

COUNCIL ASSESSMENT REPORT (REVISED)

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-190 – DA22/0793
PROPOSAL	Construction of a Council works depot (including depot fuel station), a Public Administration Building, two (2) large General Industrial buildings, external hardstand storage areas and ancillary development including parking, landscaping, and signage on Proposed Lots 703 and 711 created from subdivision of Lot 604 DP 1244954
ADDRESS	Lot 604 DP 1244954 208 Lundberg Drive SOUTH MURWILLUMBAH
APPLICANT	Zone Planning Group
OWNER	Tweed Shire Council
DA LODGEMENT DATE	5 December 2022
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	<p>Section 2.19(1) and Clause 3 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as:</p> <p>3 Council related development over \$5 million</p> <p><i>Development that has a capital investment value of more than \$5 million if—</i></p> <ul style="list-style-type: none"> <i>(a) a council for the area in which the development is to be carried out is the applicant for development consent, or</i> <i>(b) the council is the owner of any land on which the development is to be carried out, or</i> <i>(c) the development is to be carried out by the council, or</i> <i>(d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).</i>
CIV	\$38,800,000.00 (excluding GST)
CLAUSE 4.6 REQUESTS	<p><i>Tweed Local Environmental Plan (TLEP) 2014</i> - Clause 4.3 Height of Buildings</p> <p>E4 – General Industrial zone</p> <p>Variation extent is 5.05% (less than 10%)</p>

KEY SEPPs/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Industry and Employment) 2021</i> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>Tweed Local Environmental Plan 2014</i> • <i>Tweed Development Control Plan 2008:</i> <ul style="list-style-type: none"> ○ <i>Section A2 - Site Access and Parking Code</i> ○ <i>Section A3 – Development of Flood Liable Land</i> ○ <i>Section A4 – Advertising Signs</i> ○ <i>Section A15 – Waste Minimisation and management</i> ○ <i>Section A16 – Preservation of Trees or Vegetation</i> ○ <i>Section A17 – Business, enterprise corridor and general industrial zone</i>
AGENCY REFERRALS	<p>Department of Planning and Environment – Water Operations (Controlled Activity Approval)</p> <p>NSW Rural Fire Service (Section 4.14 Referral only)</p> <p>Tweed Byron Local Aboriginal Land Council (Land mapped to be marginally affected by predictive Aboriginal Cultural Heritage under Aboriginal Cultural Heritage Management Plan)</p>
TOTAL & UNIQUE SUBMISSION/S	One (1) late submission
KEY ISSUES	<ul style="list-style-type: none"> • Stormwater and Flooding Impacts • Height Exceedance • Land Use Conflict • Noise Impacts • Waste Management
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>Statement of Environmental Effects</p> <p>Architectural Plans</p> <p>Services Search</p> <p>DAP Meeting Minutes</p> <p>Stormwater Management & Quality Plan</p> <p>Traffic Impact Assessment Report</p> <p>Waste Management Plan</p> <p>TDCP Assessment Tables</p> <p>AHIMS Search</p> <p>Flood Mapping Report</p>

	Acoustic Impact Assessment Report Cost of Works estimate Minor Works Acid Sulfate Soils Management Plan Statement of Landscape Intent Modification DA02/1685.27 consent for subdivision of Lot 604 DP 1244954 Modification DA02/1685.27 Stamped Approved Subdivision Plan for Lot 604 DP 1244954 Existing DP Confirmation of Emulsion Plant Production Civil Engineer Set Clause 4.6 Exceptions to Development Standards report Electrical Services Plan Bushfire Assessment Report
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Nil
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	26 September 2023
PLAN VERSION	21 October 2022 & Version Nos "0" & 1
PREPARED BY	Hannah Van de Werff and Pooja Chugh
DATE OF REPORT	13 September 2023

EXECUTIVE SUMMARY

The development application (DA22/0793) seeks consent for a Depot and Public Administration Building and associated signage on Proposed Lot 703 and 711 at No. 208 Lundberg Drive South Murwillumbah.

The subject site is located within the Industry Central master planned Industrial Estate. This estate was created under a previous consent DA02/1685 for a fifty-six (56) Lot Torrens Title Subdivision and bulk earthworks over eight (8) stages.

The civil works for the modified subdivision have not yet commenced however it is understood that a Subdivision Works Certificate for the works has been issued by Principal Certifying Authority (PCA) (Tweed Shire Council) (reference CC22/0263).

The existing site (Lot 604, DP 1244954 - "parent lot") is currently vacant with minimal vegetation (except for a 25m wide landscape batter occurs along the northern boundary of the site, adjacent to Wardrop Valley Road). The existing site features a total land area of 14.02 ha with primary frontage to Lundberg Drive. Unsealed access to the site is also available via Thornbill Drive. The land is relatively flat as a result of previous filling of the land to achieve RL 6.7m AHD.

As mentioned above, the site has been approved for further subdivision, which will result in the subject land being subdivided into two (2) separate allotments severed by an extension to Thornbill Drive, which will also become a ring road providing access from the site to the carrier road through the industrial estate (Lundberg Drive).

Proposed Lot 703 features a land area of 1.559 ha and Proposed Lot 711 features a land area of 3.536 ha (total proposed land area is 5.095 ha). The proposed lots are irregular in geometry and feature a primary frontage to Thornbill Drive.

Proposed Lot 703 features a 14.8m road frontage to Thornbill Drive and Proposed Lot 711 will be a corner lot and features a total road frontage of 258.68m to Thornbill Drive (162.265m to the north and 96.415m to the west).

Proposed Lot 711 is vacant with no vegetation and proposed Lot 703 also has minimal vegetation except the 25m landscape buffer located along the northern boundary. The proposal represents the first use of the land.

The subject site is located to the south-eastern perimeter of a recently established Industrial Estate zoned E4 General Industrial. Land Uses within the vicinity of the site are mostly comprised of vacant lots due to the recent establishment of the Industrial Estate.

There are some industrial buildings that have been established with such uses of the buildings including Stone & Wood Brewery northwest of the subject site, a warehouse comprising of 4 units and an existing office and other manufacturing uses. Southwest of the site is various storage facilities containing individual storage units. There is a recent approval for an artesian food and drink industry, located northwest of the subject site, at the entry of the industrial estate along Lundberg Drive.

The DA was lodged as nominated Integrated Development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') on behalf of the applicant. A referral was sent to Department of Planning and Environment – Water. However pursuant to Clause 41 of the *Water Management Regulation 2018*, a public authority is exempt from Section 91E(1) of the Act in relation to all controlled activity that it carries out in, or under waterfront land. Therefore, this referral was not statutorily required.

External referrals were sent to Rural Fire Service (RFS) and Tweed Byron Local Aboriginal Land Council, no objections were raised.

The proposal was notified in accordance with the Tweed Shire Council's *Community Participation Plan* from 18 January 2023 until 15 February 2023. During this time no submissions were received however one (1) late submission was submitted after the notification period and has been taken into consideration as part of the assessment (**Section 3.5 – Public Interest**). The key concern relates to flooding and drainage. A revised stormwater management plan has been submitted, to limit the post development flows to pre-development flows. This is to ensure there is no increase in the stormwater flows to the surrounding cane land and union drains or increase flooding. A detailed assessment of the issues of concern raised and the assessing officers' comments are contained further within this report.

The principal planning controls relevant to the proposal include *State Environmental Planning Policy 2021 – Resilience and Hazards* ('SEPP Resilience and Hazards'), the *Tweed Local Environmental Plan 2014* (TLEP) and the *Tweed Development Control Plan 2008* ('TDCP'). The proposal is generally consistent with various provisions of the planning controls with the exception of height of building development standard.

The application is referred to the Northern Regional Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) and Clause (5)(b) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is development for *Council related development over \$5 million*.

One of three buildings included in the proposed development provides for a maximum building height of 10.505m above natural ground. The proposal exceeds the maximum building height (10m). The non-compliance is to the extent of 0.505m or 5.05%. The Clause 4.6 submission adequately addresses the statutory considerations under this Clause and the threshold test in accordance with the criteria established in the NSW LEC judgement *Wehbe v Pittwater Council* (2007). A detailed assessment of the Clause 4.6 variation is considered further within this report.

A briefing was held with the Panel on 15 March 2023 where key issues were discussed, including flooding and flood mitigation; building height variation; cross flow ventilation in the building and the training areas; front gate locations and security; dependency on completion of subdivision works to enable proposed development; traffic movements; safety and storage design of fuel storage and emulsion tank; onsite noise and amenity of staff in administration building; future proofing of development in regard to solar panels and Electric Vehicle (EV) charging/battery pack storage and conduits into the car parking to enable retrospective re-fitting. The Panel required a number of matters to be addressed, which have now been provided and are considered to be satisfactorily addressed with relevant conditions recommended.

A number of key issues were identified in this assessment which included:

- Flood mitigation – Council's engineer has reviewed the revised stormwater management plan, as submitted on 8 September 2023. The stormwater system including the bioretention basins and the proposed swales and rain gardens will be designed to the pre-development stormwater flows. The subject site provides adequate area for a suitable stormwater management system without impacting the overall design. It is therefore considered that the proposed development will not adversely affect flood behaviour.
- Completion of subdivision works – A condition is recommended to require all necessary public infrastructure as shown on approved Subdivision Works Certificate (CC22/0263) to be completed to the satisfaction of Tweed Shire Council and restrict the issuing of an occupation certificate until after lot registration has occurred.

- Internal noise – Revised noise report includes calculations to determine the breakout of noise from the stores and workshops building. Based on the predicted impact level at the Administration Office Building, building treatments are required to achieve the internal sounds levels of Australian Standard AS2107. Council’s Environmental Health Unit raises no objections subject to the recommended conditions of consent.
- Cross flow ventilation – The proposal includes glazed louvre windows on both the southern and northern facades of the office, which provide cross ventilation. These openings have been considered in the calculations of the updated Environmental Noise Assessment Report.
- Front gate locations and security - There are two gates proposed, the first gate (Gate A) is a security gate at the boundary line for afterhours security and will be open during the day. Gate B is setback further in the site and it is an operational security gate (electronic) with separate entry and exit gates and includes a refuge island and is to be closed during the day – i.e., securing the site/ operations from the general public relating to the work stores.
- State Emergency Service (SES) laydown area – Clarification has been provided that the SES laydown area is trafficable, flood free, greenfield space with no structures proposed. It is intended that this flood free space will be potentially utilised by the SES as an option during emergencies namely floods. It can be used for staging and/or laydown during the response operations. Access control is proposed to be managed via Council protocols.
- Electric Vehicle (EV) charging stations – The revised electrical services plans include conduits for EV charging. The applicant has advised that battery charging of EV is not an effective solution for sustainability and any additional space allowed for batteries would only service a fraction of the chargers. The intention of battery systems is to provide a back-up power source to critical systems in case of mains power failure. In this situation it would not be good practice to service EV chargers from batteries, considering these batteries would be served from mains power supply.
- Storage of hazardous material – A revised Waste Management Plan notes that the storage and use of hazardous material is proposed to be consistent with the *NSW EPA Hazardous Waste Storage and Processing, Australian Standard AS 1940-2004: The Storage and Handling of Flammable and Combustible Liquids, Australian Standard AS 4452-1997: The Storage and Handling of Toxic Substances*.
- Waste management – The revised Waste Management Plan has been assessed to be acceptable by Council’s Environmental Health Unit subject to the recommended conditions of consent.
- Cane farms – Advice has been received from NSW Rural Fire Service in respect to any additional considerations that are relevant based on the burning cane on adjacent cane farms and associated impacts to the proposal. Council has been advised that “cane crops are periodic and not always present; and fires associated with cane harvesting are managed fires. Appropriate separation and access provisions have been applied for defence of the facility from wildfires”.

In addition to the key issues discussed above, the modified subdivision development consent (DA02/1685.27) requires (Condition No. 11C) a four (4) metre wide fire trail to be provided along the eastern boundary of the site and for it to be registered on the title as an 88B restriction. The Bush Fire Assessment Report submitted with the current application notes

that “*the proposed use and layout will be sufficient for bushfire fighting intervention without the need for a designated fire trail within Lots 703 and 711*”, subject to the recommendations. In this regard, the proposal was referred to NSW Rural Fire Service (RFS) pursuant to Section 4.14 of the *EP&A Act*. The Bush Fire Assessment Report has been assessed to be satisfactory by the NSW RFS subject to the recommendations. These recommendations provided by the NSW RFS form part of the conditions, as contained at **Attachment 1** of this report.

The Statement of Environmental Effects (SEE) notes that the subject application seeks to amend Condition No. 11C of DA 02/1685.27, removing the need for a fire trail over the subject site. In this regard, as demonstrated by the Bush Fire Assessment Report and as accepted by NSW RFS, the Proposed Lots 703 and 711 do not require a fire trail. Notwithstanding this, Condition No. 11C cannot be amended for the parent lot (Lot 604 Deposited Plan 1244954) as the Bush Fire Assessment Report does not relate to the entire site. It is considered that prior to the release of the Subdivision Certificate for the parent subdivision (DA 02/1685.27), the proponent would require to satisfy Condition No. 11C by virtue of a modification application or a revised Bush Fire Assessment Report. Notwithstanding this, an advisory condition is recommended that DA 02/1685.27 is amended to ensure the subject development and the subdivision consent are not inconsistent.

Assessment under Section 4.15(1) of the *EP&A Act* concludes that the proposal is generally consistent with the relevant planning controls. The site is also considered suitable for the development and there are unlikely to be any significant adverse impacts arising from the proposal subject to the recommended conditions.

As discussed throughout this report, the proposal is appropriate for the site given its location within the South Murwillumbah Industry Estate -General Industrial Precinct. The development is consistent with the strategic vision for the area. Further, it safeguards Council assets from risk of natural hazards and is designed to facilitate the future sustainable growth and expansion of the shire and therefore it is in the public interest.

The written request for variation to the height of building development standard submitted under Clause 4.6 is considered to be satisfactory. It adequately demonstrates that, despite the numerical non-compliance, the proposed development will be in the public interest as it is consistent with the objectives of the height of building development standard and the objectives for development within the E4 General Industrial zone. Accordingly, the development application is recommended for approval subject to the conditions, as contained at **Attachment 1** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

The subject site is located within the Industry Central master planned Industrial Estate. This estate was created under a previous consent DA02/1685 for a fifty-six (56) Lot Torrens Title Subdivision and bulk earthworks over eight (8) stages.

Most recently, the parent development application (DA02/1685) has been modified (7 April 2021) to create 11 industrial lots as part of the Tweed Industry Central Land Swap project.

The civil works for the modified subdivision have not yet commenced, however it is understood that a Subdivision Works Certificate for the subdivision works has been issued by Principal Certifying Authority (PCA) (Tweed Shire Council) (reference CC22/0263).

The existing site (Lot 604 DP 1244954 - "parent lot") is currently vacant with minimal vegetation (except for a 25m wide landscape batter which occurs along the northern boundary of the site, adjacent to Wardrop Valley Road). The existing site features a total land area of 14.02 ha with primary frontage to Lundberg Drive. Unsealed access to the site is also available via Thornbill Drive. The land is relatively flat as a result of previous filling of the land to achieve RL 6.7m AHD.

As mentioned above, the site has been approved for further subdivision which will result in the subject land being subdivided into two (2) separate allotments severed by an extension to Thornbill Drive which will also become a ring road providing access from the site to the carrier road through the industrial estate (Lundberg Drive).

Proposed Lot 703 features a land area of 1.559 ha and Proposed Lot 711 features a land area of 3.536 ha (total proposed land area is 5.095 ha). The proposed lots are irregular in geometry and feature a primary frontage to Thornbill Drive.

Proposed Lot 703 features a 14.8m road frontage to Thornbill Drive and Proposed Lot 711 will be a corner lot and features a total road frontage of 258.68m to Thornbill Drive (162.265m to the north and 96.415m to the west).

