

**Planning Proposal  
to enable 'Council Pound and Rehoming Centre' as an  
additional permitted use at Lundberg Drive,  
Murwillumbah (PP19/0003)**

Version 1 for Gateway Determination  
October 2020

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## Part 1 Objectives and intended outcomes

### Introduction

Tweed Shire Council's animal pound and rehoming centre located on land associated with Council's Resource Recovery Centre (RRC) at Stotts Creek was recently decommissioned and relocated to a temporary facility in order to accommodate the expansion of the RRC as part of Council's ongoing responsible management of waste.

Council commenced investigations in 2016 to secure a new location for Council's animal pound and rehoming centre and this led to the making of an LEP amendment on 18 January 2019 for a Council owned property at 719 Eviron Road, Eviron. The property was later deemed unsuitable, however, given possible impacts resulting from the expanded RRC.

On 4 April 2019 Council resolved to proceed with a further LEP amendment to allow a Council Pound and Rehoming Centre at 751 Eviron Road, Eviron, also owned by Council. Following ongoing investigation the site was deemed unsuitable for this purpose due to the high cost associated with site preparation works due to steep and heavily vegetated terrain, difficulty establishing a safe and stable site access and the extent of vegetation clearing required.

On 4 July 2019, Council considered a different approach, adopting the Part 5 assessment pathway and permitting a Council Pound and Rehoming Centre on any land. Whilst Part 5 of the *Environmental Assessment Act 1979* (NSW) is fundamentally a system of self-assessment it has more exacting and stringent provisions than the Part 4 assessment pathway and requires the determining authority to take into account "to the fullest extent possible all matters affecting or likely to affect the environment."

Allowing public infrastructure works to be carried out under Part 5 is a common practice for many public infrastructure authorities, including councils, and it provides a very robust and tested environmental assessment regime better tailored to public infrastructure works.

On 4 July 2019, Council resolved "*that in relation to the Planning Proposal PP19/0003 Amendment to Permit the Staged Development of a new long-term Tweed Pound and Rehoming Centre:*

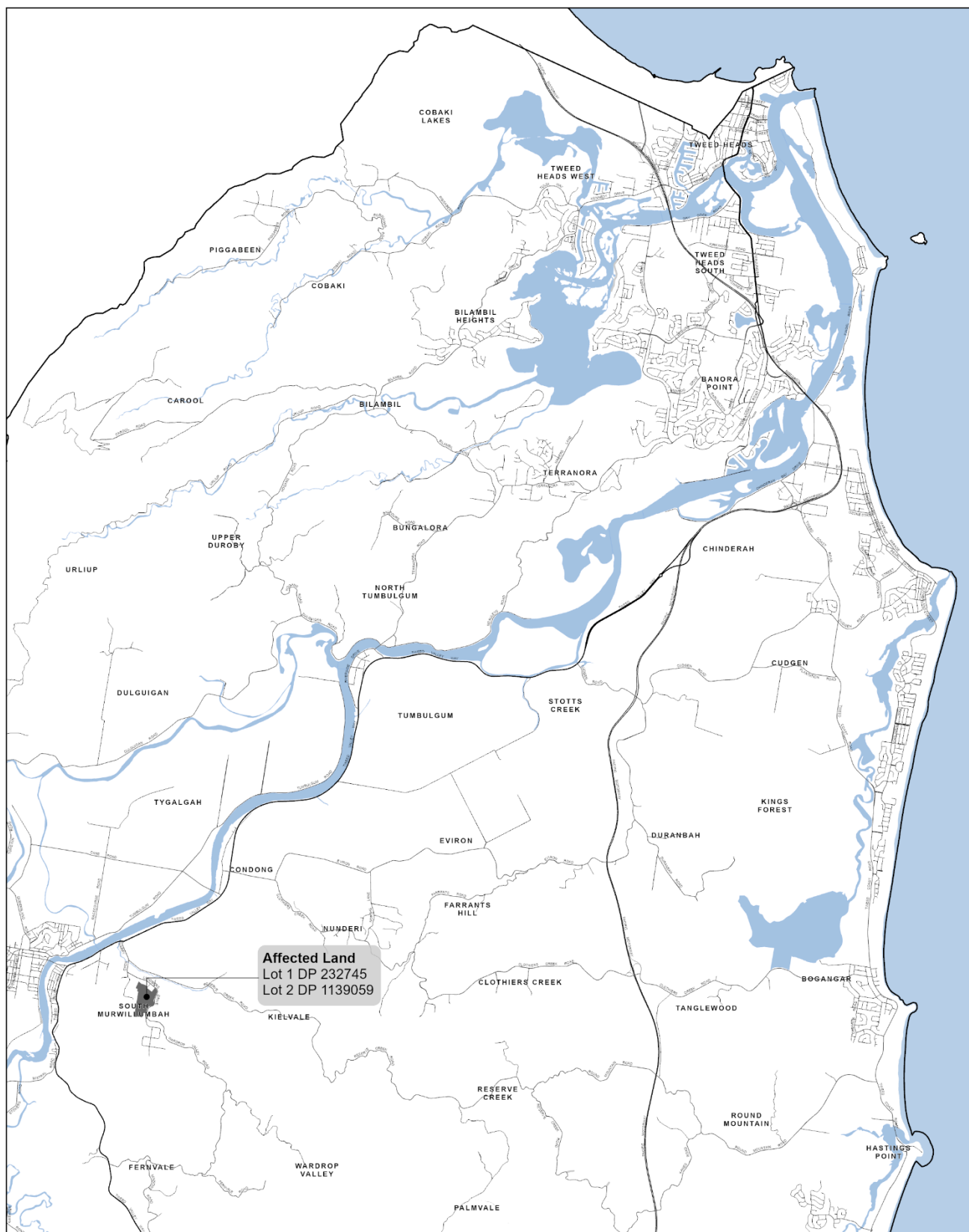
1. *The preparation of a draft planning proposal seeking an amendment to the Tweed Local Environmental Plan 2014, amending the Local Environmental Plan requirements to only require a Part 5 approval relating to a Council pound as the primary use and rehoming centre ancillary to that, is endorsed;*
2. *Once finalised, the draft planning proposal is to be referred to the NSW Department of Planning and Environment for Gateway Determination, in accordance with s3.34 of the Environmental Planning and Assessment Act 1979;*
3. *On receipt of the Minister's Gateway Determination Notice to continue, any Gateway conditions or other identified study or work is to be duly completed and included within the material for public exhibition;*
4. *Public exhibition is to occur for a period of not less than 28 days; and*
5. *Submissions received during public exhibition are to be reported to Council at the earliest time and detailing the issues raised and a recommended planning response."*

