

**TITLE: Planning Proposal for SOLO Resource Recovery land at Chinderah Bay Drive, Chinderah**

**Submitted By:** Strategic Planning and Urban Design

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

**Growing – We want to work together to plan for the future so the Tweed grows and evolves in a sustainable way**

**Plan ahead so the Tweed is ready for the future.**

4.1.2 Strategic Land-use Planning – Plan for sustainable development which balances economic, environmental and social considerations. Promote good design in the built environment.

**ROLE:**

ADVOCATE - Council gives voice to the community by lobbying and advocating to achieve benefits and best possible outcomes for the Tweed.

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**EXECUTIVE SUMMARY**

Solo Resource Recovery, the current Tweed Shire Council waste contractors operating from 84, 86, 88 and 90-92 Chinderah Bay Drive, Chinderah, are seeking to enable a 'depot' land use as permitted with development consent. A substantial portion of the subject site is used for parking and storage of vehicles, however the relevant land use, 'depot', is currently prohibited under the MU1 Mixed Use zone.

Council has prepared a Planning Proposal on behalf of the landowner and has determined that the amendment has sufficient strategic and site-specific merit for the following reasons:

- To facilitate organic growth of the existing facility to meet the demand generated by the ongoing population growth in the region.
- To enable a future Development Application for a 'depot' use to be considered on its planning merits on the subject site.

The proposed outcome can only be achieved through an amendment to Tweed Local Environmental Plan 2014 (Tweed LEP 2014), enabling the required land use through Schedule 1 Additional Permitted Uses, as discussed further in this report.

**RECOMMENDATION:**

**That, with respect to the land at 84, 86, 88 and 90-92 Chinderah Bay Drive, Chinderah:**

1. The planning proposal to enable the "Depot" land use be referred to the NSW Department of Planning, Housing and Infrastructure for a Gateway determination;
2. Upon receipt of a Gateway determination, proceed with public exhibition in accordance with the Council's adopted Community Engagement and Participation Plan, and
3. Following public exhibition, a further report be brought back to Council with a post-exhibition evaluation and proposed resolution for the final steps of the plan making process.

**ATTACHMENTS**

1. Solo Waste Recovery Planning Proposal Version 1 for Gateway Determination

## **COUNCIL IMPLICATIONS:**

### **a. Legislation/Policy/Existing Strategic Plans**

This planning proposal would result in an amendment to the Tweed LEP 2014, supporting the continued use of the flood affected land by less vulnerable land uses, consistent with Council's adopted position.

### **b. Sustainability:**

#### **i. Financial (Budget/Long Term Financial Plan/Whole of Life Cost):**

There is no perceived impact on the long-term financial plan or Divisional budget arising from this proposal. Council's Fees and Charges will be applied, where appropriate.

#### **ii. Environmental (including climate change):**

While this planning proposal relates to a site that is vulnerable to flooding hazards, this planning proposal seeks to avoid and manage impacts to the wellbeing of residents and visitors by supporting the continued use of the land by less vulnerable land uses. Any future development application will be assessed in accordance with Council's existing procedures, guidelines and requirements, and any approval will likewise require appropriate consideration of potential adverse environmental impacts on the site or adjoining land and water bodies.

#### **iii. Social:**

No immediate social impacts are expected to materialise in consequence of this planning proposal.

### **c. Legal Considerations:**

No immediate legal impacts are expected to materialise in consequence of this planning proposal.

### **d. Risk Considerations:**

Risk arising in connection with the proposed LEP amendment from a land use planning perspective has been assessed by way of application of relevant policy and rules, and detailed precinct appraisal. There are no foreseeable and significant non-planning based risks identified.

### **e. Engagement/Communication:**

**Consult** - Actively seeking the community's views and exchanging information.

## **REPORT:**

The site subject to this planning proposal is located at 84, 86, 88 and 90 - 92 Chinderah Bay Drive, Chinderah (ref. Figures 1 and 2). Solo Resource Recovery, the current Tweed Shire Council waste contractors, have used the site for the past 70 years as their head office, vehicle storage and maintenance, as well as the design and manufacture of vehicles. During this period, the use has expanded to meet the needs of the growing population in northeastern New South Wales and advances in waste management. The Applicant has advised that further expansion is required to meet the demand generated by the ongoing population growth, particularly there is an identified need to provide additional light industrial and/or depot buildings on the site for the purposes of fabricating, maintaining and storing waste management plant and equipment.

