

Council Reference: DA21/0812 LN42113
Your Reference:



21 February 2022

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Please address all communications
to the General Manager

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Dear Sir/Madam

NSW Planning Portal Application – Request for Additional Information

Council Application Number: DA21/0812
Property Address: 931 Cudgera Creek Road and
1023 Cudgera Creek Road, CUDGERA CREEK 2484

Description: Integrated Development - concept application for an agricultural food hub comprising of 19 rural industry sheds, associated earth works and internal site roads (NRPP)

Portal Application Number: PAN-100788

We refer to your recent application as detailed above submitted via the NSW Planning Portal.

A preliminary assessment of the application has been undertaken which has included a formal briefing with the Northern Regional Planning Panel (NRPP) and reviewing internal and external referral advice from various agencies. The assessment has found that additional information is required to be submitted to continue the assessment of the application. The application is required to provide information in relation to:

1. Permissibility
2. Characterisation and Site Suitability
3. Operational Issues
4. Infrastructure
5. Traffic
6. Flooding & Stormwater
7. Biodiversity
8. Economic Justification
9. Response to Submissions

The additional information requested within this letter is to be submitted to Council via the NSW Planning Portal against the relevant application within three (3) months of the date of this letter. Noting the large number of outstanding matters to be addressed it is considered appropriate for the applicant to consider withdrawal of the application to enable the outstanding matters to be addressed and re-lodge the application. The application will then be reviewed by Council to ensure the necessary information has been provided to assess the complexities of the proposal.

1. PERMISSIBILITY

1.1. The proposed development has been categorised as *agricultural produce industry*, which is a type of *rural industry*. An *agricultural produce industry* is a permissible use within the RU1 Primary Production and RU2 Rural Landscape land use zones in which the subject site is located. An '*agricultural produce industry*' is considered to be the first step in the production process for raw, unprocessed produce from a farm. The definition of an *agricultural produce industry* is provided below –

"agricultural produce industry means a building or place used for the handling, treating, processing or packing, for commercial purposes, of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes wineries, flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants, but does not include a livestock processing industry." – Tweed LEP 2014

The Statement of Environmental Effects (SEE) supporting the application (dated September 2021) states –

*"the proposal consists of 53,930sqm of **manufacturing** space for the Northern Rivers food production industry."* The definition of an *agricultural produce industry* does not include 'manufacturing,' but does allow for 'handling,' 'treating,' 'processing,' or 'packing.' It is unclear what type of activities will occur onsite as part of the proposed facility.

The definition of '**manufacturing**' is *"the business of producing goods in large numbers"* (Cambridge Dictionary). Pursuant to the definitions within the *Tweed Local Environmental Plan 2014* (Tweed LEP) '**manufacturing**' is associated with an industrial activity related to general or light industry which are not permitted within the land use zones associated with the subject site.

The proposed use of an '*agricultural produce industry*' as defined by the Tweed LEP 2014 includes the following uses as defined within the Cambridge Dictionary:

- **Handling** – *"the act or cost of moving, storing, or packaging goods"*
- **Treating** – *"to change the condition of a substance by adding to it or putting it through a special process"*
- **Processing** – *"the act of preparing, changing, or treating food or natural substances as a part of an industrial operation"*
- **Packing** – *"the act of putting things into cases, boxes, bags, etc."*

It is considered that manufacturing is inconsistent with the definition of the proposed use. However, manufacturing may be acceptable if it is demonstrated to be ancillary to the processing of agricultural produce. Additional information is required to demonstrate how the proposed use complies with the definition of an *agricultural produce industry* to ensure to proposal is permissible within the zone.

1.2. The SEE identifies that a number of ancillary uses are proposed to be incorporated into the proposal. These uses include commercial kitchen facilities, a café, and function centre. It is unclear how a function centre would be ancillary to the processing of raw agricultural products and the extent that the other uses will be operated onsite. The applicant is to ensure the primary use remains consistent with the proposed agricultural produce industry and is to provide further detail to enable a detailed understanding of the proposed ancillary uses.