On 13 September 2019, Council lodged a planning proposal seeking land-use permissibility for a Council Pound and Rehoming Centre without consent on any land. The Department of Planning, Industry and Environment responded on 7 November 2019 requesting a revised planning proposal be submitted providing additional information.

Since this time, Council has identified a suitable site being part Lot 1 DP 232745 and part Lot 2 DP 1139059, 92 Lundberg Drive, South Murwillumbah, which is the subject of this revised planning proposal (refer to Figures 1 and 2).

The objective of this planning proposal is to amend Schedule 1 of the *Tweed Local Environmental Plan (Tweed LEP) 2014*, to permit an additional permitted use without development consent, being a Council Pound and Rehoming Centre, on the subject site.

The subject site is currently zoned IN1 General Industrial under the Tweed LEP 2014 (refer to Figure 3). Development for the purposes of a council pound is currently not a permitted land use.



**Locality Map**  
 Lot 1 DP 232745 and Lot 2 DP 1139059  
 No. 92 Lundberg Drive, South Murwillumbah

Figure 1 –Locality Plan





**Aerial Imagery Site Map**  
**Lot 1 DP 232745 and Lot 2 DP 1139059**  
**No. 92 Lundberg Drive, South Murwillumbah**

Aerial Imagery 2018 © Aerometrex  
 Imagery was captured May 2018  
 Please note that imagery distortions  
 may exist and objects may appear  
 displaced from their actual position.

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**GDA** Coordinate System  
 MGA Zone 56  
 Datum - GDA 94

