy:

Geographical Names Act 1966.

b. Budget/Long Term Financial Plan:

No future budget implications.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

All relative property owners have been advised of the proposal in writing and provided with an opportunity to comment.

Further advertising to the general public will be conducted by the Geographical Names Board should the proposal be approved.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

38 [E-CM] Variation of Restriction on Use - Lot 10 DP 1231670 - 23 Sea Eagle Court, Casuarina

SUBMITTED BY: Design

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Provider

SUMMARY OF REPORT:

Lot 10 in DP 1231670 was created in the subdivision of Lot 1 in DP 1077697, a staged subdivision in Casuarina, in 2017.

A Restriction on Use was registered in DP 1231670 over Lots 2, 9 and 10 of that subdivision with the following terms:

- “1.1 On each lot burdened the area designated (C) on the plan shall be designated as an Asset Protection Zone (APZ).
- 1.2 On each lot burdened the construction of a dwelling within the APZ shall be prohibited.”

The owners of Lot 10 have lodged an application to vary the Restriction on Use relating to Lot 10, and have provided a Bush Fire Assessment Report to support the application.

The original consent condition in the subdivision of Lot 1 (the parent parcel) requiring the Restriction on Use arose from a Rural Fire Service requirement. As a result, any Variation to the APZ within Lot 10 is subject to the Rural Fire Service approving the performance solution for the dwelling on Lot 10.

The process of obtaining approval for the APZ Variation from the Rural Fire Service will be via the future application for a dwelling.

RECOMMENDATION:

That Council:

- 1. Approves the Variation of Restriction on Use numbered 3 in DP 1231670 affecting Lot 10 in DP 1231670 by reducing the width of the restriction from 8 metres from the southern boundary of Lot 10 to a width of 6.72 metres from the southern boundary subject to the approval of the Rural Fire Service to the Variation.**
- 2. Executes all necessary documentation under the Common Seal of Council.**

REPORT:

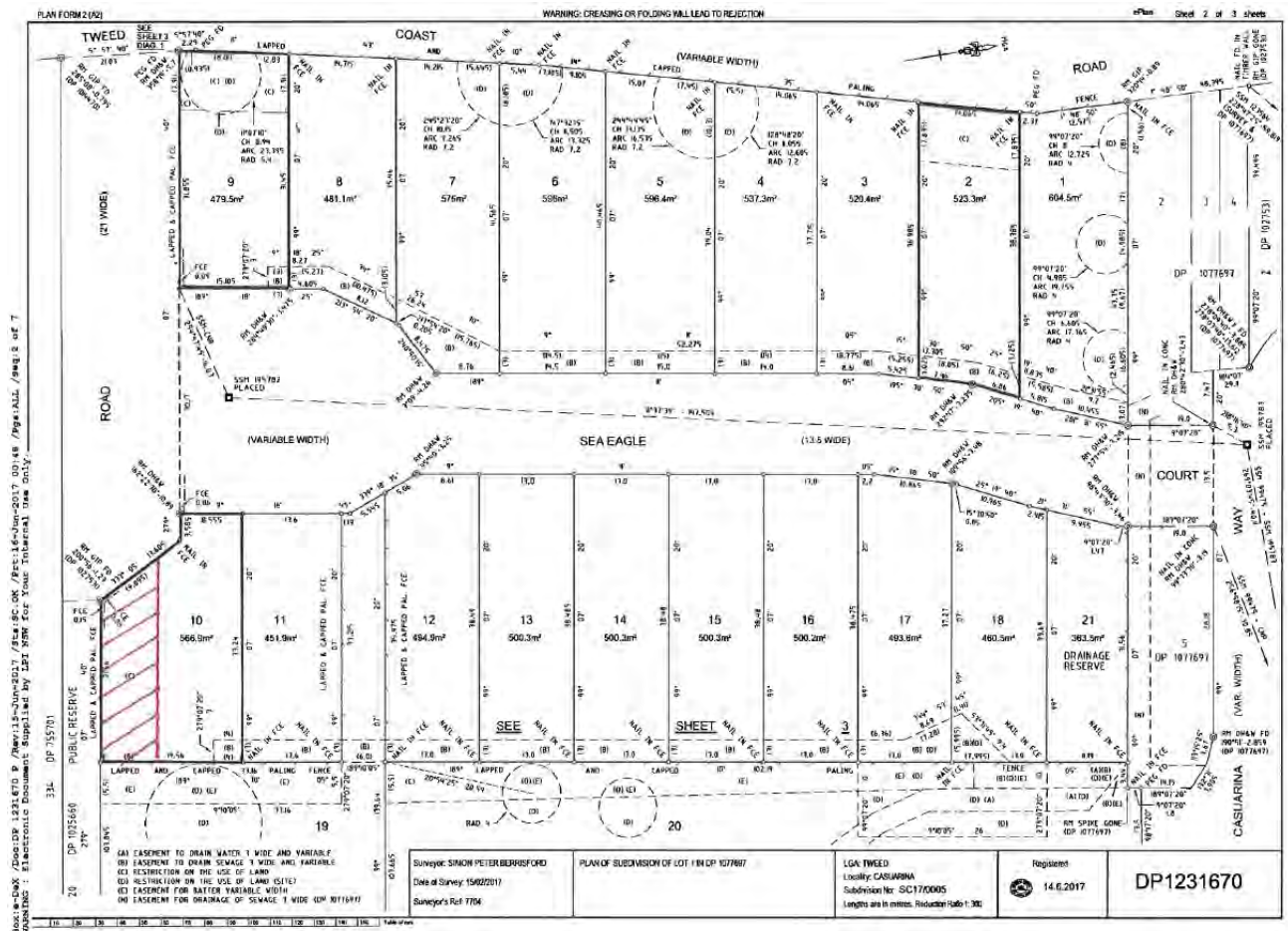
Lot 10 in DP 1231670 was created in the subdivision of Lot 1 in DP 1077697, a staged subdivision in Casuarina, in 2017.

A Restriction on Use was registered in DP 1231670 over Lots 2, 9 and 10 of that subdivision with the following terms:

- “1.1 On each lot burdened the area designated (C) on the plan shall be designated as an Asset Protection Zone (APZ).
- 1.2 On each lot burdened the construction of a dwelling within the APZ shall be prohibited.”

Council is the prescribed authority empowered to release, vary or modify the Restriction.

The plan below shows those parcels burdened by the Restriction on Use with a heavy outline, the APZ within Lot 10 has been hatched:



The original consent condition in the subdivision of Lot 1 (the parent parcel) requiring the Restriction on Use arose from a Rural Fire Service (RFS) integrated development assessment.

The RFS response relevantly included the following:

“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 issue of subdivision certificate and in perpetuity the entire area of each lot shall be managed 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’.*
- (b) At the issue of subdivision certificate for Stage 1 a restriction to the land use pursuant to section 88B of the ‘Conveyancing Act 1919’ shall be placed on propose Lots 2 and 9 to restrict the erection of a dwelling within 7.8 metres of the western boundary of Lot 2 and 7.9 metres from the western boundary of Lot 9.*
- (c) At the issue of subdivision certificate for Stage 2 a restriction to the land use pursuant to section 88B of the ‘Conveyancing Act 1919’ shall be placed on proposed Lot 10 to restrict the erection of a dwelling within 8 metres of the southern boundary of Lot 10.”*

The owners of Lot 10 have lodged an application to vary the Restriction on Use relating to Lot 10 by reducing the distance from the southern boundary, and have provided a Bush Fire Assessment Report from a qualified Bush Fire Planning and Design consultant to support the application.

The owners are seeking to vary a Restriction on the Use of the land to allow a dwelling to be constructed within the APZ on Lot 10. The Bush Fire Assessment Report establishes that the area south of Lot 10, a public reserve containing a beach access with a concrete path is not a bush fire hazard. A performance solution has been developed in regard to the APZ which meets the requirements for Planning for Bushfire Protection 2006 (PBP2006) which demonstrates that the bush fire hazard is south of the public reserve, and requires a 6.2 metre setback from the hazard within Lot 10 rather than the 8 metre restriction that currently applies.

This would allow a dwelling to be built with the required distance from the hazard, but it will be within the APZ, hence the necessity to vary the Restriction on Use as set out in (c) of the RFS response above.

The aerial photograph below shows Lot 10 highlighted and the vegetation south of the public reserve, which contains the beach access.



The applicants have demonstrated to Council's satisfaction that the dwelling can meet the requirements of PBP2006, however, recommend that the approval to vary the Restriction on Use is to be subject to RFS approval.

The landowners, in their application, requested the following:

"We are seeking the following variation of easement (sic) for our property located at 23 Sea Eagle court, Casuarina:

'Whereas Restriction on Use of Land referred to and numbered (3), included in the s88B instrument with DP1231670, provided a Restriction on the Use of the Land affecting Lot 10 DP1231670, over the part of Lot 10 shown in DP 1231670 as note (c), affecting the area being 8 metres wide along and within the southern boundary of the lot, the restriction is varied to affect the part of Lot 10 to a width of 6.72 metres wide only along and within the southern boundary of the lot.'

In the event that the RFS approve the amended boundary distance of the APZ from the southern boundary (through a future dwelling application, the Restriction on Use registered on DP 1231670 would be amended by the registration of a Variation of a Restriction on Use form, which needs to be signed by Council under Common Seal.

OPTIONS:

1. To approve the Variation of the Restriction on the Use of land to reduce the width of the APZ from the southern boundary of the parcel from 8 metres to 6.72 metres within Lot 10 DP 1231670.

2. To not approve the Variation of the Restriction on the Use of land within Lot 10.

CONCLUSION:

The reduction of the boundary of the APZ within Lot 10 has been shown to address the requirements of the PBP2006, and it is recommended that Council approves the Variation, subject to the approval of the RFS to the Variation. When Council is in receipt of the RFS approval to the Variation, the Variation document shall be executed by Council.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

No financial implications arise from this report, as all costs of registration will be borne by the applicants.

c. Legal:

The Variation of a Restriction on Use will require the registration of a Variation document on the title for Lot 10 DP 1231670.

d. Communication/Engagement:

Inform - We will keep you informed.

The Variation to a Restriction on Use does not require public engagement.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

39 [E-CM] Draft Policy - Reduction of Water Related Charges due to Undetectable Leakage Policy v3.0

SUBMITTED BY: Water and Wastewater

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.3 Utility Services
- 1.3.4 Water Supply -- To provide secure, high quality and reliable drinking water which meets health and environmental requirements.

ROLE: Provider

SUMMARY OF REPORT:

The Reduction in Water Consumption Charges due to Undetectable Leakage Policy v2.0 has been revised in response to community feedback. The revised Policy – Reduction of Water Related Charges due to Undetectable Leakage v3.0 - provides greater scope for adjustments related to second applications, multi strata units and related sewer usage and liquid trade waste charges.

Because the revised Policy was renamed and there were significant changes to the entitlement conditions, it was placed on public exhibition prior to finalisation and adoption by Council.

The revised Policy was placed on public exhibition for 28 days from 22 August to 21 September 2018. Submissions were accepted for 42 days until 5 October 2018.

One submission was received on the draft Policy. In response to this submission, a paragraph has been added to the draft Policy under Exclusions to cover damage to the property side of a water service and/or associated fittings and fixtures due to excessively high water pressure in Council's water supply system. A copy of the revised draft Policy is attached for Council's reference.

RECOMMENDATION:

That Council adopts the revised Policy – Reduction of Water Related Charges due to Undetectable Leakage v3.0 – as amended following public exhibition.

REPORT:

The objective of Council's Policy - Reduction of Water Consumption Charges due to Undetectable Leakage - is to provide financial relief to owners where significant excess water consumption is recorded without fault or negligence on the owner's behalf and the owner has acted quickly to rectify the problem once it is realised.

The current policy only allows **one** adjustment per property. There have been a number of recent representations from property owners, whose applications have been denied under the current policy, requesting Council to review its policy.

The entitlement conditions of the policy have been revised in v3.0 as summarised below:

- Entitlement per property account has been changed from one adjustment per property water account to two adjustments in five years.
- Entitlement for multi-unit strata properties now allows two adjustments in five years per individual strata property and two adjustments in five years for common property.
- Reductions in sewer usage and liquid trade waste charges associated with the adjusted water consumption are now considered in the policy.
- Otherwise minor wording and syntax changes.

The Policy has also been renamed to – *Reduction of Water Related Charges due to Undetectable Leakage* to reflect the inclusion of associated sewer usage and liquid trade waste charges.

Because the revised Policy was renamed and there were significant changes to the entitlement conditions, it was placed on public exhibition prior to finalisation and adoption by Council.

The revised Policy was placed on public exhibition for 28 days from 22 August to 21 September 2018, with submissions accepted for 42 days until 5 October 2018.

Submissions Received:

One submission was received on the draft Policy from Mr Alan Daffin.

Mr Daffin's feedback on the draft Policy is that it does not cover damage to the property side of the water service or fittings and fixtures due to excessively high water pressure in Council's water supply system.

Discussion:

Excessively high water pressure can lead to water leaks on the property side of the water meter. The damage to the property water service and/or fittings and fixtures may or may not be undetectable as defined by the Policy. Water loss resulting from this kind of damage needs to be investigated on a case by case basis. In many cases, as the damage and consequently, the water loss, are caused by the high pressure in Council's water supply system, the customer is entitled to seek reimbursement of the resulting water consumption charges,

associated sewer usage and liquid trade waste charges, as well as the associated plumbing repair costs.

This type of incident is considered to be outside the scope of the Water Related Charges due to Undetectable Leakage Policy v3.0. These incidents will continue to be handled on a case by case basis rather than generally in the Policy.

A paragraph relating to this type of incident has therefore been added to the final draft of the Policy (attached) under Exclusions.

OPTIONS:

That Council either:

1. Endorses the change made to the draft Policy post exhibition (attached) and adopts the Policy.
2. Does not endorse the change made to the draft Policy and adopts the Policy as exhibited, prior to the change being made.

or

3. Does not endorse either version of the revised Policy and resolves to keep with the Policy currently adopted by Council.

CONCLUSION:

The Reduction in Water Related Charges due to Undetectable Leakage Policy v3.0 has been revised in response to community feedback. It provides greater scope for adjustments related to second applications, multi strata units and related sewer usage and liquid trade waste charges. It provides greater clarity about entitlement and exclusions.

