

COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-197 – DA22/0854
PROPOSAL	Staged Development for Construction of a Public Administration Building and Community Facility for the purpose of an Animal Rehoming Facility and a Council Pound on proposed Lots 23 and 31 created from subdivision of subdivision of Lot 2 DP 1139059, Lot 1 DP 232745 and Lot 2 DP 1156966. The DA includes ancillary signage, landscaping, vehicle parking and access.
ADDRESS	Lot 1 DP 232745, Lot 1 DP1139059 & Part Lot 2 DP1139059, 92 & 102 Lundberg Drive SOUTH MURWILLUMBAH
APPLICANT	Newton Denny Chapelle (NDC) Planning
OWNER	Tweed Shire Council
DA LODGEMENT DATE	10 January 2023
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	<p>Section 2.19(1) and Clause 3 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 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	\$6,780,286.70 (excluding GST)
CLAUSE 4.6 REQUESTS	Nil
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Planning Systems) 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 A17 – Business, enterprise corridor and general industrial zone</i> ○ <i>Section A19 – Biodiversity and Habitat Management</i>
AGENCY REFERRALS	<ul style="list-style-type: none"> • NSW Rural Fire Service (RFS) (Section 4.14 Referral) • Tweed Byron Local Aboriginal Land Council (TBALC) • NSW Department of Primary Industry (DPI) – Agriculture • Royal Society for the Prevention of Cruelty to Animals (RSPCA)
TOTAL & UNIQUE SUBMISSIONS ISSUES KEY IN SUBMISSIONS	Eight (8) submission
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>Statement of Environmental Effects</p> <p>Architectural Plans</p> <p>NCC - Access Report</p> <p>NCC – Section J Assessment and General Advice</p> <p>Acid Sulfate Soils Report</p> <p>Acoustic Report</p> <p>Bushfire Report</p>

	Carparking and vehicle access design plan Civil Engineering Plan Cost Estimate Report Cultural Heritage Assessment Report for Industrial Subdivision (dated 13 Nov. 2019) Hydraulics Services Report Landscape Design Plan Draft Operational Management Plan Ecological Impact Assessment Animal Behaviour Report Stormwater Drainage Plan Traffic Report Waste Management Plan DAP Meeting Minutes Applicants' response to DAP meeting minutes Stormwater Management & Quality Plan Traffic Impact Assessment Report Waste Management Plan TDCP Assessment Tables
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Nil
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	12 December 2023
PLAN VERSION	1 November 2022 – Revision A
PREPARED BY	Hannah Van de Werff
DATE OF REPORT	24 November 2023

EXECUTIVE SUMMARY

The subject Development Application (DA22/0854) seeks consent for a Staged Development comprising of:

- *Stage 1*

Construction of a 677.3sqm L- Shaped single storey Public Administration Building and Community Facility for the purpose of an Animal Rehoming Facility and Administrative offices for Council Rangers and not-for-profit organisation known as

“Friends of the Pound” on Proposed Lot 23, Lundberg Drive, South Murwillumbah and;

- *Stage 2*

Construction and use of livestock/cattle impound, staff lunch area, cat and dog exercise/familiarisation area and vehicle impound area on proposed Lot 31, Lundberg Drive, South Murwillumbah. These uses are considered to be ancillary to the use of the proposed buildings on Lot 23.

The DA includes ancillary signage, landscaping, stormwater drainage, vehicle parking (and impound areas) and access.

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

Most recently, a further 32 lot subdivision has been approved over Lot 2 DP 1139059, Lot 1 DP 232745, Lot 10 DP 1071301 and Lot 2 DP 1156966 (see Figure below) under DA19/0875.

Proposed Lots 23 and 31 are part of Stage 4 and 4A of the subdivision. Subdivision works have been completed, all civil infrastructure and roads in association with subdivision are installed and the linen plan for subdivision has been released by Council. The lots have not yet been registered with NSW Land Registry Service.

The existing site (‘parent lots’) features a total land area of 19.293 Ha and comprises of vacant land with a significant amount of vegetation to the north (Lot 2 DP1139059). As discussed later in this report, the vegetation to the north forms an approved habitat restoration area and will be excised from the proposed Lots. The southern extent of the land which includes land to support the proposed development is highly disturbed land that has undergone significant remediation following the closure of a former quarry and subsequent landfill operation (see Section 3.1(a) of this Report and key issues for “contamination” for further detail on historic land uses).

Lot 1 DP 232745 (future Lot 31) comprises of NSW Rural Fire Service (RFS) Fire Control Centre and Training facility and is occupied by a single storey office building, associated carpark and several outbuildings and storage sheds. The existing site has primary frontage to Lundberg Drive with two driveway access points to the northern aspect of the Lundberg Drive frontage and the southern aspect of the Lundberg Drive frontage (this southern access point benefits the RFS Fire Control Centre).

The site is mapped as a flood planning area, bushfire prone and predictive for Aboriginal Cultural Heritage.

The subject site is located at the northern aspect of the recently established Industrial Estate zoned E4 General Industry. Land Uses within the vicinity of the site are mostly comprised of vacant lots due to the recent establishment of the Industrial Estate further south of the site. There is however, Murwillumbah Pistol Club immediately south of the subject site. This lot will be severed by the recently established Quarry Road extension as part of the subdivision works. Land east of the subject site (opposite side of Lundberg

Drive) is occupied by dwelling houses and rural land uses. There is a pocket of RU1 – Primary Production land further west of the Industrial lands. Murwillumbah Airspace is located within proximity of the site (approximately 520m west/northwest of the site).

The Development Application ('DA') was lodged pursuant to Section 4.15(1) of the Environmental Planning and Assessment Act 1979 ('EP&A Act') on behalf of the applicant. As such, no statutory referrals were required. It is noted that historic and highly modified mapped watercourse traverses the site however pursuant to [Clause 41 of the Water Management \(General\) Regulation 2018](#), 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. Notwithstanding this, external referrals were sent to NSW Rural Fire Service ('RFS'), Tweed Byron Local Aboriginal Land Council ('TBALC'), NSW Department of Primary Industry – Agriculture ('NSW DPI – Agriculture') and Royal Society for the Prevention of Cruelty to Animals ('RSPCA'), no objections were raised. The proposal was notified for a period of 28 days in accordance with the Tweed Shire Council's Community Participation Plan. The notification period ran between 1 February 2023 – 1 March 2023. During this time seven (7) submission were received. One (1) late submission was submitted after the notification period (June 2023). This submission has been taken into consideration as part of the assessment (separately addressed under Section 3.5 – Public Interest). Key concerns relate to noise, animal welfare, stormwater and drainage.

Many of the key issues raised by the objectors have been addressed as a result of an amended application which was made on 25 August 2023. Further detail of the amendments is discussed later in this section.

The principal planning controls relevant to the proposal include State Environmental Planning Policy 2021 – Resilience and Hazards ('SEPP Resilience and Hazards'), State Environmental Planning Policy (Industry and Employment) 2021, the Tweed Local Environmental Plan 2014 ('TLEP') and the Tweed Development Control Plan 2008 ('TDCP'). The proposal is generally consistent with various Environmental Planning Instruments ('EPI's).

It is worthy of noting in terms of permissibility that the proposal is most suitably characterised as a "Community Facility" and "Public Administration Building" which, pursuant to TLEP 2014, means:

Community Facility means building or place owned or controlled by a public authority or non-profit community organisation, and used for the physical, social, cultural or intellectual development or welfare of the community but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

public administration building means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station.

Under Part 2 of TLEP 2014 Community Facilities are explicitly prohibited in the E4 zone. Notwithstanding, Under Schedule 1 (Clause 21), use of certain land at 92 and 102 Lundberg Drive (the subject site) for the purpose of a Community Facility that is “*a council pound and a place used for rehoming animals*” is permitted with development consent. Given the characterisation of the proposed development (discussed later in this report) and the use of land for development described under Clause 21 of Schedule 1 is permitted with consent, the proposal is considered to be consistent with the described use under Clause 21 and therefore permitted with development consent.

Public Administration Building are permitted in the E4 zone. The developments performance against the TLEP2014 in terms of permissibility is discussed in more detail in Section 3.1(a) of this report.

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.

A briefing report was held on 15 March where key issues were discussed. Namely, contamination and potential gas migration, flooding and drainage, animal welfare, acoustic impacts, site suitability having regard to the nearby Pistol Club, Operational Waste Management (to deal with the provision of animal waste/effluent collection, pathogens and the control of such to prevent disease and illness amongst the animals and deceased animal disposal procedures), the provision of solar panels and the submissions.

Consistent with the above issues raised by the Panel and following the briefing meeting (on 24 March 2023) Council officers issued a request for information (‘RFI’) letter in relation to the following:

- Detail of the existing lot layout to be reflected on Architectural Plans;
- Land Contamination and the provision of a Detailed Site Investigation (‘DSI’) to address Chapter 4 of Resilience and Hazards SEPP. The applicant was advised in this section of the letter that any provision of a Long Term Environmental Management Plan (‘LTEMP’) or the like would need to be completed and approved by the consent authority prior to the issue of development consent;
- Noise Assessment and a request for updated data collection to address worst case scenario impacts resulting from the pistol club (on the proposed pound facility) and the pound on nearby sensitive land uses. It was requested that the updated Noise Assessment be referred to the Animal Behavioural Assessment specialist to address whether the impact of nearby gunshots would have adverse impact on the dogs resulting in adverse behaviour from the dogs (barking);
- Animal expert advice in relation to any updates to the Operational Management Plan to be reflected in the applicants response to the RFI request;
- Additional information and potentially amended plans to address Stormwater and Flooding matters. In particular, detail of the capping (addressed outside of the DA process as a Review of Environmental Facts pursuant to Part V of the Act) to determine proposed finished levels for each Lot respectively, query OSD for Proposed Lot 31, further detail of proposed bio-retention basins for Lot 23 and further detail on drainage specification (pipe size, hydraulic grade lanes, depth and detention value of any bio-retention/onsite detention for each of the lots) and;

- Updated Waste Management Plan ('WMP') to deal with operational waste not limited to but including organic matter and bio-organic waste produced from the use of the site as a Pound/Animal Rehoming Facility. It was also identified in Council's RFI letter that the Panel had queries in relation to this aspect of the proposal and the provision of pathogen issues and how the development will safeguard from potential cross contamination resulting from animal pathogen, virus or illness.

It was identified at the Panel briefing meeting that there is opportunity for Council to consult with NSW DPI - Agriculture in relation to the concerns raised by the panel and also to comment on concerns by the public in relation to Animal Welfare. The applicant was also advised in the RFI letter that such a referral would be taking place.

On 28 April 2023, following a referral to NSW DPI – Agriculture, An Agricultural Land Use Planning officer provided a response outlining their comments on the concerns raised by the panel. A copy of which is attached hereto (**Attachment G**).

Following receipt of the RFI letter, the applicant made two (2) requests for extension of time to respond to the RFI matters. The initial request aimed to have a response to Council by 14 June 2023 however on 9 June 2023, Council's General Manager addressed the Panel directly requesting a further extension to 28 August 2023.

On 25 August 2023, the applicant lodged an amendment to the DA (pursuant to Clause 37 of the EP&A Act) which included several new documents including a Preliminary Landfill Gas Assessment and Addendum information, DSI, Remediation Action Plan ('RAP') for proposed Lot 31, Preliminary LTEMP, Updated Noise Impact Assessment, Updated Animal Behaviourist Assessment, Updated draft Operational Management Plan, Amended Stormwater Management Plan, Sediment and Erosion Control Plan, Amended WMP.

The updated information was referred to internal officers for consideration and comment as well as externally to the RSPCA in line with the recommendations by NSW DPI - Agriculture in their advice dated 28 April 2023.

The amended DA was not re-advertised as it was not considered to materially impact the proposal in relation to the originally proposed land use, design elements of the buildings, landscaping or characterisation. Rather, the amended information aims to better respond to land constraints, acoustic impacts, operational management in terms of waste and improving the animal welfare aspects of the proposal.

An assessment of the amended application pursuant to Section 4.15(1) of the EP&A Act concluded that the proposal is generally consistent with the relevant planning controls. Furthermore, the additional information and updated reports demonstrated that the site is considered suitable for the development and the development is unlikely to have significant adverse impacts arising from the proposal (subject to recommended conditions of consent).

As discussed through this report, the proposal is located in a recently subdivided industrial greenfield area with minimal sensitive receiver locations within the vicinity of the site. The proposal is considered to be within the strategic vision of the area in terms of improving Council assets and facilities without comprising the amenity of nearby land uses. The development safeguards Council's assets from risk of natural hazards and is designed to facilitate a more robust Pound with the provision of additional resources from a well established not-for-profit organisation. For these reasons, the proposal is considered to be in the broader public interest.

Accordingly, the DA is recommended for approval subject to the conditions as contained in **Attachment A** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

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

Most recently, a further 32 lot subdivision has been approved over Lot 2 DP 1139059, Lot 1 DP 232745, Lot 10 DP 1071301 and Lot 2 DP 1156966 (see Figure 2 below) under DA19/0875.

Proposed Lots 23 and 31 are part of Stage 4 and 4A of the subdivision, a Subdivision Certificate has been issued by Tweed Shire Council and it is understood that lot registration is imminent.

The existing site (“parent lots”) features a total land area of 19.293 Ha and comprises of vacant land with a significant amount of vegetation to the north (Lot 2 DP1139059). The southern extent of the land is highly disturbed land that has undergone significant remediation following the closure of a former quarry and subsequent landfill operation (see key issues “contamination” comments for further detail on historic land uses).

Lot 1 DP 232745 comprises of NSW Rural Fire Service Fire Control Centre and Training facility and is occupied by a single storey office building, associated carpark and several outbuildings and storage sheds. The existing site has primary frontage to Lundberg Drive. The land is relatively flat as a result of previous filling of the land to achieve RL6.7m AHD.



Figure 1: Aerial imagery of current lot layout

Proposed Lot 23 is a corner allotment that is vacant with no vegetation. It features a land area of 5926sqm and primary frontage to Lundberg Drive and a secondary frontage to a new road not yet dedicated to Council. This road extends from the existing Quarry Road and provides a connection to Lundberg Drive.

Proposed Lot 31 features a land area of 6.62Ha and retains its primary frontage to Lundberg Drive however as a result of the approved subdivision, will have access to a secondary road which extends from Quarry Road to Lundberg Drive.

The heavily vegetated area at the northern aspect of the existing Lot 1 DP1139059 will be severed from the proposed development and will form proposed Lot 32 once lots are registered. In addition, portions of land currently dedicated to Lot 2 DP 11398059 and form part of the “subject site” will become dedicated road as part of the final registration for subdivision.

The site is mapped as Regionally Significant Farmland, bushfire prone and predictive for Aboriginal Cultural Heritage. Historic and highly modified mapped watercourse traverses the site.

The land is mapped to be affected by Flooding with a Probably Maximum Flood (PMF) of RL 9.2m AHD.

The land also is mapped to contain a first order watercourse and is located within an area affected by management principles in the Tweed Shire Councils Draft Scenic Landscape Strategy.

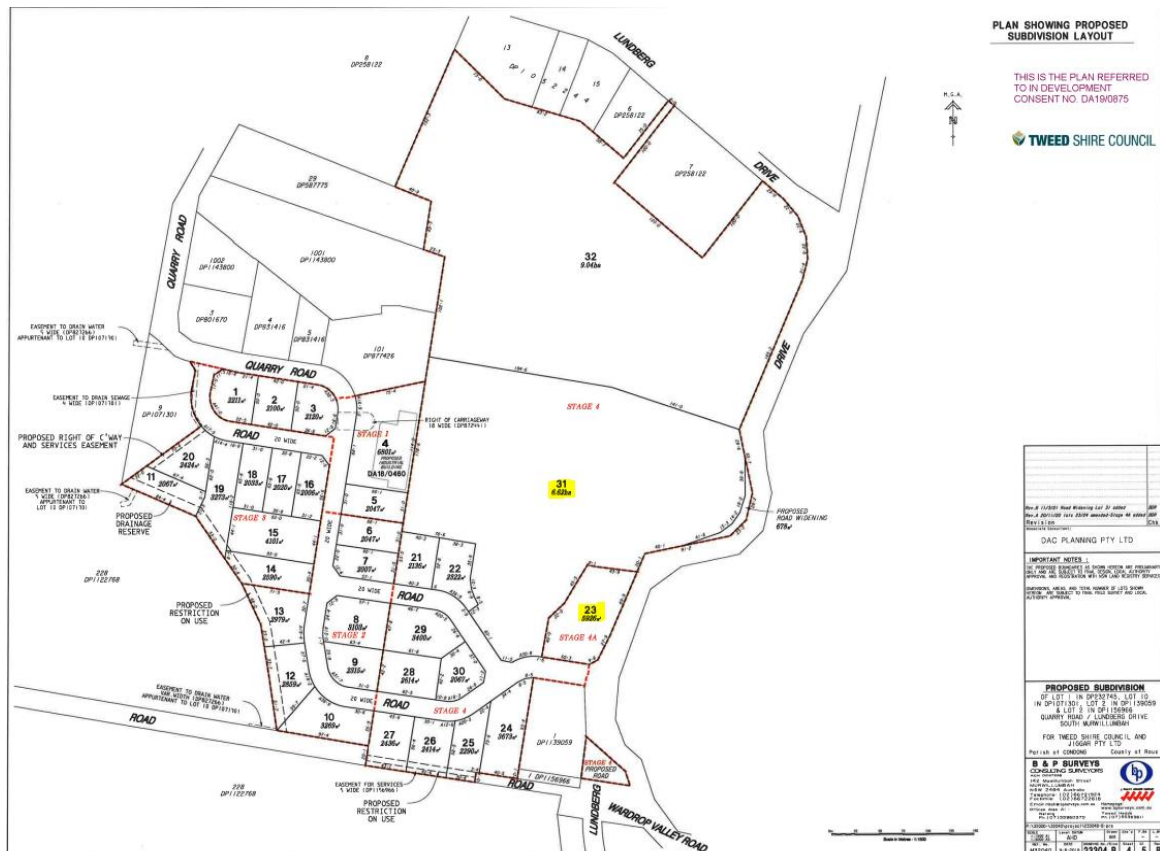


Figure 2: Proposed Lot layout based on approved subdivision

1.2 The Locality

The subject site is located at the northern aspect of the recently established Industrial Estate zoned E4 General Industry. Land uses within the vicinity of the site are mostly comprised of vacant lots due to the recent establishment of the Industrial Estate further south of the site. Furthermore, the previous use of the site as a former quarry and most recently; a landfill site, has resulting in a significant amount of remediation works associated with those uses. Therefore, the subject site and its immediate surrounds (i.e. the land immediately west of the subject site recently approved for subdivision) is highly disturbed.