0 20 40 60 80 100 Metres  
 Approx. Scale 1:5,000 @ A4 Portrait



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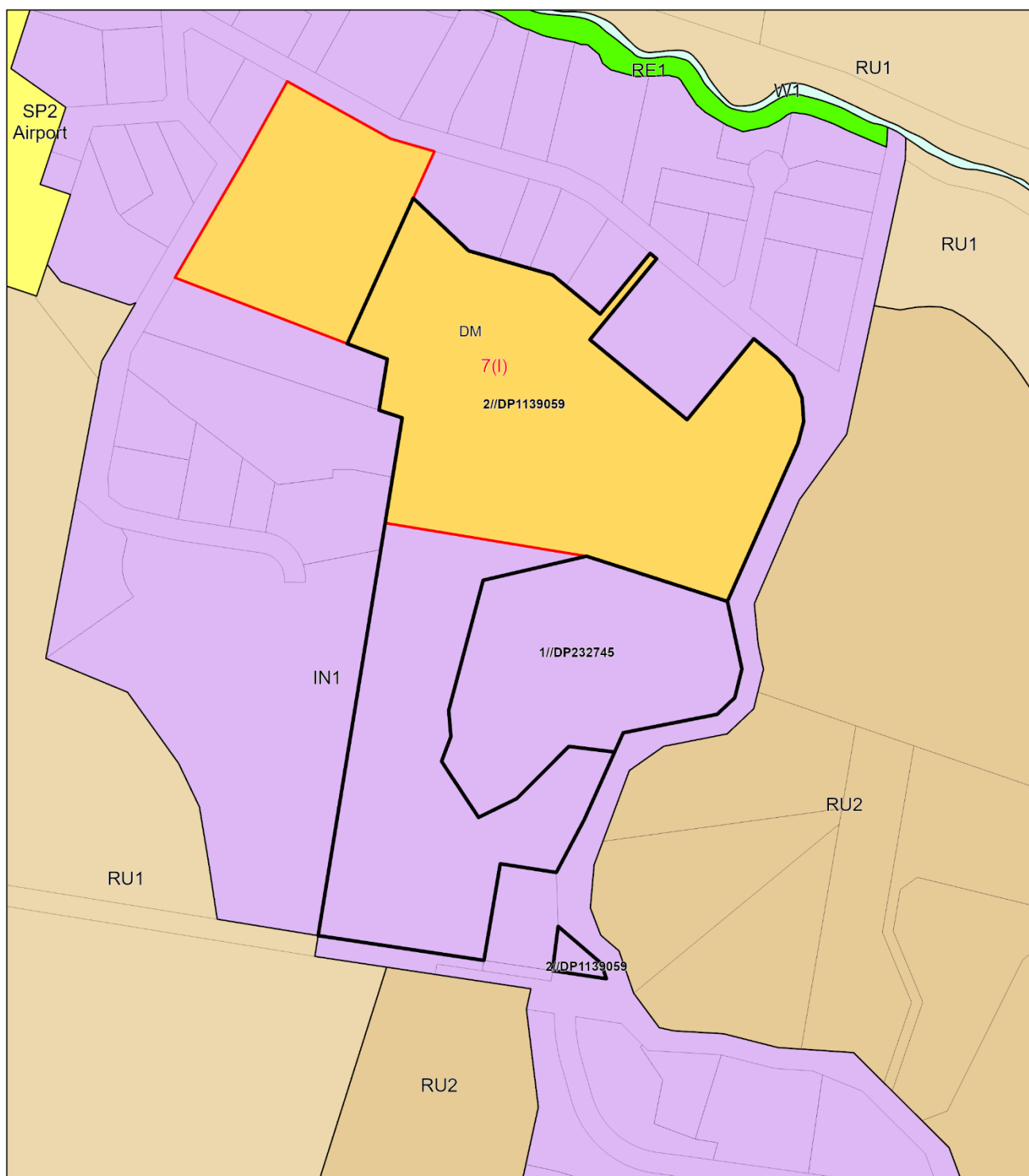
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Author: J Batchelor - Strategic Planning & Urban Design

Date Printed: 03 September, 2020

**Figure 2 – Subject Site**





**Current Land Zoning Map**  
**Lot 1 DP 232745 and Lot 2 DP 1139059**  
**No. 92 Lundberg Drive, South Murwillumbah**

**Tweed Local Environmental Plan 2014**

- IN1 General Industrial
- RE1 Public Recreation
- RU1 Primary Production

- RU2 Rural Landscape
- SP2 Infrastructure
- W1 Natural Waterways
- DM Deferred Matters

**Tweed Local Environmental Plan 2000**

- 7(l) Environmental Protection (Habitat)



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Author: J. Batchelor - Strategic Planning & Urban Design

Date Printed: 24 August, 2020

**Figure 3 – Land zoning (LEP 2014 and LEP 2000)**

## Objectives and Intended Outcomes

The objective of this planning proposal is to amend Schedule 1 of the *Tweed Local Environmental Plan 2014*, to permit an additional permitted use, being a Council Pound and Rehoming Centre, without development consent on part Lot 1 DP 232745 and part Lot 2 DP 1139059, Lundberg Drive, South Murwillumbah.

This would enable the subject land to be developed for the purpose of a Council Pound and Rehoming Centre without development consent, subject to the determining authority undertaking a Part 5 assessment taking into account “to the fullest extent possible all matters affecting or likely to affect the environment”.

It is proposed to rely on the *Companion Animals Act 1998* (NSW), dictionary definition for Council Pound, being:

- a) “A public or private pound established by a council under the Impounding Act 1993, or
- b) Any other place approved by a council as a place for the holding of animals for the purposes of this Act.”

It is also proposed to rely on the *Companion Animals Act 1998* (NSW), dictionary definition for Rehoming Organisation, being:

- a) “a council or any other operator of a council pound, or
- b) the Animal Welfare League NSW, or
- c) The Cat Protection Society of NSW Inc, or
- d) the Royal Society for the Prevention of Cruelty to Animals; New South Wales, or
- e) any other organisation that is, for the time being, designated as a rehoming organisation by the Departmental Chief Executive under section 88B.”

A Rehoming Centre is not defined and for council purposes is “an ancillary and complimentary use of a council pound focused on the rehoming of animals received by the council pound.”

## Part 2 Explanation of provisions

The proposed outcome will be achieved by:

- Amending Schedule 1 Additional Permitted Uses of the Tweed LEP 2014, to include a new clause for the use of certain land as a Council Pound and Rehoming Centre on part Lot 1 DP 232745 and part Lot 2 DP 1139059, Lundberg Drive, South Murwillumbah.
- Amending the Additional Permitted Uses Map of the Tweed LEP 2014 to indicate the area to which the additional permitted use applies.
- Allowing Council, as a rehoming organization to establish a Rehoming Centre as an ancillary use to a Council Pound.
- Enabling a Council Pound and Rehoming Centre to be “permitted without consent”.