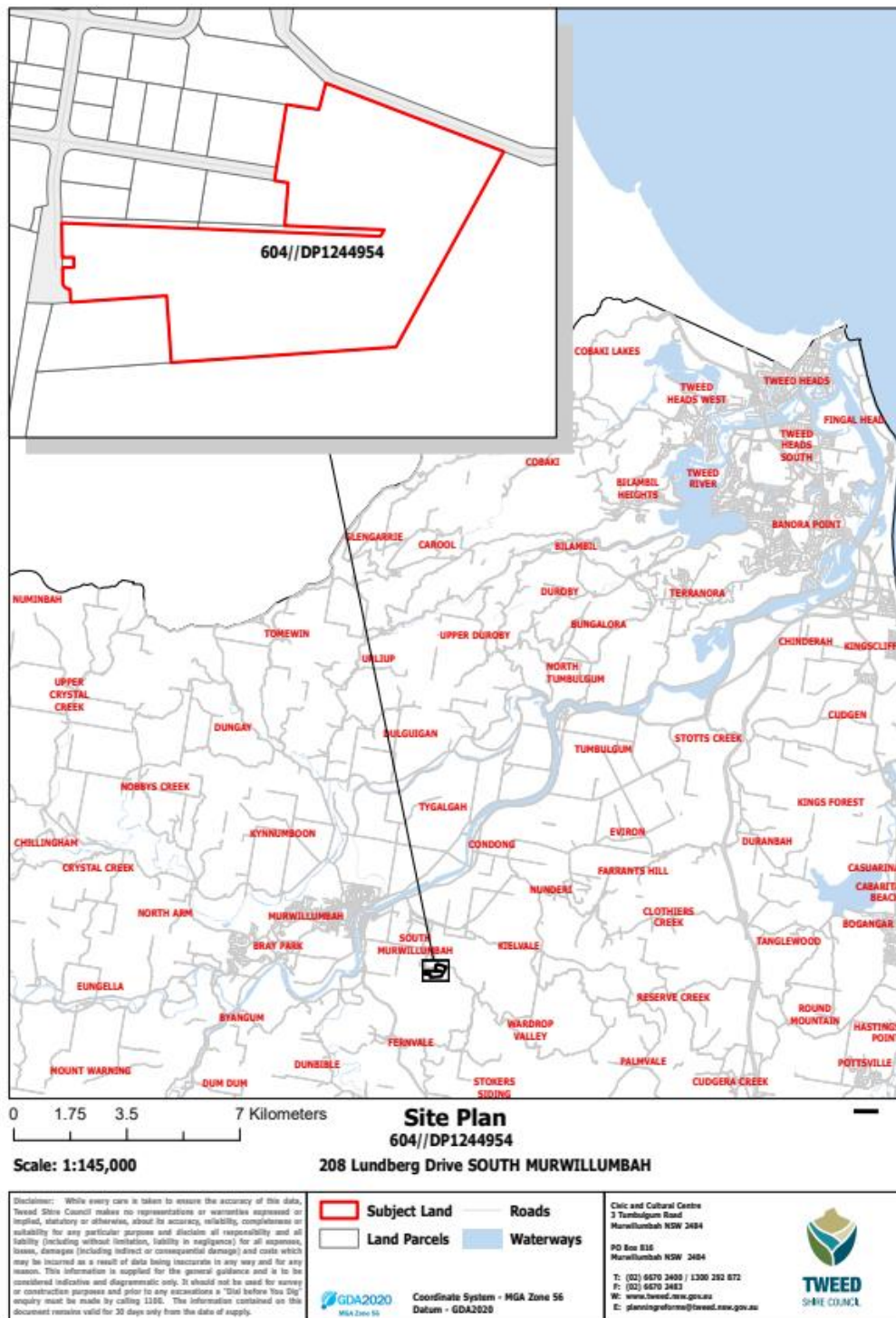
Proposed Lot 711 is vacant with no vegetation and proposed Lot 703 also has minimal vegetation except the 25m landscape buffer located along the northern boundary. The proposal represents the first use of the land.

The site is mapped as Regionally Significant Farmland, bushfire prone and predictive for Aboriginal Cultural Heritage.

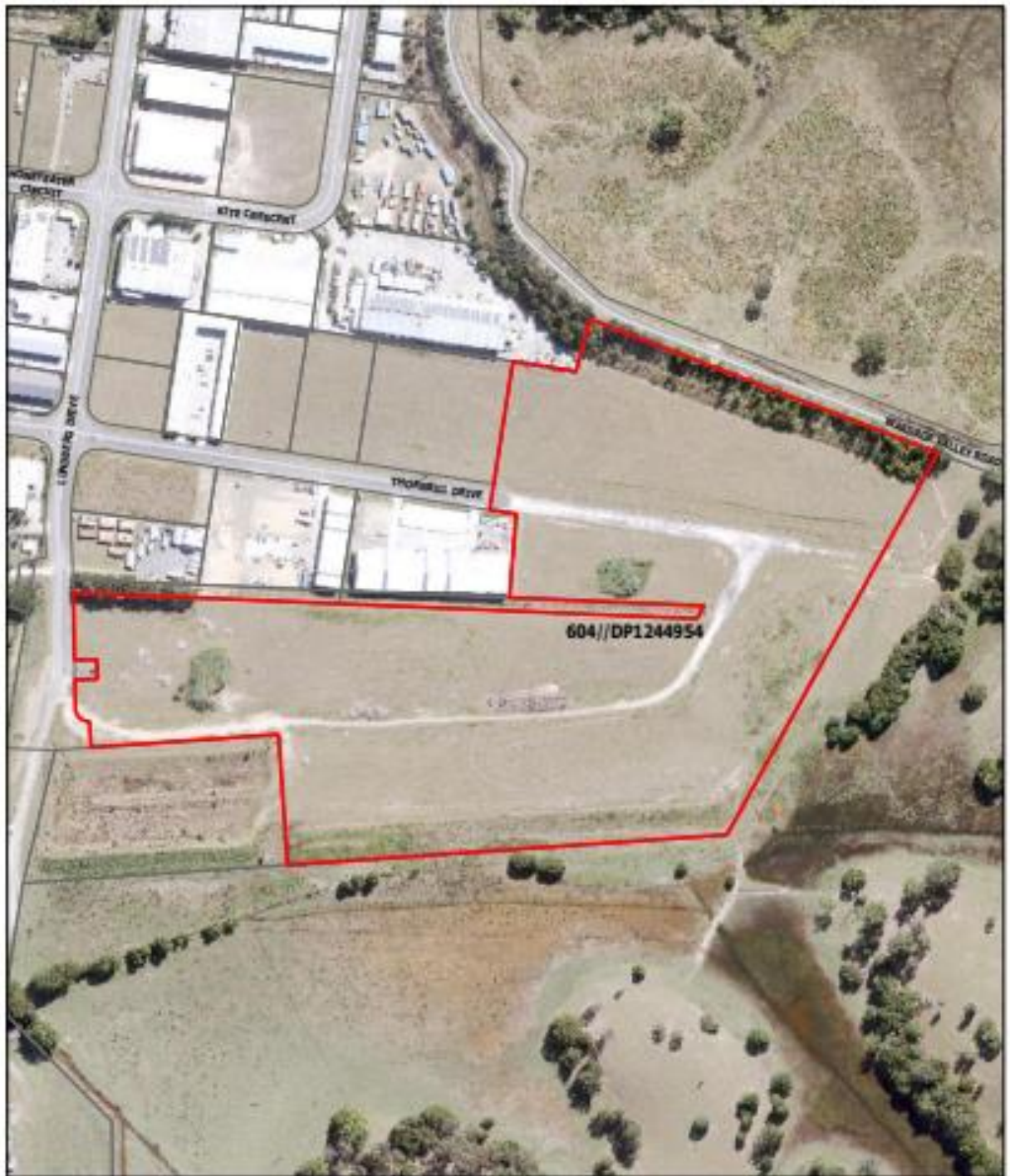
The land contains Class 3 and Class 5 Acid Sulfate Soils and has some flood affectation. That is, affected by a Probably Maximum Flood (PMF) of RL 10.9m AHD. However, except for a small portion of the land along the southern boundary which is affected by 'low flow' 1% AEP flood, the rest of the land is above the 1% AEP of RL 5.5m AHD. The minimum habitable floor level of the site is RL 6m AHD.

The land is also mapped to contain a first order watercourse which no longer exists. The site is located within an area affected by management principles in the Tweed Shire Councils Draft Scenic Landscape Strategy.

Locality Plan:



Aerial Imagery (Existing parent lot):



0 60 120 Meters
Scale: 1:4,000

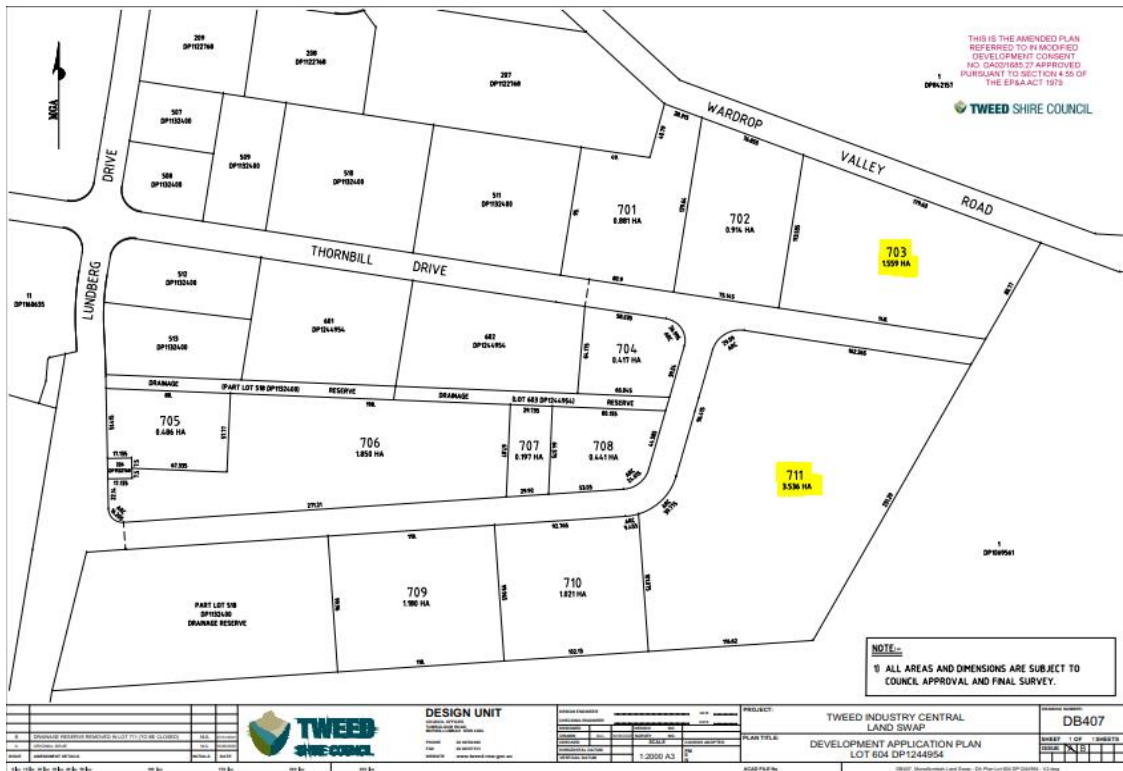


 Coordinate System - MGA Zone 56 Datum - GDA2020	Current Imagery (2020) 604//DP1244954 208 Lundberg Drive SOUTH MURWILLUMBAH	© 2020 Imagery- Tweed Shire Council © Cadastre - Tweed Shire Council Boundaries shown should be considered approximate only.
<small>Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a 'Dig before You Dig' enquiry must be made by calling 1300. The information contained on this document remains valid for 30 days only from the date of supply.</small>		

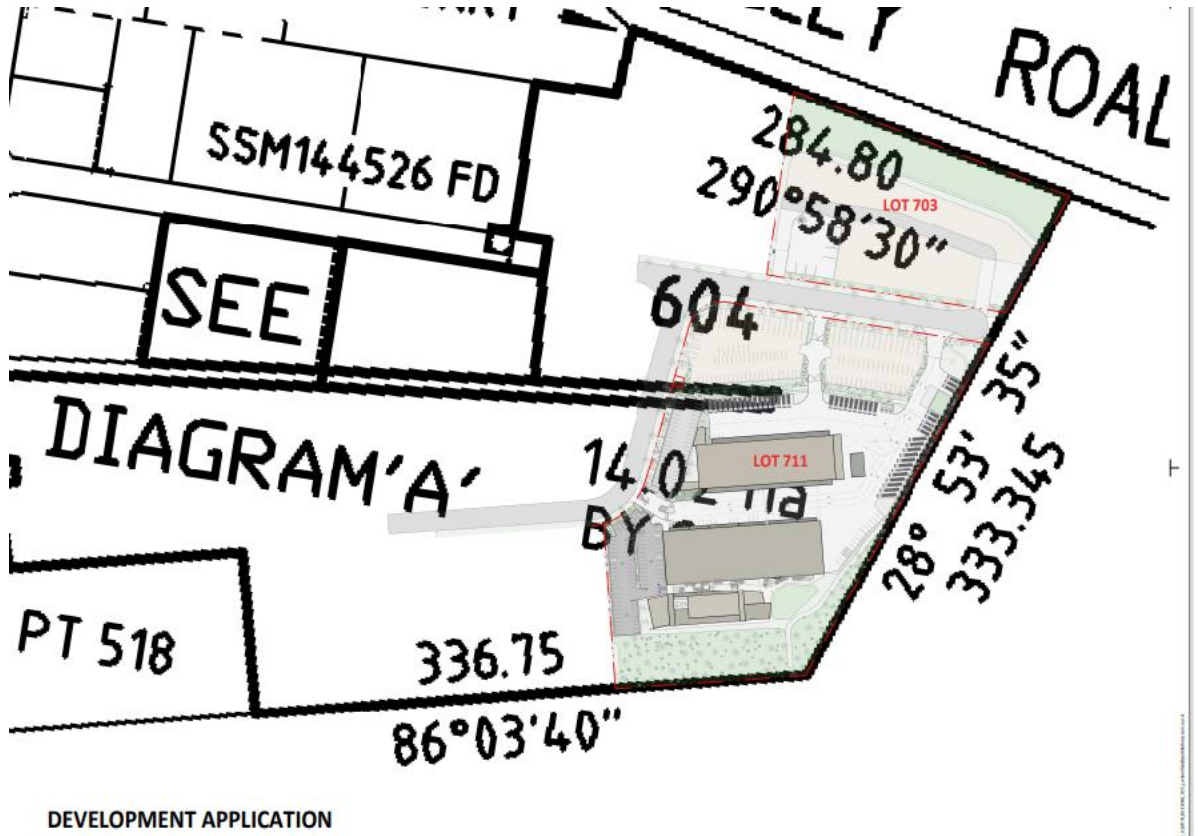
Author: S. Scott - GIS

Date Printed: 06 March, 2024

Approved Plan of Subdivision to create Proposed Lot 703 and 711



Site Analysis Plan (existing lot)



Site Analysis Plan (proposed Lots 703 and 711)



1.2 The Locality

The subject site is located to the south-eastern portion of a recently established Industrial Estate zoned E4 General Industrial. Land Uses within the vicinity of the site mostly comprised vacant lots due to the recent establishment of the Industrial Estate. There are some industrial buildings that have been established with such uses of the buildings including Stone & Wood Brewery northwest of the subject site, a warehouse comprising of four (4) units and an existing office and other manufacturing uses. Southwest of the site is various storage facilities containing individual storage units. There is a recent approval for an artesian food and drink industry, located northwest of the subject site, at the entry of the industrial estate along Lundberg Drive.

Land immediately south of the subject land (Proposed Lot 711) comprises of land zoned RU2 – Rural Landscape. North of the subject site (Proposed Lot 703) is Wardrop Valley Way which is a 20m wide carriageway. Further north of Wardrop Valley Way are two large parcels of land zoned RU2 - Rural Landscape and beyond that, land zoned RU1 Primary Production in which rural agricultural pursuits occur (mostly sugar cane farming).

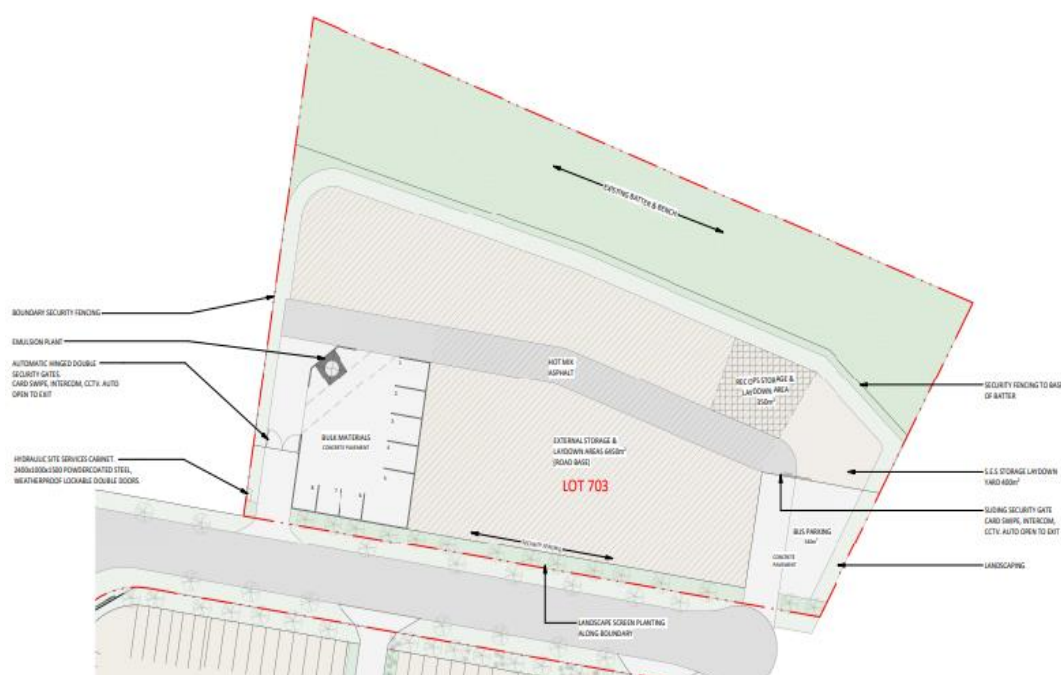
The closest residential zoned land within the vicinity of the site is a pocket of land located to the northeast, which is RU5 - Rural Village zone. This pocket of land is located approximately 1.2km northeast of the site. Notwithstanding it is worthy to note that a dwelling house is located on 311 Wardrop Valley Road, Murwillumbah which is 653m from the subject site in a north-easterly direction.

Murwillumbah Airport is located 1.4km northwest of the site.