The subject site is occupied by NSW Rural Fire Services' Fire Control Centre and training establishment. Immediately south of the subject site is Murwillumbah Pistol Club. This club will be severed from the subject site as a result of the recently established Quarry Road extension as part of the subdivision works. Land east of the subject site (opposite side of Lundberg Drive) is occupied by dwelling houses and rural land uses.

Surrounding zoning comprises of E4 zones immediately west in the locality of the old quarry and landfill site which has been recently subdivided. South of the site is the Industry Central Development Estate (also zoned E4 – General Industrial). Land east of the site, opposite Lundberg Drive is zoned RU2 Rural Landscape. There is a pocket of RU1 – Primary Production land further west of the Industrial lands. Murwillumbah Airspace is located within proximity of the site (approximately 520m west/north west of the site).



Figure 3: Locality Plan

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for a staged development comprising of a Community Facility to be used as a Council Pound and Animal Rehoming Facility. The development also includes a Public Administration Building to be used by Council Rangers at Proposed Lot 23 and 31 Lundberg Drive, South Murwillumbah. The development includes associated signage, landscape works, carparking and access.

Specifically, the proposal involves the sequential staging of the development per the following detailed breakdown:

Stage1 Construction on Proposed Lot 23:

- Construction of an L shaped single storey building fronting the intersection of Lundberg Drive and the Quarry Road extension. The building features two ‘wings’ as referred to on the design plans as ‘Building A’ and ‘Building B’:
 - Building A will be predominately used by the not-for-profit organisation known as ‘Friends of the Pound’. This part of the building will be focused on achieving the rehoming of cats and dogs held at the facility. Members of the community will be able to attend the premises to adopt a cat or dog. The facility will be managed via a license agreement.
 - Building B will provide administrative office spaces for Councils Rangers.
- Within the building, there are areas which will be ‘shared’ between the two entities including areas such as the laundry, toilets, veterinarian office and community meeting space. To the north and west of the building will be a series of animal holding pens and associated exercise yards (see area marked “C” on the proposed site plan in Figure 4 of this report).
- Lot 23 will contain covered and enclosed kennels external to the building, vehicle access and visitor parking (16 spaces inc. 1 accessible).
- A rear loaded carpark is also located on proposed Lot 21 which is separately accessed via Lot 31. The carpark contains 12 parking spaces.
- Establishment of a right of carriageway over Lot 31 to benefit Lot 23.

Stage 2 Construction on Proposed Lot 31:

- Provision for:
 - uncovered external dog and cat exercise yard with proposed 1.8m Chainwire fence (see area marked “D” on proposed site plan in Figure 4 of this report);
 - uncovered external vehicle impound area with Chainwire fence and CCTV security (see area marked “E” on proposed site plan in Figure 4 of this report);

- A covered livestock/Cattle and livestock/small animal impound area with chain wire fence perimeter (see area marked “F” on proposed site plan in Figure 4 of this report);
 - A covered staff lunch area (see area marked “G” on proposed site plan in Figure 4 of this report) and;
 - Water storage tanks, petrol pump and compost area.
- Associated accessways for vehicles and pedestrian ramps.

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

Table 1: Key Development Data

Control	Proposal
Site area	5933.41sqm Lot 23 + 66182.99sqm Lot 31 = 7.2115 Ha
GFA	677.3sqm (Building A and B)
FSR	0.15:1 (Lot 23)
Site coverage	15% (7,456.78sqm)
Clause 4.6 Requests	No
Max Height	5.416m (single storey)
Car Parking spaces	28 spaces
Number of Staff (Eq. Fulltime)	<ul style="list-style-type: none"> • 12 Rangers concurrently on site; • 10 Friends of the Pound staff
Max. visitors	<ul style="list-style-type: none"> • 2 Ranger visitors; • 3 Friends of the Pound visitors <p>Total: 27</p>
Hours of Operation	<p><u>Building A (Animal Rehoming Facility):</u> Mon – Sun 10am – 4pm with after hours access for staff only</p> <p><u>Building B (Council Operations):</u> Mon – Sun 8am – 4.30pm</p>

Proposed Site Plan (on proposed Lots 23 and 31):

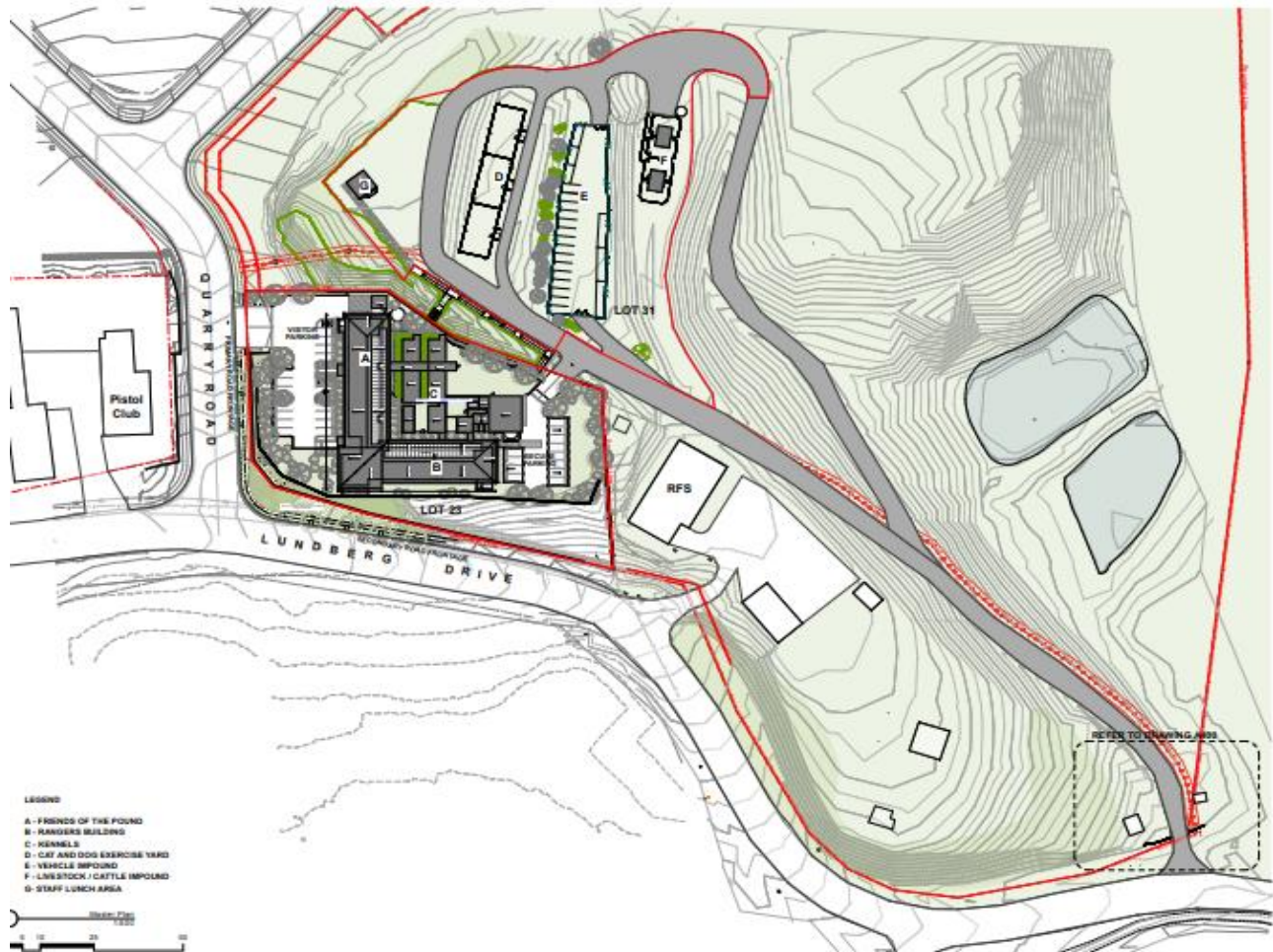


Figure 4: Proposed Site Plan

Montage - Main Entrance for proposed Building A (Animal Rehoming Facility):





2.2 Background

A pre-lodgement meeting was held prior on 11 May 2022 where various issues were discussed. A summary of the key issues and how they have been addressed by the proposal is outlined below:

Issue	Applicants response	Assessment Comments
Car parking must be provided in accordance with the rates prescribed by Table 2 in this section. It is noted that there is no specific parking rate for the development proposed. It is therefore recommended that a detailed Traffic Impact Assessment be submitted indicating the access/parking requirements for the development as ultimately proposed. This report should also detail anticipated trip generation.	SEE addresses Section A2 of the DCP and also references the appended Traffic Impact Assessment (TIA) Report submitted as part of DA. Section 3.0 of the TIA report includes expected trip generation.	Satisfactory
The site is bushfire prone land area and the application will need to address this issue. This may require referral to NSW Rural Fire Service for comment.	Bushfire Assessment Report included in DA.	Application referred to NSW Rural Fire Service pursuant to Section 4.14 of the EP&A Act 1979. Proposal is consistent with GTA's for DA19/0875. No objections raised and further conditions recommended.
Any Development Application for proposed signage would need to be shown on separate signage plans should show all dimensions including depth, schedule of colours and materials and any illumination, wording and/or artwork. Any proposed signage would need to also comply with DCP Section A4 and SEPP (Industry and Employment) 2021.	Summary of Signage briefly included in SEE and some detail included in architectural plans however signage detail in plan and challenging to interpret. Informal RFI issued and subsequent signage schedule provided 8 March 2023. Illumination details and additional schedule provided 24 October 2023.	Satisfactory.
A Waste Management Plan (WMP) shall accompany the development application addressing the requirements set out within this section of the DCP.	Section A15 of the DCP addressed in SEE and WMP prepared by consultant and submitted with DA.	Satisfactory.
Any proposed removal of vegetation as part of a development must address Section A16 and Section A19 where applicable. The proposed facility is positioned within Stage 4A of the Lundberg Drive Industrial Subdivision – Lot 23 (DA19/0875). From review of the plans provided the design appears to maintain the landscape areas and tree protection zones on the site as identified in the landscape plans approved under the subdivision (CC21/0330). No tree removal should be necessary to facilitate the proposal.	The site occurs within E4 General Industry zone, as such the DCP A16 applies however no prescribed vegetation occurs within the proposed development envelope. The landscape area to the north-east of future Lot 23 is to be retained and protected. An Ecological Impact Assessment Report is appended to the DA to address DCP A19.	Satisfactory subject to recommended conditions of consent.

The proposed structures on Lot 31 are positioned well clear of vegetation/habitat.		
If Lot 31 is going to be leased for a period exceeding 5 years, subdivision of Lot 31 will likely be required.	Friends of the Pound will be issued with a Licence rather than a Lease. No subdivision is required. The DA is proposed to be staged to separate the Lot 23 works from the Lot 31 works.	Satisfactory – subject to conditions.
The site is a Predictive Aboriginal Place of Heritage Significance. Aboriginal Cultural Heritage Assessment Report should be prepared for the DA and consultation with relevant statutory authorities (Tweed Byron Local Aboriginal Community and potentially NSW Office of Environment and heritage).	Addressed in SEE and approved Aboriginal Cultural Heritage Assessment Report prepared by consultant in 2019 for previous subdivision submitted with DA.	The 2019 Aboriginal Cultural Heritage Assessment Report was referred to Tweed Byron Local Aboriginal Land Council (TBLALC) who advised that additional Assessment of potential impacts to Aboriginal Cultural heritage are not required. Therefore, satisfactory subject to conditions.
The design of the public buildings should provide a welcoming public interface, covered walkway and entry foyer which announces building entry and provides a sense of being a public building. <ul style="list-style-type: none"> • Deep eaves provide shading and weather protection. • A consistent roof form should be utilised to tie together the overall "language" of the building form across the site. • Material selection should be included in the DA and show a mix of materials, texture and colour. 	Architectural plans include covered porticos to both public entrances to the building. Eaves are provided to Buildings A and B and material selection schedule also included in the DA.	Satisfactory.
Compliance with the Disability Discrimination Act 1992 (Cth) would be required and Access for disabled would need to comply with AS1428.	Addressed in SEE with supplementary Access Design Assessment Report included in DA.	Satisfactory subject to conditions.
An acoustic report prepared by a suitably qualified acoustic consultant will be required. The report shall identify and assess the noise and vibration during construction works, as well as noise associated with occupation at the property. This includes the impact of noise associated with the development on sensitive land uses, the impact of external noise sources on animals and occupants of the development, air conditioning and ventilation systems, other plant and equipment, car parks, outdoor areas, deliveries and waste collection. The report shall outline measures to minimise and mitigate potential noise and vibration impacts.	Addressed in SEE and Acoustic Report appended to the DA. Updated Acoustic Report submitted during the DA process to deal with a "worst case scenario" external impact on the animals. Additional mitigation measures recommended and included in amended plans submitted to Council on 9 August 2023.	Satisfactory subject to recommended conditions of consent.
A Site Management Plan shall be prepared that outlines how potential amenity disturbance will be prevented, monitored and addressed particularly outside normal operating hours or during emergency impounding of animals and vehicles. The Plan should include after-hours contact information to be made available to surrounding residents in the event of amenity concerns.	Addressed in SEE and draft Operational Management Plan (OMP) included in DA. Updated Draft Operational Management Plan submitted 9 Aug. 2023.	Satisfactory subject to recommended conditions of consent.
Any Development Application is to address impact from any external lighting on surrounding properties. Applicant shall demonstrate the development will meet the requirements of AS4282 - Control of the Obtrusive Effects of Outdoor Lighting and consider preventative measure such as timers and shielding to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.	Detail provided in Architectural Plans	Satisfactory subject to recommended conditions.
The applicant shall address current and previous land uses in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021. All contaminated land reports submitted for Council review as of 1 July 2020	SEE addresses this issue by referring to the previous consent for subdivision of the parent lot and the previous SEPP 55 considerations that were undertaken prior to the issue of that consent. In addition, it	The bundle of information submitted on 9 August 2023 suitably addresses matters for consideration under Chapter 4 of SEPP (Resilience and

<p>must be accompanied by a Contaminated Land Summary Table to ensure that key mandatory information is incorporated into consultant's reports.</p> <p>The proposal is not consistent with the Site Management Plan or intended use of the site.</p> <p>Should the applicant pursue the proposal within Lot 31, a Detailed Site Investigation, possible Remediation Action Plan, and a revised Site Management Plan would be required to certify that the site is suitable for the proposed use and will not impact the integrity of the landfill or site workers and end users. The investigation must address DA19/0875 conditions of consent.</p>	<p>references a Review of Environmental Factors (REF) relating to part of Lot 31. The REF was issued to permit the capping of the land or otherwise referred to "batter maintenance works". It was considered that these works would provide a thicker barrier between potential contaminations from the sites former use as a landfill and its potential future use.</p> <p>After significant and lengthy consultation with Councils Environmental Health officers, on 9 August 2023, the applicant submitted a Preliminary landfill Gas Assessment, Detailed Site Investigation Report (DSI) and Remediation Action Plan (RAP).</p> <p>In addition, a Long Term Environmental Management Plan (LTEMP) has also been prepared and submitted to support the proposal.</p>	<p>Hazard) 2021 and therefore is satisfactory.</p> <p>It is noted that the requirements of the RAP and/or LTEMP do not trigger any referral to the EPA pursuant to Section 4.46 of the Act. The assessment of the RAP/LTEMP is relied solely upon the local planning authority and conditions of consent recommended to require the requirements of the RAP/LTEMP to be applied to the title of the land to notify future landowners/lessee etc.</p>
<p>The subject site has been identified as Class 5 on the acid sulfate soil planning maps. The applicant shall address Clause 7.1 of the Tweed LEP 2014.</p>	<p>Addressed in SEE and Acid Sulfate Soil Management Plan appended to the DA.</p>	<p>Satisfactory subject to compliance with conditions of consent.</p>
<p>Any Development Application shall include details of animal welfare measures including compliance with the NSW Department of Primary Industries - NSW Animal Welfare Code of Practice No 5 - Dogs and cats in animal boarding establishments and the Impounding Act 1993.</p>	<p>The applicant has addressed this requirement in the SEE and also provided an Animal Behavioural Assessment for canines whom may be affected by the noise from adjoining lands (namely the pistol club).</p> <p>In response to a request for information from Council, the Animal Behavioural Assessment has been updated to reflect the most rigour assessment of noise on the animals. In addition, plans have been changed to improve the internal amenity of the site(s) for the canines as recommended by the author of the Animal Behavioural Assessment Report</p>	<p>Council officers have requested the applicant to provide updated Acoustic testing based on the "worst case scenario" of the adjoining land use (pistol club). The outcomes of which have resulted in additional design measures in consultation with the Animal Behavioural consultant whom specialises in canine behaviour and management. As a result of the updated acoustic report and the design changes, the Animal Behavioural Assessment has raised no objection to the impact of the adjoining land uses to the development and the development proposal having regard to animal welfare.</p> <p>In addition, the application was referred to NSW DPI – Agriculture and RSPCA whom provided their comments on Animal Welfare.</p>
<p>Please provide an Engineering Services Report and associated plans displaying how it is intended to service the proposed development with sewer and water (and each lot independently if applicable).</p>	<p>Addressed in SEE and appended Hydraulic Services Report.</p> <p>An Existing Water Main connection and pressure sewer main is available to the southern boundary of Lot 23.</p> <p>A private connection to water is proposed via a new connection to the water mains available to the southern boundary of Lot 23. It is noted a fire hydrant and hose reel system will be required for Animal Rehoming Facility. This is reiterated in the submitted bushfire report. Detail of the location for these services is included in the Hydraulic Services Report.</p> <p>Existing services and connections are available in proposed Lot 31.</p>	<p>Satisfactory</p>
<p>Water meters located suitably free and clear of buildings, structures and footings and landscaping taller than 1.0 metre in compliance with Council's Standard (Water Meter) Drawings. The locations of these water meters shall complement the Section 68 approval for the sewer and water design for Stage 4 and Stage 4a of the Quarry Road Subdivision.</p>	<p>Water Meter locations provided in Hydraulic service report.</p>	<p>Satisfactory.</p>

A Conceptual sewer schematic plan displaying, the location of private sewer pump stations and rising mains. These plans shall demonstrate how each building is intended to gravitate to any proposed private sewer pump station; Note: a boundary kit it to be shown at the boundary of each lot to delineate the extent of public and private assets (with all rising mains and pump stations internal to the site to be private infrastructure).	Sewer schematic plan provided in Hydraulic services report.	Satisfactory.
Please provide a quantification of each lots sewer and water demand in accordance with TSC Development Design Specification D11 and D12 and Council's Revenue Fees and Charges Policy. Please be advised that a Water Supply Demand and Sewage Discharge Impact Report is required to be provided from a NER Engineer to confirm the sewer and water loading affiliated with the proposed kennels and any other land uses which are not identified in Council's Fees and Charges Revenue Policy.	Included in Hydraulic Services report	Satisfactory.
Please provide a conceptual pump station sizing and rising main for each proposed pump station. Each pumps station sizing shall demonstrate that it is compatible with the Rural Fire Service Pump Station (noting its design is yet to be finalised); The approved common rising main size in the aforementioned approvals (application reference numbers SWSW21/0008 AND SWSW21/0006) which service the Rural Fire Service Lot and the proposed development; Council's OSSM requirements as specified in TSC Development Design Specification D12. This shall include provisions for 24 hours of emergency storage provisions.	Location and detail included in Hydraulic Services report	Satisfactory.