## Part 3 Justification

### Section A Need for the planning proposal

#### 1. Is the planning proposal a result of any strategic study or report?

No. This planning proposal arises from the need of Council to provide an ongoing and highly valued community service relating to animal management and welfare and the closure of the existing council pound and rehoming facility.

## **2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

Yes. The planning proposal will enable a currently prohibited use for the purpose of a Council Pound and Rehoming Centre.

The closest land-use definition to the proposed use is “Community facility” under the Standard Instrument (Local Environmental Plans) Order 2006 however, legal advice obtained by Council has pointed to shortcomings with the application of the definition such that the level of certainty is at the outer limit of acceptability of risk. It warrants a more reliable approach to the definition of the land-use for Council Pound and/or Rehoming Centre.

As a public infrastructure facility owned and controlled by the Council the appropriate planning approval / assessment pathway is established under Part 5 *Infrastructure and environmental impact assessment* of the *Environmental Planning and Assessment Act 1979* (NSW) (“the Act”). This assessment pathway is tailored to public infrastructure and is widely accepted as being more suited to public works infrastructure and activities because of its inherently quicker and more flexible application and the associated efficiency gains, while maintaining the highest standards of environmental assessment; including where the council considers appropriate in the specific circumstances, public notification of the proposal under assessment; practices well established within Tweed Council.

## **Section B Relationship to strategic planning framework**

### **1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

Yes. The Tweed local government area is located within the North Coast region, subject to the NSW North Coast Regional Plan 2036 (referred to herein as ‘the Plan’). The overall vision statement for the North Coast region prescribed under the Plan is the best region in Australia to live, work and play thanks to its spectacular environment and vibrant communities.

Direction 15 of the plan identifies the need to ‘Develop healthy, safe, socially engaged and well connected communities’. It is considered that the amendment sought in the planning proposal will improve community access to social infrastructure; and promote the health and safety of the community.

Direction 21 of the Plan speaks to the coordination of local infrastructure delivery and although narrowly described around essential infrastructure centred on housing and related built environment in its wider context, it would also capture community support infrastructure such as a council pound. This planning proposal endeavours to maximise cost-effective delivery of the council pound services and to potentially co-locate this with a rehoming centre, mirroring the current situation, by enabling flexibility around engaging a more efficient public infrastructure planning assessment pathway.

## **2 Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?**

Yes. A key planning priority of Council's Local Strategic Planning Statement is the provision of appropriate community infrastructure to meet present and future population demand.

In addition, the Tweed Community Strategic Plan (CSP) 2017-2027, section 2.1 and 2.2 addressing the Tweed's built environment and its engagement with the community, has specific goals of delivering and regulating the built environment so as to balance the social, cultural, economic and environmental needs of the community.

The establishment of a Council Pound and Rehoming Centre on the subject site is supported by the CSP and represents a key community infrastructure service asset.

## **3 Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?**

Yes. The planning proposal is consistent with relevant State Environmental Planning Policy applying to the Tweed local government area, being:

### State Environmental Planning Policy No.55 – Remediation of Land

This policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

The land is a disused and rehabilitated / remediated land fill site that is proposed in-part to be used in association with the Council Pound and Rehoming Centre for the incidental purpose of animal recreation / walking. Pursuant cl. 5.5 of the Act, as an activity for which environmental assessment is required Council will be under a duty to examine to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity, including, pursuant to Part 14 of the *Environmental Planning and Assessment Regulation 2000* (NSW):

- (b) any transformation of a locality,
- (d) any reduction of the aesthetic, recreational, scientific or other environmental quality or value of a locality,
- (e) any effect on a locality, place or building having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations
- (h) any long-term effects on the environment
- (j) any risk to the safety of the environment,
- (k) any reduction in the range of beneficial uses of the environment,
- (l) any pollution of the environment,
- (m) any environmental problems associated with the disposal of waste,

This matter is further discussed under Question 4 below relating to the cl. 2.6 Directions by the Minister.

### State Environmental Planning Policy (Infrastructure) 2007

This planning proposal seeks to include land at Lundberg Drive, South Murwillumbah in Schedule 1 Additional permitted uses for the development of a Council Pound and Rehoming Centre without development consent. The Council Pound and Rehoming Centre is considered to be council

infrastructure and the proposed additional permitted use will enable construction via the Part 5 assessment pathway. The proposal responds to the relevant aims of the SEPP which includes “to improve regulatory certainty and efficiency through a consistent planning regime for infrastructure” and “to provide greater flexibility in the location of infrastructure and service facilities”

Overall, this planning proposal is consistent with the SEPP (Infrastructure) 2007.



#### 4 Is the planning proposal consistent with applicable Ministerial Directions (s9.1 Directions)?

The planning proposal is consistent with the Ministerial s9.1 Directions, as outlined in Table 1.