- 1.3. Within the NRPP 'Applicant Briefing' it was stated by the applicant that the site will not be used by the general public and will be used for wholesale purposes. It is unclear that a commercial kitchen, café and function centre will be required onsite if the public will not be utilising the site for tourism purposes. The applicant's statement within the NRPP meeting also contradicted the SEE which states –

"The proposed precinct in Cudgera will not only support the local economy through increase provision of job opportunity for the local community but will also drive increased tourism in the area." – SEE (Sep 2021) pg. 8

"The Agricultural Food Hub will create an opportunity where local and regional agricultural produce can be prepared and presented to food purchasers (from overseas and domestically) as well as the general public. The development will allow agricultural producers and industries to showcase their products and for the public to sample these products." – SEE (Sep 2021) pg. 15

The information provided by the applicant is confusing in this regard and it is unclear as to the full extent of operations that are proposed on the site. 19 sheds of various sizes are proposed on the site as well as the ancillary uses stated above, but it is unclear as to the usage of these sheds. It is anticipated that the applicant already has a number of business express interest in the proposal. It would be useful for the assessment of the proposal to have a clearer understanding of these uses.

The SEE needs to be updated to clearly identify the intended use of the site. For example, is the use for wholesale purposes? Or are the general public able to purchase products in a small-scale retail setting? How do the proposed uses comply with the definition of *agricultural process industry*?

Before a full and comprehensive assessment can be undertaken of this proposal, it must be understood exactly what it is that is being applied for to ascertain the impacts of the proposal. We appreciate that this application is a "concept DA", however the fundamentals of permissibility must be understood.

2. CHARACTER & SITE SUITABILITY

- 2.1. The site is located within both the RU1 Primary Production and RU2 Rural Landscape land use zones. The objectives of the zones are outlined below:

Zone RU1 Primary Production

1 Objectives of Zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To protect prime agricultural land from the economic pressure of competing land uses.

Zone RU2 Rural Landscape

1 Objectives of Zone

- *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 application has not adequately addressed the objectives of the two (2) land use zones. It is considered that the proposed development may result in a change to the rural character of the locality. As such, the applicant will need to demonstrate that the proposed development maintains the rural character and is a suitable built form for the site, with consideration of the objectives of the land use zones which apply to the subject site. This also relates to comments below regarding visual impact, traffic movement (frequency and size of trucks), number and frequency of patrons expected, availability of infrastructure, etc. and the overall impacts on the immediate area.

3. OPERATIONAL ISSUES

- 3.1. Based on the information provided within the Statement of Environmental Effects (SEE) it is unclear of the operational details of the site and the potential impacts that the proposed development may have in terms of hours of operations, types of uses allowed to operate onsite, signage, and amenity. We understand this DA is a concept DA, however the applicant must have some current understanding as to how the site will operate. It is this operational information that needs to be provided as it has 'knock-on' implications for cumulative impact of the development. Specifically, the issues that are required to be addressed are as follows:

3.1.1. Hours of Operation

Understanding the hours of operation of a premises assists in understanding the impact of the proposed development in terms of traffic generation, noise and amenity, and waste production. The appropriate hours of operation vary depending on the type of development and intended users; and present a variety of potential impacts to surrounding land uses.

In the circumstance that the impact of the proposed development cannot be quantified at this stage, a 'worst-case' scenario is to be adopted.

3.1.2. Types of Uses

A development of this type allows for a number of potential tenants to utilise the site and site services. More information about the types of tenants who will be eligible to use the site and site services is to be provided to ensure that the uses comply with the definition of an '*agricultural produce industry*' and ensure future tenants are serviced with the appropriate infrastructure capacity.

Furthermore, the existing dwelling house is proposed to be retained at 919 Cudgera Creek Road. Further information is required to demonstrate that the proposed development, including the individual uses, will not cause unreasonable impact to the amenity and liveability of the dwelling house.

3.1.3. Amenity

Council's Environmental Health unit has identified a number of potential amenity impacts of the proposed development including noise, visual impacts, light spill, and effluent management, which are discussed below. The submitted SEE identifies some of potential impacts but lacks detail to allow of an adequate assessment of the impacts. This concept DA does not provide enough information to confirm that the amenity of existing development within the vicinity of the site is not going to be significantly or unreasonably impacted.

The applicant is required to investigate whether lights and glare from fixed premises and mobile plant is going to impact on the amenity of the locality, providing details of such impacts on surrounding properties and proposed mitigation measures.