COUNCIL IMPLICATIONS:

a. Policy:

Reduction of Water Consumption Charges due to Undetectable Leakage v2.0

b. Budget/Long Term Financial Plan:

It is estimated that the additional cost of allowing a second adjustment as per the revised Policy will be around \$25,000 per annum. This will be borne by the Water Fund.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

The revised Policy was placed on public exhibition for 28 days from 22 August to 21 September 2018, with submissions being accepted for 42 days until 5 October 2018.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Draft Policy - Reduction of Water Related Charges due to
Undetectable Leakage Version 3.0 (ECM 5592855)

40 [E-CM] Raising of Clarrie Hall Dam - Concept Design Report

SUBMITTED BY: Water and Wastewater

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.3 Utility Services
- 1.3.4 Water Supply -- To provide secure, high quality and reliable drinking water which meets health and environmental requirements.

ROLE: Provider

SUMMARY OF REPORT:

NSW Public Works advisory was engaged to undertake the concept design for the raising of Clarrie Hall Dam.

The Report provides a concept design to raise Clarrie Hall Dam to a full Service Level (FSL) of 70m AHD. The level of 70m was chosen from previous studies undertaken to determine the optimal size of the dam.

The concept design considered two spillway options. One being use of the existing spillway with some modification and the second being a new spillway. The concept design is based on a new spillway. The spillway is designed to take the Probable Maximum Flood which would cause the water level in the dam to rise to approximately 77m AHD.

A copy of the Report is attached and the Report has also been made available to the public on Council's Your Say Tweed web site.

RECOMMENDATION:

That Council note the Clarrie Hall Dam Raising Concept Design Report and Recommendations.

REPORT:

On 10 December 2015 Council resolved that:

Based on the information currently available, Council adopts the raising of the wall of the Clarrie Hall Dam as the preferred option for future water security and proceeds with the planning approval and land acquisitions phase for the project.

On 16 February 2017 Council resolved that:

Council accepts the proposal, Clarrie Hall Dam Raising Concept Design, from NSW Public Works Advisory

NSW Public Works advisory was subsequently engaged to undertake the concept design.

The deliverables for the engagement were:

- Geotechnical investigations to assess site geology and determine the suitability of rock for the raising of the dam.
- Seismic studies to consider the impact of seismic instability on a constructed dam.
- An updated flood hydrology study to determine flood hydrographs and flood frequency curves for the design of the spillway.
- Computational Fluid Dynamics analysis of the spillway to confirm dimensions and performance.
- A Concept Design Report.

NSW Public Works have completed the work and have submitted a Concept Design Report to Council. A copy of the report is attached.

The Report provides a concept design to raise Clarrie Hall Dam to a full Service Level (FSL) of 70m AHD. The level of 70m was chosen from previous studies undertaken to determine the optimal size of the dam.

The concept design considered two spillway options. One being use of the existing spillway with some modification and the second being a new spillway. The concept design is based on a new spillway. The spillway is designed to take the Probable Maximum Flood which would cause the water level in the dam to rise to approximately 77m AHD.

A copy of the Report is attached and the Report has also been made available to the public on Council's Your Say Tweed web site.

Project Status:

The present status of the project to raise Clarrie Hall Dam is:

- Flora and Fauna studies have been completed. Work is now being undertaken to address probable Commonwealth requirements for identified threatened species.
- Cultural Heritage studies complete, site information has been registered and is to be included on Council's GIS, where appropriate.
- Environmental flow studies are underway and 60% complete.

- Council has applied for and has been provided the Secretary's Environmental Assessment Requirements for the Environmental Impact Statement (EIS) for the project. The project will be assessed as State Significant Infrastructure.
- Council is about to commence an Expression of Interest process to engage a suitable qualified consultant to undertake the EIS.
- Council has purchased or has under contract 10 of the 16 land parcels to be acquired. Negotiations are continuing with the remaining 6 with valuations provided to 5 of those.
- Council is proceeding with the demolition of structures on the land assets purchased. A contract is to be let in October for the demolition of the first 4 houses.
- Council is inspecting fence lines which will form the boundary of Council's land to determine their condition and will then undertake work required to secure the catchment boundary.
- A concept design for the replacement of McCabe's Bridge has been adopted by Council. Council's design unit will prepare the detailed design.
- Council is liaising with Essential Energy for the relocation of power assets in the inundation area.
- Council is liaising with Telstra for the relocation of telecommunication assets in the inundation area.
- Council is to undertake the management of revegetation of lands purchased. Revegetation trials are to commence shortly.
- Council is considering options for the use of the catchment. Council has had requests from organisations such as Outward Bound to use the catchment for low or no impact activities.
- Council has held a number of open days at the dam as well as a number of consultation meetings at Doon Doon Hall. Council has also continued to advise the public of progress through press releases.

OPTIONS:

Not Applicable.

CONCLUSION:

NSW Public Works advisory was engaged to undertake the concept design for the raising of Clarrie Hall Dam.

A Concept Design Report has been prepared.

The project is progressing well.

COUNCIL IMPLICATIONS:

a. Policy:

In December 2015 Council resolved to adopt the raising of the wall of the Clarrie Hall Dam as the preferred option for future water security. The preparation of the Concept Design Report is consistent with that resolution.

b. Budget/Long Term Financial Plan:

The financing of the project to raise Clarrie Hall Dam is included in Council's long term financial plans.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

NSW Public Works Advisory, Report Number ISR 18033,
Clarrie Hall Dam Concept Design Report. July 2018
(ECM5454933)

REPORTS FROM THE EXECUTIVE MANAGER FINANCE, REVENUE AND INFORMATION TECHNOLOGY

41 [FRIT-CM] 2017/2018 Draft Statutory Financial Reports

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**

SUMMARY OF REPORT:

Council's Statutory General Purpose Financial Reports in accordance with Section 413 of the Local Government Act, 1993 and the Special Purpose Financial Reports in accordance with the Local Government Code of Accounting Practice and Financial Reporting for the financial year ended 30 June 2018 have been completed.

Section 413 (2) – A council's financial reports must include:

- (a) a general purpose financial report;
- (b) any other matter prescribed by the regulations; and
- (c) a statement in the approved form by the council as to its opinion on the general purpose financial report.

This report recommends that the statement as to Council's opinion on the General Purpose Financial Reports as required by Section 413 (2) (c) of the Local Government Act and the Special Purpose Financial Reports as required by the Local Government Code of Accounting Practice and Financial Reporting be executed.

RECOMMENDATION:

That:

- 1. In accordance with Section 413(1) of the Local Government Act 1993, Council refers the General Purpose Financial and Special Purpose Financial Reports for audit.**
- 2. The statement as to Council's opinion on the General Purpose Financial Reports as required by Section 413(2)(c) of the Local Government Act 1993 and the Special Purpose Financial Reports as required by the Local Government Code of Accounting Practice and Financial Reporting for the financial period 2017/2018, be executed.**

REPORT:

Council's Statutory General Purpose Financial Reports in accordance with Section 413 of the Local Government Act 1993 for the financial year ended 30 June 2018 have been completed.

Legislation Requirements

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

1. Section 413 (1) – A council must prepare financial reports for each year, and must refer them for audit as soon as practicable after the end of that year.
2. Section 413 (2) – A council's financial reports must include:
 - (a) a general purpose financial report;
 - (b) any other matter prescribed by the regulations; and
 - (c) a statement in the approved form by the council as to its opinion on the general purpose financial report.
3. Section 413 (3) – The general purpose financial report must be prepared in accordance with the Act and the regulations and the requirements of:
 - (a) the publications issued by the Australian Accounting Standards Board, as in force for the time being, subject to regulations; and
 - (b) such other standards as may be prescribed by the regulations.
4. Section 416 (1) – A council's financial reports for a year must be prepared and audited within the period of 4 months after the end of that year.
5. Section 418 – Upon receiving the Auditor's Report, the Act requires the Council to give at least 7 days public notice of the meeting at which it proposes to present its audited financial reports, together with the Auditor's Report, to the public.
6. Section 420 – Any person may make a submission to the Council with respect to the Council's audited financial reports or with respect to the Auditor's Report. A submission must be in writing and must be lodged with the council within 7 days after the date on which those reports are presented to the public.
7. Clause 215 of the Local Government (General) Regulation, 2005 requires that the Statement under Section 413 (2) (c) on the annual financial report must be made by resolution of the Council and signed by the Mayor, at least one (1) other member of Council, the General Manager and the Responsible Accounting Officer.
8. The *Local Government Code of Accounting Practice and Financial Reporting* requires Council to lodge a complete set of financial statements with the Office of Local Government by no later than the close of business on 31 October following the financial year end.

The *Local Government Code of Accounting Practice and Financial Reporting* require that:

- Council's Special Purpose Financial Statements for a year must be prepared and audited within the period of four months after the end of that financial year.
- As soon as practicable after receiving the Auditor's Report on the Special Purpose Financial Statements, the council must send a copy of the Auditor's Report on the Council's Special Purpose Financial Statements, together with a copy of the council's audited Special Financial Report, to the Chief Executive, Local Government.

Council's Statutory General Purpose Financial Reports and Special Purpose Financial Reports for the financial year ended 30 June 2018 have been completed. It is proposed to present the audited financial reports to the public at the November 2018 Council meeting.

The General Purpose Financial Reports, Special Purpose Financial Reports and Special Schedules for the financial year ended 30 June 2018 are being tabled after endorsement from the Audit, Risk and Improvement Committee at its meeting of 19 October 2018.

OPTIONS:

Not Applicable.

CONCLUSION:

That the statement as to Council's opinion on the General Purpose Financial Reports as required by Section 413 (2) (c) of the Local Government Act and the Special Purpose Financial Reports as required by the Local Government Code of Accounting Practice and Financial Reporting be executed.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

Not Applicable

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Statements by Councillors and Management (ECM5594525).

Attachments 2 - 4 Draft General Purpose Financial Statements, Special Purpose Financial Statements, Special Schedules - These will be tabled prior to the meeting.

42 [FRIT-CM] Carry Over Works from 2017/18 to 2018/19 Budget

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**

SUMMARY OF REPORT:

This report provides details of the funds to be carried forward from 2017/2018 to the 2018/2019 budget.

The carried forward works represent those projects/services that could not be completed in 2017/2018 for a variety of reasons. It is important to note that in most cases these carry over works have been previously committed to specific projects/services and in some cases the projects may have already be completed in 2018/2019.

The funding of these works fall into the following categories:

- Unexpended Loans
- Reserves Funds
- Grants
- Section 94
- Other

RECOMMENDATION:

That Council adopts the Carry Over Works from 2017/2018 and the expenditure and income, as detailed within the report, be applied to the 2018/2019 Budget.

REPORT:

This report provides details of the funds to be carried forward from 2017/2018 to the 2018/2019 budget.

The carried forward works represent those projects/services that could not be completed in 2017/2018 for a variety of reasons. It is important to note that in most cases these carry over works have been previously committed to specific projects/services and in some cases the projects may have already be completed in 2018/19.

The carried forward works also includes:

- \$362,694 for legal expenses; and
- \$255,500 towards the new Dog Pound.

The funding of these works fall into the following categories:

- Unexpended Loans
- Reserves Funds
- Grants
- Section 94
- Other

Whilst the carry over works total \$54,311,883, 57% of the works are contained within the following project/areas:-

Description	Amount \$
Waste Management – capital works	19,904,557
Recent Grant funded projects:-	4,888,089
Tweed Heads Cultural Plaza Upgrade Coastal Cycleway Lighting - Bells Boulevard Captain Cook Memorial & Lighthouse Murwillumbah Art Precinct Anchorage Boardwalk Construction	
Rail Trail	6,370,616
	31,163,262

Income/ Expenditure	Description	Amount \$
	Transport	
Ex	Dulguigan Road - Safer Roads Program 2017-2018	\$49,555
Ex	Coastal Cycleway Lighting - Bells Boulevard	\$990,103
Ex	Tweed Road Development Strategy Review s94	\$23,334
Ex	Traffic Facilities Council Roads	\$62,954
Ex	Section 94 Bus Shelter Construction	\$13,100
Ex	Road Safety Programs	\$27,091
Ex	Private Works	\$3,906

Income/ Expenditure	Description	Amount \$
Ex	2015-17 Country Passenger Transport Infrastructure Grants	\$28,207
Ex	Roads - Asphalt Resurfacing	\$969,489
Ex	Roads - Bitumen resurfacing	\$24,527
Ex	Roads - Federal Assistance Grant Maintenance	\$720,000
Ex	Safer Roads Program 1718 - TVW - Mini Perkins	\$256
Ex	Safer Roads Program 1718 - TVW - Harwood Rd	\$18,845
Ex	Bus Shelters	\$50,377
Ex	Regional Road Maintenance	\$750
Ex	Emergency response May 2009 local roads	\$50,283
Ex	Commissioners Creek Rd June 2016 Flood Event	\$5,838
Ex	Roads Rehabilitation & Upgrading	\$353,771
Ex	Overall Drive	\$273,468
Ex	Kennedy Drive Cobaki Bridge to M1	\$364,168
Ex	Farrant's Rd Farrant's Hill	\$205,943
Ex	Enid St Tweed Heads	\$456,425
Ex	Wardrop St South Murwillumbah	\$234,148
Ex	Philp Parade Tweed Heads South	\$143,877
Ex	Darlington Drive East of Leisure Dr	\$96,495
Ex	Byangum Rd	\$493,976
Ex	Dulguigan Rd	\$52,311
Ex	Hogans Rd	\$59,250
Ex	Elizabeth St	\$171,798
Ex	Terranora Rd	\$527,790
Ex	Urliup Rd	\$74,207
Ex	Numinbah Road/Edwards Lane 2017-18 Black Spot	\$571
Ex	Black Spot 2017-18 - Tweed Valley Way (Tumbulgum) Wire Rope	\$67,609
Ex	Tweed River Bridge Byrrill Creek – preliminary costs	\$250,000
Ex	Cycleway Fraser Drive Vintage Lakes Dr to Dry Dock Rd s94	\$62,953
	Stormwater Drainage and Flooding	
Ex	Stormwater drainage rehabilitation	\$339,184
Ex	Western Drainage Scheme Maintenance	\$444,424
Ex	Reynolds Street Murwillumbah	\$54,451
Ex	Tamarind Avenue	\$133,790
Ex	Tweed Coast Rd opposite Noble Lake Pk Chinderah	\$69,516
Ex	Condong St Murwillumbah	\$377,698
Ex	Ewing St Murwillumbah	\$230,193
Ex	Coral St Tweed Heads	\$40,222
Ex	Asset management Levees & Floodgates	\$59,383
Ex	Murwillumbah Central Business District Flood Study	\$6,620