*Table 1- Consistency with s9.1 Directions*

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
<b>1. Employment and Resources</b>			
1.1 Business and Industrial Zones	<p><u>Summary of Objectives</u> To protect, encourage and support employment / strategic centres.</p> <p><u>Application</u> When a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).</p>	This planning proposal seeks to utilize part of land zoned IN1 General Industrial for the use of a Council Pound and Rehoming Centre without consent.	The proposal is consistent with the objectives of this direction which aim to “ <i>Protect, encourage and support employment/strategic centres</i> ”.
1.2 Rural Zones	<p><u>Objectives:</u> The objective of this direction is to protect the agricultural production value of rural land.</p> <p><u>Application:</u> A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</li> <li>(b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).</li> </ul>	This planning proposal does not apply to land with a rural zone.	Not applicable.
1.3 Mining, Petroleum Production and Extractive Industries	<p><u>Objectives:</u> The future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials is not compromised by inappropriate development.</p> <p><u>Application:</u></p>	This planning proposal does not include provisions that would trigger the application of this direction.	Consistent.

Table 1- Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	When a relevant planning authority prepares a planning proposal that would have the effect of: (a)prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b)restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.		
1.4 Oyster Aquaculture	<u>Objectives:</u> To protect Priority Oyster Aquaculture Areas (POA) and oyster aquaculture outside such an area, from adverse impacts on water quality, the health of the oysters and oyster consumers. <u>Application:</u> When there is a change in land use that could result with adverse impact or incompatibility of land uses.	This planning proposal does not apply to land that would be known or identified as a Priority Oyster Aquaculture Area.	Not applicable.
1.5 Rural Lands	<u>Objectives:</u> To protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes. <u>Applies when:</u> (a)a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone, or (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.	This planning proposal does not apply to land with a rural zone.	Not applicable.
<b>2. Environment and Heritage</b>			
2.1 Environment Protection Zones	<u>Objective</u> To protect and conserve environmentally sensitive areas. <u>Application</u>	The subject land does not contain any environmentally sensitive areas and is not subject to an environment protection zone.	Not applicable.

Table 1- Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	When a relevant planning authority prepares a planning proposal.		
2.2 Coastal Protection	<u>Objective</u> To implement the principles in the NSW Coastal Policy. <u>Application</u> When a relevant planning authority prepares a planning proposal that applies to land in the coastal zone.	The subject site is not located within the coastal zone.	Not applicable.
2.3 Heritage Conservation	<u>Objective</u> To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. <u>Application</u> When a relevant planning authority prepares a planning proposal.	No known items of heritage significance or cultural value are known to occur within or immediately adjoining the subject site.	Consistent.
2.4 Recreation Vehicle Areas	<u>Objective</u> To protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles. <u>Application</u> When a relevant planning authority prepares a planning proposal.	This planning proposal does not seek to change the regulation of recreation vehicles or land on which a recreation vehicle access or development may occur.	Not applicable.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	<u>Objective:</u> To ensure that a balanced and consistent approach is taken when applying environmental protection zones and overlays to land on the NSW Far North Coast.  <u>Application:</u> When a relevant planning authority prepares a planning proposal that introduces or alters an E2 or E3 zone, or an overlay with associated clause.	The subject land does not contain any environmentally sensitive areas and is not subject to an environment protection zone.	Not applicable.

Table 1- Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	A relevant planning authority must apply the proposed E2, E3 or the overlay and associated clause consistent with the Northern Councils E Zone Review Final Recommendations.		
2.6 Remediation of Contaminated Land	<p><u>Summary of objectives</u> The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p><u>Application</u> When a planning proposal includes a zone that would permit a change of use of the land, Council must:</p> <ul style="list-style-type: none"> <li>Consider any contamination of land</li> </ul> <p>Be satisfied that the land is or will be suitably remediated for the proposed uses of that land</p>	<p>In accordance with Cl.4 (b) &amp; (c) of this direction, the site has undergone significant remediation. The site previously held environmental protection licence 6106 which authorised the carrying out of a scheduled activity. This licence was surrendered on the 27 July 2010 subject to various conditions. A number of these conditions included in the approval required remediation of the site including a landfill cap and routine surveillance and maintenance of the site, which have been ongoing.</p> <p>Remediation of the site has therefore been completed prior to the land use intended by this planning proposal, to the satisfaction of the Protection of the Environment Operations Act 1997 and Approval of the Surrender of licence 6106.</p>	Consistent.
<b>3. Housing, Infrastructure and Urban Development</b>			
3.1 Residential Zones	<p><u>Summary of Objectives:</u> (a) to encourage a variety and choice of housing types, (b) to make efficient use of existing infrastructure and services, (c) to minimise the impact of residential development on the environment and resource lands.</p> <p><u>Application</u> When a planning proposal affects land within: (a) an existing or proposed residential zone, or (b) any other zone in which significant residential development is permitted or proposed to be permitted.</p>	This planning proposal does not apply to land with a residential zone.	Not applicable.
3.2 Caravan Parks and Manufactured Home Estates	<p><u>Objectives:</u> (a) to provide for a variety of housing types, and</p>	The planning proposal does not aim to alter permissibility of caravan parks on the subject land and can be considered as consistent with the provisions of this direction.	Consistent.