Proposed Lot 703:

- Construction and use of external storage bunkers for bulk landscape materials;
- Installation and use of emulsion tank (45,000L annually or 15.89 tonnes) to receive and store premixed materials (SEE states no mixing or production activities occurring in the tank);
- Construction of two driveways with a single lane access throughout the site;
- The provision of a bus parking bay;
- SES storage laydown yard; and
- Associated landscaping and Stormwater infrastructure.

Site Plan – Proposed Lot 703:



The key development data is provided in **Table 1**.

Table 1: Key Development Data (combined for Lot 703 and 711)

Control	Proposal
Site area	5.095ha
GFA	5821.69sqm
FSR (retail/residential)	0.11:1
Site coverage	15% (7,456.78sqm)
Clause 4.6 Requests	Yes – <i>TLEP 2014</i> Clause 4.3 prescribes maximum HOB 10m. Development includes a max. HOB of 10.505m being a 5% exceedance to the maximum permitted under this Clause.

Control	Proposal
Max Height	10.505m (two storey)
Landscaped area	16,202.1sqm (31.8%)
Impervious Area	34,747.9sqm (68.2%)
Car Parking spaces	130 spaces
Number of Staff (Eq. Fulltime)	<ul style="list-style-type: none"> • General Industries – 29; • Public Administration Building – 44; • Depot – 10. <p>Total: 83</p>
Hours of Operation	<p>6am – 5pm Monday to Friday</p> <p>4pm – 7pm two times mid-week (workshop conduct servicing of trucks)</p> <p>Emergency works outside of the operating hours</p>

2.2 Background

A pre-lodgement meeting was held prior to the lodgement of the application on 15 June 2022 where various issues were discussed. A summary of the key issues and how these have been addressed by the proposal is outlined below:

Issue	Applicant's response	Assessment Comments
Appropriate justification for any non-compliance with the controls is to be submitted with the DA.	Clause 4.6 submitted for variation to Maximum permitted building height. DCP variations addressed in Statement of Environmental Effects (SEE)	Satisfactory
The DA package should clarify the various uses and its performance against threshold triggers for Designated Development and Integrated Development/ EPA licensing.	Included in SEE	Satisfactory
Disproportionate number of admin staff parking to depot staff parking. An appropriate level of justification as to the operational requirements and allocation of parking should be provided.	Included in SEE plus supplementary information provided by the applicant subsequent to lodgement	Satisfactory.

Issue	Applicant's response	Assessment Comments
		<p>A merit consideration of the proposed indoor and outdoor lunchroom facilities (including indoor amenities) has been undertaken and it is considered that the facilities are of high-quality design and include outdoor covered and uncovered sitting areas, lawns, exercise equipment surrounded by landscape gardens and shade trees. The location of these areas takes advantage of prevailing views to the mountains (including Mt Warning). Situated in the south-eastern aspect of the site, the location of the facilities will provide a cool and protected area for its users. On this note, there are breaks in the building at the northern and eastern aspect to allow for solar penetration in the morning – midday, which is suitable for the local climate and the nature of the users being outdoor workers.</p>
<p>Compliance with <i>Disability Discrimination Act (DDA) 1992</i> (Cth) would be required.</p> <p>Access for disabled would need to comply with <i>AS 1428</i></p>	<p>The applicant has briefly addressed the <i>DDA</i> and <i>AS 1428</i> in the SEE. No Access Report was included in the DA package.</p>	<p>Satisfactory – subject to conditions</p> <p>Councils Building Surveyor has reviewed the proposal having regard to <i>DDA</i> and <i>AS 1428</i> and advised that the design is capable of supporting compliance with <i>AS 1428</i> without requiring significant changes. Conditions of consent are recommended to ensure the development complies.</p>

Issue	Applicant's response	Assessment Comments
<p>The subject site has been identified as Class 3 and 5 on the acid sulfate soil planning maps. The applicant shall address Clause 7.1 of the <i>Tweed LEP 2014</i>. Any acid sulfate soil investigation and management plan shall be prepared by a suitably qualified environmental consultant and address:</p> <ul style="list-style-type: none"> ▪ National Acid Sulfate Soils Guidance: a synthesis (June 2018); ▪ NSW Acid Sulfate Soil Manual (1998); and ▪ Waste Classification Guidelines – Part 4: Acid Sulfate Soils (NSW EPA, 2014) 	<p>Addressed in SEE and Preliminary Acid Sulfate Soils Investigation Report (Ref: 2020.187 prepared by HMC Pty Ltd) appended to the application.</p>	<p>Satisfactory – see further discussion later in this report.</p>
<p>Any petroleum storage systems shall be designed, constructed, and operated in accordance with SafeWork NSW and Appropriate Regulatory Authority (under the Protection of the Environment Operations Act 1997) requirements. Any underground petroleum storage systems are to comply with the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019.</p>	<p>Addressed in SEE</p>	<p>Satisfactory subject to recommended conditions.</p>
<p>The applicant is to address surface water management at the subject site during the use phase of the development so that surface water does not result in water pollution. This is to be in the form of a surface water management plan or equivalent prepared by suitably qualified environmental consultant</p>	<p>Waste Management Plan (WMP) failed to address operational waste management for water. Included in Councils RFI dated 17 March 2023. Updated Waste Management Plan supplied 21 April 2023.</p>	<p>The revised WMP is satisfactory – subject to conditions.</p>

The development application (DA) was lodged on **5 December 2022**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
9 December 2022	Addendum Information supplied in relation to carparking demand
16 December 2022	DA referred to external agencies
18 January 2023	Exhibition of the application
10 February 2023	Site Inspection of existing Depot operations and proposed site.
15 March 2023	Panel briefing
24 March 2023	Request for information issued
21 April 2023	<p>Additional Information and amended plans lodged and accepted by Council under <i>Environmental Planning and Assessment Regulation 2021</i> ('EP&A Regulation') on 21 April 2023.</p> <ul style="list-style-type: none"> – Amended Waste Management Plan to address Councils RFI – Amended Electrical Plans (locating future conduits) – Amended Landscape Plan (to relocate external fencing behind landscape buffer) – Marked up office elevation plan to show window openings in response to RFI – Additional Gate Entry detail to respond to RFI – Revised Site plan with overlay of subdivision.
28 April 2023	Request for information issued (revised site plan incorrectly applies overlay for subdivision. Should provide overlay for existing lot layout pre subdivision).
8 May 2023	Amended Site Plan with existing lot layout provided
31 May 2023	Exemption under <i>Water Management Regulation 41</i> received from DPE – Water in response to s91 Controlled Activity Approval
August-September 2023	Internal comments/conditions completed
30 August 2023	Further advice received from RFS in response to 2023 Bush Fire Prone Land mapping
8 September 2023	Revised Stormwater Management Plan provided

2.3 Site History

As previously discussed in this report, the subject site has been subject to a modified development consent that permits further subdivision of the land. This subdivision and associated civil works will result in the subject land being severed by an extension to Thornbill Drive and the creation of two (2) new lots as described earlier in this report.

Given that civil works have not yet commenced (albeit approved by way of a Subdivision Works Certificate) any consent for development on the future lots would need to be conditioned to restrict works commencing prior to the civil works associated with the subdivision are constructed and completed to Council's satisfaction.

As such, it is likely that any report recommending approval of the proposed development for this DA would include special conditions of consent to:

- a. Restrict the commencement of works until such time that all public infrastructure as shown on the approved subdivision works certificate associated with parent subdivision (as modified) for eleven (11) industrial lots as part of the Tweed Industry Central Land Swap (CC22/0263) are completed and,
- b. Ensure that subsequent Final Occupation Certificates not be issued until such time that Proposed Lots 703 and 711 are registered.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

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

These matters are further considered below.

It is noted that the proposal is not considered to be:

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Requiring concurrence/referral (s4.13)
- Crown DA (s4.33) - written agreement from the Crown to the proposed conditions of consent must be provided

Note: The application was submitted as an Integrated Development pursuant to *Water Management Act 2000* (s91 Controlled Activity Approval). In this regard, DPE – Water has issued an exemption under cl 41 of *Water Management (General) Regulation 2018* as works are proposed to be undertaken by a Public Authority (Council).

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the *Regulation* are considered below.

3.1.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Tweed Local Environmental Plan 2014;*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply
<i>State Environmental Planning Policy (Biodiversity & Conservation) 2021</i>	Chapter 2: Vegetation in non-rural areas The development does not include removal of vegetation, and as result the development will be below the biodiversity offset scheme (BOS) threshold. Further assessment of Chapter 2 is not necessary.	Yes
<i>State Environmental Planning Policy (Industry and Employment) 2021</i>	Chapter 3: Advertising and Signage The development includes the provision of two (2) business identification signs which have been assessed having regard to Clause 3.11(1) and Schedule 5 of this Chapter. The scale, height and character of the signage is consistent with the criteria under this policy and therefore meets the aim of this Chapter. As such, the consent authority may grant consent to the signage pursuant to Clause 3.6.	Yes
<i>State Environmental Planning Policy (Planning Systems) 2021</i>	Chapter 2: State and Regional Development <ul style="list-style-type: none"> • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 3 of Schedule 6 as it comprises Council related development over \$5 million. • A review of the proposal and associated operations indicates that the proposal is not state significant development pursuant to Schedule 1 or Schedule 2 of this Chapter. 	Yes
<i>SEPP (Resilience & Hazards)</i>	Chapter 3: Hazardous and Offensive Development The submitted Statement of Environmental Effects (SEE) includes a preliminary assessment of the proposal having regard to the definitions of potentially hazardous and potentially offensive industry. The submitted SEE briefly outlines the developments performance against the matters for consideration under this Chapter of the <i>SEPP</i> . It further goes on to provide a multi-level assessment diagram and concludes the proposal is not potentially hazardous or offensive development.	Yes

EPI	Matters for Consideration	Comply
<i>SEPP (Resilience & Hazards)</i> (Continued)	<p>Conditions of consent are recommended to ensure that the storage of hazardous and/or dangerous goods are appropriately distanced from stormwater drains.</p> <p>Chapter 4: Remediation of Land</p> <p>Section 4.6 - Contamination and remediation has been addressed in the SEE. The provision of land use suitability and appropriate measures to ensure contamination is prevented would have been the subject of the previous subdivision approval.</p>	Yes
<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	<p>Chapter 2: Infrastructure</p> <ul style="list-style-type: none"> Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions. No referral to Essential Energy required given the provision of underground supply is provided in the approved subdivision. Section 2.121(4) - Traffic-generating development does not apply as the GFA and trip generation does not trigger referral to Transport NSW. 	NA
<i>Tweed Local Environmental Plan 2014</i>	<ul style="list-style-type: none"> Clause 1.2 – Aims of the Plan Clause 2.3 – Zone objectives and Land Use Table Clause 4.3 – Height of buildings Clause 4.4- Floor Space Ratio Clause 4.6 – Exceptions to development standards Clause 5.21 – Flood Planning Clause 7.1- Acid Sulfate Soils Clause 7.2 – Earthworks Clause 7.6- Stormwater Management Clause 7.8A – Airspace Operations – Murwillumbah Airfield Clause 7.10 – Essential Services Clause 7.11 – Council infrastructure development 	<p>Yes</p> <p>Yes</p> <p>No</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes - consent sought</p>
<i>Tweed Development Control Plan 2008</i>	<ul style="list-style-type: none"> Section A2 – Site Access and Parking Code Section A3 – Development of Flood Liable Land Section A4 – Advertising Signs Code Section A15 – Waste Minimisation and Management Section A16 – Preservation of Trees or Vegetation Section A17 – Business Enterprise Corridor and General Industrial Section A19 – Biodiversity and Habitat Management 	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p>

Consideration of the relevant *SEPPs* is outlined below.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3: Advertising and Signage

This chapter applies to advertising and Signage.

Clause 3.1 outlines the following aims:

- (i) Compatible with the desired amenity and visual character of the area;
- (ii) Provide effective communication in suitable locations;
- (iii) Signage should be of high quality design and finish.

The proposal includes the provision of two (2) main building identification signs as part of the development application. One sign is provided on the corner of the local roads to identify the building. The second signage is provided on the western façade of the 'stores & workshop building', which is located adjacent to the entrance of the facility. This sign on the western façade creates an 'entrance presence' and also demarcates the entrance to ensure it is clear and legible.

In addition to these two (2) main signage, the proposal includes building signage on the western elevation of the 'workshops building' and numbering on the roller doors of this building. Similarly, the 'stores & workshops' building includes signs on the roller doors which provide information. All signs are non-illuminated.

The proposed signs are compatible with the desired amenity, and do not adversely impact the visual character of the locality. The signage is considered to provide effective communication in suitable locations. The proposed signs are considered suitable for the location and character of the area and will not impact the safety of road users.

The proposed signage is generally consistent with the intent and objectives of Schedule 5 – Assessment Criteria of the *SEPP*.

State Environmental Planning Policy (Planning Systems) 2021

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 3 of Schedule 6 of the *Planning Systems SEPP* as the proposal is development for Council related development over \$5 million. Accordingly, the Northern Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 3: Hazardous and Offensive Development

The submitted Statement of Environmental Effects (SEE) includes a preliminary assessment of the proposal having regard to the definitions of potentially hazardous and potentially offensive industry. The submitted SEE briefly outlines the developments performance against the matters for consideration under this Chapter of the *SEPP*.

The SEE identifies that an emulsion tank is included in the proposed development. The tank is proposed to be in the northwest portion of proposed Lot 703 and includes a 15,000 litre (5.3 tonnes) bunded holding tank (not plant) for usage up to 45,000 litre annual (15.89 tonnes). The application details that an external contractor will deliver the pre-mixed (produced off site) bitumen via the passenger side of a semi-trailer tanker to the Emulsion tank at proposed Lot 703.

The premixed material will be placed into the 15,000 litre Emulsion tank. The bitumen will be emptied into Councils patching trucks and then used offsite for construction and/or repair of roads and other Councils assets, as needed. It is noted that the primary function of this tank is to store the premixed bitumen material.

The SEE also nominates 1,000 litre (0.35 tonnes) intermediate bulk container (IBC) is also proposed for the storage of kerosene. The IBC is proposed to be located within the bunded area and utilised by the same patching trucks.

The SEE details a multi-level assessment diagram and analyses the various dangerous goods to be stored onsite (pursuant to “*Applying SEPP 33*” Guideline (January 2011) issued by NSW Department of Planning) which confirms that the application does not require a Preliminary Hazard Assessment (PHA).

The submitted analysis is taken based on the location of goods stored on site, type of material, its classification and the quantity of goods being stored (refer to table below for a summary of goods that qualify this conclusion).

AREA	MATERIAL	DG CLASS	LITRE
1.1	Diesel	C1	58,000 L
1.2	Diesel	C1	58,000 L
2.1	Petrol	3 - II	34,000 L
2.2	Petrol	3 - II	34,000 L
3	Bitumen emulsion	Se below*	45,000 L

*<https://roads-waterways.transport.nsw.gov.au/safety/work-health-safety/documents/procedure-pn066p21.pdf>. The emulsion plant is not located near the UPPS. The separation distance with any other development are significant, therefore this does not made the development hazardous.

Conditions of consent are recommended to ensure that the storage of hazardous and/or dangerous goods are appropriately distanced from stormwater drains. In addition, conditions of consent are recommended to ensure that the commissioning and use of the Underground Storage Petroleum Systems (UPSS) accord the *Protection of Environmental Operations (Underground Petroleum Storage Systems) Regulation 2014* or any other relevant NSW legislation and guidelines that apply over time.

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (*the Resilience and Hazards SEPP*) have been considered in the assessment of the development application. Section 4.6 of *Resilience and Hazards SEPP* requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

An examination of the available data records and aerial photos for the years 1962, 1970, 1982, 1996 did not reveal any identifiable potentially contaminating activities, or agricultural activities that occurred on the site. Search of Council’s records and mapping indicates that there are no dip-sites in the immediate area or within 200 metres of the development site. The closest dip site is located over 1 kilometre away.

The previous approval for subdivision and bulk earthworks was granted on 3 March 2004 (DA02/1685). This consent (as modified on 29 March 2021) includes substantial earthworks in the vicinity of 1.5 million cubic metres of cut and fill with depths up to 10 metres. Any soil disturbance on the site as part of the original consent and any subsequent modifications have been appropriately managed in accordance with the approved "*Acid Sulfate Soil and Groundwater Management Plan Proposed Industrial Park Development Lot 31 DP133404 Wardrop Valley Road Wardrop Valley NSW*" dated November 2003, prepared by Maiden Geotechnics (as required by Condition 44 of DA02/1685.27).

A photographic examination confirms that in 2016, part of the site was used to store gravel for the construction of the road. However, no other activities have been undertaken from the site. As such, based on the historic use, previous consent for the industrial subdivision and earthworks for the creation of the proposed lots, the subject site (which is currently vacant) is considered suitable for the proposed development. Based on this, Council's Environmental Health Officer is satisfied that the land is not contaminated, and it is suitable for carrying out the proposed development.

The proposal therefore satisfies the Section 4.6(1) of the *Resilience and Hazards SEPP*.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2: Infrastructure

2.48 - Development likely to affect an electricity transmission or distribution network (referral to Essential Energy)

The proposed development is not triggered by the requirements of this policy. In particular, an assessment of the proposal having regard to Section 2.48(2) has been undertaken and it has been determined that existing underground electricity infrastructure can be utilised for the purpose of the proposal. The proposed development is not within proximity of this infrastructure and therefore does not trigger referral to Essential Energy pursuant to Clause 2.48(1)(a) or (b).