Income/ Expenditure	Description	Amount \$
	Natural Resource Management	
Ex	Love Cats Love Wildlife	\$16,717
Ex	Koala Management Plan	\$196,947
Ex	Pottsville Environment Park NRM	\$234,655
Ex	Tweed-Byron Native Species Planting Guide	\$29,554
Ex	Bushland management	\$5,000
Ex	Significant Tree Identification	\$23,666
Ex	Koala road crossing DA11/0014 Condition 13	\$49,834
Ex	Investing in the Future of Pottsville's Koalas	\$21,646
Ex	Mitigating Dog Attacks in the Tweed Coast	\$14,486
Ex	Koala Habitat Restoration in Richmond	\$63,164
Ex	SOS Private Land Revegetation	\$10,108
Ex	Climate Change Fund	\$213,309
Ex	Coastal Creeks – Australian Research Council	\$36,078
Ex	Tweed Sustainable Agriculture Strategy	\$5,000
Ex	Increasing Soil Carbon in Tweed Valley Farmland	\$8,000
Ex	Waterways Asset Replacement	\$61,711
Ex	Rous River Riparian Restoration	\$92,511
Ex	Byangum Canoe Launch Facility (NSW Boating Now Project)	\$34,103
Ex	Anchorage Boardwalk Construction 2017-2018	\$857,156
Ex	Lower Tweed Management Plan	\$358,000
Ex	Tweed Coast Estuary Management	\$48,868
	Community and Cultural Services	
Ex	Art Gallery - Prizes	\$18,089
Ex	Artist in Residence Studio Covered Walkway	\$21,102
Ex	Art Gallery Car park Unisex Accessible Toilet	\$138,617
Ex	International exhibitions 2017 to 2019	\$20,000
Ex	Art Gallery Grant expenditure	\$181,009
Ex	Northern Rivers Community Recovery Fund	\$50,645
Ex	Art Exhibition - Experimenta	\$15,000
Ex	Art Exhibition - 30 Year Anniversary Show	\$11,577
Ex	Murwillumbah Art Precinct	\$942,000
Ex	Library Grant Expenditure	\$85,510
Ex	Tweed Heads Library Expansion/Re-fit	\$21,373
Ex	REAP Tweed Regional Museum 38.40 kW solar PV	\$64,372
Ex	Museum Projects	\$5,911
Ex	Museum Storage Facility	\$16,577
Ex	Contemporary Voices - Rites of Passage	\$8,000
Ex	Contemporary Voices - Wollumbin's Country	\$21,046
Ex	Contemporary Voices - Untold Stories, Living with Ability	\$7,308
Ex	Tweed Heads Museum Precinct Redevelopment	\$27,156

Income/ Expenditure	Description	Amount \$
Ex	Tweed Heads Cultural Plaza Upgrade – Central Access	\$1,128,000
Ex	Nullum House	\$35,394
Ex	Family and Youth Community Development	\$23,493
Ex	Aboriginal Community Development	\$40,313
Ex	Youth Strategy recurring costs	\$84,585
Ex	Access and Inclusion Plan – Public Toilet Upgrade	\$15,014
Ex	Knox Park Lighting Safety Improvements Project 2017-2018	\$46,916
Ex	Local Drug Action Team Program 2017-2018	\$10,000
Ex	Cultural Planning	\$5,000
Ex	Cultural Development Fund	\$22,425
Ex	Live and Local Music Festival	\$460
Ex	Public Art Maintenance	\$41,724
Ex	Goorimahbah Public Art	\$82,816
Ex	Aboriginal Network Conference – RAP implementation	\$11,497
Ex	Homelessness policy	\$3,365
Ex	Age-friendly Plan	\$6,281
Ex	Aged & Disability Community Development	\$67,052
Ex	Community Development Strategy	\$40,000
Ex	Access and Inclusion Plan	\$11,497
Ex	Community Options Program - Operating Costs	\$230,586
Ex	DADHC - Podiatry Program	\$9,310
Ex	Support Coordination (OPC) Expenses	\$93,982
Ex	Commonwealth Home Support Program 01/11/15 to 30/06/18	\$49,066
Ex	Regional Assessment Service (RAS)	\$71,700
Ex	DADHC - Transition Assistance Grant	\$18,595
Ex	DADHC - Extended Family Support	\$8,876
Ex	NDIS - Expenditure	\$65,943
Ex	DOH - Continuity of Supports 2017-2018	\$4,768
Ex	Murwillumbah Auditorium refurbishment	\$71,269
Ex	Community Buildings Maintenance	\$366,747
Ex	Civic Centre: Tweed Heads	\$166,288
Ex	Murwillumbah Auditorium	\$26,200
Ex	Tweed Heads Auditorium	\$13,486
Ex	Tweed Heads Auditorium capital	\$70,000
Ex	Kingscliff Community Hall	\$82,205
Ex	Comm. Facilities Infrastructure Framework - Comm. Facilities	\$40,000
	Waste Management	
Ex	Eviron Road Precinct – domestic waste	\$40,573
Ex	Waste & Sustainability Improvement Expenditure	\$72,974
Ex	Organics processing facility – domestic waste	\$6,727,252

Income/ Expenditure	Description	Amount \$
Ex	Food & Garden Organics Collection System	\$4,858
Ex	Better Waste & Recycling Fund	\$773,900
Ex	Stotts to Eviron road works - domestic waste	\$2,660,000
Ex	Stotts Creek RRC landfill cell construction – domestic waste	\$1,500,000
Ex	Internal road works SCRRC – domestic waste	\$500,000
Ex	Eviron Road Precinct – non domestic waste	\$225,000
Ex	Organics processing facility – non domestic waste	\$2,650,000
Ex	Stotts to Eviron road works – non domestic waste	\$2,750,000
Ex	Stotts Creek RRC landfill cell construction – non domestic waste	\$1,500,000
Ex	Internal road works SCRRC – non domestic waste	\$500,000
	Others	
Ex	NSW Environmental Protection Authority Grant Funding	\$20,000
Ex	Health Education & Equipment	\$10,000
Ex	Northern Rivers Emerging Vector Response 2016-2017	\$11,680
Ex	Water & Food sample testing charges	\$10,000
Ex	Tweed Heads Master Plan	\$10,000
Ex	Scenic Landscape Strategy	\$25,812
Ex	Tweed Local Heritage Places Establishment	\$4,286
Ex	Acceleration Fund Draft LEP	\$10,478
Ex	PP13/0002 Palm Lake Resort	\$2,474
Ex	Planning projects internal income	\$33,023
Ex	Murwillumbah heritage demonstration project	\$41,029
Ex	Office Furniture	\$10,000
Ex	Rural Lands Strategy	\$64,459
Ex	Local Growth Management Strategy (LGMS)	\$85,127
Ex	PP10/0006 225 Terranora Road	\$6,274
Ex	PP15/0004 Water Extraction-Rural Industries	\$382
Ex	PP16/0002 Winchelsea Way	\$7,341
Ex	PP16/0004 for Palms Shopping Village	\$4,801
Ex	PP18/0001 Minor Zoning	\$348
Ex	Locality Plans – Kingscliff	\$12,143
Ex	Urban Design Planner	\$43,481
Ex	Locality Plans - Rural Villages	\$26,812
Ex	Extension Officers - Urban Design	\$13,576
Ex	Locality Plans - Burringbar/Mooball	\$25,000
Ex	Rail Trail Project Development	\$6,370,616
Ex	Civic Buildings Asset Management	\$62,470
Ex	Public Toilets Capital	\$56,490
Ex	Knox Park Public Toilet	\$314,547
Ex	REAP Tweed Regional Aquatic Centre 165 kW solar PV	\$198,202
Ex	Sportsgrounds (local) recurrent costs	\$54,527

Income/ Expenditure	Description	Amount \$
Ex	Active recreation asset maintenance program	\$328,200
Ex	Sports fields Capital Work	\$247,882
Ex	Les Burger Field s94 (CP 5)	\$23,823
Ex	Kingscliff Sports field Master plan	\$456,800
Ex	Arkinstall Pk MP (Stage 2) - Feasibility Study	\$4,750
Ex	Depot road sports field construction s94	\$281,038
Ex	Pottsville Tennis Facility Capital works	\$30,462
Ex	Les Cave Change rooms Capital Works 2017-18	\$134,209
Ex	Knox Park Youth Precinct	\$111,952
Ex	Eviron gardens recurring costs	\$149,549
Ex	Eviron gardens Visitors Centre	\$27,000
Ex	Regional All Access Playground	\$346,650
Ex	Passive recreation asset maintenance program	\$149,958
Ex	Cudgen Foreshore Park & Play Space Improvement 2017-2018	\$71,807
Ex	Bray Park Intergenerational Play Space 2017-2018	\$46,091
Ex	Eunga Street Park & Play Space Improvement 2017-2018	\$49,375
Ex	Jack Evans Boat Harbour draft Plan of Management	\$50,000
Ex	Sec 94 Street Trees	\$150,000
Ex	Passive recreation s94 projects	\$255,971
Ex	Open Space Strategy	\$133,561
Ex	Rous River Way Park	\$45,000
Ex	Freedom camping facilities Burringbar	\$49,600
Ex	Surf Life Patrols	\$153,004
Ex	Surf Life Saving Strategy 2020	\$13,309
Ex	Grants To SLSCs	\$50,977
Ex	Sport Development Officer	\$119,802
Ex	Recreation Services Asset Systems Development	\$100,000
Ex	KFMP Lions Park Furniture Upgrade	\$573,491
Ex	Health and Safety Initiatives Fund	\$120,986
Ex	Communications - On Line Engagement	\$50,000
Ex	Communications - Graphic Design and Production	\$70,000
Ex	Depot Improvements Murwillumbah	\$249,843
Ex	Depot Improvements Tweed Heads	\$50,167
Ex	Executive Management Other Costs	\$3,875
Ex	Christmas Trees/Decorations	\$60,000
Ex	Sale Yards – Capital works	\$65,000
Ex	Murwillumbah Airfield – Capital works	\$239,000
Ex	Economic Development Fund	\$200,000
Ex	Economic Development - Internal	\$525,000
Ex	Festivals & Events	\$147,172
Ex	Murwillumbah VIC Reinstatement	\$408,748

Income/ Expenditure	Description	Amount \$
Ex	Discover the Tweed Marketing Program 2017-2018	\$91,000
Ex	Closed Circuit Television (CCTV)	\$86,000
Ex	Corporate Planning Unit	\$154,537
Ex	IT Resourcing Strategy	\$500,428
Ex	Core Business Systems	\$69,820
Ex	Hardware Maintenance	\$74,848
Ex	Software Maintenance	\$84,226
Ex	Software Cloud Subscriptions	\$184,593
Ex	Information Services & Technology	\$56,915
Ex	IT Operating Costs	\$70,396
Ex	Internet/Intranet	\$15,336
Ex	IT Sundries	\$3,368
Ex	Legal Expenses – Development Assessment	\$362,694
Ex	New Dog Pound	\$255,500
Ex	Corporate Planning	\$183,487
Ex	Fit for the Future expenses - Service Plans	\$101,180
Ex	Valuation Fees	\$87,892
Ex	LEDA Cobaki Special Rate Repayment	\$140,942
Ex	Coolamon Centre Council Office	\$77,379
Ex	Property reclassification	\$9,742
Ex	Project Management System	\$56,234
Ex	Risk Management Program	\$166,155
Ex	SES Operation Centre additions Banora Point	\$70,000
Ex	Emergency Management Plan Implementation	\$20,839
Ex	SES Operations Centre Banora Point	\$207,736
Ex	Donation To Rural Fire Service	\$23,252
Ex	Bush Fire Control Expenses	\$211,092
Ex	SES / Flood Rescue	\$407,961
Ex	Captain Cook Memorial & Lighthouse Revitalisation	\$970,830
	Total expenditure	\$54,311,883

Carry Over funding sources		
In	Grant funds	\$16,297,171
In	Loan funds	\$1,968,622
In	Reserve funds	\$21,002,265
In	Asset Management Reserves	\$6,164,024
In	Works carried forward reserve funds	\$7,121,524
In	s94 funds	\$1,553,281
In	Other	\$204,996
	Total funding sources	\$54,311,883

OPTIONS:

Not Applicable

CONCLUSION:

Based on current projections, the 2018/2019 Budget is expected to remain balanced for all funds. The rolled over expenditure and funding is required to be voted in the 2018/2019 Budget so as these projects/services can be completed.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

As detailed within the report.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

43 [FRIT-CM] Monthly Investment and Section 94 Development Contribution Report for Period ending 30 September 2018

SUBMITTED BY: Financial Services

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.2 Engagement
- 2.2.5 Financial Services - To collect and manage Council funds and provide information and advice to support sound financial decision-making.

ROLE: **Leader**

SUMMARY OF REPORT:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested. The Executive Manager Finance, Revenue and Information Technology, being the Responsible Accounting Officer, certifies that investments have been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies. Council had **\$327,363,697** invested as at **30 September 2018** and the actual net return on these funds was **\$801,905** or **2.9%** 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 30 September 2018 totalling \$327,363,697 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 **\$327,363,697** invested as at **30 September 2018** and the actual net return on these funds was **\$801,905** or **2.94%** annualised for the month. (Note: this is income received during the month not accrued interest)

1. Ethical Investments

Ethical Financial Institutions

\$173,914,413 which represents 53.13% of the total portfolio

Source: Australian Ethical

2. Economic Commentary

Australian and World Economy and Cash Rate

At its 2 October 2018 meeting, the Reserve Bank of Australia Board decided to leave the cash rate unchanged at 1.50 per cent.

The global economic expansion is continuing. A number of advanced economies are growing at an above-trend rate and unemployment rates are low. Growth in China has slowed a little, with the authorities easing policy while continuing to pay close attention to the risks in the financial sector. Globally, inflation remains low, although it has increased due to both higher oil prices and some lift in wages growth. A further pick-up in inflation is expected given the tight labour markets, and in the United States, the sizeable fiscal stimulus. One ongoing uncertainty regarding the global outlook stems from the direction of international trade policy in the United States.

Financial conditions in the advanced economies remain expansionary, although they are gradually becoming less so in some countries. Yields on government bonds have moved a little higher, but credit spreads generally remain low. There has been a broad-based appreciation of the US dollar this year. In Australia, money-market interest rates are higher than they were at the start of the year, although they have declined since the end of June. In response, some lenders have increased their standard variable mortgage rates by small amounts, while at the same time reducing mortgage rates for some new loans.

The latest national accounts confirmed that the Australian economy grew strongly over the past year, with GDP increasing by 3.4 per cent. The Bank's central forecast remains for growth to average a bit above 3 per cent in 2018 and 2019. Business conditions are positive and non-mining business investment is expected to increase. Higher levels of public infrastructure investment are also supporting the economy, as is growth in resource exports. One continuing source of uncertainty is the outlook for household consumption. Growth in household income remains low and debt levels are high. The drought has led to difficult conditions in parts of the farm sector.