The development application was lodged on **10 January 2023**. 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
17 January 2023	DA referred to external agencies
1 February 2023	Exhibition of the application
10 February 2023	Assessment officer site inspection
15 March 2023	NRPP Briefing
24 March 2023	Request for information issued
25 August 2023	Additional information and amended plans lodged and accepted by Council under Environmental Planning and Assessment Regulation 2021 ('EP&A Regulation') on 25 August 2023. <ul style="list-style-type: none"> Cover letter and response summary by planning Consultant.

	<ul style="list-style-type: none"> • Cover letter and updated Noise Impact Assessment by Acoustic Consultant. • Erosion and Sediment Control Plan • Stormwater Management Plan • Updated Animal Behavioural Assessment to address Councils RFI • Updated Operational Management Plan to address Councils RFI • Updated Waste Management Plan • Contamination summary letter • Preliminary Landfill Gas Assessment • Preliminary Landfill Gas Assessment Addendum • Detailed Site Investigation (DSI) • Remediation Action Plan (RAP) • Long Term Environmental Management Plan (LTEMP) • Updated Site Plan showing the proposal relative to proposed approved site boundaries. • Updated Site Plan showing the proposal relative to existing site boundaries
12 September 2023	NRPP site inspection
30 October 2023	Final referral comments for amended DA received
2 November 2023	Assessment Report & draft conditions completed
3 November 2023	Report and conditions referred to NRPP for peer review
16 November 2023	Peer review report referred to Council by NRPP
24 November 2023	NRPP Report and conditions updated and uploaded to the planning portal with Attachments
12 December 2023	Scheduled NRPP Determination meeting

2.3 Site History

As previously discussed in this report, the subject site has been subject to two development consents which permit subdivision works associated with a master planned subdivision, commonly known as “Industry Central Development Estate South Murwillumbah’. Subsequent to the creation of the subject land as part of that consent, a more recent consent was issued for a staged subdivision to create a higher density of industrial development within the precinct (DA19/0875).

The subject site is part of the Stage 4 and Stage 4A subdivision and involves the creation of an extended road from Quarry Road to Lundberg Drive, which the subject site will feature a frontage to for both proposed Lot 23 and Proposed Lot 31.

At approximately the same time as DA19/0875 was with Council for assessment, Council resolved to progress with the preparation of a planning proposal seeking to amend the

Tweed Local Environmental Plan (LEP) 2014 and pursue a gateway determination enabling a new Schedule 1 Additional permitted Use clause for the subject land for the purpose of a Community Facility that is a council pound and a place used for rehoming animals to be permitted with development consent. On 25 June 2021, this amendment was made to the LEP2014 enabling the subject land to be used as a Community Facility that is a council pound and a place used for rehoming animals.

At present, the civil works relating to the approved subdivision have been completed and Council has released a Subdivision Certificate however Lots 23 and 31 are not yet registered. Therefore, it is likely that if the proposal is determined favourably prior to lot registration, this consent would need to be conditioned to restrict the commencement of works associated with this proposal prior to the registration of lots.

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

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.

(a) 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 (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<p>Chapter 2: Vegetation in non-rural areas</p> <p>The development application includes the removal of one (1) tree on highly modified land. The tree is nominated as a blackwood wattle tree. A site inspection has taken place by Councils Biodiversity officer whom was unable to locate the referenced tree. Notwithstanding, advised that the removal of such tree on such modified land would have negligible impact on ecology. The development will be below the biodiversity offset scheme (BOS) threshold.</p> <p>Further assessment of Chapter 2 is not necessary for the purposes of this application however it is noted that there is a Vegetation Protection Area and Landscape Area on the site which has been established in accordance with the previous subdivision approval pursuant to Biodiversity Conservation Act 2016. Further discussion of this area and recommended conditions to enforce compliance with already approved landscaping is discussed later in this report.</p>	Y

	<p>Chapter 4: Koala Habitat Protection</p> <p>The site is greater than 1ha in area and therefore this Chapter of the SEPP applies.</p> <p>The land does not include any trees belonging to the Koala use tree species listed in Schedule 3 of the relevant Koala Management Area and is not regarded as core koala habitat for the purposes of this Chapter. As such, the consent authority can be satisfied that the development is likely to have low or no impact on koalas or koala habitat under Clause 4.9 of this policy. Further assessment of Chapter 4 is not necessary.</p>	Y
State Environmental Planning Policy (Industry and Employment) 2021	<p>Chapter 3: Advertising and Signage</p> <p>The current proposal includes a signage “strategy” which indicates signage typology, fonts and scale of various signs. There is also a signage plan which codes the location and type of signage on the site having regard to the schedule contained in the strategy. The plans demonstrate that the proposed signage meets the criteria under Section 3.11(1) – matters for consideration. As such, the consent authority may grant consent to the signage pursuant to Clause 3.6.</p>	Y
State Environmental Planning Policy (Planning Systems) 2021	<p>Chapter 2: State and Regional Development</p> <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. 	Y
SEPP (Resilience & Hazards)	<p>Chapter 4: Remediation of Land</p> <ul style="list-style-type: none"> • Section 4.6 – Historic landfill uses on the site have given rise to further information being requested from the applicant to satisfy the matters for consideration under this Chapter. On 19 August 2023 the DA was amended to include a Detailed Site Investigation (DSI), Remediation Action Plan (RAP) and Long Term Environmental Management Plan (LTEMP). These plans have been reviewed by Councils Environmental Health Unit whom raises no object to the proposal subject to the requirements of the various reports being included in recommended conditions of consent. 	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	<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 	N/A

	<p>Energy required given the provision of underground supply is provided in the approved subdivision.</p> <ul style="list-style-type: none"> Section 2.121(4) - Traffic-generating development does not apply as the GFA and trip generation does not trigger referral to Transport NSW. 	
Tweed Local Environmental Plan 2014	<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>Y</p> <p>Y</p> <p>Y</p> <p>N/A</p> <p>N/A</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y - consent sought</p>
Tweed Development Control Plan 2008	<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 (Biodiversity & Conservation) 2021

Chapter 2: Vegetation in non-rural areas

As previously discussed in this report, the proposal seeks to remove one (1) native Blackwood Wattle (*Acacia melanoxylon*) which has been unidentified on the site by Councils biodiversity officers. The application is supported by an Ecological Impact Assessment Report which identifies that the subject site is not affected by the NSW biodiversity Values Map.

The site supports one (1) threatened species listed Vulnerable under the Biodiversity Conservation (BC) Act 2016 and this species was subject to an assessment of significance in the previously approved subdivision. The assessment of significance is contained in an Ecological Impact Assessment Report (EIAR) dated 2022 and it is for a Pale- vented Bush-hen.

The EIAR 2022 concluded that ‘with effective implementation of proposed impact avoidance and minimisation measures, the proposal is considered unlikely to have an

adverse effect on the habitat or life cycle of the species such that a viable local population is likely to be placed at risk of extinction or its recovery significantly adversely affected’.

A summary of relevant measures in Section 6 Table 2 of the EIAR 2022 include:

- Tree retention and flagging/markings
- Ecologist pre-works site assessment and advice is proposed prior to weed control, hydroseeding and hydro-mulching of the vegetated eastern/lower constructed pond banks to ensure dense understorey vegetation cover is retained as a key habitat feature for the Pale-vented Bush-hen. Ensure native vegetation, fauna habitat values, and fauna protection measures (including vehicle speed limits) are clearly communicated during pre-start/toolbox meetings and understood by machinery operator/s and construction personnel.
- Vehicle speed limit signs should be installed on the site.
- All external lighting being localised, of low luminosity and directed towards the ground.
- Lighting would be installed to minimise light spill onto the adjacent Lot 32 subject to a habitat restoration plan.
- New landscape plantings for the site consist of non-invasive species selections and endemic native species should be considered.
- An erosion and sedimentation control plan to be prepared and implemented.

A review of the Stormwater Management Plan (dated 21 August 2023) prepared by Greg Alderson Associated confirmed that there are to be no works with the area of potential Pale-vented Bush-hen habitat to the north of future Lot 31. The proposed Stormwater discharge will be into the stormwater treatment basin which is located within the bounds of proposed Lot 31. Based on this arrangement, Council officers are satisfied that fauna management measures underlined above are not considered necessary for the proposal.

All other mitigation measures recommended in the EIAR 2022 have been incorporated into recommended conditions of consent.

The proposed development envelope is approximately 250m from a known Flying-fox camp. Whilst the camp is not identified in the Tweed Flying-fox Camp Management Plan dated March 2018 prepared by Ecosure, the separation distance to be afforded between the proposed development and Flying-fox camp is consistent with a Low Risk conflict setting (Between 100 m-300m). The separation distance also satisfies the minimum 100m setback between development and a Flying-fox camp prescribed in DCP A19 (Development Envelope Control C23).

As such the consent authority can be satisfied that the proposed development will not result in conflict with the Flying-fox camp and/or significant impact upon the listed Grey-headed Flying-fox. To facilitate the proposed development, the below findings are concluded (noting they also take into regard the recommendation by NSW RFS in terms of *Planning for Bushfire Protection 2019*):

- Areas of High Conservation Value as identified on the Biodiversity Values Map are to be avoided.
- No removal of native vegetation is necessary (under the 2500m² threshold).

- It is unlikely threatened species or ecological communities, or their habitats would be significantly affected, according to the test in section 7.3 of the BC Act.

On this basis, the proposed development does not exceed the Biodiversity Offsets Scheme threshold (Clause 7.2 of the Biodiversity Conservation Regulation 2017). As such a Biodiversity Development Assessment Report under Section 7.7 of the BC Act is not required.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3: Advertising and Signage

This chapter applies to all advertising and signage which can be displayed with or without consent under an EPI and is visible from any public place or public reserve. 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 current proposal seeks consent for a consolidated signage strategy for the site, including the location and dimensions of business identification for future commercial tenants for Building A (i.e. Friends of the Pound). The applicant has outlined the detail of the Building A signage will be subject to separate applications once tenants are confirmed, it is recommended this be conditioned on the consent.

On 6 March 2023, addendum information was supplied confirming that the vast majority of the development on Lot 31 will not be accessible to the public and will therefore only require internal wayfinding signage suitable for Council staff to manoeuvre their way around. This signage will be internal / directional and not readily visible from public roads or places except for one (1) sign located at the driveway entry on Lundberg Drive (refer to Drawing A400 and sign reference G.WS 13 in Architectural plans).

Proposed Lot 23 will contain 11 external signs, with seven (7) of the 11 proposed signs to be illuminated.

The following table provides an assessment of the proposed signage against the SEPP 64 objectives and assessment criteria.

Assessment Criteria	Comment
1. Character of the area <ul style="list-style-type: none"> • Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? 	<p>The site is within a greenfield industrial subdivision area (E4 – General Industrial). The scale and location of the proposed signage has been designed to provide an integrated and professional signage schematic for the site.</p> <p>The proposed signage strategy is considered to be compatible with the desired character of the site and surrounds. In particular the character of the signage is consistent with the use of the land as a piece of civic infrastructure associated with Council operations.</p>

Assessment Criteria	Comment
<ul style="list-style-type: none"> Is the proposal consistent with a particular theme for outdoor advertising in the area or locality 	<p>There is no site specific theme for advertising for the area.</p> <p>An assessment against the Shire wide Advertising and Signs Code is provided in a later section of this report.</p>
<p>2. Special areas</p> <ul style="list-style-type: none"> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	<p>The site is located within a greenfield subdivision area that is characterised by an urban landscape character unit pursuant to Councils Draft Scenic Landscape Protection Policy. In addition, the draft policy highlights the site as being affected by several priority viewsheds and therefore it could be considered as being within a special area in terms of visual quality as it is visible from several viewsheds across the Tweed (Tweed Valley Way, Pacific Highway, Tomewin Road, Terranora Road, Tweed River Panorama, Cane Road and Tumbulgum Road, Fingal Road, Tumbulgum Pub, Tumbulgum Jetty and Riverside Drive) . The site is not located adjacent or within the vicinity of any items of environmentally sensitive area, heritage areas, natural or other conservation area's.</p> <p>The proposal does not seek to significantly alter the landform beyond that already approved. The provision of signage in accordance with the schematics provided in the Architectural Plans are considered to be consistent with the scale of the proposed building(s) and will not impact the viewsheds. The size and scale of signage is conservative and is unlikely to be visible from the viewsheds given they are attached to a single storey structure located at the middle part of the site in terms of vertical height/RL values of the site.</p> <p>As such, the proposal is not considered to detract from the amenity or visual quality of the site or views to the site.</p>
<p>3. Views and vistas</p> <ul style="list-style-type: none"> Does the proposal obscure or compromise important views? 	<p>The proposed signage does not significantly obscure views and vistas of the surrounding area.</p> <p>(see detailed assessment above)</p>
<ul style="list-style-type: none"> Does the proposal dominate the skyline and reduce the quality of vistas? 	<p>The proposed signs are attached to the fascia of a single storey building. The site does form part of a several view corridors however the impact of signage attached to the proposed single storey structures located at the middle elevation of the overall site is not considered to dominate views of the skyline or reduce the quality of vistas (see detailed assessment under Section 2 above).</p>
<ul style="list-style-type: none"> Does the proposal respect the viewing rights of other advertisers? 	<p>The proposed signs provide an opportunity for improved wayfinding to visitors and aid to highlight the identification and use of the proposed building. The signage will not interfere with the rights of other advertisers.</p>
<p>4. Streetscape, setting or landscape</p> <ul style="list-style-type: none"> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? 	<p>The dimension of the signs are considered appropriate to the location and existing streetscape of the industrial precinct.</p>

Assessment Criteria	Comment
<ul style="list-style-type: none"> Does the proposal contribute to the visual interest of the streetscape, setting or landscape? 	The signage replicates the corporate identity of Tweed Shire Council and provides a uniform presentation to the streetscape. The proposed signage is considered appropriate for the landscape setting of urban area with emerging industrial land uses.
<ul style="list-style-type: none"> Does the proposal reduce clutter by rationalising and simplifying existing advertising? 	The application relates to new signage for the use of the site as a Pound and Animal Rehoming Facility. This is the first use of the site and new buildings. The proposed signage is not considered to clutter the site and provides simple and uniform signage across the site. A separate DA for signage will be required for the future tenancy (Friends of the Pound). It is recommended that the conditions for that signage highlight a need to deliver signage in accordance with the approved signage strategy in the stamped approved plans for this DA.
<ul style="list-style-type: none"> Does the proposal screen unsightliness? 	No unsightliness to screen Development comprises of new building(s).
<ul style="list-style-type: none"> Does the proposal protrude above buildings, structures or tree canopies in the area or locality? 	No. The proposed signage will sit flush with external building walls and not protrude above the building.
<ul style="list-style-type: none"> Does the proposal require ongoing vegetation management? 	The proposed signage is located outside of existing vegetation areas.
5. Site and building <ul style="list-style-type: none"> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? 	The dimensions of the proposed signs are appropriate given the size and overall scale of the building. The proposed signage has been appropriately positioned and proportioned to identify the principal entry points for customers.
<ul style="list-style-type: none"> Does the proposal respect important features of the site or building, or both? 	The signs are appropriately situated on the building and the site.
<ul style="list-style-type: none"> Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	The signs are appropriately situated on the building and the site.
6. Associated devices and logos with advertisements and advertising structures <ul style="list-style-type: none"> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? 	The proposed signs for illumination are either free standing or mounted on the fascia of external walls. The content of the signage conveys corporate messages and are not considered to be excessive or inappropriate. The proposed signage will not have externally protruding safety devices or platforms.
7. Illumination <ul style="list-style-type: none"> Would illumination result in unacceptable glare? 	A total of eight (8) signage are proposed to be internally illuminated with LED lighting; the standard condition relating to illumination is to be applied requiring <i>'All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.'</i>