2.122 Traffic Generating Development

A review of the proposal having regard to Clause 2.122 and the thresholds in Schedule 3 indicates that the proposal has a floor area of 5,821.69 square metre and a trip rate of 51 vehicle trips per hour which is significantly less than the threshold for industry (20,000 square metre in area or gross floor area) or development with a trip rate of more than 200 vehicles per hour.

As such, the consent authority can be satisfied that the proposal does not trigger traffic-generating development pursuant to Clause 2.122 of this policy and therefore referral to Transport for NSW is not warranted on this occasion.

Tweed Local Environmental Plan 2014

The relevant local environmental plan applying to the site is the *Tweed Local Environmental Plan 2014* ('*TLEP*'). The aims of the *TLEP* include:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*

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

The proposal is consistent with these aims as the proposal delivers critical infrastructure for the sustainable management of its local community. The proposal is considered to secure improved management outcomes for existing Council depot operations and therefore safeguarding the civil functions of its community without compromising principles of ecologically sustainable development or the special protection of habitat for the recovery of the Tweed coastal koala. The proposal includes a contemporary depot facility that will allow for the future growth and expansion of the region and the service deliverables associated with that growth now and in the future. The overall building design and site planning incorporates elements capable of being adapted for a sustainable future.

Zoning and Permissibility (Part 2)

The site is located within the E4 – General Industrial zone pursuant to Clause 2.2 of the *TLEP*.

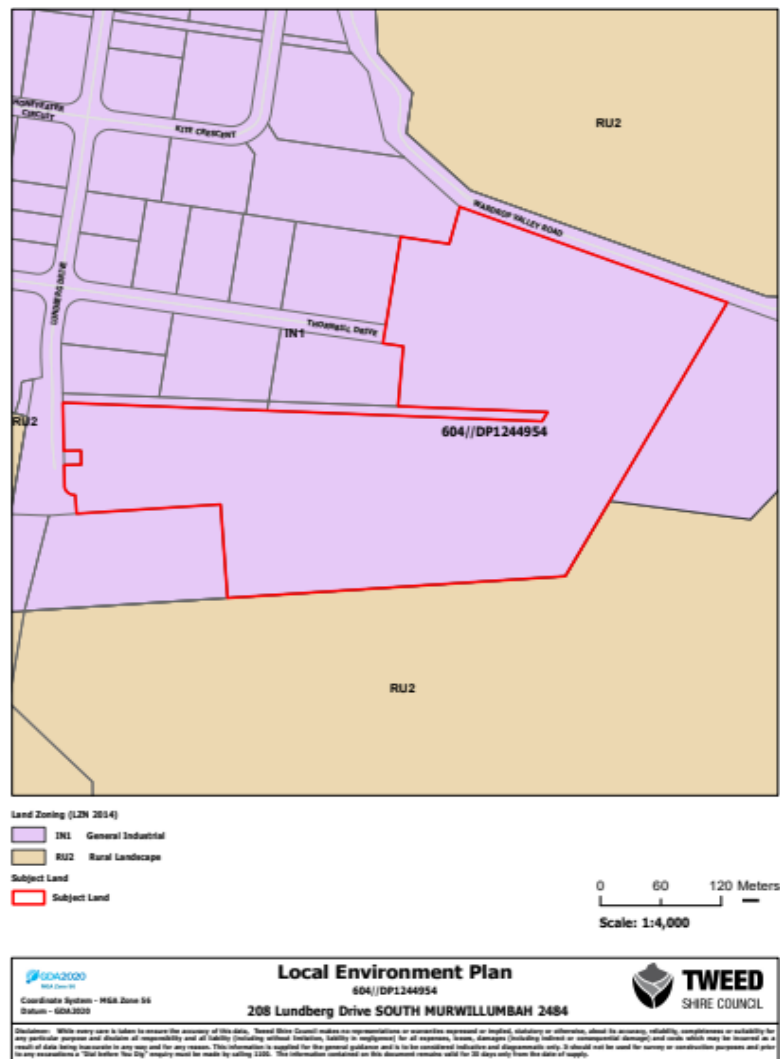


Figure 1: Site zoning (Source – Council Mapping)

According to the land use definitions provided in the Dictionary, the proposal is characterised as a *depot, General Industry, Public Administration Building* and associated *Signage*, which are all permissible uses with consent in the Land Use Table in Clause 2.3.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To enable land uses that provide facilities or services to meet the day to day needs of workers in the area.*


The proposal is considered to be consistent with these zone objectives for the following reasons:

- The proposed land uses are permissible in the zone and conducive to the range of expected land uses in the E4 zone;
- The proposal has been designed to cater for future growth of the region and additional employment opportunities at the Council Depot and Public Administration Building and;
- The subject site contains the appropriate infrastructure to support the proposal and minimise impact on other land uses.


General Controls and Development Standards (Part 2, 4, 5 and 6)

The *TLEP* also contains controls relating to development standards, miscellaneous provisions, and local provisions. The controls relevant to the proposal are considered in **Table 4** below. It is noted that the proposal does not comply with the development standard under Clause 4.3 of the *TLEP* and accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum building height.

Table 4: Consideration of the *TLEP* Controls

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	10 metres	10.505m (5% exceedance)	No - see Clause 4.6 request
FSR (CI 4.4(2))	NIL	0.11:1	-
Heritage (CI 5.10)	<p>A small section of the northern aspect of the boundary of proposed Lot 703 is mapped as predictive Aboriginal Cultural Heritage under Tweed Byron Aboriginal Cultural Heritage (ACH) Management Plan.</p> 	<p>The submitted SEE addresses ACH and referenced an AHIMS report that is also accompanied with the application.</p> <p>The application was referred to Tweed Byron Aboriginal Land Council (TBALC) who advised that it is extremely unlikely that the “ridge” landscape feature which comprises the predictive heritage will be affected by the proposal. As such, no objection is raised to the proposed on the grounds of ACH subject to recommended standard conditions of consent in relation to stop work procedure be applied if ACH is encountered during course of the works.</p>	Yes
Flood planning (CI 5.21)	<p>(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</p> <p>(a) is compatible with the flood function and behaviour on the land, and</p>	<p>The subject site is affected by a Design Flood Level (DFL) of RL 5.5m AHD with a low flow area to the southern extent of proposed Lot 711.</p> <p>The majority of the proposed Lot 711 is also affected by a PMF of RL 10.9m AHD (see PMF map below). Proposed Lot 703 is free of any flood affectation. Pursuant to this Clause, flood planning requirements apply to development affected by 1% AEP and PMF (where required).</p>	Yes

Control	Requirement	Proposal	Comply
Flood planning (CI 5.21) Continued	<p>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p> <p>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</p> <p>(b) the intended design and scale of buildings resulting from the development,</p> <p>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</p> <p>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p>	<p>Condition No. 63 of DA02/1685.27 (Subdivision approval) required the site to be filled to 6.7m AHD. The bulk earthworks with current fill levels to RL 6.7m AHD have been completed on site. The proposed buildings feature a finished floor level (FFL) of RL 9.8m AHD – RL 9.9m AHD which is well above the 1% AEP now and to the future as well as the 0.2% AEP.</p> <p>Proposed Lot 703 is not affected by PMF and is available for flood free storage in any flood event above the planned 1% AEP. Furthermore, the proposed FFL of the buildings is also well above the 1% AEP and 0.2% AEP and therefore will be provided with a high level of flood immunity.</p> <p>Based on the flood affectations of the site and the proposed land uses occurring on the land (as detailed above), it is considered that the design of the proposal is compatible with the flood risk of the land now and in the future (when planning for climate change). The finished floor levels and the overall design of the development is acceptable by Council's flood engineers subject to conditions of the consent. The development provides a laydown area for SES in case of a flooding event.</p> <p>Council's engineers have assessed the revised Stormwater management Plan (as submitted on 8 September 2023) to be acceptable subject to recommended conditions. The revised plan indicates three (3) separate catchments. The peak stormwater discharge will be limited to the pre-development stormwater flows.</p>	Yes

Control	Requirement	Proposal	Comply
Flood planning (CI 5.21) Continued		<p>It is considered that the proposal will not adversely affect the flood behaviour as the site can accommodate a suitable Stormwater Management system.</p> <p>Due to the scale of the development, the buildings cannot be removed or relocated.</p> <p>It is considered that the subject site provides adequate area for a suitable Stormwater Management system without impacting the overall design.</p> <p>As such, the consent authority can be satisfied the development meets Clause 5.21(2) and (3).</p>	Yes
Acid sulphate soils (ASS) (CI 7.1)	<p>Class 3: Works more than 1 metre below the natural ground surface. Works by which the water table is likely to be lowered more than 1 metre below the natural ground surface.</p> <p>Class 5: Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p> 	<p>The submitted Preliminary Acid Sulfate Soils Investigation Ref: 2020.187 prepared by HMC Pty Ltd (uploaded on Portal) indicates that the subject site contains up to 10m of non-ASS capping of the former floodplain areas.</p> <p>The Subdivision works certificate related to consent reference number DA02/1685.27 (Portal reference CFT-153350), confirms the levels of filling completed at the subject site.</p> <p>The proposed earthworks include preparations for building footings, the establishment of rain gardens, and the installation of fuel tanks. Notably, the most significant excavation will be carried out for the Underground Petroleum Storage System (UPSS). Proposed works will not extend beyond the filling level and therefore will not intercept the original ground/land and as a result does not require an Acid Sulfate Soil Management Plan.</p> <p>Council's Environmental Health Officer has assessed the proposal to be satisfactory. As such the proposal is considered to satisfy Clause 7.1.</p>	Yes

Control	Requirement	Proposal	Comply
Earthworks (CI 7.2)	<p>The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,</p> <p>(i) the proximity to, and potential for adverse impacts on, any heritage item, archaeological site, or heritage conservation area.</p>	<p>The proposal includes earthworks to facilitate the proposed buildings, excavation for the proposed fuel storage tanks and raingardens/landscaping works.</p> <p>Where excavation will occur, the proposed earthworks will not intercept Acid Sulfate Soils given the extent of previous filling (capping) of the land (up to 10m).</p> <p>The drainage from the proposed development has been assessed by Council's engineers. Earthworks are considered to have acceptable impact on the drainage pattern.</p> <p>The proposal is for the future use of the development as Council's infrastructure.</p> <p>The proposed development is considered to maintain amenity to the adjoining properties.</p> <p>Conditions of consent are recommended to ensure that all imported fill material is of an approved source and free from fire ants.</p> <p>As discussed in more detail later in this report, the proposed stormwater management plan includes appropriate provision for stormwater collection, treatment, and disposal into the existing trunk stormwater drainage system and therefore subject to recommended conditions of consent, the proposed earthworks are unlikely to have a detrimental impact on environmental functions, neighbouring uses, waterways, cultural or heritage items or features of the surrounding lands.</p>	Yes – subject to condition/s

Control	Requirement	Proposal	Comply
Stormwater Management (CI 7.6)	<p>The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.</p> <p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</p> <p>(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.</p>	<p>The legal point of discharge for the subject land is Lot 518 DP 1132400, which is a designated drainage reserve for the industrial subdivision. Lot 518 is located to the south-west of the development site. Stormwater from the subdivision drains into the Lot 518 drainage reserve, which mainly functions as a stormwater quality treatment basin. The drainage reserve has been operational since 2008.</p> <p>The proposed stormwater management design includes the provision for a stormwater connection into the existing road network (Proposed Lot 703) or into future drainage easement located along the western and southern boundary of Proposed Lot 711. The development includes water sensitive urban design (WSUD) measures for the car parking hardstand areas to deal with stormwater quality. In addition, Proprietary product 'SPEL' stormwater pits are also proposed to remove suspended solids from the treatment train and MUSIC modelling has been provided to demonstrate compliance with Councils Specification D7 – Stormwater Quality. Conditions of consent are recommended to ensure the outcomes in the stormwater strategy are achieved on site and therefore subject to recommended conditions, the development is considered to meet the objectives of this Clause.</p> <p>Notwithstanding this, it is noted that a late objection has been received in relation to stormwater drainage impacts resulting from the creation of the Industrial Estate and whilst the site specific design measures suitably respond to the requirements of this Clause, a response to the objection matter is contained later in this report (for completeness in addressing Clause 7.6 and other matters for consideration under Section 4.15 of the <i>EP&A Act 1979</i>).</p>	Yes – subject to condition/s

Control	Requirement	Proposal	Comply
Airspace Operations – Murwillumbah Airfield (CI 7.8A)	Limitation Surface RL 47m AHD	<p>Proposed maximum RL is 20.4m AHD which is well below the OLS for the site.</p> <p>As such, the consent authority can be satisfied that the proposed development will not penetrate the OLS for the land and therefore will not adversely impact on Murwillumbah Airfield. As such consultation with Murwillumbah Airfield is not required on this occasion.</p> <p>Notwithstanding this, a condition is recommended that the operators of the Murwillumbah Airfield are notified of any boom, crane, or similar extension (beyond the roof line of the existing buildings) to be used during the construction phase of the development.</p>	Yes – subject to condition
Essential Services (CI 7.10)	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the disposal and management of sewage,</p> <p>(d) stormwater drainage or on-site conservation,</p> <p>(e) suitable vehicular access.</p>	<p>The site is currently vacant and is not connected to any services. Notwithstanding this, approved Proposed Lots 703 and 711 will be provided with all essential services including potable water, electricity, sewer, and stormwater as part of completion of subdivision works (DA02/1685.27).</p> <p>Condition is recommended (Condition No. 32) that no works are to commence until all public infrastructure work in accordance with the Subdivision Works Certificate (DA02/1685.27) have been completed. The subdivision approval includes a number of conditions in relation to provision of essential services, the following conditions are noteworthy:</p> <p>Condition No. 21 requires construction of road access.</p> <p>Condition No. 95 requires inspection of the stormwater system/pipes.</p> <p>Condition No. 96 requires sewerage reticulation to be provided to all lots.</p>	Yes – subject to condition

Control	Requirement	Proposal	Comply
Essential Services (CI 7.10) Continued		<p>Condition No. 97 requires supply of town water to all lots.</p> <p>Condition No. 98 requires written evidence from Telstra that satisfactory arrangements have been made for the provision of underground telephone supply.</p> <p>Condition No. 99 requires written evidence from Country Energy certifying that reticulation of underground electricity has been completed.</p> <p>Additionally, Section 68 Approval (Water and Sewer) was issued on 10 May 2023.</p> <p>Construction Certificate (Subdivision Works) was issued on 12 May 2023. The above-mentioned conditions are required to be satisfied prior to the issue of a Subdivision Certificate.</p> <p>It is considered that there are adequate arrangements in place to provide the required essential services to the subject site. Accordingly, the proposal is considered to comply with the intent and objective of Clause 7.10.</p>	Yes
Council Infrastructure Development (CI 7.11)	<p>(1) Development may be carried out by or on behalf of the Council without development consent on any land, other than land in a heritage conservation area, land containing a heritage item or land that is an environmentally sensitive area for exempt and complying development.</p> <p>(2) Subclause (1) does not apply to the following development—</p> <p>(a) the erection of a class 1–9 building under the <i>Building Code of Australia</i>,</p> <p>(b) development that is not exempt development under <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>, Chapter 2 and has a capital value of more than \$1,000,000.</p>	<p>The proposal is on behalf of the Council for a Depot, Public Administration Building and associated signage.</p> <p>Section 2.19(1) and Clause 3 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as it is a Council related development over \$5 million.</p>	Yes

The proposal is considered to be generally consistent with the relevant provisions of *TLEP*, except where the variation to building height is made and dealt with via Clause 4.6 of the *TLEP* (see further discussion below).

Clause 4.6 Request

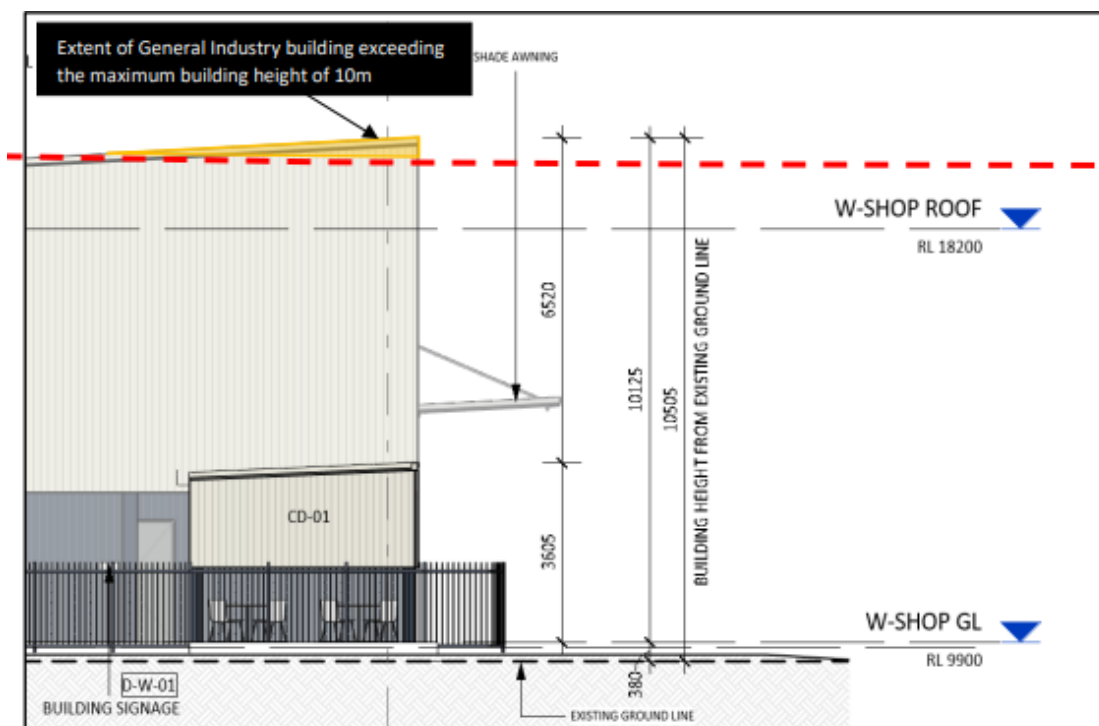
Clause 4.3 stipulates a maximum building height of 10m above natural ground (existing) to the highest point of the building. One of three buildings included in the proposed development provides for a maximum building height of 10.505m above natural ground. The proposal therefore exceeds the maximum building height. The non-compliance is to the extent of 0.505m or 5.05%. As the extent of variation is less than 10%, concurrence of the Secretary is assumed by the consent authority.