Australia's terms of trade have increased over the past couple of years due to rises in some commodity prices. While the terms of trade are expected to decline over time, they are likely to stay at a relatively high level. The Australian dollar remains within the range that it has been in over the past two years on a trade-weighted basis, but it has depreciated against the US dollar along with most other currencies.

The outlook for the labour market remains positive. The unemployment rate is trending lower and, at 5.3 per cent, is the lowest in almost six years. The vacancy rate is high and there are reports of skills shortages in some areas. A further gradual decline in the unemployment rate is expected over the next couple of years to around 5 per cent. Wages growth remains low, although it has picked up a little. The improvement in the economy should see some further lift in wages growth over time, although this is likely to be a gradual process.

Inflation is around 2 per cent. The central forecast is for inflation to be higher in 2019 and 2020 than it is currently. In the interim, once-off declines in some administered prices in the September quarter are expected to result in inflation in 2018 being a little lower than otherwise.

Conditions in the Sydney and Melbourne housing markets have continued to ease and nationwide measures of rent inflation remain low. Growth in credit extended to owner-occupiers remains robust, but demand by investors has slowed noticeably as the dynamics of the housing market have changed. Credit conditions are tighter than they have been for some time, although mortgage rates remain low and there is strong competition for borrowers of high credit quality.

The low level of interest rates is continuing to support the Australian economy. Further progress in reducing unemployment and having inflation return to target is expected, although this progress is likely to be gradual. Taking account of the available information, the Board judged that holding the stance of monetary policy unchanged at this meeting would be consistent with sustainable growth in the economy and achieving the inflation target over time.

Source: RBA Monetary Policy Decision

Council's Investment Portfolio

Council's investment portfolio is conservatively structured in accordance with NSW Office of Local Government guidelines with approximately 80% of the portfolio held in cash and term deposits. Term deposits and bonds are paying average margins over the 90 day bank bill rate.

Bank demand for term deposit funds has increased as overseas wholesale funding alternatives become more expensive in conjunction with a rising interest rate outlook. Concurrently, Australian Prudential Regulation Authority (APRA) imposed mortgage lending restrictions is crimping bank demand for depositors funds. Banks are also using debt issuance (bonds) as a less expensive source of funds than term deposits.

Conversely, APRA regulations increasing the amount of capital required to be held by banks is also marginally increasing bank demand for depositors' funds.

Many "cash at call" rates are at levels below the RBA cash rate. The historic low cash rate is still translating to lower total investment yields. This continues to present difficulties obtaining reasonable investment income without risking capital.

All investment categories except cash at call out-performed the UBS 90 day bank bill benchmark this month. The investment portfolio benefited this month from some longer-dated, higher yielding bonds nearing maturity and recently purchased short-term term deposits. As longer-dated bonds and term deposits mature they are being replaced with high yielding, short-term deposits. Overall, the investment portfolio has returned a weighted average 1.04% pa above the 90 day UBS bank bill index for the last month.

3. Investment Summary

General Fund

Corporate Fixed Rate Bonds	5,597,166.89	
Floating Rate Notes	58,966,531.50	
Asset Backed Securities	0.00	
Fund Managers	0.00	
Term Deposits	90,999,999.00	
Call Account	12,800,000.00	168,363,697.39

Water Fund

Term Deposits	66,000,000.00	
Fund Managers	0.00	66,000,000.00

Sewerage Fund

Term Deposits	93,000,000.00	
Fund Managers	0.00	93,000,000.00

Total Investments		327,363,697.39
--------------------------	--	-----------------------

It should be noted that the General Fund investments of **\$168 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 – September 2018
(ECM5594444).

REPORTS FROM THE EXECUTIVE MANAGER PEOPLE, COMMUNICATION AND GOVERNANCE

44 [PCG-CM] Local Government NSW - Request for Financial Assistance for Legal Costs

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
- 2.2.5 Financial Services - To collect and manage Council funds and provide information and advice to support sound financial decision-making.

ROLE: **Leader**

SUMMARY OF REPORT:

Council, through its membership of Local Government New South Wales, receives requests for contributions towards the costs incurred by other member councils in defending matters before the courts.

A request has been received to consider funding towards legal costs incurred by the City of Sydney Council, North Sydney Council and Bayside Council in defending an Appeal of the Land and Environment Court's decision in *Karimbla Properties v Council of the City of Sydney, Bayside City Council and North Sydney Council* (2017) in the Court of Appeal. The Court of Appeal heard the matter in late July and has reserved its decision.

The current decision could have a minor impact upon Council's rating procedures, with an assessment to be made following the Court of Appeals handing down of its decision.

The request is for a contribution of \$ 3,799.62.

There is no obligation on behalf of Council to contribute towards the legal costs.

RECOMMENDATION:

That Council does not make a contribution to a request from Local Government NSW, for financial assistance for legal costs associated with the Appeal of Land and Environment Court decision incurred by the City of Sydney, Bayside City Council and North Sydney Council.

REPORT:

Council, through its membership of Local Government New South Wales, receives requests for contributions towards the costs incurred by other member councils in defending matters before the courts.

A request has been received to consider funding towards legal costs incurred by the City of Sydney Council, North Sydney Council and Bayside Council in defending an appeal of the Land and Environment Court's decision in *Karimbla Properties v Council of the City of Sydney, Bayside City Council and North Sydney Council* (2017) in the Court of Appeal. The Court of Appeal heard the matter in late July and has reserved its decision.

The current decision could have a minor impact upon Council's rating procedures, with an assessment to be made following the Court of Appeals handing down of its decision.

The case concerns the interpretation of section 516(1)(a) of the Local Government Act 1993, being the categorisation of rateable land as "residential". The Land and Environment Court held that land, on which development for the purposes of a residential development was being carried out in accordance with a development consent to be categorised as "residential", even though construction was not complete and occupation certificates for use of buildings for residential accommodation had not been granted.

The request is for a contribution of \$ 3,799.62.

There is no obligation on behalf of council to contribute towards the legal costs.

OPTIONS:

Council can determine to either contribute towards the legal costs at the requested amount, or contribute a revised amount, or alternatively to provide no contribution.

CONCLUSION:

That Council does not make a contribution to Local Government NSW towards legal expenses incurred by City of Sydney, Bayside City Council and North Sydney Council.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Funding is not currently available through Corporate Legal Expenses A0029.0066

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Request from Local Government NSW for financial assistance for legal costs associated with appeal of Land and Environment decision – City of Sydney Council, North Sydney Council and Bayside City Council (ECM5560589)

45 [PCG-CM] Kingscliff Communications Tower

SUBMITTED BY: Corporate Governance

mhm



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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

3	People, places and moving around
3.1	People
3.1.9	Local Emergency Management - To support strong and co-ordinated emergency services for the Tweed.

ROLE: **Provider**

SUMMARY OF REPORT:

The Kingscliff Communications Tower (the Tower) is a local iconic structure. It is located within Crown Reserve 10001008, Faulks Park Kingscliff.

This report overviews the history and current status of the Tower and discusses the options for future use, based on the current permissible land uses, whilst primarily preserving the existing character of the building.

RECOMMENDATION:

That Council:

- 1. Approves the cleansing and reinstatement of the existing features, of the Kingscliff Communications Tower located within Crown Reserve 10001008, Faulks Park Kingscliff, which can be undertaken within current budget allocations.**
- 2. Invites expressions of interest from community members for the future use of the Kingscliff Communications Tower located within Crown Reserve 10001008, Faulks Park Kingscliff. The invitation criteria is to:**
 - a) Align with the existing permissible land uses and the Tweed Coast Regional Crown Reserve Plan of Management 2006,**
 - b) Incorporate aspects of local community water safety and/or training, and**
 - c) Address the financial implications of the proposal.**

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

REPORT:

Background

In 1988 the Australian Volunteer Coast Guard Association Kingscliff Flotilla (AVCGA-KF) constructed the Kingscliff Communications Tower (the Tower) located within Faulks Park Kingscliff (Crown Reserve 10001008). They occupied the Tower under a licence agreement with the Tweed Coast Reserves Trust. The agreement stipulated the Tower, whilst the absolute property of the Crown, be maintained and repaired by the licensee.



Photograph 1: AVCGA Kingscliff Flotilla Communications Tower

The AVCGA-KF vacated the Tower in November 2014 upon cessation of their operations and Council, as Trustee, was handed control of the facility.

Following the departure of the AVCGA-KF, the Tower was subsequently licenced for use by Marine Rescue NSW for a period of 12 months and it remained occupied until September 2015 when the Tower sustained storm damage. Marine Rescue NSW did not express any further interest in the facility and it has remained vacant.

Storm Damage September 2015

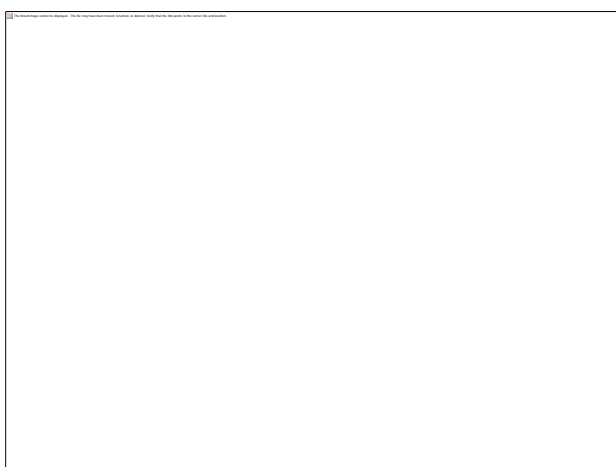
During a storm event in September 2015 rainwater inundated the Tower through the roof of the structure. The structure was secured but not reinstated. However it has now been determined further water infiltration has occurred. The existing aerials secured to the roof need to be removed as soon as possible to completely seal the roof structure.



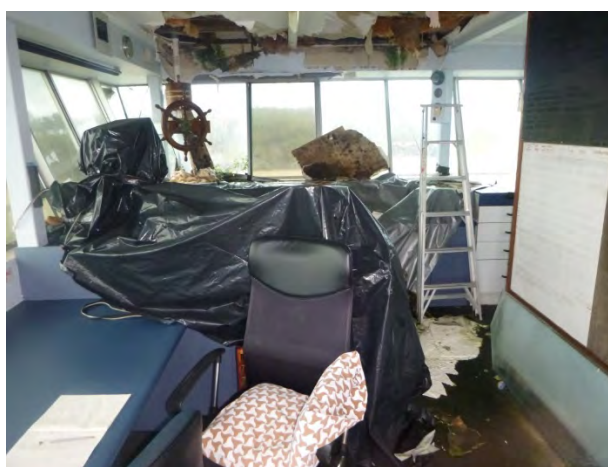
Photograph 2: Internal ceiling damage, first floor



Photograph 3: External roof



Photograph 4: First floor



Photograph 5: First floor

Estimates for reinstatement have been obtained as per Items 1 and 2 of **Attachment 1**.

Community Consultation

In 2015 Council engaged with the local Kingscliff community for the future use of the Tower, and the Ken McDonald Training Facility located in Ed Parker Rotary Park, which was also constructed and vacated by AVCGA-KF upon cessation of their operations.

Council has also confirmed the damage is covered under its property insurance policy and advice that reinstatement works may proceed.

At that time the consultation comprised three main components:

- Community Engagement Strategy One – Your Say Tweed
- Community Engagement Strategy Two - Kingscliff Markets
- Community Engagement Strategy Three - Community Consultation Meeting

A major theme of the community feedback was an expectation to maintain a connection with the provision of marine safety services and notably there was strong acceptance of Council's objective to achieve cost recovery in the operation of the facilities.

The outcome of that consultation resulted in Marine Rescue NSW being licensed to utilise the Tower for a period of 12 months whilst the longer term use and need of the facility was

considered further. As previously advised, when the Tower sustained damage and was vacated, Marine Rescue NSW did not express any further interest in the facility.

Permissible Land Use and Community Interest

Council has received a number of proposals from both the emergency services sector (Surf Life Saving) and private operators including the uses as a water safety surveillance facility, training and/or kiosk/coffee shop.

The land is zoned RE1 therefore the above proposed uses are permissible under the zone as shown below;

"Zone RE1 Public Recreation

1 Objectives of zone

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

2 Permitted without consent

Environmental facilities; Environmental protection works

3 Permitted with consent

Agriculture; Biosolids treatment facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Charter and tourism boating facilities; Centre-based child care facilities; Community facilities; Emergency services facilities; Entertainment facilities; Flood mitigation works; Forestry; Heliports; Industrial training facilities; Information and education facilities; Jetties; Kiosks; Marinas; Markets; Mooring pens; Moorings; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Resource recovery facilities; Respite day care centres; Restaurants or cafes; Roads; Roadside stalls; Sewage treatment plants; Signage; Take away food and drink premises; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities

4 Prohibited

Any development not specified in item 2 or 3."

and, within the current Tweed Coast Regional Crown Reserve Plan of Management 2006 (the Plan), as stipulated below.

Tweed Coast Regional Crown Reserve Plan of Management 2006

This NSW Government gazetted strategic plan provides the management framework for the Regional Crown Reserve from Point Danger to Wooyung. It aims to ensure that the values of the Regional Crown Reserve are protected, whilst enabling multiple use and achieving balanced sustainable development. Sustainable development and management of the reserve is essential to sustain industry that supports the regional economy whilst protecting the resources on which industry depends.