The site is irregular in shape with a primary frontage to Chinderah Bay Drive along the western boundary (ref. Figure 1). On the opposite side of the street to the west is the Tweed River, the Chinderah Boat Ramp, open space and public pathways. To the north are a group of local shops and properties fronting Waugh Street, to the east includes the Kingscliff Seventh-day Adventist Church, and to the south is the

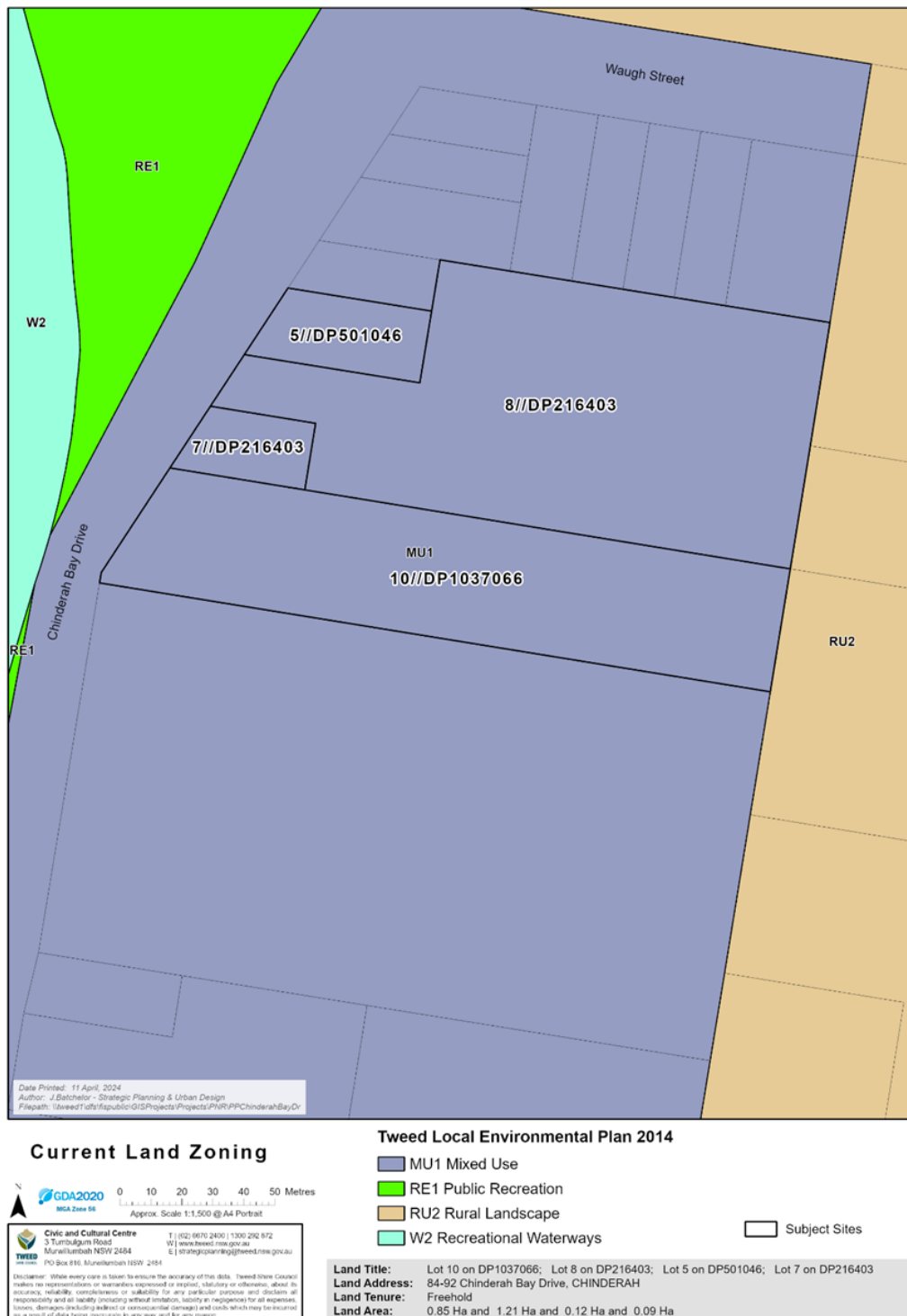
Chinderah Village Tourist Caravan Park.