An amended acoustic report developed by a suitability qualified and experienced consultant is required. The report is to provide detailed information that allows Council to assess potential noise impacts and noise mitigation recommendations. Information is to include but is not limited to:

- **Traffic Noise Impacts** – Undertake an assessment in accordance with the NSW Road Noise Policy (RNP) to assess the cumulative impacts from traffic generated as a result of the proposed development. The assessment must be carried out in accordance with Appendix B of the RNP and any relevant guidelines and standards. In addition:
 - Existing traffic noise levels are to be established using long term noise monitoring,
 - 919 Cudgera Creek Road must be identified as a sensitive receiver in any assessment,
 - Calculation of traffic increments associated with the proposal,
 - Noise sources such as truck service brakes are to be included.
- **Overall predicted operational noise** – The submitted acoustic report has not clearly identified the assumptions made regarding the predicted worst-case scenario for the purpose of assessing the operational compliance of the development against the Project Trigger Noise Levels. The report is to be amended to clearly identify these assumptions for each time period as required. In addition:
 - Table 7 within the report shows the predicted LAeq noise levels at each sensitive receiver from individual noise sources. However, it is unclear if a cumulative assessment has been undertaken. For example, will there only be one (1) forklift operating on the entire site at the one time? The report is to be amended to provide an indication on the predicted cumulative noise impacts at the boundary of each noise's sensitive receiver, including:
 - 919 Cudgen Creek Road shall be included as a sensitive receiver within the amended report,
 - Reversing alarms have not been included within the assessment, and shall be incorporated into the assessment,
 - Suitable penalties shall be applied for any tonal or annoying characteristics, and
 - Considerations of plant items and impacts on cumulative noise levels, and how the applicant can ensure that future development will meet any overall predicted operational noise.

- **Vibration impacts** – Predicted operational vibration impacts, including vehicle movement to and from the site against relevant assessment criteria are to be reported upon.
- **Clarification about amenity noise levels** – Table 2 of the submitted acoustic report indicates noise amenity area as Residential – Rural, however Residential – Suburban recommended amenity levels were used in the report presented. Please provide clarification and justification about the noise amenity area selected. Noting that typically RU1 and RU2 and rural residential. The report may need to be amended to reflect correct recommended amenity noise levels.
- **Visual Impact** – Provide information in relation to the visual impact of the proposed development. As identified in Section 2 above, the subject site is located within an established rural area which is surrounded by rural development comprising of large pastoral allotments which may contain a detached dwelling house, and ancillary structures (e.g. farm shed) and is predominately used for farming/agricultural purposes. The proposed development is considered to be highly visible from neighbouring properties and local roads as well as the Pacific Motorway.

The applicant is to provide information in relation to the visual impact of the development, specifically related to visual character in accordance with the objectives of the applicable land use zones and provide recommendations of how the visual impact will be mitigated.

- **Feasible recommendations** – Provide feasible and reasonable recommendations.
 - Provide more information to justify the location and need for an acoustic wall.
 - Provide feasible measures to the use of heavy vehicles on site and approaching the development site. The report recommends *"use of heavy vehicle handbrake (compressed air-release) must be minimised, and not occur between the hours of 10 pm and 7am. Signage should be erected to advise drivers"*. Truck drivers use handbrakes when required, it is not reasonable to ask a heavy vehicle operator to minimise the use of the handbrake as that can potentially compromise their safety. Sites cannot legally limit the use of any type of breaks.
 - In relation to "Glass disposal should not be conducted in external areas between the hours of 10pm and 7am". "Waste collection is to occur between the hours of 7am and 10pm. same as glass disposal". Restriction on glass disposal and waste collection hours is acceptable. However, recommendations are not provided to ensure that disposal of glass and waste collection between 7am and 10 pm will not be an issue. It appears that the project noise levels will still be exceeded during this time.

3.2. Bushfire safety considerations

The site is identified as bushfire prone land. The architectural plans submitted with the application do not identify the APZ of bushfire protection. It is recommended that the plans are amended to clearly mark APZs to demonstrate how the development footprint will accommodate the necessary APZs, including additional 10m APZ for Buildings 2A and 2B as recommended in the Bushfire Report.