The application is accompanied by a Clause 4.6 variation to height of building development standard.

Clause 4.6 - Exceptions to development standards of *TLEP 2014* Subclause (3) reads:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating-*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The variation relates to 770 square metre of the internal roofed area proposed, representing 11.07% of the total roof area for the development.



**Figure 2: Elevation showing extent of variation to building height for proposed workshop building
(Source Peddle Thorp Architecture)**



Figure 3: Render of proposed workshop building and portion exceeding the building height (Source Peddle Thorp Architecture)

The applicant's Clause 4.6 request includes the following justification to contravene the standard.

- *The variation to building height is sought for the proposed workshop building which will contain a gantry crane to undertake the General Industry activities within the building.*
- *Whilst it may be possible for the roof design to achieve compliance with the gantry crane. It would result in a flat roof with no incline which is included in all openings on the workshop buildings to achieve improved ventilation and natural lighting as well as a contemporary design feature.*
- *The minor additional building height will not cause adverse impacts to local land uses surrounding including in respect to overshadowing and privacy (shadow diagrams provided).*
- *Compliance with the development standard is unreasonable given that:*
 - *The proposed building height variation is 11.07% of total roof area within the broader site.*
 - *The minor variation to building height will not disrupt the character in South Murwillumbah Industry Central Estate.*
 - *The variation is for operational requirement for use of a gantry crane.*
 - *The proposed roof form is prevalent in the estate and is part of the building fabric. Therefore, removing this element in favour of a flat roof form to achieve strict compliance would establish an aesthetic at odds with the emerging character of the area.*
 - *The additional height will not cause adverse amenity impact in respect to overshadowing and privacy.*
 - *Façade treatment including varying materials and colours are used to provide visual amenity.*
 - *If strict compliance was sought, the function of the building for its proposed use (General Industry) would be impeded.*

- *The contextual separation of the proposed buildings results in the minor height exceedance as being inconspicuous and barely perceivable at external catchments and is not visually dominant from any public domain.*
- *The proposal is consistent with the objectives of Clause 4.3 for the reasons below:*
 - *the proposal maintains the urban character in which the site is located through the provision of key elements of surrounding buildings (pitched skillion roof). Other building elements are also included that are consistent with the local area such as insulated wall panelling, use of corrugated custom orb material and provision of appropriate scale and massing;*
 - *the development does not compromise the amenity of the established built form surrounding, appreciating overshadowing does not extend past the site and the additional building height does not involve windows which might potentially create additional privacy concerns;*
 - *All support services are available, and the additional building height will not be compromised by the lack of services;*
 - *The height restriction of 10m is carried though the surrounding rural zones (RU2- Rural Landscape and RU1- Primary Production) and as a result, the additional height of 0.505m is materially consistent with the planned urban fabric of the locality with respect to vertical massing. As a result, the minor additional building height will not be visually dominant within the locality.*
 - *The development does not propose any vegetation removal nor extensive cut or filling and as a result retains the environmental features of the site and locality.*
- *The development provides for a direct benefit to the wider Shire by providing land uses that seeks to manage, maintain and promote Council assets that help to facilitate a sustainable economy, encourages small businesses and employment, recreational, arts, social, cultural, tourism and sustainable industry opportunities in the Tweed. The development directly achieves the zone objectives consistent with TLEP 2014.*
- *The proposal will not conflict with the public interest as it is consistent with the objectives of the standard and the zone and will contribute to the public benefit by supporting the functional operation and maintenance of the Council's publicly owned assets.*

Preconditions to be satisfied -

Clause 4.6(4) of the *TLEP* establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. Clause 4.6(2) provides this permissive power to grant development consent for a development that contravenes the development standard is subject to conditions.

The two preconditions include:

1. Tests to be satisfied pursuant to Cl 4.6(4)(a) – this includes matters under Cl 4.6(3)(a) and (b) in relation to whether the proposal is unreasonable and unnecessary in the circumstances of the case and whether there are sufficient environmental planning grounds to justify contravening the development standard and whether the proposal is in the public interest (Cl 4.6(4)(a)(ii)); and
2. Tests to be satisfied pursuant to Cl 4.6(4)(b) – concurrence of the Planning Secretary.

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 request.

Precondition 1 – Clause 4.6(4)(a)

In respect of Clause 4.6(4)(a)(ii), the submitted Clause 4.6 variation request identifies that compliance with the standard is unreasonable having regard to the intended use of the building for a gantry crane and the need for this crane in order for the operations of the building as a General Industrial building for a Council Depot to occur. It further articulates that should compliance with the development standard be enforced, the design of the roof would be out of character with the emerging character of the area and prevalent built form, together with other buildings within the site. Furthermore, it outlines that the inclined skillion roof is designed to maximum opportunity for ventilation and solar penetration into the building thus providing a more sustainable building in terms of environmental performance.

The applicant has outlined its justification having regard to the 'five-part test' established by the NSW Land and Environment Court. In this section of the Clause 4.6 request, in accordance with the '5 part test', it outlines 5 different ways in which an objection may be well founded, and that approval of the objection may be consistent with the aims of the policy.

The applicant identifies that the objectives of the standard are achieved (as outlined in the summary provided by the applicant and detailed above), and that on these grounds alone, a departure from the standard can be justified.

Finally, the applicant outlines that the proposal is in the public interest having regard to the environmental planning grounds to justify the contravention and the overarching need for a suitable building height to accommodate a piece of plant equipment required for servicing Councils assets (gantry crane). It further outlines the development's performance against the zone objectives and Clause 4.3 objectives to demonstrate that the proposal will not conflict with public interest. The justification outlines that the proposal, in its current form, will contribute to a greater public benefit in terms of the functional and efficient operation and maintenance of the Councils publicly owned asset.

Based on the above merit assessment, the consent authority can be satisfied that the precondition test pursuant to Clause 4.6(4)(a) is satisfactory given the applicant has demonstrated that compliance with the development standard is unreasonable in the circumstances of this case and that the objectives of the standard can be achieved therefore satisfying a way in which an objection may be well founded under the '5 part test' established by NSW Land and Environment Court.

Precondition 2 - Clause 4.6(4)(b)

Precondition test No. 2 listed above is satisfied given that the proposed variation is less than 10% and therefore concurrence of the Planning Security can be assumed by the consent authority. In this case the NRPP is the nominated consent authority, and in accordance with Planning Circular 20-002, the NRPP can consider variations sought to *TLEP 2014* pursuant to a Clause 4.6 variation request being submitted.

3.1.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no draft *SEPP*'s or *LEP*'s that apply to the proposal.

3.1.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following *Development Control Plan* is relevant to this application:

- *Tweed Development Control Plan 2008 ('TDCP')*

TDCP 2008 came into effect on 30 April 2008 and aims to:

1. *Achieve development that is consistent with the social, economic and environmental values of the shire;*
2. *Promote ecologically sustainable development and aims to provide a safe living and working environment;*
3. *Form part of a range of documents that provides a guide towards a more sustainable future for the Tweed Shire; and*
4. *Provide design issues, performance criteria and standards for development both on a shire wide basis and those that relate specifically to particular development areas.*

TDCP 2008 operates in two parts to account for development controls that apply on a shire wide basis and to account for development controls that are applicable to specific sites or localities. There are no site-specific Sections that apply to the subject site based on its locality and therefore the development is affected by the shire-wide controls.

The applicant has addressed the relevant Sections of the *TDCP 2008* which apply to the proposal having regard to the site locality and various aspects of the proposal. Councils' assessment of the proposal against those sections is contained herein.

Section A2 – Site Access and Parking Code

Section A2 provides design principles and a schedule for access and parking demands for developments. The application includes adequate information and details to verify the parking supply for the proposal having regard to operations occurring on the site at present, and likely operations occurring (including resourcing of staff) in the future. The total number of employees proposed to be working at the proposed facility and parking calculations are reflected in **Figure 4 and 5** below:

On-Site Staff Calculation				
Building	Division	Employee Positions*	Current Staff	Future Staff
		*Not all positions currently filled		
1. Workshops (Fabrication & Mechanics)	Small Plant	3 (2 mechanics + 1 apprentice)	16	12
	Fabrication Workshop	8 (6 work bays + Manager + apprentice)		
	Mechanical Workshop	17 (14 mechanics + Manager + 2 apprentices)		
		28 Total		
2. Stores & Workshops	Signwriting and Painting	4 (4 signwriters)	13	12
	Surveyors	1 (1 surveyor painting pegs)		
	Built Asset Maintenance	10 (7 tradesmen + 3 apprentices)		
	Water & Wastewater	2 (2 people in the store room)		
	Roads & Stormwater	2 (1 in store room + 1 in paint booth)		
	Infrastructure Delivery (Stores)	6 (5 staff + 1 future)		
		25 Total		
3. Office Building	Offices	50 (36 male + 8 female + 6 future)	44	6
		Total 50		

Figure 4: Calculation of On-Site Staff (Source – Zone Planning Group)

Parking On-site Calculations			
Number of Car Parking Spaces Available			
Staff Parks - Private vehicles		91	
Visitor Parks		6	
PWD Parks		2	
COV Office Staff Parks		31	
COV Stores & Workshop Parks		28	
COV Fleet Parks		5	
Overflow Parks		30	
		193	Total Available Car Parks on-site
Number of Truck and Plant Parking Spaces Available			
LRV/MRV Truck Parks		34	Available Parks on-site
HCV/HRV Truck Parks		12	Available Parks on-site
Plant Parking (Medium)		55	Available Parks on-site
Plant Parking (Large)		25	Available Parks on-site
		126	Total Available
Calculation of Parking Requirements On Site			
Tweed Fleet Vehicle Count		Count	Comments
Utes	58	5	5x Parked in depot, 53 go home (don't park at depot)
Medium Rigid	33	60	Approx. 2x persons per vehicle
Heavy Rigid	11	11	1x Driver per Truck
Plant	23	20	20x Plant Operators
Other (Fleet Cars, SUVs)	12	8	Novated lease vehicles that park in Depot
Total Fleet Vehicles	137	104	Total Required Parks for Fleet Staff
Staff Count (working on-site)		Count	Comments
Workshops (Mech & Fab)	28 (incl. total future trades staff)	22	6 have utes/med vehicles
Stores	25 (incl. total future trades staff)	20	5 have utes/med vehicles
Office	50 (incl. total future staff)	34	16 have lease vehicles
		76	Total Required Parks for On-site Staff
		13	Surplus Car Parks On Site (Total Available - Total Required)

Figure 5: Calculation of On-Site Parking (Source – Zone Planning Group)

Numerically, the proposal exceeds the minimum parking requirements under Section A2 of the *TDCP 2008*, however more importantly, the parking provision on site are proven to adequately cater for the operational capacity of the site now and into the future (based on existing and future resourcing and operational needs). The proposal is generally consistent with the requirements of Section A2 of the *TDCP 2008* as outlined in **Table 5**.

Table 5: Consideration of Section A2 of *TDCP 2008*

CONTROL	REQUIREMENT	PROPOSAL	COMPLY
A2.2 Design Principles			
A2.2.1 Access and Parking Design	<p>Access and parking design to integrate and coordinate –</p> <ul style="list-style-type: none"> • Circulation, access driveways and frontage road access; • Service and delivery vehicle parking, loading and unloading; and • Landscaping and stormwater treatment 	<p>The development will be accessed via the future road extension of Thornbill Drive and Lundberg Drive, which will join together to create a loop road. The prominent access is provided to the west of the site with two additional access to the north of the site.</p> <p>A separate loading bay zone is provided to the east.</p> <p>Landscaping & stormwater treatment is satisfactory.</p>	Yes

CONTROL	REQUIREMENT	PROPOSAL	COMPLY
A2.2 Design Principles			
A2.2.2 Public Transport, Pedestrian and Cyclist Access and Amenity	C1 access and parking treatments pursued to optimise pedestrian, cyclist, public transport, and disabled person's access to and within the site.	Adequate facilities are provided within the site.	Yes
A2.2.3 Vehicle Access and Parking	<p>C1. Onsite parking is to be provided at the numerical rates detailed in Table 2.</p> <p>C2. Any development involving a land use other than a dwelling, secondary dwelling or dual occupancy must provide vehicular access to and from the site in a forward moving direction.</p>	<p>Refer below</p> <p>The proposed development includes adequate manoeuvring area within the site to ensure ingress and egress of all vehicles is in a forward direction.</p>	Yes
A2.3 Access & Parking Demand Schedule			
Depot (D3)	<p><u>Staff:</u> 10% of site for parking and access lanes, but not driveways = 5,095m² (50,950m² x 0.1)</p> <p><u>Bicycle:</u> 1/5 staff = 5.8 or 6 (*29 staff/5 = 5.8)</p> <p><u>Delivery vehicle:</u> Min. 1 AV</p>	<p><u>Staff Parking & Access Lanes:</u> 6,700m²</p> <p><u>*Bicycle racks:</u> 10 *Inclusive of bicycle racks for depot & public admin building staff</p> <p><u>*Delivery vehicle:</u> 35 MRV 12 HRV *Inclusive of parking generated by general industries & public administration building</p>	Yes
General Industries (D4)	<p><u>Staff:</u> 1/120m² GFA = 42 spaces (5,050m²/120)</p> <p><u>Bicycle:</u> 1/5 staff = 5.8 or 6 (*29 staff/5 = 5.8)</p> <p><u>Delivery vehicle:</u> 1 HRV</p>	<p><u>Staff Parking:</u> 104 spaces</p> <p><u>*Bicycle racks:</u> 10 *Inclusive of bicycle racks for depot & public admin building staff</p> <p><u>*Delivery vehicle:</u> 35 MRV 12 HRV *Inclusive of parking generated by public admin building & depot</p>	Yes
Public Administration Building (H15)	<p><u>Staff:</u> 1/50m² GFA = 20 spaces (1,000m²/50)</p> <p><u>Bicycle:</u> 1/200m² GFA = 5 (1,000m²/200 = 5)</p> <p><u>Delivery vehicle:</u> 1/200m² GFA – Min. 1 SRV/HRV</p>	<p><u>Staff:</u> 59 spaces</p> <p><u>*Bicycle racks:</u> 10</p> <p><u>*Delivery vehicle:</u> 35 MRV 12 HRV *Inclusive of parking generated by general industries & depot</p>	Yes

Section A3 – Development of Flood Liable Land

Section A3 of the *TDCP 2008* aims to present Councils flood mitigation strategy, set detailed standards for land development in order to minimise the adverse effect of flooding on the community and progressively implement the provisions of the NSW Floodplain Development Manual (April 2005) and implement Part 1 – 3 of Tweed Valley Flood Risk Management Study and Policy.

Section A3.2 outlines a flood mitigation strategy in the context of Murwillumbah and highlights that for Urban Areas; levee's at Murwillumbah and Tweed Heads South provide structural protection against flood inundation to varying degrees. In other areas, planning controls are used to contain future flood damage.

As previously discussed in this report, the subject site has some flood affectation. The floor level controls are as follows:

Design Flood Level (DFL)(1 % AEP flood) = 5.5 metre AHD

Flood Planning Level / Minimum Habitable Floor Level = 6.0 metre AHD

Probable Maximum Flood (PMF) = 10.9 metre AHD

However, except for a small portion of the land along the southern boundary which is affected by 'low flow' 1% AEP flood, the remainder of the land is above the 1% AEP of 5.5 metre AHD, as reflected in **Figure 5** below:

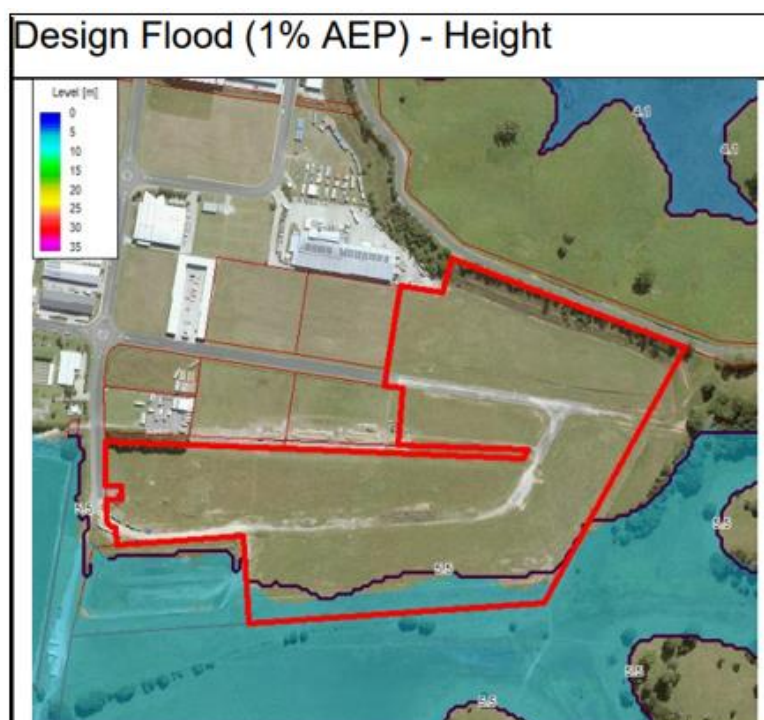


Figure 5: 1% AEP Map (Source: Council Mapping)

The majority of the Proposed Lot 711 is affected by a PMF of 10.9 metre AHD (see **Figure 6** below). However, Proposed Lot 703 is free of any flood affectation.