*Table 1- Consistency with s9.1 Directions*

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>(b) provide opportunities for caravan parks and manufactured home estates.</p> <p><u>Application:</u></p> <p>When a relevant planning authority prepares a planning proposal.</p>		
3.3 Home Occupations	<p><u>Objective:</u></p> <p>To encourage the carrying out of low-impact small businesses in dwelling houses.</p> <p><u>Application:</u></p> <p>When a relevant planning authority prepares a planning proposal.</p> <p><u>If this direction applies:</u></p> <p>Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent</p>	This planning proposal will not alter provisions regulating home occupations, which will remain a land use permitted without development consent.	Consistent.
3.4 Integrating Land Use and Transport	<p><u>Summary of Objectives:</u></p> <p>To ensure that urban structures, building forms, land use, subdivision and street layouts achieve the following objectives:</p> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances travelled,</li> <li>(d) supporting the efficient operation of public transport services, and</li> <li>(e) providing for the efficient movement of freight.</li> </ul> <p><u>Application:</u></p>	This planning proposal does not alter any integration of land use and transport or urban land.	Consistent.



Table 1- Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land.		
3.5 Development Near Licensed Aerodrome	<p><u>Summary of Objectives:</u></p> <ul style="list-style-type: none"> <li>(a) ensure the effective and safe operation of aerodromes,</li> <li>(b) ensure that their operation is not compromised by development,</li> <li>(c) ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast contours of between 20 and 25, incorporates appropriate mitigation measures.</li> </ul> <p><u>Application:</u></p> <p>When a planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.</p> <p><u>What must be done</u></p> <p>Summary: a planning proposal that sets controls for the development of land in the vicinity of a licensed aerodrome must be subject to prescribed consultation and take certain prescribed matters into account.</p>	<p>The land subject to this planning proposal is located approximately 500 metres east of Murwillumbah airfield. The airfield is predominantly used for agriculture-related needs (air spraying) and the local hobby club and does not involve commercial transport of goods or people.</p> <p>The planning proposal does not seek to rezone nor utilize land in the vicinity of the airfield for uses that would be exposed to aircraft noise exceeding those provided in Australian Standard 2021. In addition, the site has a maximum height of building of 10 metres, height considered as appropriate in terms of safety of air operations.</p> <p>This direction includes a requirement to consult with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome. Tweed Council is of the view that such consultation is not necessary in this instance due to a relatively minor scale of future development associated with this planning proposal. Should the Department of Planning &amp; Environment request for such consultation to occur, this will be done as part of the agency referral.</p>	Consistent.
3.6 Shooting Ranges	<p><u>Objectives:</u></p> <ul style="list-style-type: none"> <li>(a) to maintain public safety and amenity,</li> <li>(b) to reduce land use conflicts,</li> <li>(c) to identify issues for consideration when rezoning land adjacent to an existing shooting range.</li> </ul> <p><u>Application:</u></p> <p>When a planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to a shooting range.</p> <p><u>What must not be done</u></p>	The site subject to this planning proposal is not adjacent to an existing shooting range.	Not applicable.

Table 1- Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	A planning proposal must not seek to rezone land adjacent to and/ or adjoining an existing shooting range that has the effect of permitting more intensive land uses than those which are permitted under the existing zone or permitting land uses that are incompatible with the noise emitted by the shooting range.		
3.7 Reduction in non-hosted short term rental accommodation period	Applies to Byron local government area.	Not relevant to this planning proposal.	Not applicable.
<b>4. Hazard and Risk</b>			
4.1 Acid Sulfate Soils	<p><u>Objective</u> To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p><u>Application:</u> When a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils.</p>	The subject site is located within an area of low Acid Sulfate Soils risk (Class 5 of the Acid Sulfate Soils Maps). Tweed LEP 2014 includes Clause 7.1 which contains provisions to regulate the works undertaken on and in proximity to acid sulphate soils. Management of the acid sulfate soils will be assessed at the activity or works assessment stage and managed through appropriate site and construction management and design.	Consistent.
4.2 Mine Subsidence and Unstable Land	<p>To prevent damage to life, property and the environment on land unstable or potentially subject to mine subsidence.</p> <p><u>Application:</u> When a relevant planning authority prepares a planning proposal that permits development on land that is within a mine subsidence district, or has been identified as unstable in a study, strategy or other assessment.</p>	The subject site is not within a mine subsidence district and has not been identified as unstable in a study, strategy or other assessment.	Not applicable.
4.3 Flood Prone Land	Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	The subject site is not subject to flooding in the design flood event, climate change event or probable maximum flood event.	Not applicable.
4.4 Planning for Bushfire Protection	<u>Objective</u>	The subject site contains areas mapped as 'Vegetation Category 1', 'Vegetation Category 2' and 'vegetation buffer'. To satisfy provisions	Generally consistent.