The objectives of the Plan are consistent with the Crown Lands Act 1989 and are:

1. *To identify and enable multiple purpose and sustainable land and waterway use.*
2. *To enhance and protect the natural environment.*
3. *To acknowledge and accommodate natural processes.*
4. *To preserve significant visual amenity.*
5. *To improve social and recreational opportunities.*
6. *To enhance and encourage public use and access.*
7. *To facilitate community involvement in the management of the reserve.*
8. *To enhance and protect the cultural values.*
9. *To provide development opportunities that supports the values of the reserve and the regional economy.*
10. *To enable the generation of sufficient resources to sustainably manage the reserve.*
11. *To encourage and facilitate research and monitoring.*
12. *To facilitate coordinated management with relevant agencies and organisations.*

Under Objectives 5, 10 and 11 the Plan identifies management strategies specifically relevant to the Tower which aligns with the desire of, and expressed opportunities sought by, the local Kingscliff community:

Objective 5: To Improve social & recreational opportunities

- Facilitate the provision of facilities associated with recreational activities (boating, rowing dragon boating, kiosk, marina)
- Assist in the provision of safe & convenient use of waterways that minimise the impacts on other users

Objective 10: To enable the generation of sufficient resources to sustainably manage the reserve

- Ensure commercial development projects deliver public value through suitable improvements on adjoining reserve land. Where appropriate revenue from commercial projects could be directed to support reserve management initiatives.
- Ensure transparency and equity in dealings with private business and/or not for profit organisations in respect to all commercial / business opportunities

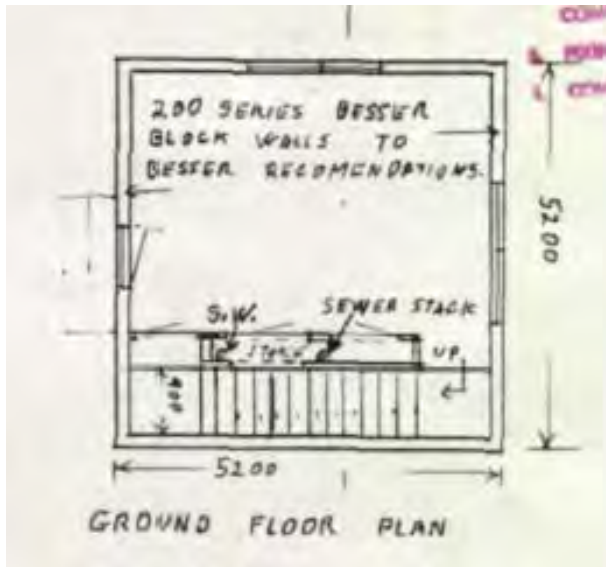
Objective 11: To encourage and facilitate research & monitoring

- Facilitate and provide support to academic research (research permits, access and exchange of information)
- Undertake monitoring, evaluation & review of strategy implementation

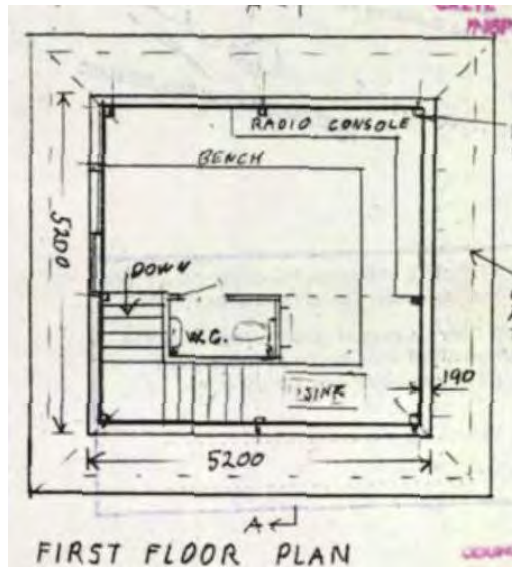
Existing Structure and Future Opportunities for Use

As advised above, Council has been approached by a number of community members expressing an interest in revitalising the tower for the purposes of water safety surveillance and retail enterprises from both the commercial and emergency services sector.

The two-storey besser block structure is serviced by both reticulated water and sewerage, is basic in design, with access to the upper storey via a small stairwell. The existing small stairwell design impedes the upper storey being converted to open public access.



Ground Floor Design



First Floor Design

Indicative costs are provided at Item 3 of **Attachment 1** for the upgrade and refurbishment of the structure inclusive of remodelling the ground floor existing eastern window for the purposes of an external servery. The costs therefore provide for a basic layout of a likely small kiosk whilst retaining the first floor for the purposes of surveillance, storage or office area.

This proposed design is based on the previously expressed desire of the community to retain the facility for water safety surveillance/training purposes whilst providing for a small retail outlet and a revenue opportunity to contribute to the sustainable financial management of the reserve, and its infrastructure, by Council as land manager.

OPTIONS:

1. Cleanse and reinstate the existing features of the structure within current budget allocations and invite expressions of interest from community members for the future use of the structure. The invitation criteria to be aligned with the existing permissible land uses, current Plan of Management over the Reserve and expressed community desire.
2. Invite expressions of interest from community members for the future use of the structure, but delay cleansing and reinstatement work until determination of expression of interest process. Noting further water infiltration has occurred. The existing aerials secured to the roof need to be removed as soon as possible to completely seal the roof structure

3. Investigate options for Council to utilise the site.
4. Demolish the building and return to public open space.

CONCLUSION:

The Kingscliff Communications Tower is a local iconic structure. This report overviews the history of and current status of the Tower and discusses the options for the future use based on the current permissible land uses whilst primarily preserving the existing character of the building.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

1. Cleansing and reinstatement of the existing features of the structure may be undertaken within current budget allocations along with insurance coverage.
2. Upgrade and refurbishment would require additional funding either internally, through granted opportunities or as partnership with any expression of interest process.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

Invitation of Expression of Interest

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. Cost Estimates (ECM 5596135)

46 [PCG-CM] Pecuniary Interest Returns 2017/2018

SUBMITTED BY: Corporate Governance

mhm



Behind the scenes
Providing support to make it happen

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

SUMMARY OF REPORT:

The Pecuniary Interest Returns for the period 1 July 2017 to 30 June 2018 for Councillors and Designated Persons (Council Officers) are tabled in accordance with Sections 449 and 450A of the Local Government Act 1993.

RECOMMENDATION:

That the Pecuniary Interest Returns for the period 1 July 2017 to 30 June 2018 for Councillors and Designated Persons (Council Officers) as tabled, be received and noted.

REPORT:

Section 449 of the Local Government Act 1993 requires Councillors and Designated Persons to lodge with the General Manager, returns disclosing their interests.

Section 450A(2) of the Local Government Act 1993 requires the General Manager to table such returns at the first meeting of Council held after the last day for lodgement of the returns, that date being 30 September 2018.

The returns for the period 1 July 2017 to 30 June 2018 for Councillors and Designated Persons (Council Officers) are available for inspection by members of the public.

OPTIONS:

Not Applicable

CONCLUSION:

That the Pecuniary Interest Returns for the period 1 July 2017 to 30 June 2018 for Councillors and Designated Persons (Council Officers) as tabled, be received and noted.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

As per Compliance and Reporting requirements of the Office of Local Government.

b. Budget/Long Term Financial Plan:

Not Applicable

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

47 [SUB-SAC] Minutes of the Sports Advisory Committee Meeting held 13 August 2018

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 13 August 2018 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 13 August 2018 be received and noted.

REPORT:

The Minutes of the Sports Advisory Committee Meeting held Monday 13 August 2018 are reproduced as follows for the information of Councillors.

Venue:

Banora Point Community Hall

Time:

5.30pm

Present:

Cr Warren Polglase, Cr Pryce Allsop, Matt McCann, Linton Alford, Bruce Campbell, Gillian Austin Helen Rigney, Dion Andrews, Tracey Stinson.

Apologies:

Rob Nienhuis

Minutes of Previous Meeting:

Moved: Linton Alford

Seconded: Helen Rigney

RESOLVED that the Minutes of the Sports Advisory Committee meeting held Monday 9 April 2018 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Nil.

Agenda Items:

1. Recognition Gift Presented to Merv Edwards

The committee were advised that Merv Edwards received a memento presentation by Councillor Warren Polglase, Stewart Brawley and Matt McCann. Merv was overwhelmed and extremely grateful of this gesture. The presentation was later featured in the Tweed Link showcasing Merv's 16 years of service to the Tweed sporting community. All committee members were pleased about the recognition given to Merv.

2. Shoosh for Kids

Shoosh for Kids is a great initiative by the Office of Sport to promote respectful behaviour at junior sport. An email documenting the program was forwarded to committee members and allsport field licence holders.

3. Local Defibrillator Grants Program

This program has been communicated to the Tweed sporting community. We have since been notified that Tweed Netball were successful with their grant application.

4. Sports Field Procedures

All committee members received a copy of the sports field procedures to read which will be discussed at the next meeting.

5. Season Licenced Clubs Copied in on Casual Sports Field Approvals

The Committee were updated on the new procedure to inform licence holders of casual sports field approvals.

6. Terranora Tennis Club Update – Dion Andrews

Dion advised the Committee that the Club insurance claim had been settled and that the DA to be lodged with Council was close to submission and the club were eager to rebuild their clubhouse facility.

7. Change Rooms and Amenity Block Replacement – John Rabjones Oval

The Committee was advised that Murwillumbah Cricket Club were disappointed in not being consulted regarding the design of the replacement building. Council has advised the Club that the building is larger than the previous building and caters for a range of sports. The Club have also been informed that Council are willing to work with them on future opportunities for funding to build a shade structure adjoining the building.

8. Clubhouse Access to Council and Council Contracted Service Providers

The Committee were informed that some sporting clubs are in breach of their licence agreement. Locks have been changed without notifying Council preventing access to the buildings for routine legislated inspections.

The Committee agreed Clubs need to ensure Council are provided with full access to Council managed buildings.

9. Request List of Sports Field Season Licence Holders

The Committee were provided with a full list of sports field season licence holders current at the time of the request.

General Business:

10. Request for a Feasibility Study into an Upgrade/Development Stan Sercombe Field, Murwillumbah

Cr Pryce Allsop made mention of the current grant opportunities which has become available through the NSW State Government 'Poles and Wires' sale. He discussed the idea of upgrading the aging Stan Sercombe Field and transforming it into a venue that can host large sporting fixtures and entertainment events. The field currently forms part of the Murwillumbah Sporting Hub, surrounded by hockey, cricket and AFL, which lends itself to the opportunity of building a venue which may increase tourism and the local business economy. It has been suggested that a Feasibility Study be undertaken to help ascertain whether this would be a viable option for Council and the Tweed community.

RESOLVED that:

1. Council supports the engagement of a consultant to undertake a feasibility study into to the upgrade of Stan Sercombe Field.
2. Terranora Tennis Club and Council will conduct a safety audit with local police to assess the security and required measures to help protect the community's assets.
3. Process and procedures need to be developed to ensure that all leased Council owned and managed sports facilities ie buildings are insured at market value.
4. Council are to investigate seal options for the car park at Bilambil Sports Complex which is damaged in every flood event.
5. The Sports Advisory Committee have been encouraged to nominate an Australian Sports Person of the Year for the next Australia Day celebration.

Action Item: Matt McCann to liaise with Kerry McConnell about the nomination process.

6. Committee members were provided with a Sports Advisory Committee Questionnaire seeking feedback of the committee meetings. The Committee have been asked to complete the questionnaire prior to the next meeting where the findings can be discussed.

Next Meeting:

The next meeting of the Sports Advisory Committee will be held Monday 8 October 2018.

The meeting closed at 6.50pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - adopted 21 August 2012 (ECM2846627).

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.

48 [SUB-TSYC] Minutes of the Tweed Shire Youth Council Meeting held Wednesday 22 August 2018

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 22 August 2018 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 22 August 2018 be received and noted.

REPORT:

The Minutes of the Tweed Shire Youth Council Meeting held Wednesday 22 August 2018 are reproduced as follows for the information of Councillors.

Venue:

Council Chambers, Murwillumbah Civic and Cultural Centre

Time:

4.00pm

Present:

Joshua Carpenter (Banora Point High School); Nava Bergman, Ethan Graham and Jasper Tiffen (Murwillumbah High School); Emma Ellis and Kiani Collier-Hall (Pacific Coast Christian School); Zoe Nethery and Chloe Palin (St Joseph's College); Corey Cox, Matthew Lewis and Jazmine Cook (Tweed River High School)

Guests:

Tiffany Stoddart (Acting Manager Communication and Customer Experience); Shannon Carruth (Program Leader, Communication and Engagement); Karen Collins (Community Development Officer - Ageing and Disability, Community and Cultural Services); Rob Appo (Community Development Officer - Aboriginal, Community and Cultural Services); Stephanie Papadopoulos (Manager Corporate Governance);

Ex-Officio:

Cr Katie Milne; Cr Ron Cooper; Shane Davidson (Executive Officer); Tracey Stinson (Director Community and Natural Resources); Robyn Grigg (Manager Community and Cultural Services); Chantelle Howse (Coordinator Community Development); Sylvia Roylance (Community Development Officer - Families and Youth)

Apologies:

Jack Lee (Banora Point High School); Jessica Maloney (Wollumbin High School); Hannah Carmody (Wollumbin High School); Monique Maugueret (Pacific Coast Christian School); Jamie Coetzee (Lindisfarne Anglican Grammar School); Troy Green (General Manager)

Acknowledgement of Country

Jazmine Cook, as Chairperson, opened the meeting with a welcome to all present and paid respect to local Aboriginal people of the Bundjalung Nation and Elders past and present.

Agenda Items:

A1. Introductions - Youth Council, Council Officers, Councillors

Round table introductions were offered by each member present.

A2. Housekeeping

Sylvia provided an overview of the evacuation procedures for Council Chambers.

A3. Confirmation of Minutes of Meeting held Wednesday 23 May 2018

Moved: Emma Ellis

Seconded: Nava Bergman

RESOLVED that the Minutes of the Tweed Shire Youth Council Committee meeting held 23 May 2018 be accepted as a true and accurate record of the proceedings of that meeting.

A4. Australia Day 2019 - Stephanie Papadopoulos, Manager Corporate Governance

Stephanie introduced her role and advised that she will be coordinating the Tweed Shire Australia Day Awards for 2019 encouraging Youth Council members to nominate young people in their schools, sporting clubs and communities. Nominations will be opening early September 2018 with categories including: Arts and Culture; Citizen of the Year; Community Event of the Year; Sporting Achievement; Volunteer of the Year; and Young Achiever in Community Service. Self-nominations cannot be accepted. Further information can be found on the Tweed Shire website as well as social media. Stephanie encouraged Youth Council members to 'hashtag' the event to share it with their peers.

A5. Receipt of Petitions

Nil

A6. Emerging Issues from School Community

6.1 Update on Increased Aggressive Behaviour

Representatives of Murwillumbah High School noted at the 23 May meeting an increase in aggressive behaviour from students towards each other, towards teachers, both on-line and in the school environment.

Action: *Sylvia Roylance will follow this up with the School to see if there is any support that can be provided.*

Response: Email forwarded 5 June to Kylie Lenhardt seeking update with Council offering to further discuss issues. Nava Bergman indicated that incidents at the school have decreased.

6.2 Fraser Drive - Road Condition

Representatives from Pacific Coast Christian College understand roadworks on Fraser Drive are now complete, however, the road surface is still in poor condition. This was taken as a question on notice.

Action: *To be followed up by Sylvia Roylance with information to be circulated prior to the next meeting.*

Response: Section of road work from Leisure Drive to Vintage Lakes Drive completed. The next section of road work will be from Vintage Lakes to Lorikeet Drive. A full rebuild is required so the construction timeframe will be longer. The work is due to be completed within next financial year 2018/2019. Funding allocated for the work is \$350,000. A stormwater upgrade will also be occurring on Kirkwood Road West.

6.3 Road Crossing at Heffron Street

Representatives from Tweed River High School are seeking further information about the proposed crossing at the front of this school. Has this request been formally declined?