Commented [JE1]: Numbering should be used to clearly identify individual matters that should be addressed

3.3. Potential contamination

A stockpile of soil is observed next to the existing shed constructed in 2018. Please confirm the origin of the soil and provide evidence if it is imported material.

Commented [JE2]: Each individual request item should be numbered in some way.

4. INFRASTRUCTURE

4.1. Water and Sewer Uses and Section 64 Charges:

- The application and the proposed land uses of the application are very broad. The application shall quantify the proposal's water and sewer demand in accordance with TSC Development Design Specification D12, TSC's Fees and Charges 2021/2022 Revenue Policy and Council's Resolution dated 19 November 2020. This shall include a plan of all gross floor area and assignment of ETs to the floor area;
- It is noted that this application is predicated on the application being extremely water efficient so that volumes required to be discharged to sewer are no greater than the maximum permissible allocation of 67.2 kL/day as previously approved by Council. Please demonstrate how it is intended to limit the proposed development's water usage to achieve the sewerage discharge criteria set in Council's Resolution dated 19 November 2020.

4.2. Sewerage Network Analysis and Capacity Assessment:

- The application is to demonstrate how the proposal is to comply with Council's Resolution dated 19 November 2020 with a maximum sewer loading of 100 ET which equates to an Average Dry Weather Flow (ADWF) of 0.778 L/s, with a maximum daily volume of 67.2 kL. The maximum pump rate is 1.5 L/s with a maximum pump time of 12.4 hours/day. The rising main size shall be DN75 PE100 SDR11 (ID 61mm) unless otherwise approved by TSC.
- The above shall be addressed via submission and approval of a Sewerage Network Analysis and Capacity Assessment Report demonstrating compliance with the above parameters and TSC Development Design Specification D12 which shall include provisions for:
 - A single private pump station discharging to Council's sewer network.
 - The alignment of the rising main from the private pump station to the sewer connection point at Council Sewer Pump Station 5023 on Korora Parkway.
 - This analysis shall consider the sewer demand of other proposed/future development's to be confirmed with the TSC Water and Wastewater Business and Assets Unit. The extent of the analysis shall be from the proposed development up to and including the sewer connection point (Council Sewer Pump Station 5023). In doing so, the report shall provide for the following scenarios:
 - The proposed development's loading; and
 - The loading of the proposed Industrial Estate at West Pottsville on Kudgerie Avenue with a proposed connection point at the high point approximately 350 metre west of Seabreeze Boulevard on Pottsville Road to be advised by the TSC Water and Wastewater Business and Assets Unit.

- The analysis shall detail how it is intended to manage sewerage for each stage of the development in compliance with TSC Development Design Specification D12. These details shall allow for the impact of longer sewerage retention times generated by the staging of the development and any required mitigation measures.

4.3. Water Network Analysis:

- The application shall confirm if it proposes to connect to Council's water network. If a water connection is proposed, the following additional information is required:
 - Please submit and obtain approval a Water Network Analysis demonstrating that the proposal can be serviced with water in compliance with TSC Development Design Specification D11. This analysis shall consider the water demand of other proposed/future development's to be confirmed in collaboration with the TSC Water and Wastewater Business and Assets Unit.
 - The analysis shall determine the minimum pipe sizing and confirm that compliant pressures within the proposed main are provided;
 - The Water Network Analysis shall specify onsite firefighting storage and supply to minimise the required pipe size and to adhere to Council's strategic water planning objectives; and
 - Please provide a comparison of two different water connection points for Council's consideration, including:
 - The existing 375 mm trunk main in Pottsville Road; and
 - The existing 250 mm main in Seabreeze Boulevard (and "downstream" of the existing PRV).

Commented [RP3]: Judith – Please check sentence structure from Water Unit?

4.4. Conceptual Sewer and Water Plans:

- The development's Engineering Plans and above mentioned required reports shall include water and sewer plans identifying the location of:
 - i. A Council sewer rising main from the property boundary which flows from the site, east and under the Pacific Motorway to the sewer connection point at Council Sewer pump Station 5023 on Korora Parkway. These plans shall clearly delineate the extent of public and private assets and include provisions for a property boundary kit.
 - ii. Any applicable Council water mains connecting to Council's water network to the site's frontage, the proposed development's water meters and the provision of onsite firefighting storage and supply.
 - iii. The applicant is required to detail how it is intended to collect and discharge sewerage to a final single private sewer pump station (which would discharge to Council's sewer network). This may require the provision of several private sewer pump stations.