Assessment Criteria	Comment
<ul style="list-style-type: none"> Would illumination affect safety for pedestrians, vehicles or aircraft? 	<p>Potential vehicle impacts are perceived to be insignificant given the two (2) signs that orientate Quarry Road and Lundberg Drive respectively are modest in nature. Quarry Road entry/exit is located on a 1.5m freestanding poll with an advertising area of 900mm x 450mm and Lundberg Drive sign is located on a 600mm freestanding pole sign with 900mm x 90mm advertising area.</p> <p>All other signage is located internally to the site. Given the topography of the site, some of the illuminated signs may be visible from the road and distant views however these views are likely to be filtered by proposed landscaping and vegetation protection areas. As indicated, a condition will be applied to ensure that glare or other like impacts are regulated. The proposal is considered to be acceptable in this regard.</p>
<ul style="list-style-type: none"> Would illumination detract from the amenity of any residence or other form of accommodation? 	<p>The subject site is located within a recently established industrial subdivision. Existing dwellings are located to the east of the subject site (opposite side of Lundberg Drive). They are located on large rural blocks are recessed well below the road. As such, given the topography of the site, light spill is unlikely to intrude into adjoining dwellings. Furthermore, existing vegetation areas along Lundberg Drive and proposed landscaping of the site will likely filter any potential illumination of the site. Notwithstanding, to safeguard residences, conditions of consent are recommended to ensure that glare or other like impacts are regulated. The proposal is considered to be acceptable in this regard.</p>
<ul style="list-style-type: none"> Can the intensity of the illumination be adjusted, if necessary? 	<p>The standard condition relating to illumination is be applied requiring <i>'All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.'</i></p>
<ul style="list-style-type: none"> Is the illumination subject to a curfew? 	<p>No, a curfew is considered to be irrelevant for an Employment zoned area. Where the site presents to RU2 zoned land (opposite side of Lundberg Drive), it is separated by a significant road corridor and vegetation protection areas. In addition, the dwellings located along Lundberg Drive sit well below the road. These features are likely to obscure views of any illumination.</p>
<p>8. Safety</p> <ul style="list-style-type: none"> Would the proposal reduce the safety for any public road? 	<p>The proposal is considered to be acceptable as it's contained wholly within the site and is not considered to reduce the safety of any public roads, pedestrians or cyclists. The signage is not considered to obscure any sightlines from public areas, being part of and attached to an approved building, and not obstruct visibility from any public road. Conditions of consent are recommended to ensure these outcomes.</p>
<ul style="list-style-type: none"> Would the proposal reduce the safety for pedestrians or bicyclists? 	<p>As above.</p>

Assessment Criteria	Comment
<ul style="list-style-type: none"> Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	As above.

Based on the above, the proposed signage is considered to be 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 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.

The site was initially used for agricultural purposes, then for quarrying of road construction materials. As quarrying continued, the site was developed as a landfill facility. According to the Murwillumbah Site Closure Plan (MSCP), the landfill facility accepted a range of waste types over its operating life, including domestic, commercial, and industrial, construction and demolition waste. The MSCP also states that when initially opened in 1980’s, domestic kerbside waste was also disposed within the landfill facility. From the 1990’s, waste accepted within the site was limited to self-haul waste. A recycling/resource recovery centre was operated from around 2000. At the time of writing, the MSCP indicated only inert waste was accepted.

The subject land has been subject to various approvals for not limited to but including a subdivision, planning proposals/gateway determinations (in association with the proposed use of the land as a Pound) and a Review of Environmental Factors (REF) under Part V of the Act. The REF related to works associated with the “capping” of land in accordance with NSW EPA Approval of Surrender Notice for the cessation of the landfill facility (issued 27 July 2010). In considering the provision of potential remediation, whilst the subdivision approvals acknowledged previous land use for this site (Landfill Facility) (via Preliminary Site Investigation dated September 2010), the future use of the land was for flood-free storage only.

Council records indicate that a subsequent Site Management Plan prepared by HMC dated February 2021 is held for this land. This plan concludes that proposed Lot 31 would be suitable for a hardstand area subject to compliance with relevant conditions of the EPA surrender notice as well as additional works as listed below:

- Reinstating monitoring locations MG1 and MS3 to ensure compliance with the Approval to Surrender Licence conditions;
- Reporting requirements outlined in Condition 21 of the Surrender of Licence Notice 1111783 is required. An incident report, as required by the conditions of licence surrender, is required and;
- Stormwater capping may require modification and further investigations to ensure earthworks do not disturb landfill materials, the install capping and batter works is recommended.

The submitted application includes a summary of comments by the consultant townplanner in relation to considerations under this Chapter of the SEPP however having regard to previous reports and their limitations, Council officers requested additional information including extensive site monitoring for bulk ground gases.

In August 2023, a response package was supplied by the applicant which includes the following:

1. RFI response letter and table prepared by JBS&G
2. Preliminary Landfill Gas (LFG) Assessment, dated 17 July 2023 reference JBS&G 65336
3. Preliminary Landfill Gas (LFG) Assessment Addendum dated 23 August 2023
4. Detailed Site Investigation, dated 23 August 2023, reference JBS&G 65336
5. Remedial Action Plan, dated 23 August 2023, reference 65366/154129 (Rev 0)
6. Construction Environmental Management Plan (CEMP)
7. Preliminary Long Term Environmental Management Plan (LTEMP) prepared by JBS&G dated 23 August 2023, reference 65336 154144_Rev0

Preliminary LFG Risk Assessment and Addendum information

The Preliminary LFG Risk Assessment and Addendum information outlines the provision of monitoring wells in between the waste mass in the former landfill and the proposed development on Proposed Lot 23. Monitoring was carried out using continuous in-situ gas analyser and the duration was in accordance with NSW EPA (2020) to capture high resolution to characterise a worst-case event. JBS&G continuous monitoring did not detect methane above the adopted criteria and the risk status for LFG to unacceptable concentration was considered negligible.

Detailed Site Investigation (DSI)

Concurrently to the Preliminary LFG Risk Assessment and Addendum information, to comprehensively address the requirements of the applicant pursuant to this Chapter, the applicant submitted a Detailed Site Investigation (DSI). The DSI states that “*Conservatively, Lot 23 and Lot 31 should be assumed to be potentially contaminated with ACM and other contaminants.*” As such, the DSI outlines that in order for the site to support the proposed land, the following measures would need to be employed:

- *The existing engineered fill layer across Lot 23 must be maintained in accordance with an LTEMP; and*
- *The entirety of Lot 31 should be covered with an engineered fill layer in accordance with a RAP, with future maintenance work or ground disturbance managed via an LTEMP.*

The DSI also identifies that:

- *Groundwater across Lot 23 and Lot 31 should be assumed to be potentially contaminated as a result of potential migration from the former landfill and groundwater use for any purpose other than monitoring should be precluded via an LTEMP and;*
- *Landfill gas migrating from the former landfill towards Lot 23 and Lot 31 poses negligible risks to site users associated with the proposed development upon Lot 23 and 31.*

The DSI concludes that the site could be made suitable for commercial / industrial development subject to implementation of the RAP and LTEMP.

Remediation Action Plan (RAP)

The RAP has been prepared specifically for Site 31. The proposed remediation strategy aims to manage asbestos impacted soil and other contaminants of potential concern (COPCs) during the site works, in support of an LTEMP, to demonstrate no unacceptable health or ecological risks from uncontrolled fill left in-situ. This RAP has been prepared on the basis that any cut to fill activities will result in no offsite disposal of existing uncontrolled fill materials. If offsite disposal is required, then the RAP will require revision. The remediation consultant shall supervise the installation of marker layers during earthworks. Photographic logs shall be maintained for encapsulated areas for inclusion in the LTEMP for the site. The remediation consultant shall confirm that the marker layer installation is satisfactory prior to the placement of overlying engineered fill materials.

The remediation validation reporting requirements to demonstrate the successful completion of works in compliance with the RAP goals has been outlined within the RAP. The DSI indicates that the LTEMP would need to be updated to include as-constructed details including depth of the marker layer.

The RAP includes an unexpected finds protocol.

The RAP concludes:

*“Overall, it is considered that the proposed actions outlined in this RAP conform to the requirements of the Contaminated Sites Guidelines for the NSW Site Auditor Scheme (3rd Edition) (NSW EPA 2017) because they are: technically feasible; environmentally justifiable; and consistent with relevant laws, policies and guidelines endorsed by NSW EPA.
Subject to the successful implementation of the measures described in this RAP ... it is concluded that the identified asbestos contamination and other COPCs at the site can be remediated / managed in such a way to be appropriately protective of*

human health and the environment, such that the site can be made suitable for the proposed commercial/industrial land use (in concert with the proposed LTEMP)”.

Preliminary Long Term EMP

A Preliminary Long Term (LTEMP) has been prepared by JBS&G. The consultant advises that the LTEMP has been completed to address environment management for Lots 23 and Lot 31, with an understanding engineered fill layer has already been placed within Lot 23 and as such should be managed under this LTEMP. Refer to image below extracted from LTEMP outlining the scope of study area:



JBS&G note that upon completion of the earthworks, this LTEMP should be updated to ensure the as-constructed works are appropriately captured.

The LTEMP summarises much of the RAP and DSI. It notes the need for encapsulation works across Lot 31 for anthropogenic material including Asbestos Containing Materials (“ACM”). The LTEMP also indicates that Hazardous Ground Gases (HGG) should be monitored during construction works involving any excavation into Lot 31. Procedures for LFG monitoring are outlined in Appendix E.

The LTEMP states that the extent of the marker layer and engineered fill has been clearly outlined within the LTEMP. The LTEMP discourages the disturbance of the marker layer. Management measures have been outlined in the case that the excavation of material beneath the fill and geo-fabric marker layer is required. This is satisfactory.

The LTEMP nominates a person in a senior management position in the organisation as the Site Environmental Manager. This person has been nominated as having the responsibility for ensuring the maintenance of the provisions of this LTEMP. In accordance with NSW Site Auditor guidance, the consent authority requires acknowledgement from the applicant that they have read and accept the requirements of the LTEMP. This was confirmed as acknowledged and accepted by Council officers on behalf of the applicant on 17 October 2023.

In relation to occupation and operational phase gas monitoring the LTEMP indicates that Landfill Gas (LFG) assessments carried out by JBSG indicated that there was an acceptable level of residual risk of LFG accumulation in buildings in the proposed development. This was based on in-situ LFG monitoring results and the following:

- Occupied buildings on Lot 23 will be built on top of very low permeability engineered clay which has been installed under Level One Geotechnical Supervision. The permeability of the material falls out of the scope of AS1289.6.7.2 as it is lower than 1.0×10^{-9} m/s (i.e. equivalent to an engineered HDPE liner); and
- Lot 31 is proposed for installation of lower risk buildings (i.e. open picnic and rest area type structures). JBS&G understands that an engineered fill layer of at least 0.5m will be applied prior to construction. This material will be applied under TSC supervision under the areas where these open structures are proposed.

A condition of consent is recommended to require a validation report to ensure that the engineered filled layer has been installed in accordance with the RAP.

Notwithstanding the above, land use changes and earthworks may change the sub-surface LFG regime. Therefore, the LTEMP requires LFG monitoring to be carried out until stabilisation of the landfill or confirmation that the residual risk status has not changed. Monitoring will be carried out on Lot 31 on the surface and in and underground services installed during the development.

NSW EPA (2020) thresholds were adopted to provide an additional line of evidence around risk for sub-surface landfill gas migration and were used as a separate line of evidence for assessing historical datasets where flow data was not collected. In addition to the above, the following trigger values, which if exceeded, would require the implementation of corrective actions and/or a contingency plan:

- Methane detected above 500 ppm in indoor air; and
- Methane detected above 500 ppm in service pits.

Council assessment officers have been unable to locate any “*corrective actions and/or contingency plan*” as referred to in Section 4.4.3 of the LTEMP in relation to LFG. This will need to be addressed in the final LTEMP.

The LTEMP indicates that one monitoring visit will be carried out by a Suitably Qualified Person (SQP) using the methodology described in NSW (2020) prior to occupation and then annually thereafter. The results from the first monitoring round will be used to inform and increase the frequency of monitoring if an unacceptable risk is identified. A condition has been recommended requiring that a final EMP be submitted for approval, and be prepared in accordance with the Preliminary LTEMP.

The reports prepared by the environmental consultant have been carried out in accordance with NSW EPA Guidelines. The consultant has concluded that the site is suitable for the proposed use, subject to the implementation of the RAP and LTEMP. It is noted that the LTEMP is preliminary and therefore will require finalisation prior to the issue of any occupation certificate. This has also been recommended to form conditions of consent.

Given the nature of this application and the extent of reporting required to address this Chapter of the SEPP, Council officers have not requested the applicant to engage a NSW EPA Site Auditor to review the submitted information and provide a Section B and subsequent Section A Site Audit Statement. Furthermore, a condition to require such is not considered necessary on this occasion for the following reasons:

- The Applicant has engaged a suitably qualified environmental consultant with experience in the assessment of landfill ground gases.
- The Environmental Consultancy has an Accredited Site Auditor who works for the organisation (Andrew Lau). This is indicative of a consultancy with sufficient experience and expertise in land contamination matters.
- The applicant has supplied a DSI, RAP, LTEMP and Gas Risk Assessment that comply with the NSW EPA statutory guidelines.
- The landfill site is older, and based on modelling, the generation of methane and other LFG's is in decline and will continue to decline (Figure 2).
- Sampling results indicate there was no detection of methane and all other LFG's were well below the NSW EPA thresholds.
- There will be no enclosed structures located on Lot 31.
- The building on Lot 23 will be located on top of
- A meeting between the consultancy, DAU and EH confirmed that the consultant is suitably experienced and based on their experience poses little risk in terms of any ground gas migration that may accumulate within the Animal Rehoming structure. It was the consultancies opinion that in this instance the engagement of a NSW EPA Site Auditor was not considered warranted based on the results and low risk posed.
- The development will be subject to an EMP that will require annual gas monitoring until a point that shows the residual risk status (negligible) remains the same. The EMP will, in most cases will prohibit the excavation of the site beyond the marker layer that is to be installed in accordance with the RAP. Suitable management controls have been outlined in the case that the marker layer is required.
- Conditions have been recommended that require that all remediation works, and validation works be complete PRIOR to the development of the built form.
- A condition has been recommended that requires the applicant to engage a suitably qualified consultant to undertake the required gas monitoring prior to issuing of any Occupational Certificate.

Based on the above assessment considerations, the remediation works are considered to Category 1 remediation (pursuant to Clause 4.7 of this Chapter). Consent for remediation works is granted by virtue of the subject amended application made on 25 August 2023 and conditions are recommended to require such works to be undertaken at appropriate stages of the development (pre Construction Certificate) in accordance with the submitted RAP and LTEMP. Subject to the recommended conditions of consent, the consent authority can be satisfied that the provisions under Clause 4.6 of this Chapter have been

met. As such, based on the detail contained in this section of the planning assessment report, the consent authority can be satisfied that the carrying out of the proposed development on the land is suitable based on the provisions of the RAP and subsequent LTEMP. Providing that remediation works are undertaken in accordance with RAP and recommended conditions of consent, and that ongoing management of the site is consistent with the recommendations in the LTEMP, the subject site is suitable for the proposal. The requirements of the RAP will need to be instated prior to the commencement of any building works on Lot 23. In addition, a covenant is to be registered to the title of Proposed Lot 23 and Lot 31. The covenant will bind any current or future landowner with the responsibility for the ongoing maintenance and rehabilitation works required in terms of the encapsulated/remaining contaminated materials, including the discharge or prevention of discharge from any contaminants, or for any works subsequently required by the NSW Environment Protection Authority or Council's General Manager or delegate.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2: Infrastructure

Clause 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).

Clause 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 677.3sqm and a trip rate of 26 vehicle trips per hour which is significantly less than the threshold for industry (20,000sqm 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 RMS 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* ('the LEP'). The aims of the LEP 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 Pound 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 Pound & Animal Rehoming Facility that will allow for the recovery and rehoming of animals in co-operation with a well-established Not-for-Profit Organisation, Friends of the Pound ('FOP'). The proposed Pound will provide the safe housing and rehoming of a range of animals not limited to but including livestock and domestic animals, which is a considerable expansion in the range of animals that the existing Pound has capacity to house. The overall building design and site planning incorporates elements capable of being adapted for a sustainable future.

Zoning and Permissibility (Part 2)

The subject is zoned *E4 – General Industry* under TLEP2014 and *7(l) Environmental Protection (Habitat)* DA under TLEP2000. The proposed development applies to the part of the land zoned *E4 – General Industry* under the current LEP, the land affected by TLEP 2000 and zoned *7(l) Environmental Protection (Habitat)* will be excised from the subject site as part of the approved subdivision (see Figure 6 below). This habitat protection area is affected by a management plan which is discussed later in this report.

In relation to the *E4 – General Industry* zone, it is noted that the application was lodged prior to the consolidated Instrument amendments (on 26 April 2023) under the Housekeeping SEPP (Land Use Zones) 2022. This amendment sought to convert the previous *IN1 – General Industry* zone to *E4 – General Industry* zone (pursuant to Clause 2.2 of the TLEP 2014). It is noted that any reference to a former zone under an EPI is taken

to include a reference to a new zone under the EPI. As such, for this report, it is noted that where reference is made to the historic IN1 – General Industry zone, it should be interpreted as the new zone E4 – General Industry as it currently reads under Clause 2.2 of the TLEP2014.