Action: *Sylvia Roylance to request Council's Road Safety Officer make contact with the School Principal to discuss this matter further.*

Response: Council's Road Safety Officers met on site with school staff and students: Corey Cox; Matthew Lewis; and Jazmine Cook. Students provided valuable feedback regarding the existing pedestrian crossing and suggested crossing changes.

6.4 Update on Old Aquatic Building - Fraser Drive

Monique reiterated her query from 2017 regarding the current status of the old aquatic building on Fraser Drive. The building is still in a state of disrepair, and it seems nothing has changed since her original query.

Action: *Sylvia to circulate a full update to all members via email.*

Response: Cr Allsop advised there is a Development Assessment (DA) in at the moment for a proposed tourist facility comprising an amphitheatre. The DA had been in for some time. Council is reviewing the DA and this has resulted in the applicant making modifications to the original DA. There will need to be acoustic fence design to protect the amenity of not only the Palms Village but others in the area. He mentioned live entertainment as part of the application and that advice would also need to be sought from Police. Cr Allsop mentioned the original DA was from 2015 highlighting it takes time for these matters to be considered.

For project updates, check the Tweed Link and Council website under Planning Committee agendas www.tweed.nsw.gov.au/Councilmeetings

Action: *Sylvia to circulate a full update to all members via email.*

6.5 Graffiti

The issue of graffiti in the area has been noticed in several by-pass areas and along roads and it was suggested that photos be taken and passed on to the Roads and Maritime Services (RMS). Sylvia will set up a meeting between NSW Police and young people to discuss the matter. Police need evidence of the graffiti with information of the date, time and location be sent to NSW Police Tweed Byron Local Area Command web page. This information assists Police to identify tags from previous graffiti reports. It was advised that Council are responsible for some of the infrastructure works with RMS and other organisations responsible for others.

Council will look at young people working alongside Council staff to assist in the graffiti removal process.

6.6 Draft Open Space Strategy 2018-2028

Cr Cooper mentioned the draft Open Space Strategy and requested a submission from Youth Council with their comments. Tracey Stinson referenced a presentation that was made to the 2017 Youth Council. The strategy will be presented at the next Youth Council meeting and the Committee will be assisted in submitting comments.

A7. Youth Council Conference and Event Brief

Emma Ellis Pacific Coast Christian attended conference on entrepreneurs receiving tips on how to set up a business.

Sylvia was invited to present at the SRC Leadership Conference where 32 school captains were in attendance to hear about Community Engagement.

Jazmine and Jaime attended a Reception for the Governor at the Byron Bay Service Club on Monday 18 June where they met The Hon. David Hurley, Governor of New South Wales. Both students were recognised for being members of the Youth Council and said it was a great experience.

Jazmine and Jamie attended Council's Local Government Week 'Walk in my Shoes' program shadowing Mayor of Tweed Shire, Cr Katie Milne for a day. Both said this was a great experience.

7.1 Tweed Shire Council - What's on Exhibition

Kingscliff Locality Plan and Development Control Plan

<https://www.tweed.nsw.gov.au/OnExhibition>

A8. Reports from Sub-Committees / Projects

8.1 Pacific Coast Christian School – Service Projects and Career Education Pathways

Better career and education pathways program. The school has appointed a career advisor to assist with resume writing and educational options. All year levels are involved in the service program to serve the school community. The program will run throughout the school year.

8.2 Banora Point High School - Fishing Line Debris Bins

Following the recent meeting with Tweed Valley Wildlife Carers, Josh advised that the agency will be able to auspice the project. Josh met onsite with Currumbin Wildlife Hospital staff. The visit highlighted the significant number of wildlife treated by the hospital following fishing line debris injuries. Josh has also recently been interviewed by ABC Radio about his community project.

8.3 Murwillumbah High School - R U OK Day

The Deputy Principal has approved the project to proceed. Staff, students and community representatives will participate with the day planned in Term 4. Particular focus will be on understanding the difference between mental health and chronic mental health issues. It is envisaged the day will include young musicians, coaching, positive affirmations and artwork, pilates and support from The Family Centre to run a few activities. The allocation of a colour to each school year to form a rainbow picture as well as a Battle of the Bands style event with Students vs Teachers.

8.4 Tweed River High School - Road to Recovery Board Game

Jazmine advised that Sylvia has given the game cards to NSW Health staff to review to ensure the information is up to date and accurate. NSW Health staff will provide feedback to students and the board will be amended if necessary.

8.5 St Joseph's College - Save a Mate Program

Chloe and Zoe advised that the Save a Mate program will be held in Term 3 for Year 10 students. The program educates young people about drug identification and how to safely look after your friends. Catholic Education staff are considering offering Mental Health First

Aid Teen training to students from next year with some teachers having already been trained.

A9. Report from Council

Nil

A10. Guest Speakers

10.1 Presentation on Community Engagement Strategy – Tiffany Stodart (Acting Manager Communication and Customer Experience)

Tiffany presented on the strategy that Council supports the right of citizens to participate in decision making that affects their future, from the development of Council's 10-year Community Strategic Plan to day-to-day activities. This is outlined in the Community Engagement Strategy.

Have Your Say is a Council dedicated website for community engagement, including online forums, surveys, polls, information on past and present community consultation and much more. Your Say Tweed supports and encourages the community to join the conversation and get involved in decision making about projects affecting the community and would like to hear more from young people.

Feedback is encouraged to ensure the current channels are a suitable forum for submissions and comments, and to discuss what other preferred channels of communication can be adopted to encourage young people to make a submission.

Website: <https://www.tweed.nsw.gov.au/HaveYourSay>

Tweed Panel

Tiffany encouraged Youth Council members to join the Tweed Shire panel which currently has 2500 members. Tiffany advised that the Tweed Regional Gallery and Tweed Regional Museum are also on the social media platforms such as Instagram. Jazmine advised that most young people use 'facebook' and participate in groups such as Kingscliff Matters.

Cr Cooper asked if members of the Youth Council could be invited to attend the Draft Kingscliff Locality Plan meeting being held on Tuesday 4 September which will discuss a 30-year vision and planning framework to guide future growth whilst protecting Kingscliff's character. Tiffany confirmed there will be two sessions from 12pm-2.30pm and 5.30pm-8pm. Members were advised to book a seat by visiting tweedshire.eventbrite.com.au or phone Council on (02) 6670 2400 before 28 August 2018.

TweedLink

Tiffany encouraged members of Youth Council to read the TweedLink to be informed of current events and various Council matters: <https://www.tweed.nsw.gov.au/TweedLink>

10.2 Presentation on Access and Inclusion Plan – Karen Collins (Community Development Officer, Ageing and Disability, Community and Cultural Services)

Karen presented on the Access and Inclusion plan, in particular relating to young people living with mental health issues and disabilities, explaining the role that Council has in these projects. She explained the plan assists people to live their lives according to their individual interests, needs and aspirations, no matter who they are or their circumstances. The plan will be on public exhibition shortly for comment.

10.3 Presentation on Council's Reconciliation Action Plan and Aboriginal Statement of Commitment Policy – Rob Appo (Community Development Officer, Aboriginal, Community and Cultural Services)

Rob presented on the Reconciliation Action Plan (RAP) and the Aboriginal Statement of Commitment both of which recognise the significance of the Aboriginal communities long standing in the Tweed Shire, to continue the process to redress the wrongs of the past and those still being inflicted on Aboriginal people, and to work with the community to treasure this ancient culture and Country. Rob works closely with the Aboriginal Advisory Committee on both the RAP and the Aboriginal Cultural Heritage Management Plan.

Action: *Sylvia to email copies of the presentation.*

Close of Formal Session - Commencement of Youth Councillor Workshop

A11. School Project Presentation

11.1 Youth Council Project 2018 presented by Emma Ellis and Kiani Collier-Hall, Pacific Coast Christian School

Emma advised that they have two components to their project. The portfolio will be a program that incorporates the efforts of the entire school (Prep-Year 12) consisting of different consecutive projects ranging from in-school activities to one outside in the community. Each grade will be responsible for one of the projects listed on the sheet throughout the year. Each project meets the school motto to serve.

The second component is the Steps Program. This is a Careers Program to assist Years 11 and 12 with anxiety regarding their future. The program is also going to be extended to Years 9 and 10 because of extension classes. Many in these grades are already looking at their future career. Staff still to approve.

Sylvia advised Pacific Coast Christian did not have an SRC when the Youth Council started and the model was adopted from other schools and implemented at Pacific Coast Christian. Sylvia acknowledged the legacy that this project will leave for students.

Cr Milne suggested Land Care as a potential school community project as well as Meals on Wheels.

A12. School Project Q & A Session

Nil questions asked.

A13. National Youth Event Dates 2018 - Proposed Activities

- Wear It Purple Day - Friday 31 August 2018
- National Threatened Species Day at Tweed Regional Museum Friday 7 September commencing at 5.00pm with Dr Kooyman's presentation at 6.00pm. Free event and open to everyone. Numbers are limited and bookings are essential on (02) 6670 2400.
- *headspace* Day (National Mental Health Week) – 1-7 October 2018.
- Anti-Poverty Week 14-21 October – Event at Jack Evans Boat Harbour. Australian Red Cross Tweed Youth Committee (Option for a Youth Council team in Anti-Poverty week event).

Sylvia encouraged Youth Council to promote the events at their schools.

General Business:

Nil

Next Meeting:

The next meeting of the Tweed Shire Youth Council will be held on Wednesday 28 November, 4.00pm-6.00pm at the Murwillumbah Civic and Cultural Centre, Council Chambers, Tumbulgum Road, Murwillumbah. Agenda items to be forwarded to Sylvia Roylance for inclusion on the Agenda.

The meeting closed at 5.45pm.

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.

49 [SUB-TCWC] Minutes of the Tweed Coast and Waterways Committee Meeting held Wednesday 12 September 2018

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:

The Minutes of the Tweed Coast and Waterways Committee Meeting held Wednesday 12 September 2018 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

- 1. The Minutes of the Tweed Coast and Waterways Committee Meeting held Wednesday 12 September 2018 be received and noted; and**
- 2. The Executive Leadership Team's recommendations be adopted as follows:**

A2. Mooball Creek Log Wall Replacement

That Council calls for a report on options to replace the failing log retaining wall at Mooball Creek Pottsville, and with consideration of issues such as community preference and budget constraints, determine the best way to proceed with works in the area.

REPORT:

The Minutes of the Tweed Coast and Waterways Committee Meeting held Wednesday 12 September 2018 are reproduced as follows for the information of Councillors.

Venue:

Canvas & Kettle Meeting Room

Time:

9.00am

Present:

Rhonda James (Chair); Cr Katie Milne; Cr Chris Cherry; Ben Fitzgibbon; Bill Fenelon; David Cranwell; John Harbison; Robert Quirk; Bruce Peate; Jane Lofthouse; Tom Alletson, Marama Hopkins, Bill Hoskins; Stewart Brawley.

Guests:

Kerrie Foxwell-Norton 9 - 9.30am

Apologies:

Carl Cormack; Sam Dawson; Peter Comerford; Ian Berger; Lindy Smith; Tracey Stinson.

Cabarita Beach Bogangar Regional Surfing Reserve

Kerrie Foxwell-Norton addressed the committee on the matter of the Cabarita Beach Bogangar Regional Surfing Reserve. A copy of the reserve nomination was tabled. It was noted that the surfing reserve nomination had been prepared by a community based committee and had come from discussions on the Cabarita Beach community plan in 2012. The reserve nomination was subject to a process of community consultation and has been approved by the National Surfing Reserve Committee. In short the reserve status is mostly symbolic and is intended to influence how people think about the place and how they interact with each other and the natural environment.

Kerrie sought Council advice and a key contact person to discuss matters such as signage location and type. Stewart Brawley, Manager Recreation Services offered to be the contact.

Minutes of Previous Meeting:

Proposed amendment (addition) to the minutes of the 13 June meeting

David Cranwell requested that Tom Alletson meet and consult with members of the Pottsville Community Association regarding the replacement of the Mooball Creek log wall between the June and September Tweed Coast and Waterways Committee (TCWC) meetings.

Moved: Katie Milne

Seconded: David Cranwell

RESOLVED that the Minutes of the Tweed Coast and Waterways Committee meeting held 13 June 2018 be accepted as a true and accurate record of the proceedings of that meeting, subject to the addition of the amendment above.

It was noted that the Committee recommendation of 18 June:

"That Council requests a workshop to be held advising which neighbouring Councils currently have an environmental levy, how many of the coastal councils across NSW have environmental levy's, what amount of funds a comparable levy would generate and the type of projects could be facilitated by this levy."

was not supported by Council at its meeting of 19 July.

Mayor Milne noted that the following resolution was passed at the August meeting of Council:

"that:

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

BUSINESS ARISING:

BA1. Clearing of wetland vegetation west of Pacific Motorway at Clothiers Creek

In August 2017 vegetation was cleared on rural land at Clothiers Creek. Concern was expressed regarding the nature of the vegetation - that being regrowth freshwater wetland species, and the impact of clearing on ASS runoff. Tom advised that the clearing had been reported to the Office of Environment and Heritage by Council staff, but that OEH had advised that given the zoning and past use of the land for agriculture, clearing was permitted. Tom to supply Council and OEH advice to committee.

The capacity for Council to regulate ASS runoff from agricultural land was also discussed. Tom will arrange for Council staff to brief the committee on existing management arrangements with respect to drainage maintenance works in ASS areas, and Councils capacity to regulate chronic ASS runoff.

AGENDA ITEMS:

A1. Tweed River Estuary Coastal Management Program (CMP) Update

Tom advised that there had been little progress on the CMP while awaiting comment on the draft document from NSW Agencies. Comments had been received from OEH and Lands, still awaiting comment from Fisheries and RMS. Comments on the document from agencies will be circulated to the committee when they are complete.

Given the long delay in the draft review process, the timeline for exhibition and completion of the CMP has been significantly extended. It is now anticipated that a final draft will be provided to the committee in April 2019, to go on Exhibition in April and May.

A2. Mooball Creek Log Wall Replacement

Tom presented a detailed comparison of four design concepts for a structure to replace the existing Mooball Creek log retaining wall. The comparison included a multi-criteria analysis of options and provided a ranked recommendation. It is recommended by staff that rock revetment be used to stabilise the foreshore. It is the only affordable option for the Waterways Program at this time. It is acknowledged that the Pottsville Community Association has advised Council that they do not support use of rock in this area, citing concerns over safety as their objection to rock being introduced to the site.

As a means of reaching a decision on how to proceed it was recommended that the matter be put before Council in the form of a report with options on how to proceed.

Moved: John Harbison

Seconded: Pat Dwyer

RECOMMENDATION:

That Council calls for a report on options to replace the failing log retaining wall at Mooball Creek Pottsville, and with consideration of issues such as community preference and budget constraints, determine the best way to proceed with works in the area.