These plans shall consider any road upgrades, road improvements or entry works required for the development and demonstrate that the proposed Council infrastructure can be suitably located with appropriate clearances.

4.5. Approval from Transport for NSW:

- Please provide written in-principal approval from Transport for NSW for the construction of the following within the Pacific Motorway road reserve:
 - The sewer rising main; and
 - Any proposed Council water mains (if applicable).

This in principal agreement shall specifically note it is subject to the detailed design of the assets. Please note this in principal agreement is necessary to confirm the feasibility of the sewer and water assets and providing appropriate conditions of approval.

5. TRAFFIC

5.1. Current Traffic Assessment and Proposed Site Access

Both Transport for NSW (TfNSW) and Council's internal Traffic Unit have identified a number of issues with the proposed site access arrangements. The issues identified within both referrals have been outlined below.

5.1.1. Transport for NSW have provided comments in relation to the proposal which are attached. Below is a summary of the primary matters that need to be addressed:

- It has been identified that the proposal does not form part of a land use strategy or planned precinct, TfNSW needs certainty that locating such uses adjacent to rural interchange will not adversely impact performance of the Motorway during the seasonal peak periods.
- The Traffic Impact Assessment (TIA) has been based on traffic conditions undertaken during 2021 which is considered to be 'sensitivity analysis' due to the impact of COVID-19 during 2021. The TIA needs to base the assessment on pre-pandemic traffic conditions to adequately reflect traffic movements. The revised study should also include an analysis of seasonal peak periods and identify that the proposal will not adversely impact the performance of the Pacific Motorway during the seasonal peak periods.
- There is a level of uncertainty as to the reliability of the SIDRA Intersection Analysis provided as Appendix C of the TIA as it does not included analysis of typical conditions outside of COVID-19 conditions or for seasonal peak periods. This may have implication for the safety of the existing Stop Sign controlled intersections. Further consideration is to be given to any potential queuing on the interchange off-ramp and at the right turn into the southbound on-ramp to the Pacific Motorway.
- Heavy vehicle access to Cudgera Creek Road, west of the Pacific Motorway is not currently gazetted for 26m B-double access. The TIA has not demonstrated accessibility for the largest design vehicle intended to service the proposed development. Proposed road improvements and further analysis should demonstrate the swept path of the relevant design vehicle travelling from the Pacific Motorway along Cudgera Creek Road and into the development site is a forward direction to and from all directions of travel.
- It is considered likely that road upgrades will be required to facilitate the movement of vehicles along the relevant road network. Details outlining the required upgrades are to be provided and included in the relevant CIV.

5.1.2. Council's Traffic Unit:

- Turing templates are required to demonstrate how the expected vehicles will navigate the site including internal road movements and intersection movements at Reserve Creek Road, Cudgera Creek Road and each access point along Reserve Creek Road.
- It is expected that road upgrades will be required at some degree to cater for the anticipated traffic volumes and the expected vehicle types. There is no

detail in the application regarding required road upgrades. The extent of works within the road reserve to cater for intersection upgrades, including but not limited to:

- Widening of Reserve Creek Road along the site frontage;
 - Impacts on vegetation;
 - Drainage – existing culvert; and
 - Road pavement design, including pavement markings and signage.
- Further information is required in relation to the internal road network, including:
 - Scale and turning movements for the proposed internal roundabout,
 - How are the car parking spaces adjacent to units 1a and 3a-d to be accessed noting the TIA states that visitor vehicles will not be permitted to access the service vehicle route;
 - Loading facility requirements are to be based on a 'worst-case' scenario basis considering it is unknown the type of tenants and their individual loading facility requirements at this stage.
 - What is the scope and scale of the loading bays along the B-Double service road such that there is no conflict with movements along this road?
 - The proposed car parking spaces along the internal B-Double service road (adjacent to units 1d, 1e, 1h, 2a and 2b) are in conflict with the service road vehicles and the principle of separation of small and large vehicles onsite.
- Evidence of support, at least in principle, from TfNSW to approve an extension of the B-Double route to the site is required.