Table 1- Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>(a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</p> <p>(b) to encourage management of bush fire prone areas.</p> <p><u>Application:</u></p> <p>When a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p>	<p>of this direction, the planning proposal has been drafted consistently with the Planning for Bushfire Guidelines 2006 and will be consulted with the NSW Rural Fire Services as part of the State Agencies referral following Gateway Determination. Direction 4.4 requires planning proposals to introduce controls seeking to avoid placing inappropriate development in hazardous areas and ensure that bushfire hazard reduction is not prohibited within the APZ. It is noted though that the subject site is of a relatively large size, where the majority of the proposed extent of the additional permitted use falls within an area of the site not mapped as bushfire prone land. A minor portion falls within the 'vegetation buffer' area.</p> <p>In this context, the planning proposal does not introduce site-specific controls and aims to facilitate determination of appropriate location of any further development through the assessment process that will include referral to NSW Rural Fire Services.</p> <p>To sum up, this planning proposal is generally consistent with Direction 4.4, with the exception of consistency with the requirement to provide site-specific controls, as discussed above. This inconsistency is considered to be of minor significance.</p>	
<b>5. Regional Planning</b>			
5.1 Implementation of Regional Strategies	<p><u>Objective</u></p> <p>To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.</p> <p><u>Application:</u></p> <p>When a relevant planning authority prepares a planning proposal.</p>	The response to Question 1 within Section B (page 7) of this planning proposal confirms consistency of this planning proposal with the North Coast Regional Plan 2036.	Consistent.
5.2 Sydney Drinking Water Catchments	Local government areas not including Tweed.	Not relevant.	Not applicable.

Table 1- Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	<p><u>Objective</u>            (a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre,            (b) to provide more certainty on the status of the best agricultural land, and            (c) to reduce land use conflict.</p> <p><u>Application:</u>            When a relevant planning authority prepares a planning proposal for land mapped as: State significant farmland, regionally significant farmland, or significant non-contiguous farmland. A planning proposal must not rezone land identified as "State Significant Farmland", "Regionally Significant Farmland" or "significant non-contiguous farmland" for urban or rural residential purposes.</p>	The subject site is not mapped as state or regionally significant farmland or as non-contiguous farmland.	Not applicable.
5.4 Commercial and Retail Development along the Pacific Hwy, North Coast	<p><u>Objective</u>            To manage commercial and retail development along the Pacific Highway to preserve and protect the safe function of the highway and its users.</p> <p><u>Application:</u>            When a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.</p>	Not relevant to this planning proposal.	Not applicable.
5.8 Second Sydney Airport: Badgerys Creek	Applies to other local government areas than Tweed.	Not relevant to this planning proposal.	Not applicable.
5.9 North West Rail Link Corridor Strategy	Applies to other local government areas than Tweed.	Not relevant to this planning proposal.	Not applicable.
5.10 Implementation of Regional Plans	<p><u>Objective</u>            To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p>Applies when preparing a planning proposal.</p>	Compliance of this planning proposal with the general directions of the North Coast Regional Plan, 2036 has been demonstrated in Section B1 of this report.	Consistent.

Table 1- Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
5.11 Development of Aboriginal Land Council Land	<p><u>Objective</u> To provide for the consideration of development delivery plans prepared under State Environmental Planning Policy (Aboriginal Land) 2019.</p> <p><u>Application:</u> When a relevant planning authority prepares a planning proposal for land shown on the Land Application Map of State Environmental Planning Policy (Aboriginal Land) 2019.</p>	The subject site is not mapped on the Land Application Map of State Environmental Planning Policy (Aboriginal Land) 2019.	Not applicable.
<b>6. Local Plan Making</b>			
6.1 Approval and Referral Requirements	<p><u>Objective</u> To ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p><u>Application:</u> When a relevant planning authority prepares a planning proposal.</p> <p><u>What must be done:</u> Ensure provisions minimise concurrence roles, consultation or referral of DAs to public authority.</p>	This planning proposal does not propose an amendment of the kind referred to in the Direction.	Consistent.
6.2 Reserving Land for Public Purposes	<p><u>Objective</u> (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p>	This planning proposal does not create, reduce or alter existing zoned reserves, and is not the subject of a direction of the Minister or public authority for that purpose.	Not applicable.
6.3 Site Specific Provisions	<p><u>Objective</u> To discourage unnecessarily restrictive site specific planning controls.</p> <p><u>Application:</u> When a relevant planning authority prepares a planning proposal that will allow a particular development.</p>	This planning proposal is consistent with this Direction as it does not alter the existing zone but rather, permits additional uses, with consent.	Consistent.



Table 1- Consistency with s9.1 Directions

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with direction
<b>7. Metropolitan Planning</b>			
7.1 Implementation of A Plan for Growing Sydney	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.
7.2 Implementation of Greater Macarthur Land Release Investigation	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.
7.3 Parramatta Road Corridor Urban Transformation Strategy	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.

*Table 1- Consistency with s9.1 Directions*

<b>S9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
7.9 Implementation of Bayside West Precincts 2036 Plan	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.
7.12 Implementation of Greater Macarthur 2040	Applies to local government areas other than Tweed.	Not relevant to this planning proposal.	Not applicable.

## **Section C Environmental, Social and Economic Impact**

### **1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?**

No, not as a result of this proposal.

The planning proposal is unlikely to have any adverse impact on the environment and it is noted that the environmental assessment regime for assessment under the proposed Part 5 pathway is the more rigorous under the NSW planning scheme. The proposed Council Pound and Rehoming Centre will be sited on land that is highly disturbed urban use land and in parts rehabilitated contaminated land formerly associated with a prior landfill use of the land.