A3. Annual Water Quality Reporting

Tom provided committee members with a draft copy of the annual water quality report for 2018. A number of suggested changes and comments were made.

A4. Tweed Coast Estuaries Management Plan Overview

Tom provided an overview of the 2013 Coastal Estuaries management plan which included a review of recent water quality data and an update on implementation of actions (to be emailed to committee). The most significant risks current within estuary management are considered to be management of access to the creeks for swimmers and ASS impacts on water quality.

The location of water quality sampling points in Cudgera Creek was discussed with Tom to present an update on these and potential changes at the December meeting.

A5. Environmental Trust Grant - Upper Tweed Estuary

The committee was advised of success in securing a \$97,000 grant for river bank rehabilitation and fish habitat enhancement in the upper Tweed Estuary. The site is located adjacent to property owned by Greg O'Conner, opposite the confluence of Tweed River and Dunbible Creek. A strength of the grant application was support, both cash and in principle, from OzFish, a group representing recreational fishing with an emphasis on fish habitat protection and enhancement. It was noted that a Council and OzFish had planned a community tree planting at Col Wiley Park near Byangum Bridge for Sunday 23 September - International Rivers Day.

Follow up actions and outstanding items:

- **Terranora Yabby Monitoring Project**

DPI Fisheries provided an update on a NSW Recreational Fishing Trust funded project: 'Bait security - ensuring sustainable and productive NSW invertebrate bait resources'. This project assesses bait security (ghost nippers and beach worms state-wide populations) in NSW.

This matter has been previously discussed with the Tweed Committee and in response to the concerns that have been raised at Terranora in 2015 DPI developed and implemented a Code of Practice (the Code) for land based fishing activities associated with NSW charter fishing businesses operating in the Tweed River. The Code introduced a series of additional controls to ensure these activities are undertaken in a professional and environmentally responsible manner.

One of the bait security study sites is located within Terranora Creek where several recreational fishers have previously expressed their concern about the harvest of ghost nippers by charter boat operators and potential impacts on intertidal habitats.

The ghost nipper component of the study has two elements: an assessment of populations and manipulation of certain areas to assess disturbance impact associated with fishing over short and longer terms.

Over the three years of the study (2015, 2016 and 2017) abundance of ghost nippers varied across the Terranora sites through time although there is no evidence of consistent differences between sites.

Short term disturbance did not significantly affect the abundance or size and structure of ghost nippers at a local scale. Prolonged disturbance, however, did have a significant impact on the abundance of local populations of ghost nippers when sampled after 63 days, this impact was not evident in sampling after longer intervals.

It is anticipated that the outcomes of the bait security research will provide scientific-based evidence to assist with the consideration of existing arrangements as outlined in the Code, as well as the potential to further develop these management arrangements.

GENERAL BUSINESS:

- It was requested that Rob Seibert from Council's Water and Wastewater Unit provides another update on the Bray Park Weir and Clarrie Hall Dam projects.
- Results of the 2018 Tweed Coast koala survey will be presented at the December meeting.

Next Meeting:

The next meeting of the Tweed Coast and Waterways Committee will be held on Wednesday 12 December 2018.

The meeting closed at 12:40pm.

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

A2. Mooball Creek Log Wall Replacement

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

A2. Mooball Creek Log Wall Replacement

That Council calls for a report on options to replace the failing log retaining wall at Mooball Creek Pottsville, and with consideration of issues such as community preference and budget constraints, determine the best way to proceed with works in the area.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - adopted by Council at its meeting on 17 November 2016 - Minute No. 517 (ECM 4316118).

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.

50 [SUB-TRAG] Minutes of the Tweed Regional Art Gallery Advisory Committee Meeting held Wednesday 19 September 2018

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 19 September 2018 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 19 September 2018 be received and noted.

REPORT:

The minutes of the Tweed Regional Art Gallery Advisory Committee meeting held Wednesday 19 September 2018 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), Louise Devine, Alan Hann (President, Friends of the Tweed Regional Gallery & Margaret Olley Art Centre Inc.), Shirley Kennedy, Jennifer Unwin, Robyn Grigg (Manager, Community & Cultural Services), Susi Muddiman OAM (Gallery Director), Kree Harrison (Administrative Officer - minutes)

Apologies:

Cr Reece Byrnes, Michael Rayner, Martin Sullivan, Tracey Stinson (Director, Community & Natural Resources)

Minutes of Previous Meeting:

Moved: Hobie Porter

Seconded: Louise Devine

RESOLVED that the Minutes of the Tweed Regional Gallery Advisory Committee meeting held Wednesday 13 June 2018 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Change of name of the Art Gallery Advisory Committee in Terms of Reference
Following public exhibition of the Collection Accession & De-Accession Policy, the updated Terms of Reference for the Committee have been adopted.

De-accession of artwork from collection

Gallery Director Susi Muddiman OAM tabled a thank you card received from Carol Easton for the gift of Gabriella Soeklner's painting of *the last hunter*. The formal de-accession of this artwork is now complete.

Proposal by Martin Sullivan

Manager, Community & Cultural Services, Robyn Grigg advised the Committee that Martin Sullivan met with her to seek advice on the proposal he tabled at the previous meeting. He was provided more information about the Public Art Reference Group and application process for project ideas, as well as being given an update on current Arts and Heritage projects in Murwillumbah. Martin will consider this and contact Council if he has more questions.

Agenda Items:

Gallery Director's Report, including acquisition of artworks for ratification

The Gallery Director presented her report, and acquisitions of artworks were discussed with the Committee.

Moved: Hobie Porter
Seconded: Shirley Kennedy

RESOLVED that the Gallery Director's Report be adopted, and all artwork acquisitions ratified.

Tweed Regional Gallery Collection Accession & De-Accession Policy

The Tweed Regional Gallery Collection Accession & De-Accession Policy has been adopted and will be available on the Gallery's website.

General Business:

Gallery Director Susi Muddiman OAM discussed with the Committee the design and integration of the Margaret Olley Memorial Garden with the Rail Trail.

Next Meeting:

The next meeting of the Tweed Regional Gallery Advisory Committee will be held on Wednesday 21 November.

The meeting closed at 6.50pm.

EXECUTIVE LEADERSHIP TEAM'S COMMENTS:

Nil.

EXECUTIVE LEADERSHIP TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Reviewed 21 August 2012.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

51 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 27 September 2018

SUBMITTED BY: Roads and Stormwater

mhm



People, places and moving around

Who we are and how we live

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: Advocate

SUMMARY OF REPORT:

The Minutes of the Local Traffic Committee Meeting held Thursday 27 September 2018 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the Local Traffic Committee Meeting held Thursday 27 September 2018 be received and noted; and
2. The Executive Leadership Team's recommendations be adopted as follows:

A1 [LTC] Kingscliff Triathlon 31 March 2019

That the proposed Kingscliff Triathlon on Sunday 31 March 2019 be supported subject to standard conditions.

1. ***NSW Police approval being obtained.***
2. ***Endorsement of the event by Triathlon NSW and the Kingscliff Chamber of Commerce.***
3. ***Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.***
4. ***Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.***

5. ***The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.***
6. ***Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.***
7. ***Adequate public liability insurance being held by the event organiser.***
8. ***All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.***
9. ***Consultation with emergency services and any identified issues addressed.***
10. ***Arrangements made for private property access and egress affected by the event.***
11. ***That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.***
12. ***The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.***
13. ***The event be conducted and signposted (where applicable this supersedes signposting in accordance with RMS Guide to Traffic Control at Worksites) in accordance with the current RMS Guidelines for Bicycle Road Races to ensure consistency across the network.***
14. ***A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.***
15. ***A Road Occupancy Licence be obtained from Roads & Maritime Services.***

A2 [LTC] Oyster Point Road, Banora Point

That double centrelines be installed on Oyster Point Road at the intersections with Anthony Avenue and Bione Avenue.

A3 [LTC] Norman Street, Tweed Heads

That a bus zone be installed on Norman Street, Tweed Heads 10m from Stanley Lane extending to 22m from Stanley Lane.

A4 [LTC-SOR] Schedule of Outstanding Resolutions 27 September 2018

From Meeting held 26 July 2018:

[LTC] Brett Street and Keith Compton Drive, Tweed Heads (B5)

That to improve safety for pedestrians and cyclists a 'No Stopping' yellow edge line be installed on Keith Compton Drive commencing at the kerb ramp near Brett Street extending 5m to the east and reinforce with the relocation of the 'No Stopping' sign.

REPORT:

The Minutes of the Minutes of the Local Traffic Committee Meeting held Thursday 27 September 2018 are reproduced as follows for the information of Councillors.

VENUE:

Mt Warning Meeting Room

TIME:

Commencing at 9.30am

PRESENT:

Committee Members: Cr James Owen, Linda Makejev (via video conference), Roads and Maritime Services of NSW, Snr Constable Chris Davis, NSW Police, Mr Col Brooks on behalf of Mr Thomas George MP, Member for Lismore, Mr Rod Bates on behalf of Mr Geoff Provest MP, Member for Tweed.

Informal: Mr Ray Clark (Chairman), Miss Alana Brooks, Kathleen Boulton (via video conference) Roads and Maritime Services of NSW, Ms Judith Finch (Minutes Secretary).

APOLOGIES:

Mr Thomas George MP, Member for Lismore, Mr Geoff Provest MP, Member for Tweed, Mr Nick Tzannes.

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

MIN1 [LTC-MIN] Confirmation of Previous Minutes Meeting held 23 August 2018

ORIGIN:

Roads & Stormwater

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 23 August 2018 be adopted as a true and accurate record of proceedings of that meeting.

SCHEDULE OF OUTSTANDING RESOLUTIONS

SOR1 Brett Street and Keith Compton Drive, Tweed Heads was moved to Section 1 - Item A4

BUSINESS ARISING

Nil.

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES - MURWILLUMBAH

Nil.

DELEGATIONS FOR REGULATORY DEVICES - TWEED HEADS

A1 [LTC] Kingscliff Triathlon 31 March 2019

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5528940; Traffic - Committee; Festivals/Events - Other; Community Events on Council Administered Land; Roads - Closures - Temporary including Traffic; Cudgen Creek; Parks - Faulks, Jack Julius, Rowan Robinson; Marine Parade; Wommin Bay Road; Chinderah Bay Drive; Moss Street; Sutherland Street; Pearl Street; Casuarina Way

SUMMARY OF REPORT:

Applicant's Information:

Request received for temporary road closures and major community event for the Kingscliff Triathlon being held Sunday 31 March 2019.

Hours of operation will be:

- Friday 29 March 10.00am to 5.00pm - Deliveries of resources
- Saturday 30 March 7.00am to 5.00pm - Event base set up and registration
- Sunday 31 March 4.00am to 3.00pm - Set up from 4.00am. Triathlon will start from 7.00am and finish approximately at 3.00pm. Commentator use of PA from 6.15am to 1.30pm.

This event will be the 19th event. The most recent is scheduled for 2 December 2018.

The respective start and finish locations will utilise banners and corflute signage to instruct participants. Signage will be installed normally on the Saturday and removed by Sunday. The Road Closed notification banner will be installed approximately 7 days prior to the event.

Affected roads are Marine Parade, Wommin Bay Road, Chinderah Bay Drive from Jenners Corner to the southern dead end, Moss Street, Sutherland Street from Moss Street to Casuarina Way to roundabout on Point Break Circuit.

Parking zones will be marshalled and be away from the centre of business district in Kingscliff. The St Anthony's School car park will be used for up to 100 local staff member's vehicles.

Community notification will be:

- Regular news releases to local papers starting 3 months out.
- Special Events Notices go into the Tweed Link 2 weeks out from the event.
- Promotional letterbox drop to all local residents and businesses affected in order to engage the community and gain their support - mid January.
- Letterbox drop to residents and businesses affected 2 weeks prior to event.
- Residents will have access to the motorbike escort service for urgent entry/exit on routes.

Officer's Comment:

Previous events required the partial closure of Sutherland Street southbound and the closure of Moss Street to enable the running component of the triathlon. Given that the Cudgen Creek boardwalk will be completed before this event the boardwalk should be utilised for the running component and road closures would not be required. The applicant needs to modify the traffic management plan and traffic control plans to reflect same.

RECOMMENDATION TO COUNCIL:

That the proposed Kingscliff Triathlon on Sunday 31 March 2019 be supported subject to standard conditions.

- 1. NSW Police approval being obtained.**
- 2. Endorsement of the event by Triathlon NSW and the Kingscliff Chamber of Commerce.**
- 3. Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.**
- 4. Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.**
- 5. The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.**
- 6. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.**
- 7. Adequate public liability insurance being held by the event organiser.**
- 8. All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.**
- 9. Consultation with emergency services and any identified issues addressed.**
- 10. Arrangements made for private property access and egress affected by the event.**
- 11. That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.**
- 12. The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.**
- 13. The event be conducted and signposted (where applicable this supersedes signposting in accordance with RMS Guide to Traffic Control at Worksites) in accordance with the current RMS Guidelines for Bicycle Road Races to ensure consistency across the network.**
- 14. A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.**
- 15. A Road Occupancy Licence be obtained from Roads & Maritime Services.**

FOR VOTE - Cr James Owen, Ms Linda Makejev, Roads & Maritime Services of NSW, Mr Rod Bates on behalf of Mr Geoff Provest, MP Member for Tweed, Snr Const Chris Davis

A2 [LTC] Oyster Point Road, Banora Point

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5408005; Traffic - Committee, Linemarking, Safety; Oyster Point Road

SUMMARY OF REPORT:

Applicant's Information:

The East Banora Residents Association has requested centre linemarking in the vicinity of 26 Oyster Point Road, Banora Point:

“Concerns have been raised regarding the danger created by vehicle speed (exacerbated by poor driving), particularly those traveling West towards Anderson Street. Despite the road being quite wide, the uphill curve of the road, the location of the bus stop and vehicles parked parallel to the curb regularly cause issues that include parked cars being side-swiped and difficulties entering/exiting driveways. Possible solutions include a centre white line around the curve and a white line median strip on the left curb (when heading up hill) immediately prior to the curve at approximately 26 Oyster Point Road. Greater policing of the 50km/Hr speed limit may also improve safety”.

Officer's Comment:

Given the traffic volumes along this section of road, centre linemarking could be installed to provide guidance for motorists.

RECOMMENDATION TO COUNCIL:

That double centrelines be installed on Oyster Point Road at the intersections with Anthony Avenue and Bione Avenue.