5.1.3. Council's Subdivision Engineering Unit:

- Internally, safe pedestrian access to all buildings should be provided by a sound internal movement design. It is not explicitly stated how pedestrians will manoeuvre around the site, however the engineering plans do not reference internal footpaths, so it is expected that pedestrians will utilise the internal roads for any movement around the developed site. Further information is to be provided to demonstrate safe pedestrian movement throughout the site, ensuring no clashes with any large service vehicles on the internal service road. All building should be accessible on foot via a safe pedestrian path.

5.2. New Concept Proposed Site Access (NRPP)

During the NRPP 'Applicant Briefing' an alternative site access design was proposed. The applicant identified that opportunity to provide access from Cudgera Creek Road is being investigated. An extract of the new access concept is provided below in Figure 1.

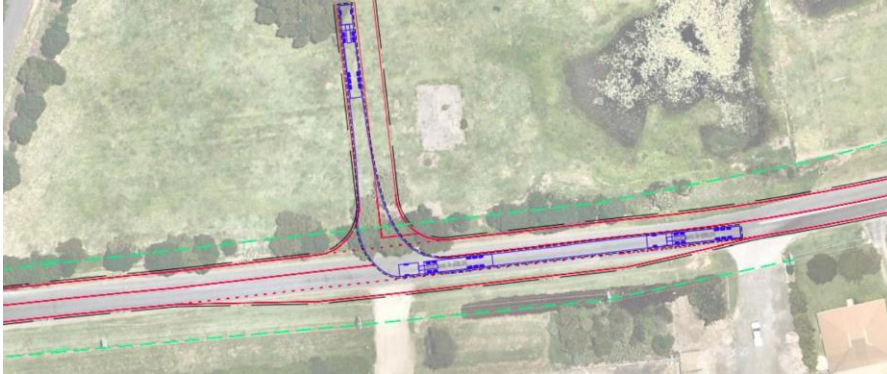


Figure 1: Proposed New Access Concept (Source: Mecone)

From a brief assessment of the new access concept the following issues have been identified:

- a. The proposed access from Cudgera Creek Road appears to impact the Ecological Corridor 30m wide that traverses the Cudgera Creek. The extent of the Ecological Corridor is shown in Figure 2 below.



Figure 2: Location and Extend of the Ecological Corridor

- b. Concerns regarding development within the ecological corridor were raised during the Pre-DA advice provided to the applicant which has been included within their SEE (Sep 2021). In particular, the SEE states:

"The boundary along Cudgera Creek Road incorporates a 30m ecological corridor either side of the creek which incorporates four significant species and is a high flow area. In this regard, any development within this area has been removed." – SEE (Sept 2021 pg. 10).

The proposed new access concept from Cudgera Creek Road poses concerns regarding the ecological corridor which requires a 30m buffer zone to each side of the creek. Adverse impacts to the ecological corridor due to the location of an access point is not supported in this case as alternative access options are available which do not impact the ecological corridor. More information is provided in the biodiversity comments in Section 7 below.

6. FLOODING & STORMWATER

Council's Flooding and Stormwater Unit have reviewed the proposal and have identified that insufficient information has been provided to adequately assess the flooding impact of the proposal. The following information is required to address this:

- Concept cut/fill drawings with flooding 'high flow' area boundaries overlayed are required to confirm that the proposal does not encroach into the high flow classified area.
- Further information is required to define the flood immunity and flood characteristics (e.g. hazard, DxV) of the access roads into the development (Cudgera Creek Road and Reserve Creek Road). This is required to determine if their current flood immunity is appropriate for a large industrial facility and is in accordance with the 'Development Design Specification D1 – Road Design.
- Whilst the proposal may not include any fill in high flow classified areas (subject to the above confirmation) it does appear to propose filling on the fringe low-flow areas of the northern overflow flowpath and therefore may impact local flood levels. Further definition is also required of flooding across the access roads into the development (above item). There is also complex topography in the area with various overflow transferring water between sub catchments. Therefore, a Flood Impact Assessment (FIA) is required to support the proposal. It should be noted that Council's existing *Tweed Coastal Creeks Flood Study 2010* flood model is a regional, low resolution, model and is considered too coarse for these purposes (unless upgraded locally).
- A preliminary Stormwater Management Plan (SWMP), in accordance with Development Design Specification D7 – Stormwater Quality, is required to support the development application.
- A preliminary Erosion and Sediment Control Plan, in accordance with Development Design Specification D7 – Stormwater Quality, is required to support the development application.