- The proposed Underground Storage Petroleum Systems (UPSS) for fuelling of Council vehicles may be affected by a PMF (noting that the mapping only marginally includes the area of land in which the fuel stations are proposed). Notwithstanding, *AS 4897-2008 Design, installation and operation of underground petroleum storage systems* and the *Protection of Environmental Operations (POEO) (underground petroleum storage systems) (UPPS's) Regulation 2019* applies to this part of the development. *AS 4897-2008* and *POEO (UPPS's) Regulation 2019* aims to minimise any risk to persons and the environment as well as specifies the level of environmental performance expected of an operation of an underground petrol storage system. The statutory framework requires the provision of fuel system operation plans to be designed for the site. This plan would address loss of monitoring systems, incident management procedures and ground water monitoring. The plan would have regard to the potential impact of water inundation either by flooding and/or other means and appropriate measures to be employed to monitor for fuel loss and installation of groundwater monitoring wells.
- To this extent, it is further noted that there are no provisions that would prevent an UPSS to be located in land affected by PMF.

Based on the flood affectations of the site, the additional flooding considerations above, and the proposed land uses occurring on the land, the design of the proposal is considered to be compatible with the flood risk of the land now and in the future (when planning for climate change) and therefore the development exceeds the minimum requirements of Section A3 of and duly satisfies the relevant aims of *TDCP 2008*.

Section A4 – Advertising Signs Code

The relevant aims of the Section A4 is to promote a high standard of signage quality and prevent excessive advertising and visual clutter by encouraging the rationalisation of existing and proposed signs. Ensure that advertising signs do not detract from the scenic beauty and amenity of the Shire and advertising structures are compatible and compliment the character of a building site or area.

The proposal includes the provision of two (2) main building identification signs as part of the development application. One sign is provided on the corner of the local roads to identify the building. The second signage is provided on the western façade of the 'stores & workshop building', which is located adjacent to the entrance of the facility. This sign on the western façade creates an 'entrance presence' and also demarcates the entrance to ensure it is clear and legible.

In addition to these two (2) main signage, the proposal includes building signage on the western elevation of the 'workshops building' and numbering on the roller doors of this building. Similarly, the 'stores & workshops' building includes signs on the roller doors which provide information. All signs are non-illuminated.

The signage is considered to be adequate and effective in identifying the buildings and proposed uses therein. The proposal satisfies the intent and objectives of Part A4 of *TDCP 2008*.

Section A15 – Waste Minimisation and Management

Section A15 of Councils DCP aims to minimise the generation of construction/demolition waste and facilitate effective ongoing waste management practices consistent with the principles of Ecologically Sustainable Development.

A revised Waste Management Plan dated April 2023 was submitted by Zone Planning Group. The revised Waste Management Plan addresses both construction and operational waste management provision including those which relate to the storage and disposal of hazardous liquid/material (as defined in Schedule 1 of *Protection of Environmental Operations (POEO) Act 1997*). The following comments were provided by Council's Environmental Health officer:

"The plan provides information about waste production during construction as well as waste management during operation. It is worth mentioning that the proposed operational bins align with the current depot located at Buchanan Street, Murwillumbah.

In accordance with Council's facilities requirements, hazardous materials must be managed following the Material Safety Data Sheets (MSDS). Therefore, the risk of inadequate management of hazardous waste is low".

As such, conditions of consent are recommended to ensure that construction and ongoing waste is appropriately managed on site as part of the construction and operation of the site.

Section A17 – Business, Enterprise Corridor and General Industrial zones

Section A17 of Council's DCP applies to a range of zones including Business Development, Enterprise Corridor, Business Park and General Industrial. The purpose of this Section of the DCP is to establish a planning framework to deliver Council aim, objectives and control for site design, building and design, landscaping and ancillary uses.

The objectives of this Section are:

1. *Encourage establishing employment and land use synergies and integration by supporting built form variety, diversity and co-location of infrastructure.*
2. *Establish efficient site planning, land use and built form through an investigative site analysis process.*
3. *Ensure the utilisation of land is maximised by establishing an integrated suite of design controls and requiring design responses directly harness the attributes of the site identified through a thorough site analysis.*
4. *Establish a high quality built form character and urban environment through best practice site planning and urban design provisions.*
5. *Establish specific urban design provisions that create human scale outcomes, attractive streetscapes and moderating building mass for large floorplate development.*
6. *Encourage the inclusion of design features that provide high quality environments for staff and customers.*
7. *Ensure comfortable microclimates are created through adequate landscaping and the provision of water sensitive urban design.*
8. *Ensure that development with an interface to zone or precinct boundaries responds to potential external conflicts that arise from a land use and built form change.*
9. *Encourage the implementation of active and passive design processes that sustainably respond to the sites climatic conditions.*
10. *Encourage the integration of fine-grain, ancillary and supplementary land uses within business and enterprise zones*

The following table provides a comprehensive assessment of the proposal against the relevant development controls that apply under this Section of the DCP.

Table 6: Consideration of Section A17 of TDCP 2008

Development Control	Proposal	Complies
3. Site Design		
3.1 Site Analysis A Site Analysis Plan including 'existing condition plan' which identifies the key opportunities and constraints of the site demonstrating a contextual understanding of the site and surrounding areas and a 'design response plan' demonstrating how the proposed design responds to these opportunities and constraints is to be provided with any new build development application.	Site Analysis provided	Yes
3.2. Urban Design Statement of Design Intent to be submitted to address core urban design principles as they relate to site the site and business uses including: <ul style="list-style-type: none"> i. Access, connectivity ii. Legibility iii. Human scale iv. Quality of edges v. Adaptability and versatility vi. Environmental sensitivity and sustainability. 	Included in SEE	Yes
3.3. Topography Cut and Fill <ul style="list-style-type: none"> • Max +/-3.0m • Details of all proposed earthworks is to accompany all development applications illustrating the extent, location, heights and levels (areas of cut and fill, retaining walls, batters, building pads etc). This can be represented on the site analysis, site plan and site sections. • Retaining wall to public interfaces max. of +/-1.0m before incorporating a landscape step. All earthwork batters are to be landscaped to mitigate adverse visual impacts. 	No cut or fill exceeds 3m. Engineering Assessment Report identifies minor cut to achieve subgrade level under building and hardstand, services and stormwater drainage infrastructure.	Yes
4. Building Envelope		
4.1 Setbacks Front: 15m Rear/Side: 0.0m where the site is directly adjoined by other business development/ industrial allotments Corner Lot: Adopt principle street setback. Secondary street setback is 6.0m irrespective of height. <ul style="list-style-type: none"> • Variations to the above setbacks maybe considered where justified by a detailed site analysis which illustrates the circumstances warranting variation. These may include architectural articulation, active uses, transparent elevations, showrooms, irregular lot size, contextual or topographic constraints. 	Proposed Lot 711 is a corner allotment, and no principal street setback has been established for this area.	Yes

Development Control	Proposal	Complies
4. Building Envelope (Continued)		
4.1 Setbacks Front: 15m Rear/Side: 0.0m where the site is directly adjoined by other business development/ industrial allotments Corner Lot: Adopt principle street setback. Secondary street setback is 6.0m irrespective of height. <ul style="list-style-type: none"> Variations to the above setbacks maybe considered where justified by a detailed site analysis which illustrates the circumstances warranting variation. These may include architectural articulation, active uses, transparent elevations, showrooms, irregular lot size, contextual or topographic constraints. Outdoor amenity areas and small ancillary uses such as cafes or canteens including shade structures and seating areas for employees and visitors are permitted within the front setback. Where the site is a corner lot, the primary (front) and secondary (side) setbacks are to be nominated as part of the site plan/site analysis. With the exception of vehicular access, crossovers and access driveways, all front setbacks must be landscaped in accordance with Section 4.12. Car parking areas located in front setback areas are to be setback behind a minimum three metre landscape buffer to the frontage. 	Proposed Front setback to Thornbill Drive = 67m. Lundberg Drive = 23m. Proposed Lot 703 = no buildings proposed. 3m landscape buffer provided forward of carparks and hard stand areas.	Yes
4.2. Site Coverage and Landscape Area <ul style="list-style-type: none"> Max site coverage is 70% of the site area Min, Landscape area is 10% of the site area (Refer to DCP for definition of landscape area). 	Max. site coverage 15%. 31.8% landscape area provided.	Yes
4.3. Building Heights <ul style="list-style-type: none"> Demonstrate how the height of proposed building/s responds and is appropriate to the role and desired future character of the business development and locality. 	Refer to Clause 4.6 variation to building height. Demonstrated compatibility with zone objectives and Clause 4.3 objectives.	Yes
<ul style="list-style-type: none"> Buildings are to be constructed to a height that complements the surrounding built form and landscape character. 	Generous setbacks, low site coverage combined with landscape schematics at the street interface with feature planting around outdoor amenity areas aimed to mitigate the impact of bulk and scale of the proposed building heights at the human scale.	Yes
<ul style="list-style-type: none"> Demonstrate, through the provision of landscaping plan, the provision of plantings that assist in creating a human scale and reducing visual bulk, primarily to the streetscape and secondly within the site. 		Yes

Development Control	Proposal	Complies
5. Building Design		
<i>5.1. Designing for the Tweed Climate</i>		
Development applications for construction of buildings are to demonstrate integration of the following passive design principles where relevant:	Solar penetration maximised to reduce artificial light.	Yes
<ul style="list-style-type: none"> design to moderate solar access into the building to reduce reliance on artificial lighting and to maximise sun entry during winter months, and maximise sun shading (especially north, western and south western elevations) during summer months; 		
<ul style="list-style-type: none"> design to promote natural cross ventilation and stack ventilation; 	Openings provided at northern and southern elevation of administration building to aid cross ventilation.	Yes
<ul style="list-style-type: none"> materials chosen for their climatic/diurnal appropriateness (including thermal mass), low toxicity and having low embodied energies in their production; 	The development provides for suitable materials for the climate, do not have high reflectivity and embodied energies.	Yes
<ul style="list-style-type: none"> A high level of energy efficiency through building design, passive solar design, insulation, minimised reliance on mechanical HVAC (Heating, Ventilation and Air Conditioning), and lighting systems and smart metering; 	Provision for site wide conduit and cable, conduit for future EV charging, 8no EV charging stations (7no standard and 1no fast), lighting and columns as shown, power to entry gates.	Yes
<ul style="list-style-type: none"> Collection and reuse of rainwater throughout the building and surrounding landscaping areas; 	Provision for rainwater tank included in cost summary report.	Yes
<ul style="list-style-type: none"> A high standard for an energy efficient hot water supply system; 		Yes
<ul style="list-style-type: none"> Reduced non-renewable energy use through efficient heating/cooling systems, water supply systems and electrical appliances. 	Solar panels included in cost summary report.	Yes
<i>5.2 Building Form and Materials</i>		
<ul style="list-style-type: none"> The siting of business and commercial buildings are to be designed to: 		Yes
<ul style="list-style-type: none"> <ul style="list-style-type: none"> to 'face' or 'address' the street frontage(s) in terms of building elevations and articulation; 	(See above)	Yes
<ul style="list-style-type: none"> <ul style="list-style-type: none"> Encourage pedestrian generating activities such as cafes, canteens and employee amenity areas located towards the public domain, creating visual interest, human scale and informal surveillance to the street. 	The development enables building orientation to the street and activates the public domain.	Yes

Development Control	Proposal	Complies
5. Building Design (Continued)		
<ul style="list-style-type: none"> – clearly articulate entries to buildings and access pathways and where possible separate and delineate pedestrian and vehicle movement; – include awnings and or shade structures where development directly fronts a public road, outdoor amenity area or where a pedestrian access route is defined; – enhance integration and connection between internal and external spaces, – define and enhance the public domain and be in scale with surrounding buildings 	<p>Pedestrian walkways and building entries located at the public domain interface, providing informal surveillance to the street, and activating the public domain interface.</p> <p>Awnings, courtyard landscape planting is provided over amenity area and pedestrian access routes.</p> <p>Provided as far as possible without compromising security and access control (entry gates and fencing provided to delineate public/private interface).</p>	Yes
<ul style="list-style-type: none"> • The design of business and commercial buildings are to: <ul style="list-style-type: none"> – use a mix of materials, architectural features and colours which will improve the articulation and overall visual appearance and serve to breakdown the overall building scale, bulk and mass. (Refer to Figure 5.3 for design principles). A schedule of materials and finishes including proposed palette of colours is to be submitted with any development application. – articulate different three dimensional elements of the building by expressing volumes through form and material mix including stepping, recessing, cantilevering or projecting building form elements. – breakdown scale and bulk by incorporating architectural detail and human scale elements such as an entrance canopies, foyers and awning. – using a series of roofs rather than one single roof form to create architectural interest and reduce impacts of reflectivity and glare, and use visually mitigating colours where roofs will be visible or looked down on from surrounding areas. 	<p>First development for the precinct. Buildings feature generous setbacks and large areas of circulation improving their separation thus being compatible with the human scale at the public domain interface.</p> <p>Mix of fibre cement and cladding material with openings and variation in colour provided to all elevations of each building. Roof design incorporates variation in forms and colour to provide articulation and visual interest.</p> <p>Provided. Building form recessed, steps and cantilevering of projecting building elements are used to achieve articulation.</p> <p>Awnings provided to walkways and building separation used to break down scale and bulk.</p> <p>Varying roof forms are provided with low reflectivity and appropriate colour palettes for panelling on roofs to highlight the lower scale roof and provide added visual interest.</p>	Yes