Cl.5.5 of Part 5 of the Act requires the assessment of adverse effects of an activity (development) on the environment as an obligation of the determining authority to ascertain in respect to the activity:

“...notwithstanding any other provisions of this Act or the provisions of any other Act or of any instrument made under this or any other Act, examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.”

Any future Council Pound and Rehoming Centre development would be assessed under the stringent environmental assessment considerations established under Part 5.

### **2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

Environmental effects of a potentially adverse nature are likely to be limited to noise pollution arising in association with the keeping of dogs on the premises. The immediate site surrounds are dominated by industrial and rural uses where the risk of impact is considered to be negligible.

There are about 4 residential premises located in near proximity to the south-south west. These properties have been acquired for and are currently the subject of a planning proposal for industrial and commercial rezoning, as the land forms part of the urban growth boundary identified in NSW North Coast Regional Growth Plan. Although the long-term impact is considered to be negligible and off-set by the intended future strategic use of the land, there may be a shorter-term impact that would need to be assessed as part of the development activity proposal; this would also likely trigger neighbour consultation consistent with Council’s public notification practices. The design of the Council Pound and Rehoming Centre would need to incorporate noise mitigation measures to manage any identified noise pollution of the environment arising in association with the proposed use.

### **3 How has the planning proposal adequately addressed any social and economic effects?**

This planning proposal will enable a more expedient assessment pathway for the establishment and long-term management of a council pound via the Part 5 assessment pathway. The future development made permissible without consent under the Schedule 1 additional permitted use sought by this planning proposal would be subject to the stringent environmental assessment considerations established under the part 5 development pathway.

The subject site is council owned industrial zoned (IN1) land and is situated a considerable distance from residential development or zones. The site is also a former council quarry site and is therefore considered to be a suitable location for any future development resulting from this planning proposal – Council Pound and Rehoming Centre.

The effects on the local community of the additional permitted use sought as a result of this planning proposal would be considered minimal. The future proposed Council Pound and Rehoming Centre would be subject to public exhibition in accordance with council policy.

## **Section D State and Commonwealth interests**

### **1 Is there adequate public infrastructure for the planning proposal?**

This planning proposal does not give rise to a direct demand for public infrastructure, however the future Council Pound and Rehoming Centre will need to be assessed via the Part 5 assessment pathway in respect of having adequate local infrastructure.

### **2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

A Gateway determination has not yet been issued for this planning proposal. Relevant authorities, including the NSW Rural Fire Service, will be consulted in accordance with the requirements of the Gateway Determination.

The views of consulted public authorities will be summarised and addressed as appropriate in the final Planning Proposal.

## **Part 4 Mapping**

The Planning Proposal will require an amendment to the map pursuant to Clause 2.5 (Additional Permitted Land Uses Map) to identify land subject to this Planning Proposal as an item number, being:

- Part Lot 1 DP 232745; and
- Part Lot 2 DP 1139059.

All other maps will remain unchanged.

## **Part 5 Community consultation**

This planning proposal will undergo the usual community consultation process which will involve access to all relevant documents on Council website and in Council administration offices in Murwillumbah and Tweed Heads. The community consultation phase will occur once the planning proposal receives a 'Gateway Determination' from the NSW Department of Planning & Environment. Whilst this planning proposal is considered to be of a minor nature (as it does not seek to facilitate a

significant development or Shire-wide changes to provisions of the Tweed LEP 2014), it affects public land therefore is consider of community interest. Unless directed otherwise by the NSW Department of Planning & Environment, this planning proposal will be exhibited for a period of 28 days.

This section of the planning proposal will be updated upon the completion of community consultation to provide a summary of community feedback, key matters raised and Council officers' response.

## Part 6 Timeframe

The following project timeline is intended to be a guide only and may be subject to changes in response to the public consultation process and/or community submissions.

Task	Timeframe	Completed
Referral of the planning proposal for a Gateway determination	October 2020	
<b>Gateway Determination</b>	December 2020	
Undertake requirements of the Gateway Determination and prepare V2 planning proposal	January 2021	
Public exhibition	February 2021	
Agency consultation	February 2021	
Review submissions, respond and prepare V3 planning proposal for Council's consideration	March-April 2021	
Council report to finalise and refer the plan to the DPE to be made	May 2021	
Referral of the Plan to the DPE for making	July 2021	
Plan to be made within 12 months of Gateway	September 2021	



## Summary and conclusions

This planning proposal arises from the need of Council to provide an ongoing and highly valued community service relating to animal management and welfare and the closure of the existing council pound and rehoming facility.

The objective of this planning proposal is to amend Schedule 1 of the *Tweed Local Environmental Plan (Tweed LEP) 2014*, to permit an additional permitted use without development consent, being a Council Pound and Rehoming Centre, on the subject site at 92 Lundberg Drive, South Murwillumbah.

This would enable the subject land to be developed for the purpose of a Council Pound and Rehoming Centre without development consent, subject to the determining authority undertaking a Part 5 assessment taking into account “to the fullest extent possible all matters affecting or likely to affect the environment”.



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