7. BIODIVERSITY

7.1. Biodiversity and Habitat Management – Ecological Setback (DCP Section A19)

- The waterway located on Lot 401 DP 1001046 is a **third order** waterway, not a second order waterway as suggested in the Ecological Assessment Response and Habitat management Plan by 28oS Environmental dated July 2021.
- While not explicitly stated, C1 of DCP A19 requires a 30 m setback **both sides** of a third order stream. The proposed development appears to only propose a 30m setback from the northern side of the stream located on Lot 401 DP 1001046.
- Any proposed variations to the ecological buffer area to the third order streams must address C6 to C8 of DCP A19. It is generally encouraged that a pre-lodgement consultation with Council staff be undertaken to discuss any proposed variations.
- Further details are required within the habitat restoration plan with regards to species selection.

The following information is requested to demonstrate compliance with DCP A19:

- a) The habitat restoration plan is to be amended to reflect a 30m ecological buffer extending south from top of the southern bank of the third order stream located to the south of the proposed development.
- b) The habitat restoration plan is to demonstrate how all forms of development including associated/ancillary elements such as civil infrastructure, asset protection zones, filling and batters and the like can be positioned outside the 30 m ecological buffers afforded for the northern and southern third order streams. Where minor encroachments into the ecological buffers cannot be avoided the habitat management plan must address C6 to C8 of DCP A19.
- c) Revegetation works associated with the 30 m ecological buffer are not to impose an unacceptable bushfire risk to the existing dwelling located on the subject site.
- d) The habitat management plan is to be amended to provide the following details:
 - a. How the ecological buffer is to be afforded protection and managed in the long term e.g. S88b restriction as to user on title.
- e) Staging of restoration works e.g. all primary works and eight week establishment phase to be completed within Stage 1.

7.2. Vegetation Impacts

Impacts on vegetation has not been quantified. Vegetation removal is expected to be required to facilitate:

- The driveway crossovers proposed,
- Potential road widening, and
- Within the paddocks to facilitate the proposed development.

Attachment 3 – Survey of Native Vegetation by 28oS Environmental July 2021 and associated *Tree Schedule* are to be amended or a separate plan provided which details proposed impacts to all vegetation greater than 10 cm in trunk diameter or threatened species of any size where such vegetation may be impacted by the proposed development as generally defined under AS4970-2009 Protection of Trees on Development Sites. The following areas are likely to require the greatest consideration:

- i. Vegetation within 10 metres of the driveway crossovers.

- ii. Roadside vegetation required to be removed/punned to establish lines of sight.
- iii. Roadside vegetation which may be impacted by any required roadworks.
- iv. Vegetation to be removed from within the development footprint.
- v. Any freshwater wetland areas required to be removed or modified.

Provide location and details of tree protection fencing to protect vegetation proposed to be retained within close proximity to disturbance areas and red flagged setback areas. Tree protection fencing is to be provided in accordance with Australian Standard Protection of Trees on Development Sites AS4970-2009.

7.3. Fauna Impacts

The potential impacts to fauna have not been assessed. The following may pose adverse impacts to fauna:

- o Removal of native vegetation,
- o Infilling of natural soakage areas, localised tributaries to Cudgera Creek and farm dam on the eastern boundary,
- o Changes to hydrological regimes associated with placement of 2 metres of fill and impervious surfaces across approximately 12 hectares of flood plain area.
- o Increase in traffic movement along reserve creek road.
- o Increase in lighting, noise and potential odours.
- o Potential impacts to waterways from increased nutrient loads from potential effluent and liquid waste streams. Noting a bio-detention has been proposed to deal with stormwater.