Development Control	Proposal	Complies
5. Building Design (Continued)		
<ul style="list-style-type: none"> provide screens to conceal loading, storage, rubbish disposal, plant, equipment and other similar uses in side and rear areas 	<p>Building and landscape screening utilised to achieve this control. Where external storage is provided on Proposed Lot 703 and there is no building to screen these storage areas, landscape screen planting is provided along the front boundary to reduce the visual dominance of these areas.</p>	Yes
<ul style="list-style-type: none"> Large floor plate developments* are to be designed to: <ul style="list-style-type: none"> Activate at least 50% of the building frontage with generous and identifiable building entrance, display windows and human scale built form elements including shade structures, awnings, outdoor amenity spaces, landscaping, BBQ areas, canteens and cafes. Limit large expanses of blank or unarticulated elevations to less than 15m in length and 5m in height. Incorporate architectural detail and interest at visually prominent building locations such as entrances, lower level front facades, roof tops, on visible corners and at the terminations of street vistas. Provide legible dedicated pedestrian access to the building and through car parking areas and street to the frontage allowing for pedestrians moving bulky good items and where possible, enhance pedestrian and cycle networks/ linkages to surroundings. Not include large format signage or branding across whole elevations including large format images across display windows. Minimise the impacts of overlooking, overshadowing, noise and lighting on adjoining landuses, and provide appropriate landscape buffers and visual screening treatments to mitigate impacts. This may included vegetation on raised mounds and/or feature acoustic walls. Maintain nominated landscape buffer areas by keeping them free of parking or access roads. Avoid large car parking areas fronting primary streets. The preference is for the building to define the street. Where this can not be avoided, an adequate landscape buffer is to be provided between the car park and street frontages. Create dedicated car parking spaces for large vehicles and vehicles towing trailers. Include all loading and unloading activity within the building and minimise detrimental amenity impacts on residential dwellings and other surrounding land uses. Create dedicated bulky good pick-up areas for customers to receive their bulky goods. Provide landscaped car parking areas with adequate areas for water sensitive urban design treatment, infiltration and shade trees. Allow for car parking concessions of 30% where bulky goods retail premises are co-located with a range of other business uses especially where visitors are likely to visit a number of different land uses on the same development site or precinct. <p>5.3 Overshadowing</p> <ul style="list-style-type: none"> All development applications must prepare shadowing diagrams over the subject and adjoining sites for the Summer Solstice (21st December), Winter Solstice (21 June) at the times of 9am, 12pm and 3pm. Shadow cast by fences, roof overhangs and changes in level are to be considered and should be indicated on shadow diagrams submitted. For neighbouring properties, ensure that: <ul style="list-style-type: none"> sunlight to at least 50% of the principal area of outdoor amenity space of adjacent properties is not reduced to less than 2 hours between 9am and 3pm on June 21, and where existing overshadowing by buildings is greater than this, sunlight is not to be further reduced by more than 20%. C3. New building design should minimise overshadowing on existing adjacent solar panels where other reasonable design alternatives are possible. 	<p><i>*Section 9.2 (Dictionary) of A17 defines "Large floor plate developments" as:</i></p> <p><i>"an individual tenancy which has a contiguous sales floor area accessible to the public of greater than 5000sqm".</i></p> <p>The proposed development features three (3) individual buildings, separated by hardstand areas. The buildings are not open to the public and do not feature a floor area greater than 5000 square metre. As such, this section of the DCP does not apply to the proposal.</p> <p>Shadow Diagrams provided.</p> <p>Neighbouring site will not be impacted due to the significant separation distances provided by the proposed building.</p> <p>Sunlight to more than 50% of the principal area of outdoor open space of neighbouring properties will not be reduced by more than 2 hours between 9am and 3pm June 21.</p> <p>The proposal will not cast shadowing over surrounding developments nor adjacent solar panels.</p>	<p>NA</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Development Control	Proposal	Complies
5. Building Design (Continued)		
<p><i>5.4 Views and Visual Amenity</i></p> <ul style="list-style-type: none"> Potential view and overlooking impacts and the design response/s pursued are to be documented within a site analysis. Where business developments interface with residential or open space areas, visual amenity impacts are to be mitigated against through building design and landscaping. For example, an unarticulated concrete tilt up wall interfacing with a residential area is unacceptable. Where located within a recognised view corridor a Visual Impact Statement may be required. The design of roof forms and use of colour is to have regard to and be compatible with the broader landscape character especially when on exposed locations. 	<p>Provided in Architectural Plans.</p> <p>Site has no interface with residential or open space areas. Notwithstanding, each interface is appropriately articulated through building design and landscape embellishment at the perimeter of the site.</p> <p>The subject site is mapped to contain two (2) landscape character units (400m of site is part of rural hills and valleys Landscape Unit and 14.02 ha is within the Urban Landscape Unit) under Councils Draft Scenic Landscape Protection Policy. The site does not contain nor is affected by any priority viewsheds under Councils Draft Scenic Landscape Protection Policy. As such, a Visual Impact Statement (VIA) is not required on this occasion.</p> <p>In terms of the development's performance against the landscape character unit, it is noted that the land affected by Rural Hills and Valleys Landscape Character Unit comprises proposed landscape planting, which is consistent with this character unit. Where the urban landscape character unit mapped on the site, appropriate roof forms, building separation, feature tree planting and green edges to the development are provided, consistent with the described landscape features of this unit in the Draft Scenic Landscape Protection Policy.</p> <p>The design of the roof form and colour selection is compatible with the broader landscape character.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Development Control	Proposal	Complies
6. Landscaping		
<ul style="list-style-type: none"> Submit a landscape plan making provision for appropriate landscaping areas, buffers. Any proposed removal of trees or vegetation is to be identified on the landscaping plan. 	Statement of Landscape Intent provided along with subsequent landscape plan for the site detailing revised fence location (additional information supplied April 2023).	Yes
<ul style="list-style-type: none"> On individual allotments, the front setback, excluding access ways, is to have a landscape buffer of at least 3.0 metres depth. 	Min. 4 metre wide landscape buffer provided.	Yes
<ul style="list-style-type: none"> Each development shall be provided with at least one private open space area for the use and enjoyment of employees and visitors. The area shall be suitably embellished with shade and seats. Rather than occupying 'leftover spaces' these areas should have regard for outlook, sun and shade, and noise. These areas should be nominated on the site analysis or site plan with the size proportionate to proposed floor area and number of staff. As a guide the area should be at least 50sqm. 	<p>Integrated outdoor lunch area with landscape features including arbour structure, seating and feature tree planting is provided. Location takes advantage of views to mountains and is integrated with administration building and indoor amenities and lunchroom.</p> <p>Structured landscape outdoor area = approx. 250 square metre and does not include lawns and nearby rainwater gardens.</p>	Yes
7. Ancillary Buildings, Uses and Structures		
<p><i>7.3 Signs and Advertising</i></p> <ul style="list-style-type: none"> Maximum of one sign per elevation and tenancy. Multi-unit developments are to include a single multiple business identification/index sign at the entrance to the site which details each occupant, its activity and unit number to a maximum height of 6 meters and display areas of 15m². Each individual business signage area within the index sign is to be a maximum of 5m². 	Multiple "building identification signs" that could also be described as "directional" signs are proposed along the workshop and storeroom elevations according to the various departments which would be occupying individual units within the building. Given these departments are owned by the organisation, it could be argued that they are not defined as a tenancy or a multi-unit development. However, despite the elevation having more than one sign per elevation, the intent of this control is achieved in terms of limiting the number of signs on the site, ensuring the provision of a single business identification sign per unit within the buildings.	

Development Control	Proposal	Complies
7. Ancillary Buildings, Uses and Structures (Continued)		
<i>7.3 Signs and Advertising (Continued)</i>	In this instance, the signage could also be characterised as “directional” signage for way finding to highlight the relevant operations of the building and delineating the dedicated space within the workshop and storeroom for each individual department/unit.	Yes
<ul style="list-style-type: none"> The design and construction of signs are to meet the following requirements: <ul style="list-style-type: none"> Signs are situated near site entries and are well placed for viewing by pedestrians and drivers; One free-standing pylon sign per freehold site to a maximum size of 4.0 metres high and 2.5 metres wide; Wording on the sign is limited to the name, logo, location, business and products of the establishment; Fluorescent or iridescent paints or signs that rotate, flash or move are not supported; Signs are to integrate with the form of development scale, colour and style and are not visually dominating. 	<p>Depot Signage Wall near site entry and in prominent location.</p> <p>No pole sign proposed.</p> <p>The wording of the sign is limited to the organisations name, logo and building function (works depot). No fluorescent or iridescent paints/signs that flash or move are provided. Signs are appropriately located to integrate with the roof form, scale of building & material and colour selection for the buildings on the site.</p>	Yes
<ul style="list-style-type: none"> Directional signage should assist with ‘way finding’ on the site for pedestrians, vehicles and cyclists, including entry and exits, parking controls and delivery and reception areas. Directional signage should be part of an overall signage ‘language’ of fonts, colours and other related imagery for the site. 	Signage provided on workshop and storeroom elevations to assist wayfinding and is appropriately located to highlight entry points for individual sections in each building. Linemaking is also proposed to provide pedestrian and vehicle ‘way finding’ conducive to the directional signage.	Yes
<ul style="list-style-type: none"> No bunting, sandwich boards or any ‘stand alone’ advertising structure, except pylon signs detailed above. 	Nil proposed. Condition is recommended to restrict this.	Yes - subject to condition
<i>7.4 Fences</i>		
<ul style="list-style-type: none"> If a front fence is required for security purposes it should be setback behind the 3.0 metres landscaping buffer to a maximum height of 1.8 metres with a maximum solid fence height of 600mm. Above the solid wall the fence is to have a minimum openness ratio of 60%. 	Statement of Landscape Intent highlighted a 1.8m chain wire security fence to the perimeter of the Proposed Lot 703 and 711. Amended Plan provided to relocate the chain wire fence inside of perimeter landscape buffer to comply with this control.	Yes

Development Control	Proposal	Complies
7. Ancillary Buildings, Uses and Structures (Continued)		
7.4 Fences (Continued)		
<ul style="list-style-type: none">If a front fence is required for security purposes it should be setback behind the 3.0 metres landscaping buffer to a maximum height of 1.8 metres with a maximum solid fence height of 600mm. Above the solid wall the fence is to have a minimum openness ratio of 60%.	No front fence proposed (see above).	Yes
<ul style="list-style-type: none">The design of the front and return fence shall be integrated with the design of the building, visually permeable and unobtrusive with a mix of materials and/or integrated with landscape design. Unfinished galvanised chain link fencing to the front is not acceptable.	1.8 metre high perimeter fence proposed - See above.	Yes
<ul style="list-style-type: none">Side and rear fences behind the front setback may be built to a height of 2.1 metres.	To be conditioned.	Yes - subject to condition
<ul style="list-style-type: none">Fencing should be sited so that it does not impede sightlines for drivers	To be conditioned.	
7.6 Safety and Security		
<ul style="list-style-type: none">Developments must ensure that the following Crime Prevention Through Environmental Design (CPTED) principles have informed the design of the proposed development:<ul style="list-style-type: none">Surveillance – Developments should be designed and managed to maximise the potential for passive surveillance;Access Control – Developments must be designed in order to make them legible for users without losing the capacity for variety and interest;Territorial Reinforcement – Developments must be designed to define clearly legitimate boundaries between private, semi private, and public space, andSpace Management – Developments must be designed and detailed to minimise damage, and the need for undue maintenance, without undermining the aesthetic and functional qualities of the building.	<p>Assessment Tables appended to the SEE includes a CPTED assessment which suitably demonstrates that the development has been design and sited to incorporate CPTED principles.</p> <p>A review of the proposed layout of the site and the additional information (gate entry schematics) further highlights that opportunity for passive surveillance, access control, territorial reinforcement and space management has been incorporated into the layout.</p>	Yes
<ul style="list-style-type: none">A Crime Risk Assessment must be prepared and submitted to Council. The Crime Risk Assessment must be prepared by a suitably qualified person and should:<ul style="list-style-type: none">Analyse the types of crime that may be prevalent in the area, and to which the development may be susceptible,Provide information as to how the design was informed by the CPTED principles, and	Brief Crime Risk Assessment provided in assessment table appended to SEE. The assessment is provided by a consultant town planner and analysis the type of crime that may be prevalent in the area that the development may be susceptible to.	Yes

Development Control	Proposal	Complies
7. Ancillary Buildings, Uses and Structures (Continued)		
<ul style="list-style-type: none"> – Inform the design, construction, or future management practises of the development (e.g. building materials, signage, lighting, landscaping, security patrols, maintenances, and graffiti removal practices). • Any recommendations or shortfalls identified by a Crime Risk Assessment are to be implemented into the design of the development to the satisfaction of the assessing officer. 	<p>The assessment provides information that the design was informed by CPTED principles.</p> <p>Conditions of consent are recommended to secure outcomes in relation to lighting, maintenance of landscaping, graffiti removal and the like.</p> <p>The applicants CPTED/crime risk assessment addresses CPTED principles and Councils Crime Prevention Action Plan 2008-2011.</p>	<p>Yes - subject to condition</p> <p>Yes</p>

The following contributions plans are relevant pursuant to Section 7.18 of the *EP&A Act* and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

S94 Plan No 11	Shirewide	Tweed Shire Library Facilities
S94 Plan No 12	Shirewide	Bus Shelters
S94 Plan No 13	Shirewide	Eviron Cemetery
S94 Plan No 18	Shirewide	Council Administration Offices and Technical Support Facilities
S94 Plan No 26	Shirewide	Shirewide Regional Open Space
S94 Plan No 4	Sector9	Tweed Road Contribution Plan - Sector 9 Murwillumbah
S94 Plan No 22	Cycle	Cycleways
S94 Plan No 15	Shirewide	Developer Contributions for Community Facilities
S94 Plan No 5	LOpenSpace	Local Open Space

The contribution plans have been considered and amounts payable based on the proposed development are included the recommended draft consent conditions.

3.1.4 Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the *EP&A Act*

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

3.1.5 Section 4.15(1)(a)(iv) - Provisions of Regulations

The following matters require consideration in relation to Part 4, Division 1 of the *2021 Regulations*:

- Section 61(1) - In determining a development application for the demolition of a building, the consent authority must consider the *Australian Standard AS 2601—2001*: The site is currently vacant and therefore the application does not include any demolition.
- Section 62 (consideration of fire safety) – this is not relevant as a change of building use is not proposed.
- Section 64 (consent authority may require upgrade of buildings) – this is not relevant as upgrade of building is not proposed.

Council's Building Surveyor raises no objections to the proposal subject to conditions. Accordingly, the provisions of the *EP&A Regulation 2021* have been considered and are addressed in the recommended draft conditions (where necessary).

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposal is considered to be generally consistent with the context of the site, in that the proposed buildings and car park areas are of an appropriate scale for the site. The character and amenity of the locality is maintained given the large areas of open space on the site and the street frontage is satisfactory given the boundary planting comprising verge street trees to Thornbill Drive and Wardrop Valley Road Lane. Given the large site and adequate setbacks, the potential impact on the surrounding uses is minimal.
- Access and traffic – The access and traffic issues are considered in the *TDGP* section of this report. These matters are satisfactorily addressed subject to conditions.
- Public Domain – The proposal provides pedestrian linkages between the buildings and various uses within the site. Internal driveways will allow the traffic to flow within the site. Adequate parking and outdoor covered meeting areas are provided within the site.
- Utilities – All of the required utilities can be provided at the site, with some to be augmented as outlined in this report, and where required consent conditions are recommended.
- Heritage – There are no heritage items located on the site or on any adjoining or nearby sites. The site is mapped to be marginally affected by Predictive Aboriginal Cultural Heritage under Aboriginal Cultural Heritage Management Plan. In this regard, Aboriginal cultural heritage is considered under *TLEP* section of this report and is adequately addressed.

- Other land resources – The site is not located within or adjacent to water catchment or mining. There are some agricultural, light industrial, and residential land uses in the area, however, the proposal does not affect, or is affected by, such uses.
- Water/air/soils impacts – The potential for contaminated land is considered in the assessment under the *Hazards & Resilience SEPP*. The site is affected by Acid Sulphate Soils (refer to the assessment under *TLEP 2014*).
- Flora and fauna impacts – The proposed development will not impact on native vegetation or threatened species or ecological communities.
- Natural environment – The site has been extensively cleared and filled for the purpose of flooding. The development does not include tree removal as part of the application. The proposal is considered to have acceptable impacts on the natural environment.
- Noise and vibration – Noise Report has been provided which is considered in the key issues section of this report. Council's Environmental Health Officer has reviewed the proposal and the report and considered it acceptable subject to conditions which have been included in the recommended conditions.
- Natural hazards – The site is affected by bushfire and flooding, which have been considered by the NSW RFS and Council's engineers. Relevant conditions have been included in the recommended conditions.
- Safety, security, and crime prevention – This is considered under the *TDCP* section of this report and is considered satisfactory.
- Social impact – The proposal enhances the Council facilities and promote assets that support sustainable industry opportunities in the Tweed, which is a social benefit. The proposal is considered to result in a positive social impact.
- Economic impact – The proposal will assist in employment generation in relation to administration staff, support, and maintenance staff at the facility as well as construction related jobs. The facility would also provide additional investment in the local businesses and the newly created industrial estate. The proposal is considered to result in a positive economic impact.
- Site design and internal design – It is considered that the proposed buildings, open space and car parking areas have been set out appropriately on the site to mitigate potential impacts (subject to conditions of consent as outlined in the recommended consent conditions).
- Construction – Relevant conditions have been imposed to reduce potential construction impacts.
- Cumulative impacts – The proposal will not result in any adverse cumulative impacts as it is generally consistent with the planning controls and is considered to be in the public interest.

3.3 Section 4.15(1)(c) - Suitability of the site

The site is considered to be suitable for the development given the proposal is for a depot, public administration building and general industrial land use in an existing industrial estate. The site is zoned E4 - General Industrial and has been subsequently subdivided to create additional lots to contemplate uses such as the proposed development. The proposal accords with the relevant objectives of the E4 - General Industrial zone.

The adjoining rural land is mapped as Regionally Significant Farmland. Notwithstanding this, an analysis of historical aerial photography indicates that the land has not supported any higher order cropping or horticultural pursuits. The land has been utilised predominantly for intermittent grazing purposes, which appears to be the case presently. The site therefore is not considered to fragment the surrounding area mapped as Regionally Significant Farmland.

The site is capable of providing all essential services and associated infrastructure necessary to carry out the proposed development. The site is mapped as bushfire prone land, which has been considered by the NSW RFS and is considered satisfactory subject to conditions.

The site attributes are conducive to the development in that the proposal will provide additional uses and facilities within an existing industrial estate. There are not any adjoining uses which are prohibitive of the proposal.

3.4 Section 4.15(1)(d) - Public Submissions


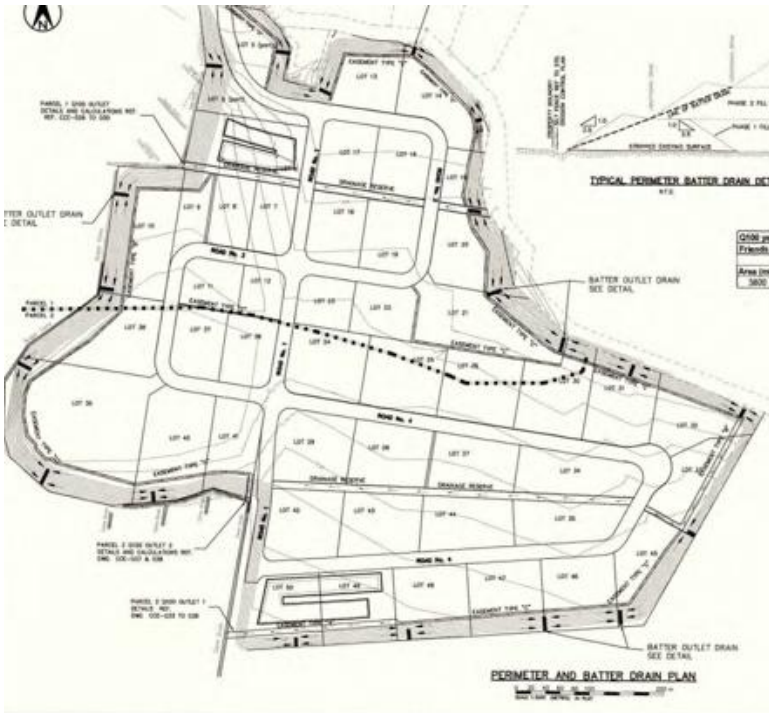
The proposal was notified in accordance with the Tweed Shire Council's *Community Participation Plan* from 18 January 2023 until 15 February 2023. During this time no submissions were received however one (1) late submission was submitted after the notification period and has been taken into consideration as part of the assessment. The submission is considered under Section 4.15(1)(e) - Public interest (**Section 3.5**) as it was received outside the notification period.