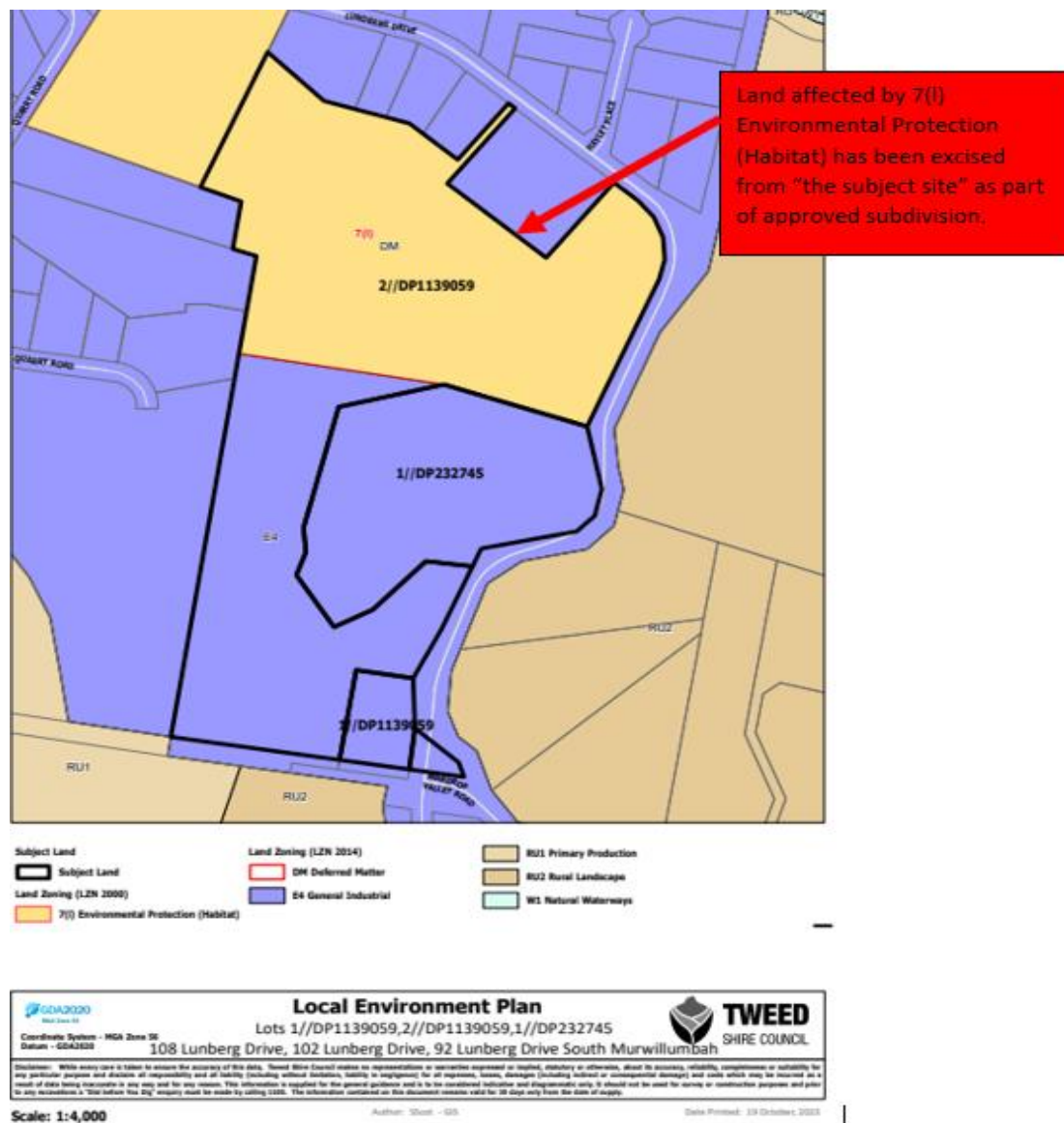


Figure 6: Zoning map (TLEP2014)

As previously mentioned in this report, on 25 June 2021 as part of a gateway determination, TLEP2014 was amended to include an additional Schedule 1 “Additional permitted use” Clause to enable use of the subject land for the development of a “community facility that is a council pound and a place used for rehoming animals” as being permitted with development consent (see zoning map in Figure 7 below).



Figure 7: Additional Permitted Use Map referenced APU_010

Pursuant to Clause 21 of Schedule 1 of TLEP2014, the proposal is permissible in the zone subject to development consent. In terms of the developments permissibility having regard to the provisions in Clause 21, Council officers acknowledge that the DA inclusions indicate that there are some parts of the proposal on proposed Lot 31 that would fall outside the strict definition of a “Council pound” and “place used for rehoming animals” having regard to the definition of a “[Council Pound](#)” pursuant to Companion Animals Act 1998. In particular, the proposed use of a portion of land on proposed Lot 31 for vehicle impound is included in the Architectural Plans and described in the submitted Statement of Environmental Effects (SEE). The issue of permissibility has been inadequately addressed in the submitted SEE however a detailed planning assessment of the overall development and the portion of land being dedicated as a vehicle impound area has been undertaken.

The assessment outcomes concluded that this aspect of the proposed use could be characterised as ancillary to the Public Administration Building having regard to [PS21-008 Planning circular](#) which details the mechanisms available to characterise development as independent or ancillary to a particular use. Given that the component of the use that relates to Council Rangers offices (proposed Building B) is characterised as a Public Administration Building, the portion of land to be used as a vehicle impound area is ancillary to the overall function of Council Rangers whom will occupy the Public Administration Building. Whilst it is acknowledged that the vehicle impound area is located on a separate lot of land, the provision of access to the proposed Lot 23 Public Administration Building for Council Rangers is via Proposed Lot 31 and a right of carriageway over Lot 23 to benefit Lot 31, providing a relationship between the two (2) separate allotments of land, owned and operated by Council and dependant on each other for the overall operation of the development. Further, given that the provision of an area dedicated to vehicle

impoundment is considered to be part of the role undertaken by Council Rangers whom will occupy the proposed Public Administration buildings on Lot 23 (see B detail on Architectural Plans) and this unit within the Council organisation is also solely responsible for the operations associated with the Pound, the use of the land on proposed Lot 31 is subordinate to the primary use of the overall “site” as a Council Pound/Animal Rehoming Centre and Public Administration Building (which includes both proposed Lot 23 and proposed Lot 31). Below is further merit considerations that contributed to the assessment outcomes for this matter:

- Proposed Lot 31 features a total land area of 6.62Ha and the proposed vehicle impound area comprises of 756.44sqm which equates to 1.1% of the land area dedicated to Lot 31.
- Proposed Lot 23 and Proposed Lot 31 comprise of a total land area of 7.21Ha and the proposed vehicle impound equates to 1.04% of the land area having regard to both lots.
- The use of the building as a Public Administration Building and Animal Rehoming Facility and Pound is reliant on Council officers. In particular, Council Rangers will be situated on site (within proposed building B) and these staff are specially trained in the handling of domestic animals and livestock in accordance with the Companion Animals Act 1998. Equally, Council Rangers have delegation to impound vehicles as part of their role in Council.
- The proposed Administration Building will facilitate Council Rangers being available on site to administer the dominant primary use of the site as a Pound. The use of Lot 31 (Section E on the Architectural Plans) could not be undertaken independent of the remaining use as it would require the Council Rangers to administer that use. The buildings on Lot 23 is required for the administration of both the Pound and Vehicle Impound area. As such, Council Rangers’ resources are relied upon for the efficient operation of the proposed use and in order for those resources to be situated on the subject land, other operations such as the impounding of vehicles also need to be co-located on the subject land. On this point alone, it could be argued that the use of the vehicle impound area could be characterised as ancillary to the use of the land as a “Council pound” and “place used for rehoming animals” having regard to the definition of a [Council Pound](#) pursuant to Companion Animals Act 1998.
- Given the proposed development includes a Public Administration Building for the Council officers to undertake compliance activities and undertake the operation of the Pound and other regulatory and compliance activities as required by their role, the use of Lot 31 for vehicle impound is considered to be subordinate to the primary use of the land and therefore is reasonably required in the circumstances for the development to implement the dominant uses (Pound and Animal Rehoming Facility and Public Administration Building).
- The proposed Stage 2 use of Lot 31 will not commence until such time that the buildings on proposed Lot 23 (Public Administration Buildings) are constructed as part of Stage 1 of the development. Therefore, those uses are pre-empted to operate as ancillary components to the primary use of the land. It is a fair assumption that neither of the uses on each lot are independent of other uses on the overall site.

In terms of the development's performance against zone objectives and the suitability of the development in the E4 zone, this matter was extensively considered in the planning proposal and subsequent gateway determination which enabled the proposed land use to be permitted on the subject site(s).

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

- *To provide a wide range of industrial, warehouse, logistics and related land uses.*
- *To ensure the efficient and viable use of land for industrial uses.*
- *To minimise any adverse effect of industry on other land uses.*
- *To encourage employment opportunities.*
- *To enable limited non-industrial land uses that provide facilities or services to meet the needs of businesses and workers in the area.*

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

- The proposed land use is a specialised land use that suitably integrates with other uses permitted in the E4 zone. That is, the likely impact on local amenity are significantly reduced having regard to the sites locality in the E4 zone;
- The proposal is conducive to the range of expected land uses in the E4 zone despite its characterisation (community facility) not being permitted under the land use table. This is mainly due to the unique type of facility the proposal is offering;
- The proposal is a type of infrastructure that will provide a facility and service that will meet the needs of the entire Shire in a relatively accessible location;
- The proposal has been designed to cater for future growth of the region and has capacity to provide additional employment opportunities at Council;
- The subject site contains the appropriate infrastructure to support the proposal and has been designed to minimise impact on other nearby land uses and;
- The intended futures strategic use of the subject site and surrounds is conducive to the proposed use and poses negligible conflict between land uses.

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

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	10 metres	5.416m	Yes
FSR (CI 4.4(2))	NIL	Lot 23: 0.15:1 Lot 31: 35sqm outdoor shelter for staff lunch area	-

Heritage (CI 5.10)	The site is not heritage listed or in a conservation area however the site is mapped to contain predictive Aboriginal Cultural Heritage under Tweed Byron Aboriginal Cultural Heritage (ACH) Management Plan.	<p>The submitted SEE addresses ACH and referenced a Cultural Heritage Assessment Report dated 2019. The report relates to the previously approved subdivision which has recently been completed. Whilst an outdated report would not normally be accepted, it is noted that a site inspection with Tweed Byron Aboriginal Land Council (TBALC) took place on 7 July 2019 and the following conclusions were drawn:</p> <ul style="list-style-type: none"> • No Indigenous cultural heritage sites or objects were identified within the Project Area. • The Project Area is in an area mapped as having the potential to contain Aboriginal places of heritage significance by the Tweed ACHMP. However, the mapping takes no account of the highly disturbed landscape and the reasonable conclusion that Aboriginal cultural heritage could not be impacted any more destructively than by previous land uses. • The Project Area has been disturbed in a manner which constitutes 'disturbance' within the meaning of the Due Diligence Code and is consistent with the Due Diligence Code. <p>The proposal was also referred to Tweed Byron Aboriginal Land Council (TBALC) whom advised that it no additional assessment of potential impacts to Aboriginal Cultural heritage are required.</p> <p>As such, based on the findings of the 2019 report, the site investigation comments and further comments by TBLALC in relation to this application, the consent authority can be satisfied that matters pertaining to Aboriginal Cultural Heritage have been considered and are satisfactory.</p>	Yes
Flood planning (CI 5.21)	(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	The subject sites are mapped to be affected by flooding with the following flooding information being held on each lot:	Yes

	<p>authority is satisfied the development—</p> <p>(a) is compatible with the flood function and behaviour on the land, and</p> <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><u>92 Lundberg Drive</u> Design Flood Level (DFL)(1 % AEP flood) = 4.1m AHD Flood Planning Level / Minimum Habitable Floor Level = 4.6m AHD Probable Maximum Flood (PMF) = 9.2m AHD Building ground floor level = 22.1m AHD</p> <p><u>102 Lundberg Drive</u> Design Flood Level (DFL)(1 % AEP flood) = 5.5m AHD Flood Planning Level / Minimum Habitable Floor Level = 6.0m AHD Probable Maximum Flood (PMF) = 10.8m AHD Building ground floor level = 22.1m AHD</p> <p>Based on the flood affectations of the site and the proposed land uses and ground floor levels occurring on the land (as detailed above), the design of the proposal is compatible with the flood risk of the land now and in the future. As such, the consent authority can be satisfied the development meets Clause 5.21(2) and (3).</p>	
Acid sulphate soils (ASS) (CI 7.1)	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	The subject site is located within proximity of Class 2 ASS (approximately 190m to the south and southwest) and Class 3 ASS (approx.	Yes

	<p>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>60m to the east). The site is identified as having moderately high groundwater vulnerability on Council's GIS. However, JBS&G investigations have confirmed that depth to groundwater is below 10 mBGL. Excavations will be limited, and, in most cases, further soils will be applied to the site to encapsulate the contaminated soils, as required by the approved RAP.</p> <p>Based on the above and subject to recommended conditions to require works in accordance with the submitted Acid Sulfate Soil Management Plan for Minors Works dated 6 October 2022, the proposal satisfies the requirements of this Clause.</p>	
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>The proposal includes minor earthworks to facilitate the proposed buildings and shallow footings for a fence. All other earthworks have been or will soon be completed as part of the subdivision of the subject land and subsequent "capping" of the land (under a Part V Review of Environmental Factors Report).</p> <p>Given the very minor nature of the proposed earthworks associated with the construction of the buildings (works for concrete slab) and footings for a fence and the assessment of the proposal having regard to the proposed finished levels of the site (post capping) in terms of stormwater management, sediment and erosion control etc. the consent authority can be satisfied that the objectives of this Clause are satisfied.</p> <p>Where excavation will occur (for fence footings), the applicant has noted that such works will not intercept Acid Sulfate Soils. Notwithstanding the application is supported by an Acid Sulfate Soil Management Plan which would mitigate any potential impact to the environmental functions of the land should ASS be encountered on the site during excavation works.</p>	Yes

		<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, cultural or heritage items or features of the surrounding lands.</p>	
<p>Stormwater Management (CI 7.6)</p>	<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>The updated stormwater management design (dated 21 August 2023) includes the provision for a stormwater for Proposed Lot 23 and Proposed Lot 31. The plans have been prepared having regard to the proposed finished levels of the site (post capping and subdivision).</p> <p><u>Proposed Lot 23</u></p> <p>The stormwater detail includes provision for an OSD tank to the north of proposed Lot 23 plus two bio-retention basins located around the car parking area.</p> <p>Minor storm runoff for proposed Lot 23 will be conveyed by an underground pipe system to a discharge via connection to an existing pit within the Lundberg Drive frontage, adjacent to the sites northeast corner. The proposed OSD system will reduce stormwater discharge to predevelopment rates. The OSD system proposed for this Lot has been sized to manage major peak storm events up to the 1% AEP event to pre-development flow rates. Drain modelling is provided in the stormwater management report to demonstrate the size of the basin required to accommodate OSD and is acceptable.</p> <p><u>Proposed Lot 31</u></p> <p>An existing OSD is provided on proposed Lot 31 in the form of a basin designed with a detention volume of 5651sqm. This basin is the legal point of discharge for this land. The</p>	<p>Yes</p>

		<p>stormwater from the site drains to the north and into the detention basin via existing drainage channels.</p> <p>Stormwater quality treatment is provided in the original subdivision in the form of existing natural vegetated channel swale drains which discharge into the onsite detention basin.</p> <p>Proposed Lot 31 will remain largely unchanged in terms of built form. No additional hard stand areas are included in the proposal and the applicant has expressed that the existing gravel access road will remain for the site as it will only be used by Councils ranger staff (no access to the public). As such, no stormwater quality treatment is provided to this lot as part of the proposal. Based on the size of the OSD on this lot, no additional OSD is required for Lot 31.</p> <p>Based on the above considerations, the developments stormwater run off from the site is appropriately treated to protect adjoining lands and the environment. Further, the post development flows will not exceed pre development flows and therefore no additional stormwater impacts are envisaged as a result of the proposal.</p> <p>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>It is noted that an 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 EP&A Act 1979).</p>	
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<p>Airspace Operations – Murwillumbah Airfield (CI 7.8A)</p>	<p>Limitation Surface RL 47m AHD</p>	<p>Proposed maximum RL is located on proposed Lot 31 which comprises of the outdoor shelter located close to the southern extent of the site. The proposed RL is 29.695m AHD which is well below the OLS for the site.</p> <p>As such, the consent authority can be satisfied the proposed development will not penetrate the OLS for the land and therefore will not adversely impact on Murwillumbah Airfield. Consultation with Murwillumbah Airfield is not required on this occasion. However, a condition of consent is recommended to require consultation with the Airspace operator in the event of heavy machinery (which could protrude OLS layers) is being utilised during the construction phase of the development.</p>	<p>Yes</p>
<p>Essential Services (CI 7.10)</p>	<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> <ul style="list-style-type: none"> (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable vehicular access. 	<p><u>Water</u></p> <p>A water main is provided adjacent to the southern boundary of proposed Lot 23. The proposal includes the provision of a new connection to this main. The submitted NCC report identifies that a fire hydrant system is required. This is further reiterated in the submitted Bushfire Report. The proposed new connection to the main has capacity to cater for the fire hydrant and requirements for Bushfire. Furthermore, the water supply to proposed Lot 23 has been assessed having regard to peak capacity of the building (30 staff total) and the provision of fire services (booster assembly cabinet and 2 x external attack hydrants).</p> <p>The submitted Hydraulic Services Report outlines that a new connection to mains water will not be provided to proposed Lot 31. However, an existing water supply is available to this lot (at the RFS driveway access point) and therefore a supply is available to the lot if required. It is noted that the submitted Hydraulic Services Report outlines that water supply to this lot will be reliant upon roof water capture for animal drinking water (see location of</p>	<p>Yes</p>