A fauna impact assessment is required to be prepared to provide the following information:

- o Identify potential threatened/vulnerable fauna species likely to occur at the subject site including but not limited to:
 - Grass Owl (*Tyto longimembris*)
 - Pale-vented Bush-hen (*Amauornis moluccana*)
 - Spotted Harrier (*Circus assimilis*)
 - Black-necked Stork (*Ephippiorhynchus asiaticus*)
- o Include, at least, the following fauna surveys:
 - A minimum of two (2) dawn ornithological (bird) surveys.
 - A minimum of one (1) dusk/nocturnal avian survey for any targeted threatened nocturnal bird species including call playback.
 - A minimum of one diurnal and one nocturnal herpetological (reptile and frog) survey.
 - A koala spot assessment technique survey under a representative sample of any primary or secondary koala food trees within close proximity (>20m) to proposed works.
 - A minimum of one (1) nocturnal mammal spotlight survey across the subject site focusing on riparian vegetation and nearby roadside vegetation.
- o All surveys must be undertaken by suitably qualified fauna ecologists in accordance with best practice survey design.
- o The fauna impact assessment must provide the survey methodology, survey times and survey results.
- o At a minimum, the following potential direct and indirect adverse impacts to identified fauna must be assessed:
 - Removal of native vegetation,
 - Infilling of natural soakage areas, localised tributaries and farm dam(s).

- Changes to hydrological regimes associated with placement of 2 metres of fill and impervious surfaces across approximately 12 hectares of floodplain area.
- Increase in traffic movements along reserve creek road.
- Increasing in lighting, noise and potential odours.
- Potential impacts to waterways from increased nutrient loads from potential effluent and liquid waste streams.
- Where adverse impacts to fauna are identified, provide recommended alternative design or management solutions and (as required) update relevant site plans.
- Where threatened fauna may be adversely impacted by the proposed development, provide sufficient details to enable assessment under the *Biodiversity Conservation Act 2016* (s7.2(1)(a), s7.3).

7.4. Hydrological Impacts

The proposed development is situated between two (2) third order waterways on the floodplain. The development would result in the reduction of permeable land by approximately 12 hectares and increase fill by 2 metres, potentially alternating water availability and hydrological regimes to the nearby third order streams and surrounding areas. The effects on the localised environment (particularly riparian areas) has not been assessed.

A hydrological impact assessment is to be provided and is to include a component which evaluates the potential adverse direct and indirect ecological impacts to:

- Riparian areas immediately to the north and south of the proposed development as a result of altered natural water infiltration rates during typical rain events.
- Altered flood regimes to riparian and other bushland areas upstream and downstream of the proposed development during flood events as a result of filling of the site.

7.5. Effluent and Waste Management

It is unknown how effluent will be managed and how wastes, particularly liquid wastes will be treated and managed to avoid impacts on the adjacent waterways.

Please refer to Section 4 of this letter for further information.

8. ECONOMIC JUSTIFICATION

It is unclear at this stage how the proposed development is intended to be used. As discussed in Section 1 above, the SEE identifies that the proposal will be used for tourism purposes. However, within the NRPP meeting the applicant identified that the purpose of the development is for wholesale purposes.

The intended use of the site is required to be determine first and foremost. Furthermore, the applicant has not provided evidence of 'need' for a development of this size and scale. There is concern that the proposed sheds would attract uses not consistent with any approved use as an 'agricultural provide industry'.

An Economic Feasibility Study should be included as part of the response to Council, providing justification for this use in this area.

9. RESPONSE TO SUBMISSIONS

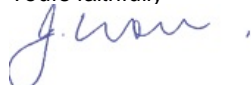
A total of 403 submissions, comprising 400 objections (being a mixture of pro-forma letters and unique letters) and three (3) submissions in favour of the proposal. Please provide a formal response to the submissions which have been received, identifying all relevant issues.

SUMMARY:

- Despite being a concept DA, the site is a rural site with limited access, limited infrastructure, and considerable site constraints.
- The information submitted within the SEE contradicts information that was presented at the NRPP meeting held on the 19 January 2022. In particular, if the site is intended to be utilised for tourism purposes and the proposed site access arrangements.
- More information is required to understand the intended use and operation of the site. Firstly, to determine if the proposal is permissible and secondly, whether it is appropriate in the proposed location. At this stage, the information provided to date raises a level of uncertainty that the proposal is suitable in this location.
- The site is isolated from essential infrastructure. At this stage it is unclear if the site will be able to feasibly obtain access to the essential services required to service the site.

If you have any queries in respect to this matter please contact Judith Evans of Council's Development Assessment Unit on (02) 6670 2451 who will be processing the application.

Yours faithfully



Per
Valerie Conway
Team Leader Development Assessment