Figure 1: Locality Plan

Under the current Tweed LEP 2014 provisions, the subject site is zoned MU1 Mixed Use which prohibits development for the purposes of “Depots” (ref. Figure 2). Under the Standard Instrument Dictionary of Definitions, “depot” means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use, but does not include a farm building.

Through this planning proposal, ‘depot’ land use is proposed to be included into Schedule 1 Additional Permitted Uses of the Tweed LEP 2014.



In preparing the planning proposal, the following key matters have been analysed and considered to be addressed to Council satisfaction.

## Flooding

The subject site is mapped flood prone. By altering a zone that affects flood prone land, the planning proposal seeks to enable existing commercial operations to expand and meet future demand. The change in land use table in itself does not change the flood behaviour or impact of the site and adjoining land, compared to the existing mixed use zoning. Either zoning could be expected to consider applications for filling, large footprint buildings, hardstands, fencing and other flood impact considerations. Given the existing use, Council officers are of the view that flood assessment is not required as part of this planning proposal. Any subsequent application on the site would be assessed on merit according to the LEP and DCP clauses.

## **Remediation of contaminated land**

Documentation lodged with the planning proposal includes a Preliminary Site Investigation (PSI) prepared by HMC Environmental Consulting Pty Ltd and a Preliminary Risk Assessment (PRA) prepared by Melaleuca Group Pty Ltd. The PSI concluded that (p.17-18):

*“A review of available information, and a detailed site inspection revealed the long-term occupation of the waste vehicle depot since 1950 to present day. As there is no change of use, there would be no earthworks allowing for increased exposure to existing soil. However, given the long-term use of the workshops, a strategic sampling regime is recommended to meet the requirements of Direction 4.4 and assess whether the land is contaminated, and, if the land is contaminated, whether the land is suitable in its contaminated state (or will be suitable, after remediation) for all the potential land uses within the proposed zoning”.*

To extend the Preliminary Site Investigation and meet the obligations of SEPP (Resilience and Hazards) 2021, Melaleuca Group Pty Ltd completed a Peer Review of available documentation relating to Contamination and PRA which concluded as follows (p.6):

*“It is considered there is sufficient evidence available to satisfy Council that the site in its current state would be suitable for its ongoing use as a depot.*

*While future proposals may require excavations into the fill materials and/or breach the fill materials (e.g. construction of footings for a new shed), it is considered that investigations into potential contamination for such proposals should occur at that stage as a requirement of the Development Application process and to meet the requirements of the State Environmental Planning Policy (Resilience and Hazards) 2021.*

*Similarly, while the zoning allows for more sensitive landuses at the site. Such a change of use would require a Development Application and thereby a requirement to complete additional site investigations to determine any potential contamination at the site. However, the site is mapped as flood liable and is already filled (up to 1.5m depth). Thereby, it is considered unlikely that a future proposal for a more sensitive land use would entail the removal of broad areas of the fill and exposure to in situ soils. Rather, it is considered likely, additional fill materials would be placed on the site which would further increase the encapsulation of any unknown or undetected contaminated soils at the site. If any fill materials need removal from the site for any future proposal, these would require characterization under NSW EPA (2014) Waste Classification Guidelines to determine the appropriate destination of the material”.*

Council has considered the detail of both the DSI and PRA and have raised no objections to the planning proposal proceeding, subject to the recommendations in both reports.

### **OPTIONS:**

#### **Option 1**

That, with respect to the land at 84, 86, 88 and 90-92 Chinderah Bay Drive, Chinderah:

1. The planning proposal to enable the “Depot” land use be referred to the NSW Department of Planning, Housing and Infrastructure for a Gateway determination;
2. Upon receipt of a Gateway determination, proceed with public exhibition in accordance with the Council’s adopted Community Engagement and Participation Plan, and
3. Following public exhibition, a further report be brought back to Council with a post-exhibition evaluation and proposed resolution for the final steps of the plan making process.

#### **Option 2**

Not proceed with the Planning Proposal.

Option 1 is recommended.

**PREVIOUS COUNCIL RESOLUTIONS:**

Nil.