		<p>proposed water tanks on architectural plans).</p> <p>The proposed arrangements for supply of water are suitable for the proposal having regard to the use of each of the lots. Councils Water and Wastewater unit have reviewed the proposal and raised no objection to the provision water supply associated with the proposal.</p> <p><u>Electricity</u> Proposed Lot 23 is currently vacant however subdivision works to create the proposed lot has been completed. As such, satisfactory arrangements for electricity supply is available in Lundberg Drive and the proposed subdivision road which fronts the northern aspect of the lot.</p> <p>Existing electricity supply is available to proposed Lot 31.</p> <p><u>Sewage Management</u> There is an existing (recently constructed) pressure sewer main adjacent to the southern boundary of Lot 23 with a property boundary assembly installed on the subject property. The proposed development will connect to the proposed boundary assembly via a proprietary private pump station and pressure main.</p> <p>Proposed Lot 31 benefits from an existing private sewer connection. Councils Water Wastewater Unit are satisfied that each lot is capable of being connected to sewer services.</p> <p><u>Stormwater drainage</u> The proposed stormwater drainage for the site will utilise the existing approved legal points of discharge in Lundberg Drive for proposed Lot 23 which will be collected and detained on site via a proposed OSD tank under the carpark area.</p> <p>Proposed Lot 31 will discharge its stormwater via the existing OSD/bioretention basin on site, which</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
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		<p>has been assessed as being suitable given the minimal hard stand and roofed area proposed for this lot as part of the development.</p> <p>The submitted Stormwater Management Plans confirm that post development flows do not exceed predevelopment flows for either of the lots and therefore the approved discharge locations will have capacity to support the proposal without having adverse impact on downstream flooding nor Councils drainage infrastructure in the broader locality.</p> <p><u>Vehicle Access</u></p> <p>Vehicular access to proposed Lot 23 and proposed Lot 31 is provided separately. The nature of proposed Lot 31 use is limited to that being utilised by Council Rangers and the existing access arrangements will remain unchanged for this lot.</p> <p>A vehicle entry point is provided from proposed Lot 31 to proposed "Carpark 2" on proposed Lot 23. This will provide at grade hardstand parking for the rangers/Council staff in connection with the Pound/Rehoming Facility.</p> <p>The new crossover and access from proposed Road (nominated Quarry Road on the Architectural Plans) provides two way access for public vehicular access. The location of the entry is suitably located to not encroach the tangent point ("TP") at Lundberg Drive intersection and suitably facilitates vehicle manoeuvrability for waste collection and standard vehicle parking.</p> <p>The proposed access arrangements are adequate for the lots based on the envisaged use of each lot and overall function of the site.</p>	Yes
Council Infrastructure Development (CI 7.11)	(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	The proposal is on behalf of the Council for a Depot, Public Administration Building and associated signage. Section 2.19 (1) and Clause 3 of Schedule 6 of State Environmental	Yes

	<p>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 Building Code of Australia,</p> <p>(b) development that is not exempt development under State Environmental Planning Policy (Transport and Infrastructure) 2021, Chapter 2 and has a capital value of more than \$1,000,000.</p>	<p>Planning Policy (Planning Systems) 2021 declares the proposal regionally significant development as it is a Council related development over \$5 million.</p>	
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Having regard to the above planning assessment comments, the proposal is considered to be consistent with TLEP2014.

(b) 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.

(c) 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* ('the DCP')

Tweed DCP 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.*

This DCP operates in two parts to account for development standards that operate 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 Sections of the DCP as they 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. Detail of the DCP requirements and the proposal having regard to access and parking is outlined below.

Parking

Table 2 of the DCP prescribes rates of parking based on land use however in the absence of parking rates specific to this land use, a Traffic Impact Assessment has been submitted with the DA outline the demand for parking based on the proposal.

Councils Traffic Engineer has reviewed the Traffic Impact Assessment (TIA) to ensure it includes adequate information and details to verify the parking supply for the proposal having regard to operations occurring on the site.

The proposed parking is split over two areas of proposed Lot 23 and seeks to cater for the following maximum parking demand during peak times.

User	Maximum Demand	Parking Provided	Complies
Rangers	12 fulltime staff on site at any time	12 spaces	Yes
Ranger visitors	2	2 spaces	Yes
Friends of the Pound Staff (including a vet visit)	10 fulltime staff on site at any time	10 spaces	Yes
Friends of the Pound visitors	2 concurrently	2 spaces	Yes
Total parking demand		24 spaces required	
Total parking supply		26 spaces including one (1) accessible space	

The northern carpark nominated “Carpark 2” on the plans contains 12 spaces which will cater for the maximum number of Rangers on the site at any time. The access to this parking area is via the existing driveway/access on the northern aspect of Lot 31 frontage to Lundberg Drive.

The southern carpark nominated “Carpark 1” on the plans contains 16 spaces which is accessible via a new crossover and driveway from proposed subdivision road (constructed and approved). The 16 spaces adequately cater for Ranger visitors, Friends of the Pound staff (including vet where required) and Friend of the Pound visitors. One (1) accessible parking is provided within this parking area (in accordance with DDA and AS1428.1:2021). There is a surplus of two (2) spaces in the southern carpark which would provide for future demands should the service require additional staff by Council or Friends of the Pound.

The proposed parking arrangements satisfy the objectives of this DCP and are deemed to be suitable for the development.

Access

The provision of access is addressed in a TIA Report prepared by a suitably qualified consultant. Swept path diagrams are provided to demonstrate access can be provided to carparking and the proposed waste collection area in accordance with AS2890.1.

The proposal includes provision for separate access to proposed Lot 23 and Lot 31 based on the nature of the various uses. Access to proposed Lot 23 will be via a new two way entry/exit from proposed New Road (nominated Quarry Road on the plans) which will be utilised by the public who are utilising the Pound and Rehoming Facility. This access point is capable of providing compliant entry and exit for a waste collection vehicle (MRV) as required by the DCP and AS2890.1 (given the plans indicate a waste storage area on the western boundary of proposed Lot 23).

Separate access is available via existing driveway crossover and access points on proposed Lot 31. The first is available to the RFS at the southern aspect of Lundberg Drive frontage, and the second access is provided to proposed Lot 31 via the existing entry/exit to the lot located at the northern aspect of the Lundberg Drive frontage. This northern access point will be utilised by Council staff to access proposed Lot 31 (vehicle impound, livestock holding yards) and the Council staff parking area on Proposed Lot 23 (via a proposed right of carriageway). The existing northern access to Lot 31 comprises of a 4m width and the minimum requirement for access for Access Facility (Category 1) is 3m-5.5m. As such, it has been recommended in the submitted TIA Report that minor widening of the driveway entry treatment be provided prior to the boundary to accommodate entry/exist turn paths. This recommendation forms a special condition of consent.

It is noted that the TIA does not include provision for access to Proposed Lot 31 northern aspect by tow trucks delivering vehicles for impound. This aspect of the proposal was however considered by Councils Traffic Engineer and based on the is additional consideration it has been recommended that the proposed entry/exit gate detailed in the Architectural Plans be relocated further inward of the property boundary to enable a tow truck to park on the access and unlock the gate without impacting on through traffic. This recommended is included as a special condition of consent.

Sight distances for both Lot 23 and northern aspect of Lot 31 access points have been considered in the submitted Traffic Impact Assessment Report having regard to Tweed Shire Councils standard and AS2890.1. The northern Lundberg Drive access requires vegetation trimming to the western side of Lundberg Drive to maximise sight distances to the south. The report identifies that sight distance from the access from the new road on the sites southern frontage does not meet the standard from the east, however, due to the estimated low approach speed and steep uphill grade of vehicles approaching from this direction, the available sight distance is sufficient and will not result in safety issues.

Based on the above findings, the recommendation for vegetation trimming at the western side of Lundberg Drive (without complete removal of vegetation) will form another condition of consent).

Subject to the recommended conditions of consent, the consent authority can be satisfied that the proposed access arrangements are consistent with the objectives under Section A2 of the DCP.

Traffic

The submitted Traffic Impact Assessment ('TIA') Report suitably outlines existing traffic count data for Lundberg Drive and Quarry Road north of the site. In particular, Section 3 of the report identifies that the count data for Lundberg Drive averages a weekday peak of 169 vehicles per hour at various times in the PM period. Quarry Road averages a weekday peak of 648 vehicles per hour at 3pm.

The traffic report identifies estimated daily trips, calculated based on the nature of the proposed use of the facility (likely number of staff and visitors associated with Friends of the Pound and Council Rangers). An extract of likely traffic generation rates is provided below:

Use Summary	Estimated Daily Trips	Estimated Peak Hour Trips
Ranger Staff	54	8+4
Ranger Visitors	6	2
FOP staff	20	10
FOP visitors	16	2
Total	96	26

Figure 8: Traffic generation table extract from Traffic Impact Assessment Report prepared by Greg Alderson Associates

The rural road standard sections flow capacities were calculated in accordance with Section 4.1 of the Austroads guide to Traffic Management Part 3 (Eqn 5). The capacity of each lane has been estimated to be 1285 vph (2570 vph total both directions). Section 2 of the submitted TIA Report identifies the following road characteristics:

-Quarry Road

Quarry Road has been constructed with 2 x 3.5-3.7m lanes with 1.0m sealed shoulder and south of Condong creek, the road is an industrial access street with 13m sealed road kerb and channel either side of a 3.5m verge. From Quarry Road for approximately 700m west, Lundberg Drive is constructed as an industrial access road with 13m sealed road, kerb and channel either side and 3.5m verge.

-Lundberg Drive

From Quarry Road for approximately 700m west Lundberg Drive is constructed as an industrial access street with 13.0m sealed road, kerb and channel either side and 3.5m verges. For a ~650m section from the western end of the above section to the commencement of the intersection north of the new subdivision access intersection arrangement, Lundberg Road is constructed as a rural arterial standard road with 2 x 3.5-3.7m lanes with 1.7-1.9 m sealed shoulder and roadside table drains either side.

From the southern end of the above section to its termination Lundberg Drive is constructed an industrial access street with 13.0m sealed road, kerb and channel either side and 3.5m verges.

Based on the road characteristics identified in Section 2 of the submitted Traffic Impact Assessment Report, existing traffic loads identified in Section 3 the development site are all within their design capacities and have sufficient spare capacity to accommodate the additional trips generated from the proposal.

Plan No 4 (Traffic Road Contribution Plan) applies to the proposal based on the trip data provided above. Councils Traffic Engineer has reviewed this data and raises no objection to the likely trip generation and the indexation of TRCP based on the traffic generation rates included in the TIA. As such a condition of consent is recommended to collect developer contributions under this plan prior to the issue of a Construction Certificate.

Section A3 – Development of Flood Liable Land

Section A3 of the DCP 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 is affected by a Design Flood Level (DFL) of RL 4.1m AHD and 5.5m AHD respectively for Lots 23 and 31. The minimum ground level for any proposed building is RL 22.1m AHD which is well above the PMF.

The land is not affected by high flow area or high flood hazard areas and therefore the relevant development controls that apply to the proposal are that contained under Section A3.8 of this DCP. In particular, pursuant to Section A33.8.4 commercial and industrial development is required to make adequate provision for flood free storage areas for stock and equipment susceptible to water damage. In this instance, such is provided over the entire area of both lots having regard to the proposed finished RL's of proposed Lot 31 and the finished floor levels for Building A and B on Lot 23.

Outside of the above provision for flood free storage, there are no other specific development controls that apply to the proposal pursuant to this Section of the DCP. However, the following additional considerations are noted for the consent authority:

- The sites future 1% AEP (planned for climate change up to 2100) is RL 4.6m AHD and the site also has a 0.2% AEP of RL 5.5m AHD.
- The proposed buildings feature a finished floor level (FFL) of RL 22.1m AHD which well above the 1% AEP now and to the future as well as the 0.2% AEP and PMF.
- The proposed OSD has been designed to cater for 1% AEP.
- The land is not located in a flood island having regard to 1% AEP flood mapping and PMF mapping. Land use is above the PMF and therefore shelter in place is appropriate in the circumstances of this case*.

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 the DCP and duly satisfies the aims of this DCP.

*In order to safeguard the development in the rare event that the safe evacuation is not available and the shelter in place option is utilised; a condition of consent is recommended to ensure that appropriate measures are employed in a flood event. In particular, a Flood Response Assessment Plan ('FRAP') is to be prepared for the site. The FRAP would outline how animals are cared for in a flood event. I.e. sufficient supply of food, medical supplies, staffing arrangements etc.

Section A4 – Advertising Signs Code

The relevant aims of Section A4 of the DCP 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. Further, the DCP aims to 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.

As previously discussed in this report, the proposal includes a signage strategy that comprises of:

- a. Two (2) free standing directional signs (referenced G.WS.9 and G.WS.13) on proposed Lot 31 to assist Council officers in navigating the various areas and to highlight the overall function and use of this site at the new gate entry at Lundberg Drive;
- b. Detailed signage schematics for Proposed Lot 23 with signage detail for both buildings except those which relate to the future commercial tenants of proposed Rehoming Facility. This signage detail will be the subject of a separate DA and condition of consent is recommended to ensure that a separate application is received for future signage associated with any future commercial tenants within the rehoming facility.

The DA is accompanied by Architectural Plans which includes plans that provide overall signage location (see Signage Schedule Drawing A610 and new gated entry plan on Drawing A400), signage set out/diagram (see Drawing A611) and Signage typology (See Drawing A612). In addition, supplementary signage detail was provided on 6 March 2023 to provide clarity around the signage codes/numbers provided in Signage Schedule Drawing A610. On 24 October, illumination details were confirmed by the applicant. In order to fully understand the signage schematics, it is recommended that the signage location plan be read in consultation with the supplementary signage schedule. In particular the wayfinding schedule – ground floor on pp 5 and 6.

The following information is also provided to assist as to which signs are proposed to be illuminated:

Proposed Lot 23:

- G.WS.01 – G.WS.07 (inclusive) proposed to be externally lit (with lights either top or bottom mounted depending on the positioning of the signage).

Proposed Lot 31:

- G.WS.13 to be externally lit. This sign detail is not included in the applicant's signage schedule however its detail is included in Plan A400 titled "New Gated entry".

The Signage Schedule Plan includes provision for a total of 20 signs encompassing 18 signs on Proposed Lot 23 and two (2) signs on proposed Lot 31. The detail of these signs is scheduled below:

- 9 external signs comprising of free standing and above awning wall mounted signs on proposed Lot 23 and 31;
- 4 regulatory safety signage (associated with waste disposal areas) (on proposed Lot 23) and;
- 7 internal ceiling mounted signage within proposed Building A and B (these are nominated as statutory exit signs in the submitted signage schedule and are not included in the assessment under this Section of the DCP).

Section A4.2.4 – General Development Principles and Objectives

Pursuant to Section A4.2.4, a maximum number of 5 signs per business is permitted. In addition, a maximum area per business is permitted based on the site frontage of the land. In particular, the DCP states:

"the maximum area per business for all signs shall not exceed the area as expressed in square metres and will be calculated by multiplying the first 10 metres of the frontage of the premises by 1 and each metre thereafter by 0.5".

An assessment of the proposal having regard to this Section of the DCP is provided below:

Proposed Lot 23

The site frontage of the land for proposed Lot 23 equates to 159m and therefore a maximum advertising area of 75.5sqm is permitted. The proposal includes 7 external signs on proposed Lot 23 with a total advertising area of 13.19sqm. Whilst the number of external signs exceeds the maximum permitted, the "advertising area" is well below the maximum permitted for this site having regard to the extensive site coverage. It is further noted that the majority of these signs are freestanding directional signs (similar to street signs) to assist wayfinding as opposed to "advertising".

Proposed Lot 31

Proposed Lot 31 comprises of a total site frontage of 63.26m (at proposed Quarry Road interface) and therefore is capable of supporting an advertising area of 26.63sqm in accordance with the requirements of the DCP. The proposal includes the provision of two (2) external sign with a total advertising area of 2.97sqm.

Section A.4.3.3 – Specific Development Principles and Objectives for Trade and Industrial Centres

This Section of the DCP outlines that Signage associated with trade and industrial centre aims to:

- permit adequate display of information concerning the identification of premises, the name of the occupier and the activity conducted on the land;
- place advertising signs so that they enhance the architectural and landscape presentation of the trade or industry and appear proportional to the scale of the building or space within which they are located;
- improve the appearance of buildings with the design and placement of signs and;
- encourage a co-ordinated approach to advertising where there is multiple occupancy of sites.

The proposed signage satisfied these objectives given they are designed to:

- Highlight entry points to the site;
- Identify the use and function of the site;
- Assist internal and external visitor (staff and public) in legible paths of travel and wayfinding;
- Meet statutory obligations in terms of safety and regulations;
- Deliver a signage schedule that is consistent with the corporate identity for Tweed Shire Council;
- Improve the overall appearance of the building with the placement and design of the signage and;
- Provide signage that is consistent with the desired future character of the area (employment/industrial uses);

Based on the performance against the development controls and above objectives, the proposed signage is considered to be suitable for the subject site despite the number of signs exceeding the maximum permitted for the land noting that many of the signs on proposed Lot 23 are located internally, will not be illuminated and are modest in size. As such, minimal signage is likely to be visible from any public vista given they existing vegetation protection area to the perimeter of the lot and the proposed landscaping for the site (thus filtering views of the proposal and any ancillary signage). It is further noted that the road levels at Lundberg Drive are significantly lower than the finished levels of proposed Lot 23 and therefore views of the proposed signs will not be visible to pedestrians or vehicles using Lundberg Drive. Finally, as previously mentioned, many of the wayfinding signs are limited to directional signs similar to street signs and aim to assist public wayfinding in accordance with CPTED principles as opposed to “advertising” a business.

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 was prepared by Barker Ryan Stewart Pty Ltd on July 2023. The revised Waste Management Plan addresses both construction and operational

waste management provision including organic matter and bio-organic waste produced from animals in the facility. The updated report outlines how such waste will be collected, stored and disposed either on site or off site depending on the waste typologies. It is further noted that the plan specifically addresses pathogen control and hygiene as it relates to the use of the land as a Pound and Rehoming Facility (see extract of updated Waste Management Plan below).