FOR VOTE - Cr James Owen, Ms Linda Makejev, Roads & Maritime Services of NSW, Mr Rod Bates on behalf of Mr Geoff Provest, MP Member for Tweed, Snr Const Chris Davis

A3 [LTC] Norman Street, Tweed Heads

ORIGIN:

Roads & Stormwater

FILE NO: TRA18/0028; Traffic - Committee; Pedestrian Safety; Transport - Bus Services - Stops; Norman Street, Tweed Heads

SUMMARY OF REPORT:

Applicant's Information:

An elderly resident has reported that she is unable to safely catch the bus in Norman Street, just north of Kennedy Drive as there is usually cars parked adjacent to the J-pole.

The resident has tripped twice walking to other areas to board the bus.

Officer's Comment:

The site has been inspected on two occasions and cars were parked adjacent to the J-pole and it would have been difficult for the bus to pull over in a safe and accessible location.

RECOMMENDATION TO COUNCIL:

That a bus zone be installed on Norman Street, Tweed Heads 10m from Stanley Lane extending to 22m from Stanley Lane.

FOR VOTE - Cr James Owen, Ms Linda Makejev, Roads & Maritime Services of NSW, Mr Rod Bates on behalf of Mr Geoff Provest, MP Member for Tweed, Snr Const Chris Davis

A4 [LTC-SOR] Schedule of Outstanding Resolutions 27 September 2018

From Meeting held 26 July 2018:

[LTC] Brett Street and Keith Compton Drive, Tweed Heads (B5)

ORIGIN:

Roads & Stormwater

FILE NO: ECM 5376057; Traffic - Committee, Linemarking, Safety; Pedestrian Safety; Brett Street, Keith Compton Drive, Tweed Heads

SUMMARY OF REPORT:

The customer has advised that caravans are permanently parking at the intersection of Brett Street and Keith Compton Drive, Tweed Heads. This is causing traffic and pedestrian safety issues. The customer has requested that Council consider installing yellow line marking on both sides of the intersection.

The sight distance for motorists entering Keith Compton Drive from Brett Street is not considered to be impeded by larger vehicles parked in this particular space. It is noted that the kerb ramp is not obstructed but sight distance for pedestrians/cyclists is restricted by the caravan.

A number of pedestrians, including vulnerable pedestrians, would likely use this crossing point, given the proximity to the hospital, library and Council Offices. This is also a crossing point to connect the shared path network.

The Committee decided that the owners of the subject caravans should be contacted and asked to move their vehicles to a safer location. The pedestrian sight lines could be reviewed once the caravans are moved.

COMMITTEE ADVICE:

That the item be deferred to permit further investigation into ownership of the caravans parked at the intersection of Brett Street and Keith Compton Drive and whether the issue can be resolved by requesting the owners move the caravans to a safer location.

Current Status: *(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 26 July 2018 (Item B5)).*

The Chairperson requested that the item be moved to the A section of the Minutes.

RECOMMENDATION TO COUNCIL:

That to improve safety for pedestrians and cyclists a 'No Stopping' yellow edge line be installed on Keith Compton Drive commencing at the kerb ramp near Brett Street extending 5m to the east and reinforce with the relocation of the 'No Stopping' sign.

FOR VOTE - Cr James Owen, Ms Linda Makejev, Roads & Maritime Services of NSW, Mr Rod Bates on behalf of Mr Geoff Provest, MP Member for Tweed, Snr Const Chris Davis

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE - MURWILLUMBAH

B1 [LTC] Kyogle Road, Uki

ORIGIN:
Roads & Stormwater

FILE NO: ECM 5417169; Traffic - Committee; Parking Zones; Kyogle Road, Uki

SUMMARY OF REPORT:

Applicant's Information:

Request received for Local Traffic consideration to a couple of parking spaces at the front of the Uki Supermarket Store being designed as timed parking to 30 minutes.

The current spaces, as they are not time limited, can be occupied for the whole day, which is particularly evident on market days (every Saturday and every fourth Sunday) but is an ongoing issue on weekends in general.

Officer's Comment:

Advice was sought from the Uki Residents Association (UKIRA) and whilst they are generally supportive of a time limit, 30 minutes may be too short a period and further advice will be forthcoming following further consultation.

There is currently no timed parking in Uki Village and advice is sought from the Committee on whether or not timed parking would be supported.

COMMITTEE ADVICE:

That further liaison with stakeholders be carried out to determine the issues that address the concerns raised by the customer for timed parking in the CBD of Uki.

GENERAL TRAFFIC ADVICE - TWEED HEADS

B2 [LTC] Remembrance Day - Sunday 11 November 2018

ORIGIN:
Roads & Stormwater

FILE NO: ECM 5326683; Traffic - Committee; Community Events on Council Administered Land; Ceremonies - Remembrance Day; Parks - Chris Cunningham; Roads - Closures - Temporary; Bay Street; Wharf Street, Tweed Heads

SUMMARY OF REPORT:

Applicant's Information:

Request received for the commemoration of Remembrance Day 2018 and with this year being the Centenary of the Armistice, the event will be slightly bigger than usual, with a small scale military re-enactment (much more modest than 2015 ANZAC Day) involving approximately 30 uniformed personnel, supported by a brass band WW1 Light Horse Uniforms.

The majority of the commemoration will be contained in Chris Cunningham Park, concluding with a march from the park into Bay Street and then along Wharf Street towards the Mantra Hotel ramp.

Approval is sought for:

1. Access to Chris Cunningham Park for the commemoration, set up and break down.
2. Temporary road closure for Wharf Street, Tweed Heads from approximately 10.30am to 12.15pm.

Officer Comment:

The application was forwarded to Police to provide advice on any road closures required and their management. Police managed road closures for these type of events do not require Council approval.

COMMITTEE ADVICE:

That the Police provide resources to control the Remembrance Day March on 11 November 2018 and any temporary road closures as they see appropriate.

B3 [LTC] Tweed Valley Way, Cudgera Creek and Cudgera Creek Road and Howards Road

ORIGIN:
Roads & Stormwater

FILE NO: ECM5538488; ECM5543506; Traffic - Committee; Pedestrian Crossings; Speed Zones; Cudgera Creek Road, Burringbar; Cudgera Creek Road, Cudgera Creek; Tweed Valley Way, Burringbar; Howards Road

SUMMARY OF REPORT:

Applicant's Information:

1. Request received for a pedestrian crossing on Tweed Valley Way near Cudgera Creek Road, where there is a bus stop in this vicinity. A properly signed pedestrian crossing supported by chevrons on the road surface north and south would benefit both pedestrians and horse riders needing to cross the road at this location. The pedestrian crossing would also assist in reducing the incidence of speeding vehicles at this location as they transit Burringbar village.
2. Speed limit Cudgera Creek Road and Howards Road. The 60km speed limit currently ends at the bridge on Cudgera Creek Road. We would like to see this speed limit extended up Cudgera Creek Road to the old quarry/horse float parking area and along Howards Road to the first causeway. We are concerned about the volume of traffic and the speed at which vehicles including trucks travel in this area.

Officer's Comment:

1. The warrants for a marked pedestrian crossing on Tweed Valley Way near Cudgera Creek Road would not be met and should not be supported.
2. Cudgera Creek Road and Howards Road are narrow winding rural roads with limited adjacent development and are currently sign posted as a 100km/h rural speed limit where drivers are expected to drive according to the conditions. Speed zoning a road for occasional use by a particular user group is not best practice and may result in non-compliance and inconsistent speed zones.

COMMITTEE ADVICE:

That:

1. **The request for a marked pedestrian crossing on Tweed Valley Way near Cudgera Creek Road is not supported.**
2. **An extension of the 60km/h speed zone on Cudgera Creek Road and Howards Road, Burringbar is not supported.**

B4 [LTC] Bay and Wharf Streets, Tweed Heads

ORIGIN:

Roads & Stormwater

FILE NO: TRA18/0035; ECM 5516293; Traffic - Committee, Lights, Safety; Bay Street, Wharf Street

SUMMARY OF REPORT:

Applicant's Information:

Request received for the timing of the traffic lights at the intersection of Bay and Wharf Streets, Tweed Heads to be investigated. The customer has suggested the installation of a right hand turn arrow on the lights when turning right from Wharf Street into Bay Street. The customer

sometimes has to wait for a couple of light changes before they can turn right. They have also suggested a right hand turn arrow when turning right from Bay Street into Wharf Street.

Officer's Comment:

Previous advice from Roads & Maritime Services (RMS) was that the warrants for a right turn phase from Wharf Street into Bay Street was not met given the volume of traffic carrying out the turn.

The Chairperson requested that this item be moved to the Schedule of Outstanding Resolutions.

COMMITTEE ADVICE:

That the RMS provide advice on current best practice for installation of a right turn phase from Wharf Street into Bay Street, Tweed Heads and from Bay Street into Wharf Street.

B5 [LTC] Tweed Hinterland Endurance Horse Ride Sunday 28 October 2018

ORIGIN:

Roads & Stormwater

FILE NO: ECM5529112; 5538075; 5538488; Traffic - Committee; Festivals/Events - Other; Rowlands Creek Road; Chowan Creek Road; Manns Road

SUMMARY OF REPORT:

Applicant's Information:

Request received for Local Traffic Committee consideration of the Tweed Hinterland Endurance Horse Ride on 28 October 2018.

There are no road closures planned as horses will travel on road or road verges following the road rules.

Officer's Comment:

Given that the proposed event is timed it is considered a race. The event organiser has been contacted to provide more information about the event to report at the meeting.

COMMITTEE ADVICE:

That the Tweed Hinterland Endurance Horse Ride scheduled to be held on Sunday 28 October 2018 be supported.

B6 [LTC] Meeting Schedule

ORIGIN:

Roads & Stormwater

FILE NO: Traffic - Committee

SUMMARY OF REPORT:

The following meeting dates are proposed for Local Traffic Committee meetings in 2019 with each meeting scheduled generally for the 4th Thursday of every month, except for the months of April, May and December. If an urgent item is received in January a conference or video call can be established to discuss if warranted. The 4th Thursday in April falls on 25 April, being a Public Holiday. A decision has therefore been made to move it to the week after, being 2 May. The next meeting is scheduled for 30 May, being 4 weeks after the 2 May meeting. The 19 December meeting is brought forward from 26 December due to it being a Public Holiday.

It should be noted that at this stage Council has confirmed Council meeting dates to be held on 21 February, 21 March, 17 April, 16 May, 20 June. Based on this cycle the LTC meeting dates for 2019 are proposed:

28 February
28 March
2 May (1st Thursday as no meeting in April)
30 May (5th Thursday)
27 June
25 July
22 August
26 September
24 October
28 November
19 December (3rd Thursday due to Christmas)

COMMITTEE ADVICE:

That the following meeting schedule be endorsed for Local Traffic Committee meetings in 2019:

**28 February
28 March
2 May (1st Thursday as no meeting in April)
30 May (5th Thursday)
27 June
25 July
22 August
26 September
24 October
28 November
19 December (3rd Thursday due to Christmas)**

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held 18 October 2018 in the Mt Warning Meeting Room commencing at 9.30am.

There being no further business the Meeting terminated at 11.15am.

EXECUTIVE LEADERSHIP TEAM COMMENTS:

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES - TWEED HEADS

A1 [LTC] Kingscliff Triathlon 31 March 2019

Nil.

A2 [LTC] Oyster Point Road, Banora Point

Nil.

A3 [LTC] Norman Street, Tweed Heads

Nil.

**A4 [LTC-SOR] Schedule of Outstanding Resolutions 27 September 2018
From Meeting held 26 July 2018:**

[LTC] Brett Street and Keith Compton Drive, Tweed Heads (B5)

Nil.

EXECUTIVE LEADERSHIP TEAM RECOMMENDATIONS:

**SECTION A - FORMAL ITEMS SECTION - DELEGATIONS FOR REGULATORY DEVICES
FOR ENDORSEMENT BY COUNCIL:**

DELEGATIONS FOR REGULATORY DEVICES - TWEED HEADS

A1 [LTC] Kingscliff Triathlon 31 March 2019

That the proposed Kingscliff Triathlon on Sunday 31 March 2019 be supported subject to standard conditions.

- 1. NSW Police approval being obtained.*
- 2. Endorsement of the event by Triathlon NSW and the Kingscliff Chamber of Commerce.*
- 3. Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.*
- 4. Community and affected business consultation addressing raised concerns including a letterbox drop to directly affected residents.*
- 5. The event organiser notifies Tweed residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times,*

- alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.*
6. *Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.*
 7. *Adequate public liability insurance being held by the event organiser.*
 8. *All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.*
 9. *Consultation with emergency services and any identified issues addressed.*
 10. *Arrangements made for private property access and egress affected by the event.*
 11. *That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to www.tweed.nsw.gov.au Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.*
 12. *The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.*
 13. *The event be conducted and signposted (where applicable this supersedes signposting in accordance with RMS Guide to Traffic Control at Worksites) in accordance with the current RMS Guidelines for Bicycle Road Races to ensure consistency across the network.*
 14. *A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.*
 15. *A Road Occupancy Licence be obtained from Roads & Maritime Services.*

A2 [LTC] Oyster Point Road, Banora Point

That double centrelines be installed on Oyster Point Road at the intersections with Anthony Avenue and Bione Avenue.

A3 [LTC] Norman Street, Tweed Heads

That a bus zone be installed on Norman Street, Tweed Heads 10m from Stanley Lane extending to 22m from Stanley Lane.

**A4 [LTC-SOR] Schedule of Outstanding Resolutions 27 September 2018
From Meeting held 26 July 2018:**

[LTC] Brett Street and Keith Compton Drive, Tweed Heads (B5)

That to improve safety for pedestrians and cyclists a 'No Stopping' yellow edge line be installed on Keith Compton Drive commencing at the kerb ramp near Brett Street extending 5m to the east and reinforce with the relocation of the 'No Stopping' sign.

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.

CONFIDENTIAL ITEMS FOR CONSIDERATION

MAYORAL MINUTE IN COMMITTEE

- C1 [MM-CM] Mayoral Minute - General Manager Annual Review for 2017/2018 and determination of the General Manager's Performance Agreement for 2018/19**

REASON FOR CONFIDENTIALITY:

This report details the outcomes of the 2017/18 annual review of the General Manager's Performance Agreement under his Contract of Employment.

It also contains details of the General Manager's 2018/19 Performance Agreement for formal confirmation by Council.

In accordance with the terms of the Guidelines for the Appointment and Oversight of General Managers issued by the Office of Local Government, it is to be considered in a Confidential Meeting.

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).

mlm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

ROLE: **Leader**

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

C2 [CNR-CM] Nathan Bewes Recognition

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).

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

C3 [E-CM] Proposed Easement for Sewage Purposes - Lot 21 DP 331993 - 39 West End Street, Murwillumbah

REASON FOR CONFIDENTIALITY:

Local Government Act

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

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

mhm



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: **Provider**