3.5 Section 4.15(1)(e) - Public Interest

The detail of the submission is contained in **Table 7** below:

Table 7: Community Submission

Issue	Council Comments
Flooding and drainage issues A nearby landowner whom operates a significant sugar cane operation lodged an objection via their lawyer in relation to the impact of the proposal on flooding and drainage across their land.	<p>It is noteworthy that the subject sugar cane farm is located downstream of the development site.</p> <p>It is considered that the issues raised in the correspondence generally relate to the creation of the Industrial Estate, and as such relate to the strategic plans and management at a broader level as opposed to a site-specific DA.</p> <p>To this extent it is noted that the proposed stormwater concept plan has been reviewed by Councils engineers. The following is noted with respect to the stormwater discharge point:</p> <p>The legal point of discharge for the subject land is Lot 518 DP 1132400, which is a designated drainage reserve for the industrial subdivision. Lot 518 is located to the south-west of the proposed development, as shown below:</p>

Issue	Council Comments
<p data-bbox="229 264 526 358">Flooding and drainage issues (Continued)</p> <p data-bbox="229 421 526 813">Reference was made to Condong Creek Drainage Management Plan and queries as to when the recommendations of that plan would be enacted to mitigate the impacts of flooding and drainage over their land, as a result of development of the Industry Central estate.</p>	<div data-bbox="555 293 1326 685"></div> <p data-bbox="555 723 1362 784">The site generally grades to the south and the existing drainage reserve (Lot 518).</p> <p data-bbox="555 815 1362 934">Stormwater from the approved subdivision (DA02/1685) drains into the Lot 518 drainage reserve, which mainly functions as a stormwater quality treatment basin. The drainage reserve has been operational since 2008.</p> <p data-bbox="555 965 1362 1117">The approved stormwater drainage (Section 68 application SWD05/0112, as approved on 17 March 2005) includes a preliminary pit and pipe system draining to Lot 518 DP 1132400. Additionally, the perimeter and batter drain encapsulate the entire subdivision, as shown below:</p> <div data-bbox="571 1144 1342 1854"></div>

Issue	Council Comments
<p>Flooding and drainage issues (Continued)</p>	<p>Stormwater detention was not required at the time DA02/1685 was approved (3 March 2004). It is a reasonable assumption that the subject industrial subdivision was approved to Council's standards applicable at the time of approval. Accordingly, an on-site detention (OSD) system has not been proposed for the subject development or for the recent industrial developments that currently exists within the same subdivision.</p> <p>Notwithstanding, Council's engineers requested a revised Stormwater Management Plan to be submitted. The revised Stormwater Management Plan, as submitted on 8 September 2023 has been assessed to be acceptable subject to conditions.</p> <p>The proposal includes bioretention basins/swales/rain gardens in accordance with Water by Design's Waterwise Street Trees and Bioretention Technical Design Guidelines.</p> <p>Limiting post development flows to the pre-development flows is considered to be the most appropriate method to minimise any increased stormwater flows to the surrounding cane land and union drains and consequently minimise any potential increase in flooding.</p> <p>This is above and beyond what has been provided by the surrounding developments in the industrial estate.</p> <p>It is considered that this issue has been satisfactorily addressed subject to the imposition of relevant conditions of consent.</p>
<p>Consideration of clause 5.21 of TLEP</p> <p>The consent authority to consider the impact of the proposed development on projected changes to flood behaviour as a result of climate change.</p>	<p>As noted above, Council's engineers have undertaken a detailed assessment of the proposal. The conditions are recommended to ensure the proposed development does not increase flooding on the adjoining land, which is downstream.</p> <p>This is further discussed under <i>TLEP</i> and in the Key Issues section of this report.</p>

The proposal is considered to generally be in the public interest as it will provide for a purpose-built, flood free workshop, depot and public administration building to allow for provision of services to the community of Tweed Shire local government area. The proposed development will deliver a safe and flood free storage laydown area that can be used by the State Emergency Service (SES).

The proposal is generally consistent with the applicable planning controls as outlined in this report. The proposal is also considered to result in positive social and economic impacts without impacting the health and safety of the public.

The site is located in the Northern Rivers and is subject to the provisions of the *North Coast Regional Plan 2041*. The proposal is generally consistent with the regional strategy. The proposal is consistent with the principles of Ecologically sustainable development as it provides suitable landscape areas, rain gardens to capture water runoffs and rainwater tanks to capture water from the rooves and reuse it on site.

Overall, it is considered that the proposal is in the public interest.

4. REFERRALS AND SUBMISSIONS

4.1. Agency Referrals and Concurrence

The development application was lodged as Nominated Integrated pursuant to *Water Management Act 2000*. Whilst a referral to Department of Planning and Environment – Water was undertaken, it was not statutorily required due to the nature of the proposal being such that it is being undertaken by a public authority. As such, statutory external referrals were not required for this proposal as per the discussion in **Table 8** below.

An agency referral to Tweed Byron Aboriginal Land Council was undertaken with no objections being received subject to recommended conditions of consent.

Based on the above, there are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 8: Concurrence and Referrals to agencies

Agency	Concurrence/referral trigger	Comments / Issues	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
N/A	N/A	N/A	N/A
Referral/Consultation Agencies			
Electricity supply authority (Essential Energy)	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	N/A - No referral to Essential Energy required given the provision of underground supply has already been provided in the previously approved subdivision.	N/A
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	N/A - Traffic-generating development does not apply as the GFA and trip generation does not trigger referral to Transport NSW.	N/A
NSW RFS	s4.13 of <i>EP&A Act</i>	No objection subject to recommended conditions.	Yes
Tweed Byron Local Aboriginal Land Council	Aboriginal Cultural Heritage Management Plan 2018 (ACHMP)	No objection subject to recommended conditions.	Yes

Agency	Concurrence/referral trigger	Comments / Issues	Resolved
Referral/Consultation Agencies			
Integrated Development (S 4.46 of the EP&A Act)			
Department of Planning and Environment – Water	Controlled Activity Approval pursuant to Clause 91 of <i>Water Management Act 2000</i> for works within 40m of mapped watercourse.	The DA was lodged as Nominated Integrated Development pursuant to Clause 91 of the <i>Water Management Act 2000</i> . However, pursuant to Clause 41 of the <i>Water Management (General) Regulation 2018</i> , a public authority is exempt from all controlled activity that it carries out in, or under waterfront land and therefore concurrence referral is not statutorily required for this DA.	N/A

4.2. Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 9**.

Table 9: Consideration of Council Referrals

Officer	Comments	Resolved
Flooding and Stormwater Engineering	Council's Flooding and Stormwater Engineer has reviewed the proposal and the revised Stormwater Management Plan, as submitted on 8 September 2023. Subject to the recommended conditions, the proposed development is not considered to have any adverse impact on flooding in the downstream receiving environment for all events up to and including 1% AEP storm event as the post-development flows will be limited to the pre-development flows.	Yes Refer to key issues
Traffic	Council's Traffic Engineering Officer has reviewed the proposal and has raised no concerns in relation to traffic generation or car parking, subject to recommended conditions of consent to require: <ul style="list-style-type: none"> • Driveway access to be approved subject to s138 <i>Roads Act</i> and indicate that the width at the boundary is min. 7 metre and at the kerb 13 metre. 	Yes

Officer	Comments	Resolved
Building	No objection subject to recommended conditions of consent.	Yes
Environmental Health	<p>Council's Environmental Health Officer has reviewed the proposal and has raised no concerns in relation to the proposal and associated potential amenity impacts, subject to recommended conditions of consent to require:</p> <ul style="list-style-type: none"> • Limit the light spill from all externally mounted artificial and security lighting, to the site boundary. • Compliance with the recommendations within the revised Noise Report regarding noise emission and acoustic treatment/s. 	Yes
Sewer and Water Engineering	<p>Councils' wastewater unit have reviewed the proposal in relation to sewer and water infrastructure and raise no objection subject to recommended conditions of consent to require:</p> <ul style="list-style-type: none"> • Payment of Section 64 developer contributions; • Application for a bulk water meter and; • Special conditions to prevent works within proximity of Council infrastructure. 	Yes

The issues raised by Council officers are considered in the Key Issues section of this report.

4.3. Community Consultation

The proposal was notified in accordance with the Tweed Shire Council's Community Participation Plan from 18 January 2023 until 15 February 2023. The notification included the following:

- An advertisement in the local newspaper [name of publication] (where applicable);
- A sign placed on the site;
- Notification on a website;
- Notification letters sent to adjoining and adjacent properties (a rough estimate of the number of letters sent);
- Notification on the Council's website.

During the notification period, Council received no submissions, however one (1) submission was submitted to Council after the notification period ended and has been taken into consideration as part of the assessment of this DA.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1. Stormwater and Flooding (late submission)

The Clause 5.21 of the *TLEP 2014* requires the consent authority to consider impact of the development on projected changes to flood behaviour as a result of climate change. A late objection has been received in relation to the impact of the proposal (and surrounding industrial development resulting from the creation of the Industry Central Estate) on adjoining rural land uses. In particular, adjacent sugar cane farms which are purportedly experiencing additional inundation as a result of the recent subdivision works and increase in hardstand area.

It would appear the concerns raised in this objection relate to the industrial subdivision that created the development site and considered to be relevant in a broader strategic context. Also, the surrounding industrial developments were not required to provide such a system as part of the approval. Notwithstanding this, it is considered reasonable that this issue be addressed in the assessment to address the objections concern and provide some commentary in relation to public interest.

As such, a copy of the objection was referred back to Councils Stormwater and Flooding Engineer. Further discussions have been undertaken to ensure the stormwater management commensurate with the scale of the development and impact of the development on projected changes to flood behaviour as a result of climate change are considered.

The applicant was advised to submit a revised Stormwater Management Plan. Councils Flooding and Stormwater Engineer has reviewed the revised Stormwater Management Plan, as submitted on 8 September 2023. Subject to the recommended conditions, the proposed development is not considered to have any adverse impact on flooding in the downstream receiving environment for all events up to and including 1% AEP storm event as the post-development flows will be limited to the pre-development flows.

Limiting post development flows to pre-development flows is considered the most appropriate method to not increase stormwater flows to the surrounding cane land and union drains to increase flooding.

The intent and objectives of the flood planning have been considered in the assessment of the proposal.

Resolution: The issue has been resolved through recommended condition/s of consent.

5.2. Height Exceedance

The Clause 4.6 submission adequately addresses the statutory considerations under this Clause and the threshold test in accordance with the criteria established in the NSW LEC judgement *Wehbe v Pittwater Council* (2007). That being:

1. The objectives of the standard are met, notwithstanding non-compliance with the standard,

2. The underlying objective or purpose of the development standard is not relevant to the development meaning that compliance is unnecessary.
3. The underlying objective or purpose would be defeated if compliance was required.
4. The development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard.
5. The zoning of the land on which the development is proposed to be carried out is unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary and compliance with the standard is therefore unreasonable or unnecessary.

The applicant submits that the development meets the threshold under Item 1 of the above criteria however no other parts of the criteria can be utilised for the purpose of the proposal.

In considering the proposed variation to building height (5.05% variation to maximum permitted building height (10m), it applies to 770 square metres of the internal roofed area proposed, representing 11.07% of the total proposed roof area of the development. The need for the variation is for the operation of a gantry crane and undertake the intended General Industry activities.

The applicant's submission demonstrates the objectives of the standard are met, notwithstanding non-compliance with the standard and that based on the justification provided that:

1. Compliance with the development standard is unreasonable or unnecessary in the circumstances (cl 4.6(3)(a)); and
2. There are sufficient environmental planning grounds to justify non-compliance with the development standard (cl 4.6(3)(b)).

Based on a merit assessment, as outlined in the Section 3 - Statutory Consideration of this report, the Clause 4.6 is well founded and demonstrates that compliance with the development standard is unreasonable in the circumstances of this case and that there are sufficient planning grounds to justify contravening the development standard.

Resolution: The proposed variation to building height and the Clause 4.6 variation is supported subject to a merit assessment.

5.3. Land Use Conflict

The subject site adjoins area mapped as regionally significant farmland, zoned RU2 Rural Landscape. As such a land use conflict risk assessment has been submitted as part of the SEE.

The assessment outlines that the proposal has been considered having regard to *Living and Working in Rural Areas – A handbook for managing land use conflict issues on the New South Wales North Coast*, produced by NSW Department of Primary Industries 2007 and the *Rural Land Strategy*, prepared by Tweed Shire Council.

Whilst the buffer distances from the site to industry and rural dwellings complies, the site is within the recommended buffer distance from state and regionally significant farmland to urban development. As such, the SEE outlines a merit consideration of the proposed development having regard to the adjacent rural and uses. To this extent, it highlights specific site characteristics and site planning measures to mitigate potential conflicts arising from the relationship between the adjoining uses.

Whilst the merit of the proposal gives weighing to support the proposed land use having regard to the zoning of the land and the previous approvals for subdivision, the objection matter in relation to flooding and drainage gives rise for a more detailed merit assessment of the land use conflicts and whether the proposal is satisfactory having regard to some of the rural land uses occurring within the vicinity of the site.

Councils Stormwater and Road Engineering Unit has undertaken further assessment of the proposal having regard to the proposed drainage. As discussed previously in this report, the revised Stormwater Management Plan, as submitted on 8 September 2023 has been assessed to be acceptable, subject to conditions. This will ensure the post development flows are limited to the pre-development flows, and consequentially stormwater flows to the surrounding cane land and union drains are not increased.

Resolution: The issue has been resolved through recommended conditions of consent.

5.4. Noise Impact

As part of the original DA application, TTM presented an Environmental Noise Assessment dated 2022. The report contained both an operational noise assessment and a construction noise assessment. However, it did not provide any information on how the development would impact itself. Therefore, it was unclear if staff would be impacted by noise. To address this gap, a revised Environmental Noise Assessment report was presented.

This updated report considers AS/NZS 2107:2000 Acoustics – Recommended design sound reverberation times for building interiors. The revised report includes section 7 Internal noise/amenity. With reference to Table 1 of AS/NZS 2107:2016 Acoustics – Recommended design sound levels and reverberation times for building interiors, the recommended design sound level for private to general office areas is LAeq 35-40 dB(A). The report states that *calculations were conducted to determine the breakout noise from the workshops building onto the admin building. Based on the noise source and warehouse wall construction detailed above, the predicted noise impact at the Admin Building is 52 dB(A).*

The report recommends the following building treatment:

- *All glazing for the administration building should be installed with a minimum of 4mm float (RW27) for windows and 5mm toughened (RW28) for sliding doors;*
- *Pitched sheet metal roof with insulation blanket over battens with 1 x 10mm standard plasterboard internally; Site: Lot 703 & Lot 711 Thornbill Drive, South Murwillumbah Reference: 22GCA0145 R01_33 27; and*
- *Brick or masonry walls with 10mm plasterboard internally.*

The openable windows on the southern façade are considered acceptable as no industrial activities are proposed on the southern side of the Admin Building.

The revised report has been assessed to be acceptable by Council's Environmental Health Unit subject to conditions of consent.

Resolution: The issue has been resolved through recommended conditions of consent.

5.5. Waste Management

Council's Environmental Health officers had requested additional information in relation to the management of hazardous and liquid waste generated from the operation of the fabrication workshop and mechanical workshop.

The revised Waste Management Plan provides the relevant details with respect to the management and storage of hazardous and liquid waste. The revised plan has been assessed to be acceptable by Council's Environmental Health Unit subject to conditions of consent.

Resolution: The issue has been resolved through recommended conditions of consent.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the *EP&A Act* and the *Regulations* as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application is worthy of support.

The written request for variation to the height of building development standard submitted under Clause 4.6 is considered satisfactory and demonstrates that, despite the numerical non-compliance, the proposed development meets the objectives of the development standard and the objectives for development in the E4 General Industrial zone.

As discussed throughout this report, the proposal is appropriate for the site given its location with the South Murwillumbah Industry Estate - General Industrial Precinct. The development is consistent with the strategic vision for the area. Further, it safeguards Council assets from risk of natural hazards and is designed to facilitate the future sustainable growth and expansion of the shire and therefore it is in the public interest.

It is considered that the key issues as outlined in Section 5 been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

7. RECOMMENDATION

The written request for variation to the height of building development standard submitted under Clause 4.6 is considered to be satisfactory. The consent authority can be satisfied that the matters required to be demonstrated pursuant to Clause 4.6(4) have been adequately addressed. It demonstrates that, despite the numerical non-compliance, the proposed development will be in the public interest as it is consistent with the objectives of the height of building development standard and the objectives for development within the E4 General Industrial zone.

That the Development Application DA22/0793 for Council Depot and Public Administration Building and ancillary development including General Industrial Buildings, external hardstand storage areas, parking, landscaping and signage at Proposed Lots 703 and 711 created from subdivision of Lot 604 DP 1244954, 208 Lundberg Drive, South Murwillumbah be APPROVED pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979* subject to the conditions of consent attached to this report at **Attachment A**.

The following attachments are provided:

- **Attachment A: Draft Conditions of Consent**