6.4.3 Hygiene, Maintenance and Pathogen Control.

- Management shall be responsible for the maintenance of signage, the security of the waste storage area, and the maintenance of bins and bin lifters.
- An arrangement will be made with a bin cleaning contractor for regular bin cleaning. The bin contractor will provide a specialised filtration service to ensure pollutants are collected by the mobile unit and appropriately disposed in accordance with EPA Guidelines.
- Cleaning areas have been strategically provided and located directly adjacent to the bulk waste storage area.

Aside from the other measures mentioned above, The following is a step by step procedure that is undertaken on site to control and avoid pathogen spread.

- > The first check is a visual check on the animal's health if sick animal is taken to vets.
- > Second check is M/C and vaccines details.
- > Third check is the animals poo check if not good animal is put in isolation area. Then the animal is checked by a vet.
- > The animals that are in Councils' control do not mix with public dogs or cats.
- > Councils' animals that are vet checked and transferred to the FOP have been vaccinated.
- > The animals that enter the FOP area are to be checked as to their vaccine details.

Further Controls

- > Hard area will be made of concrete will be able to be sprayed.
- > The livestock area will be control by the vets.
- > Poo picked up in pen and yards areas is visually inspected.

Figure 9: Extract from Section 6.4.3 of Updated Waste Management Report dated 19.07.2023

In addition to the above pathogen control processes, the following additional key aspects of waste management and ongoing operations of the site based on the updated Waste Management Plan are noted below:

- Deceased animals will either be collected by medical waste specialists or will be transported off site for cremation through the special medical contractor or through a provider such as Pets in Peace private crematorium.
- An arrangement will be made with a bin cleaning contractor for regular bin cleaning. The bin contractor will provide a specialised filtration service to ensure pollutants are collected by the mobile unit and appropriately disposed in accordance with EPA Guidelines.
- Dog and domestic animal faecal matter will be treated by the Whoopsie Away treatment system which macerates the waste and flushes straight to the sewer system. The location of Whoopsie away system is co-located with other waste collection areas as detailed in the WMP (see page 20).
- Farm animal faecal matter will be composted in a compost area within Lot 31.
- Step by step procedures are included in the updated WMP to address hygiene, maintenance and pathogen control.

In addition to the above key deliverables in the WMP, NSW DPI -Agriculture have provided comment in relation to aspects of Waste Management. These comments have been

translated into recommended conditions of consent to ensure a high standard of waste management in accordance with relevant legislative requirements.

Councils Resource Recovery Unit has not raised any concerns or objections to the proposed operational waste management provisions and Councils Environmental Health officers have advised animal faeces disposal will be via a suitable disposal system to control odours.

As such, conditions of consent are recommended to ensure that construction and ongoing waste is appropriately managed on site in accordance with the updated Waste Management Plan and EPA and NSW DPI Guidelines (as outlined in **Attachment G**).

Section A16 – Preservation of trees or vegetation

Section A16 of Councils DCP aims to protect, insofar as it is reasonably possible, the biodiversity, amenity and cultural values of the Tweed Shire through the preservation of trees and vegetation.

The site occurs within E4 General Industrial zone and therefore this DCP applies to the proposal.

No prescribed vegetation occurs within the proposed development envelope and the land area to the north-east of future Lot 23 is to be retained and protected as a result of the proposal.

Whilst the DA nominates the proposed removal of one (1) tree, being blackwood wattle and exotic grassland (see plate 3 on Ecological Impact Assessment Report) (reproduced below), Council officers have inspected the subject site and reviewed aerial imagery of the site and have not been able to located the tree.



Plate 3. Isolated Blackwood wattle and exotic grassland proposed to be cleared on the site

Figure 10: Photograph of existing tree proposed for removal extracted from submitted Ecological Impact Assessment prepared by Arbor Ecological

In the event that the tree is located on site during construction and needs to be removed, the consent authority can be satisfied that the proposed landscaping of the site adequately compensates for the removal of the tree noting that the site will also contain the vegetation protection area as required as part of the approved subdivision. As such, the site will provide a comprehensive landscaping strategy that ensures the management of vegetation on the site and further landscape embellishment that meets the objectives of this Section of the DCP.

Section A17 – Business, Enterprise Corridor and General Industrial zones

Section A17 of Councils 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.

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	Site Analysis provided	Yes

<p>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.</p> <p>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:</p> <ol style="list-style-type: none"> Access, connectivity Legibility Human scale Quality of edges Adaptability and versatility Environmental sensitivity and sustainability. <p>3.3. Topography Cut and Fill</p> <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. 	<p>Included in SEE</p> <p>No cut or fill exceeds 3m*. (*NB: capping layer has been addressed under PART V Review of Environmental Factors which is separate to the DA therefore whilst the capping layer has not been completed, it is the subject of a separate application and is taken to be completed for the purpose of assessing plans/FFL's etc as part of this DA).</p> <p>The proposal identifies minor cut to achieve subgrade level under building and hardstand for proposed Lot 23. Minor earthworks for entry gate on proposed Lot 31.</p>	<p>Yes</p> <p>Yes</p>
4. Building Envelope		
<p>4.1 Setbacks</p> <p>Front: 15m</p> <p>Rear/Side: 0.0m where the site is directly adjoined by other business development/ industrial allotments</p> <p>Corner Lot: Adopt principle street setback. Secondary street setback is 6.0m irrespective of height.</p> <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. 	<p>Front Setback: 22.7m</p> <p>Side and Rear Setback: Min. 0.0117m</p> <p>Secondary Setback (Lundberg Drive): 6m</p> <p>Landscape buffer provided at street interface where vegetation protection area is not nominated on Architectural Plans.</p> <p>Refer to Section 4.12 for further discussion on boundary treatment.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

<ul style="list-style-type: none"> 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. 		
<p>4.2. Site Coverage and Landscape Area</p> <ul style="list-style-type: none"> Max site coverage is 70% of the site area 	<p>Lot 23: 14.49% Lot 31: <5%</p>	<p>Yes Yes</p>
<ul style="list-style-type: none"> Min, Landscape area is 10% of the site area (Refer to DCP for definition of landscape area). 	<p>Lot 23: 41.5% Lot 31: predominantly soft landscaping (minimal built form)</p>	<p>Yes Yes</p>
<p>4.3. Building Heights</p> <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. Buildings are to be constructed to a height that complements the surrounding built form and landscape character. 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. 	<p>Single storey, low profile height provided at the street interface.</p> <p>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.</p>	<p>Yes Yes Yes</p>
5. Building Design		
<p>5.1. Designing for the Tweed Climate</p> <p>Development applications for construction of buildings are to demonstrate integration of the following passive design principles where relevant:</p> <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 southwestern elevations) during summer months; design to promote natural cross ventilation and stack ventilation; 	<p>Solar penetration maximised to reduce artificial light.</p> <p>Mechanical ventilation provided in accordance with Section J of NCC which seeks to improve the energy performance of lighting, conditioning and ventilation whilst reducing energy loss through air infiltration.</p>	<p>Yes Yes</p>

<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, material selection does 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; 	Section J NCC Report indicates the building design has been modelled to comply with Parts J1-J3 of NCC 2019.	Yes
<ul style="list-style-type: none"> Collection and reuse of rainwater throughout the building and surrounding landscaping areas; 	Provision for rainwater tank on Proposed Lot 23 and 31 included in Architectural Plans.	Yes
<ul style="list-style-type: none"> A high standard for an energy efficient hot water supply system; 	Solar panels, water tanks included in cost summary report.	Yes
<ul style="list-style-type: none"> Reduced non-renewable energy use through efficient heating/cooling systems, water supply systems and electrical appliances. 	(See above comment)	Yes
5.2 Building Form and Materials		
<ul style="list-style-type: none"> The siting of business and commercial buildings are to be designed to: <ul style="list-style-type: none"> to 'face' or 'address' the street frontage(s) in terms of building elevations and articulation; 	The proposal is designed to feature the façade of Building A and Building B to present to the corner interface of Lundberg Drive and Quarry Road. Each building is suitably articulated to provide a presentation that highlights the function and use of the building(s).	Yes
<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. 	Pedestrian walkways and building entries located within proximity to the public carpark which is visible from the public domain interface providing informal surveillance to the street.	Yes
<ul style="list-style-type: none"> clearly articulate entries to buildings and access pathways and where possible separate and delineate pedestrian and vehicle movement; 	Highlight entry points to the buildings is provided via an accessible pathway from the carpark area articulating pedestrian entry points and providing a form of access control in accordance with CPTED principles. Vehicle entry and exit points are provided at the street interface and the crossover locations are such that they would naturally delineate pedestrian and vehicle movement given the building is located at a higher RL than the	Yes

	vehicle access points from the road. No pedestrian access from the road is suitable given the topography of the site.	
<ul style="list-style-type: none"> – include awnings and or shade structures where development directly fronts a public road, outdoor amenity area or where a pedestrian access route is defined; 	Awnings, roof areas and covered walkways are provided over pedestrian access routes from the public car parking as well as outdoor amenity areas (timber deck attached to staff meeting room in Building B) as well as outdoor pedestrian/animal walkways to kennels on Lot 23.	Yes
<ul style="list-style-type: none"> – enhance integration and connection between internal and external spaces, 		Yes
<ul style="list-style-type: none"> – define and enhance the public domain and be in scale with surrounding buildings 	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.	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. 	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. Feature masonry alpalite walls which comprise of blockwork to provide contrast to the building.	Yes
<ul style="list-style-type: none"> – 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. 	Provided. Building form recessed entry points, steps and cantilevering of projecting building elements are used to achieve articulation.	Yes
<ul style="list-style-type: none"> – breakdown scale and bulk by incorporating architectural detail and human scale elements such as an entrance canopies, foyers and awning. 	Awnings provided to walkways and single storey low profile building design has been used to break down scale and bulk however provide a “wrap around” structure to attenuate the kennel area and avoid land use conflict now and into the future.	Yes
<ul style="list-style-type: none"> – 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. 	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.	Yes

<p>not reduced to less than 2 hours between 9am and 3pm on June 21, and</p> <p>- where existing overshadowing by buildings is greater than this, sunlight is not to be further reduced by more than 20%. C3.</p>	<p>of the buildings and the significant separation distances of the proposed building to the boundaries.</p>	
<ul style="list-style-type: none"> New building design should minimise overshadowing on existing adjacent solar panels where other reasonable design alternatives are possible. 	<p>Sunlight of more than 50% of the principle area of outdoor open space of neighbouring properties is not 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>N/A</p> <p>Yes</p>
<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 (VIS) may be required. 	<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 one (1) landscape character units (Urban Landscape Unit) under Councils Draft Scenic Landscape Protection Policy. The site also contains 3 priority viewsheds. In terms of the developments performance against the features prevalent in the urban landscape character unit, Councils Draft Scenic Landscape Character Strategy identifies that this character unit is largely attributed to the highly modified state of the land and it being subject to a recent subdivision. It goes on to state: <i>"The visual character is dominated by manmade structures which create geometrical and angular shapes, banded lines and changing spatial scales. Colours, textures, shapes and form of buildings and structures vary individually and create a busy and sometimes chaotic visual environment"</i>.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p>

<ul style="list-style-type: none"> 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>The proposal is not supported by a Visual Impact Assessment however given the nature of the proposal and the landscape character unit to which it is located, the provision of a Visual Impact Statement is not considered necessary on this occasion.</p> <p>The design of the building is low profile and features linear shapes that reflect the property boundary. The use of colours, textures and varying materials combined with generous setbacks provide articulation and soften views to the building frontage at the street interface. The use of landscaping and uniform signage suitably embellishes the site and its function as a civic facility for the local community.</p> <p>Overall, the design of the roof form and colour selection is compatible with the broader landscape character. Where hardstand areas are proposed on the higher elevation of land (namely the vehicle impound area), a condition of consent is recommended to ensure that landscape embellishment is provided to this area to limit the views of hardstand in this locality.</p>	Yes
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. 	Landscape plan, planting schedule and fencing detail included in the DA.	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. 	Existing vegetation protection areas as approved under subdivision combined with proposed buffer planting provided to the perimeter of the site at street interface.	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 	Integrated outdoor lunch area with the provision of roofed timber deck area co-located with staff meals Room on proposed Lot 23. In addition, proposed Lot 31 contains a covered shelter area which takes advantage of the southern highset aspect of the site with views to the mountain landscape features. A rainwater tank is also located in	Yes

number of staff. As a guide the area should be at least 50sqm.	this location with pedestrian connections from Building A and B also being provided. Structured landscape outdoor area = 50sqm and does not include lawns and nearby rainwater gardens.	
7.Ancillary Buildings, Uses and Structures		
7.3 Signs and Advertising		
<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. 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. 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. 	<p>Multiple "building identification signs" that could also be described as "directional" signs are proposed along the elevation of proposed Building A and B. The signage is provided according to the functions of the buildings and the overall use of the site which is consistent with the intent of this section of the DCP.</p> <ul style="list-style-type: none"> A freestanding sign at the public entry to the buildings is provided at Lundberg Drive building entry. One 900m wide x 1.5 high free standing pole sign is included for Lot 23 (G.WS.08). The wording of the sign is limited to the organisations name, logo and building function (Council Pound and Rehoming Facility). 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>Comprehensively provided. All signage detail aims to assist wayfinding and is appropriately located to highlight entry points for individual sections in each building. Pedestrian connection points to the carpark and building are aided by the signage and provide legible paths of travel. Nil provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

<ul style="list-style-type: none"> No bunting, sandwich boards or any 'standalone' advertising structure, except pylon signs detailed above. 		Yes
<p><i>7.4 Fences</i></p>		
<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%. 	<p>Plans include an upgrade to existing entry gate at Lundberg Drive. The detail of fence/gate at Lundberg Drive includes the provision of security wire at the top of the existing chain link fence. This will result in a total gate height of 2m for 17m of the Lundberg Drive interface at the existing driveway entry/exit. The location of the fence is not behind 3m landscape buffer and the architectural plans indicate that there is existing landscaping at the entry of the site which could be utilised to provide the required 3m buffer. Given the proposed height of the fence exceeds 1.8m and the fence design provides little visual interest to the site (purely designed for security purposes only), it is recommended that a condition of consent be imposed to require the fence to be relocated behind the existing landscaping for the site. Plan A400 is to be marked up accordingly.</p>	No however condition recommend er to resolve 3m buffer requirement
<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. 	<p>Proposed Lot 23 is affected by an existing retaining wall to the perimeter of the site at the lot frontage (proposed new road and Lundberg Drive). No fencing detail is included in the Architectural Plans nor the Landscape Design Plans. It would appear, based on the design of the site, that existing retaining walls and vegetation protection areas would render any fencing at the street interface to be superfluous to the developments needs.</p>	N/A – no fencing proposed.
<ul style="list-style-type: none"> Side and rear fences behind the front setback may be built to a height of 2.1 metres. 	<p>Notwithstanding, to ensure that the objects of this section of the DCP are satisfied, a condition of consent is recommended to require any fencing to be located behind a 3m landscape buffer and no higher than 1.8m with a maximum solid fence height of 600mm.</p>	Condition recommend ed to ensure DCP is satisfied by any future fencing of the site.

<ul style="list-style-type: none"> Fencing should be sited so that it does not impede sightlines for drivers 	<p>Conditions recommended in relation to site lines.</p>	<p>Conditioned</p>
<p><i>7.6 Safety and Security</i></p>		
<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, and Space 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>A review of the proposed layout of the site and the additional information (gate entry schematics) highlights that opportunity for passive surveillance, access control, territorial reinforcement and space management has been incorporated into the layout. Limited Crime Risk Assessment provided in the DA however comments on CPTED principle provided below:</p> <p><u>Surveillance:</u> Building orientation faces the street and overlooks public parking area and pedestrian access points providing opportunity for natural surveillance over access points from the public domain to the development site.</p> <p><u>Access Control:</u> Entry's to the building are secured except where the main public entry is provided. This area is manned by reception and is isolated from other aspects of the building to prevent public access to Council Rangers and FOP staff. A security fence is provided to prevent access to any part of proposed Lot 31. The provision of padlocks, and security wires combined with dense landscaping (due to the relocation of proposed gate by conditions to be behind the existing vegetation) will further prevent access to the site via the gate/entry.</p> <p><u>Territorial Reinforcement:</u> An extensive signage and way finding strategy has been developed and is included in the DA to facilitate highlight entry points to the site, public access points, wayfinding and thus territorial reinforcement.</p> <p><u>Space Management:</u> The site layout and internal floor plans suitably identify the delineation of uses and space management to</p>	<p>Yes</p>

<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 – 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>separate the public access points and areas reserved for Council staff and volunteer workers to undertake their duties. Internal security doors and internal signage further enhances this aspect of the development having regard to the space management CPTED principles. Conditions of consent are recommended to secure outcomes in relation to lighting, maintenance of landscaping, graffiti removal and the like.</p>	<p>N/A</p>
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Section A19 Biodiversity and Habitat Management

The aim of this DCP is to ensure that, subject to any relevant overarching state or commonwealth legislation, the planning and design of new development maintains or improves ecological values within Tweed Shire.

The subject site is greater than 2500sqm and supports area of mapped bushland, therefore this Section of the DCP applies. The development envelope does not support red flagged values (pursuant to this section of the DCP) and it is further noted that an area of future Lot 31 is to be protected and subject to a habitat restoration program as required under conditions of the previously approved subdivision (DA19/0875). The area is shown highlighted in yellow in Figure 10 below (sourced from the approved Vegetation and Fauna Management Plan prepared by Boyds Bay Group Environmental):

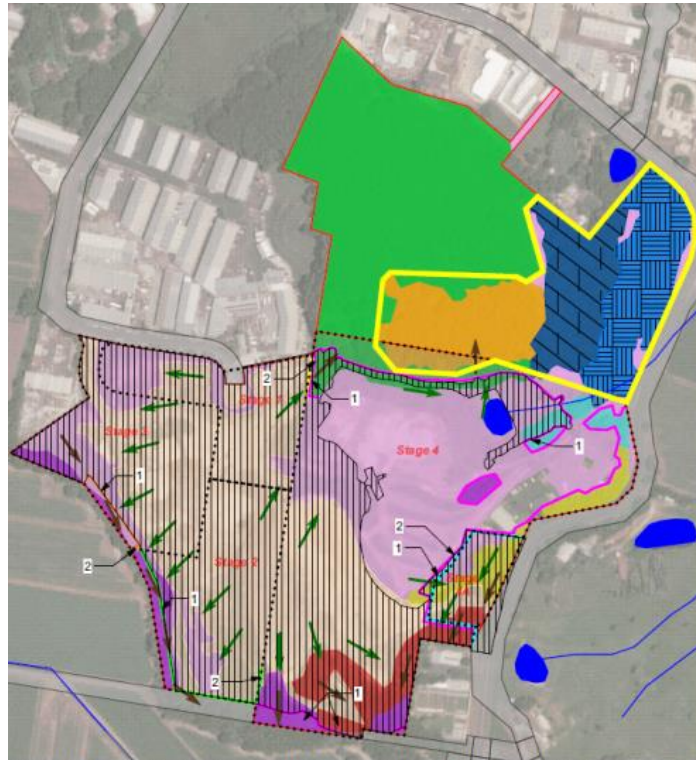


Figure 10 Approximate area on future Lot 31 under a habitat restoration program and protected under a statutory mechanism outlined in yellow.

Figure 11: Location of land affected by Habitat Restoration Plan under DA19/0875 extracted from approved vegetation and fauna management plan prepared by Boyds Bay Group Environmental

Given there are nominated protected areas that are also nominated on the submitted Architectural Plans and Landscape Concept Plan and having regard to the findings in the submitted Ecological Impact Assessment Report, subject to conditions of consent to require protection of vegetation in accordance with the approved landscape area and vegetation protection area (established under DA19/0875), the proposal meets the biodiversity planning principles and objectives of the DCP.

Based on the submitted information and recommended conditions of consent, the consent authority can be satisfied the proposal satisfies the aims of the DCP in relation to biodiversity and habitat management.

Developer Contributions

The following contributions plans are relevant pursuant to Section 7.11 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):

- *Plan No 18 – Council Administration offices and Technical Support Facilities and;*
- *Plan No 4 (Sector 9) Tweed Road Contribution Plan*

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

The calculations per plan are detailed below:

Plan No 18 – Council Administration offices and Technical Support Facilities

Site has recently been created as part of DA19/0875. Site comprises of 2 lots and therefore 2 ET is available as credit for the site.

The proposed gross floor area (GFA) is 677.3sqm. Plan No 18 outlines that calculations apply per 300sqm of floor area for large developments. Therefore, the following calculations apply:

$677.3/300\text{sqm}$

$= 2.2577$

$2.2577 \times 667.3 = 1506.5632$

$1506.5632/2618.12 = 0.5754 \text{ ET}$

$0.5754 \text{ ET (generated)} - 2 \text{ ET (credit)}$

$= -1.424 \text{ ET}$

Based on the credit available after the Plan 18 charges applied in accordance with the calculation rates, no charges apply under this Plan.

Plan No 4 (Sector 9) Tweed Road Contribution Plan

The subject comprises of two (2) allotments and therefore a credit of 13 trips (2 x 6.5 Trips) is available for the site.

The daily trips have been calculated based on the estimated daily trips detailed in Figure xx of this report.

Based on the above daily trips = 96 – 13 (credit) = 83 trips are payable

83 trips @ \$1836.77 = \$152,451.62 – \$60,981.00 for EMP = \$91,470.62 owing under this plan. It is noted the values represented above may be adjusted depending on the time payment is made and the relevant CPI that applies.

The above developer contribution calculations have been peer reviewed by a Tweed Shire Council Townplanner.

vii. 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.

viii. 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).

ix. Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of the 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 configuration of buildings to orientate to the street and provide an “acoustic buffer” between the nearby pistol club and the kennels. The provision of large open space areas for animal exercise yards and expansive open areas to facilitate some of the recommendations in the “management controls” to ameliorate potential amenity impact favour the proposal in terms of context and setting. Given the locality of the site and surrounds, the large lot area and adequate setbacks for the building and ancillary uses, the potential impact on the surrounding uses are minimised.
- Access and Traffic – The access and traffic issues have been addressed in Section 3.1(a) of this report. These matters are satisfactorily addressed subject to conditions.
- Public Domain – The proposal suitably integrates with public domain. Pedestrian connections are available to the perimeter of Proposed Lot 23 in association with the recently constructed road and subdivision. Retaining walls and landscape protection areas and provided at the interface of the site in accordance with the recently established subdivision. Access to the site is via a proposed new driveway crossover and the provision of pathways and signage provides wayfinding and provides integration between the public domain and the civic operations of the development. Furthermore, landscaping throughout the site is also included in the proposal. This landscaping will integrate the existing landscape character of the public domain with the subject site.
- Utilities – Existing provision of sewer, water and electricity infrastructure is available for both lots (via recently established subdivision or the existing parent Lot 31). The proposal includes the provision of new connections for Proposed Lot 23 to cater for the proposal. Referral to Essential Energy was not warranted on this occasion given the provision of existing utility connections. Subject to recommended conditions of consent, the provision of utilities can be provided for the entire site.
- 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. There are some agricultural, industrial, and residential land uses in the area, however, as demonstrated in this report, appropriate measures are recommended to reduce the impact of the proposal on those land uses and visa versa.
- Soils and Contamination - Erosion and sedimentation controls will be required to be implemented prior to construction of the development and conditions are recommended to secure these outcomes. The suitability of Lot 31 for the intended land use has been addressed in Section 3.1(a) of this report. Subject to compliance with recommended conditions of consent, the development will not pose adverse impact on soils and appropriately responds to land contamination.
- 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 except for areas of habitat restoration (on the northern lot 32) and landscape protection toward the east of proposed Lot 23. Filling has/will occur for the purpose of “capping” to prevent land contamination. The development does not include any significant tree removal as part of the application except the possible removal of one (1) tree (as previously discussed in this report). The proposal is considered to have acceptable impacts on the natural environment.
- Noise and vibration – The updated Acoustic Report and Operational Management Plan confirms that the project can satisfactorily co-exist with neighbouring development. As such, subject to implementation of the control measures outlined in the various reports and included in the Operational management plan, the proposal has been designed and will be delivered to mitigate potential noise impact on nearby sensitive receiver locations (Refer to Section 5.3 of this report for detailed discussion on this component of the assessment).
- 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 – Refer to Section 3.1(a) of the report under Section A17 TDCP2008 assessment table for CPTED assessment. This element of the proposal is satisfactory subject to standard conditions.
- 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 is located on a site which is relatively free from environmental constraints and wish is able to be services in a cost effective and sustainable manner. As such, the development will achieve the strategic desired outcome for the area whilst encouraging a sustainable local economy.

- Site design and internal design – The proposal results in a high quality design sympathetic the likely future character of the area. The locality of the various aspects associated with the use of the site including open space, carparking (hardstand areas) and built form is specifically designed to mitigate potential impacts.
- Construction – Relevant conditions have been imposed to reduce potential construction impacts.
- Cumulative impacts – Based on the assessment detail contained in this report, the potential for cumulative impact has been mitigated to deliver a land use that is conducive to the site and surrounds. The assessment of the proposal having regard to the statutory matters for consideration has demonstrated that the proposed is consistent with the planning controls that apply to the site, the site is suitable for the development and the proposal is in the broader public interest.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

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

The subject site is characterised by a unique local character. The subject site (and surrounds) has historically been used as a landfill site, then was capped with fill and subsequently subdivided, and therefore forms a greenfield industrial subdivision area. Notwithstanding, some existing long standing land uses occur on the subject site and immediately south of the existing site boundary (will be severed by a recently constructed road). In particular, the site contains NSW Rural Fire Service Control Station which is used to support RFS administration staff and provide training. A pistol club is located adjacent to the southern boundary of the site, and it supports the use of indoor shooting areas for practice by NSW Police and booked competitions. Immediately east of the site, opposite Lundberg Drive is land zoned RU2 Rural Landscape and these lots contain rural dwellings.

As detailed previously and reiterated in Section 5 of this report, the merits of the proposal and ongoing operational management measures can be employed in order to ameliorate the impact of the proposal on nearby sensitive receiver locations and also reduce any land use conflict between the pistol club and the proposed development.

The findings in the contamination investigation have demonstrated that the subject site is suitable for the proposed land use and will not pose adverse impact to future occupants. In addition, the site constraints in terms of bushfire and flooding have been considered as part of the proposal and demonstrate that the site is suitable for the development given the proposed land use and the measures available to defend the site in a bushfire.

The site is capable of providing all essential services and associated infrastructure necessary to carry out the proposed development.

Based on the above considerations and having regard to the layout and design of the proposal, to protect the subject site and adjoining land uses with acoustic buffer and landscaping through built form, the development aims to limit any adverse impacts. As such, the subject site is considered to be suitable for the development.

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

The proposal was notified in accordance with the Tweed Shire Council's Community Participation Plan from 1 February 2023 until 1 March 2023. During this time seven (7) submissions were received however one (1) additional 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.

All other issues raised during the notification period and Council comments on such are provided in the table below.

Issue	Council comments
<p>Flooding and Stormwater Issues</p> <p>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> <p>The objection highlights limitations within the drainage network and that Council has an obligation to undertake the upgrade works to reduce the impact of the development in terms of drainage and flooding.</p> <p>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>	<p><u>Stormwater</u></p> <p>Whilst there may be current inadequacies in the drainage system in the vicinity of the rehoming facility and nearby cane farmers land, the proposal includes the provision of OSD tanks for Proposed Lot 23 and the use of the existing bioretention basin on proposed Lot 31. Modelling data and stormwater design plans have been included with the DA. This information demonstrates that post development flows will not exceed predevelopment flows. Given there is no additional impact resulting from the proposal, it would not be appropriate to require rectification of the existing drainage in connection with the carrying out of the proposed development. Conditions of consent are recommended to ensure the outcomes of the stormwater design details are achieved for the site and therefore secure the outcomes and conclusions in relation to stormwater drainage impacts.</p> <p><u>Flooding</u></p> <p>An assessment of the proposal in relation to flooding has been undertaken (see previous discussion in this report in relation to Clause 5.21 of Tweed LEP 2014 and Section A3 of Tweed DCP). The flood planning assessment was found to be satisfactory in terms of the development's performance against statutory matters for consideration under this Clause. In particular, the proposed on site stormwater drainage measures are capable of detaining stormwater on the site and therefore not pose any additional impact on the existing drainage infrastructure in a flood event. Furthermore, the topographical nature of the site is such that it is located well above the flood planning levels and therefore does not pose a risk to its occupants in a flood event.</p>
<p>Size and function of kennels increased to allow more size and allow housing of compatible dogs. Options to provide elevated areas within the design so the dogs who like to jump and climb can do so.</p> <p>Central grassed exercise area (similar to that depicted with the quarantine cages) which all kennels in the group have access to could be provided</p>	<p>The premises will operate in accordance with the applicable animal welfare standards including the NSW Department of Primary Industries - NSW <i>Animal Welfare Code of Practice No 5 - Dogs and cats in animal boarding establishments</i> and the <i>Impounding Act 1993</i>. The premises will also implement the recommendations provided by Dr Kate Mornement, Applied Animal Behaviouralist which is included in the DA.</p> <p>NSW DPI – Agriculture have reviewed the applicant and provided additional advice in relation to the facility and the regulatory framework for such. In addition, the applicant has advised Council that design input was sought from experts in animal welfare (this was confirmed by the RSPCA during a verbal conversation in which the</p>

<p>allowing less need for volunteers to let the dogs run and allowing for dogs to leave their kennel for socialisation.</p> <p>Can we request a dedicated area for dog training, and 'meet and greet' encounters. Something like the area used on 'The Doghouse Australia' on Channel 10.</p>	<p>Chief Inspector for the RSPCA advised the design outcomes for this site are consistent with recent RSPCA shelter developments).</p> <p>As mentioned above and detailed in this report, the RSPCA were consulted with by Council as part of the assessment of this application, RSPCA were unable to provide their formal advice as they have no statutory obligation or power to do so. Notwithstanding, the Chief Inspector provided verbal confirmation that the team of animal welfare experts that the applicant nominated as being key stakeholders in the design influence over the proposed schematics of the site also have at least 15 years' experience in consulting to the RSPCA for many equine facilities and animal shelters. As such, there is sufficient anecdotal evidence that the proposed design and layout of the buildings and associated structures suitably respond to the site constraints and are to the benefit of the animals sheltering at the site.</p> <p>Notwithstanding this, to secure "best practice" outcomes in relation to animal welfare, conditions of consent are recommended to require design verification certificates at each Stage of the development. The certificates are required to be prepared by a suitably qualified consultant and aim to qualify the design of the building having regard to <i>NSW Animal Welfare Code of Practice No 5 – Dogs and cats in animal boarding establishments</i>. It is considered that this condition will ensure that matters pertaining to animal welfare that would have been tabled as part of the initial design advice will be included and provided for at the construction phase of the development. To this extent, the condition is constructed in a manner that will provide Council opportunity to qualify the certification and further safeguard design outcomes prior to the issue of a Construction Certificate.</p> <p>Whilst the comments made in this objection have not been specifically responded in a design response, the above discussion aims to demonstrate that the broader issues around animal welfare has been a key issue for consideration as part of the merit considerations in this DA. As part of the ongoing discussions with the applicant, the RSPCA and NSW DPI – Agriculture, the proposal is demonstrated to be satisfactory. The construction phase of the development is safeguarded in terms of animal welfare given conditions of consent are aimed to ensure any specialised design input in terms of animal welfare thus far is qualified by a consultant.</p> <p>From a pragmatic perspective, provision has been made within the facility to assist with adoption services and allow for the public to attend the site to engage with these services which is contrary to an of the existing arrangements for the existing Tweed Shire Council pound operations. As such, it is considered that given that this is a joint venture by Tweed Shire Council and Friends of the Pound, the proposed facility will be beneficial in terms of animal welfare, resourcing and public engagement for the adoption of animals.</p> <p>In response to this issue raised in the submissions, the applicant has advised (in their formal RFI response to the submissions), that further stakeholder engagement will be undertaken post DA to respond to stakeholder concerns in relation to detailed design issues.</p> <p>Finally, many of the concerns raised by objectors (where it relates to animal welfare and provision of exercise in extreme weather etc.) could be dealt with via the Operational Management Plan. That is, where concerns do not specifically relate to the design of the development but rather how the use is managed, they could be</p>
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	resolved at a future stage after the development application has been determined. Such a time would likely be when the collaboration between FOP and Council Rangers is nearing commencement and the ongoing use and function of the two entities would be delineated and some of the operational needs of the site to benefit the animals (based on number of volunteers etc) would be finalised.
I find the spending of this amount of money to house stray animals obscene. It appears Council has lost perspective on the priorities of need within the Shire. Surely providing much needed housing for people within the Shire should be prioritised well before temporary housing for our lost or abandoned pets.	This is not a matter for merit assessment under Section 4.15 of the Act.
The Acoustic report is inaccurate given the testing data was collected during Covid and only 108 gunshots recorded between 11.30-12.30. The club houses 40 shooting bays and on average on a busy day; Saturday these can be mostly full and as we have two details on a Saturday and one on Wednesday morning a rough average of 2500 rounds can be fired in a week. The types of gunshots are varied due to the calibre and unlike the small calibre gunshots recorded on the 26/06/21 when the police train at our facility our members can hear gun shots in East Murwillumbah so this will be very loud. Concerns about animal welfare resulting from pistol club operations.	<p>The updated Acoustic Report has addressed the expected worst-case scenario data collection for existing surrounding land uses (pistol club). The updated Acoustic Report was reviewed by the Animal Behaviouralist Specialist whom provided updated comments. The Operational Management Plan was also updated to reflect recommendations by the Acoustic consultant and the Behavioural Specialist. All these documents address impact to Animal Welfare and conditions of consent are recommended to improve attenuation for the animals and also require the "management control" measures recommended by the specialist to be employed as part of the ongoing use.</p> <p>Finally, the application has been reviewed by DPI – Agriculture and RSPCA and their comments are addressed in this report.</p> <p>Having regard to the updated assessment outcomes and recommendations by the specialist, impact of the nearby pistol club on animal welfare has been addressed and is considered acceptable in these circumstances.</p>
Request to extend notification period to allow for more community engagement. No issues raised with merit of proposal. Time period extended by Council in response.	This author requested that Council extend its advertising period for 14 days beyond the originally nominated 14 days. Council resolved to honour this request and notified the development for a total of 28 days.

3.6 Section 4.15(1)(e) - Public interest

The subject application was publicly exhibited for a period of 28 days. During this time seven (7) submissions were received. In addition, one (1) further submission was received outside of the notification period (June 2023). A summary of the submissions and a planning assessment of the matters raised is provided in the table below:

Issue	Council comments
Number, size and location of exercise yards for 42 dog kennels. It is essential to have exercise	The premises will operate in accordance with the applicable animal welfare standards including the

<p>yards close to the kennels where dogs can be placed when the kennels are being cleaned. All exercise yards also need to be big enough for the dogs to actually be able to get exercise. Taking them from a kennel to a slightly larger space defeats the purpose.</p>	<p>NSW Department of Primary Industries - NSW <i>Animal Welfare Code of Practice No 5 - Dogs and cats in animal boarding establishments</i> and the <i>Impounding Act 1993</i>. The premises will also implement the recommendations provided by Dr Kate Mornement, Applied Animal Behaviouralist which is included in the DA.</p>
<p>For the rehoming centre there is 24 kennels with only 1 exercise yard close by to put them in when you are cleaning out the kennels.</p>	<p>NSW DPI – Agriculture have reviewed the applicant and provided additional advice in relation to the facility and the regulatory framework for such. In addition, as previously discussed in this report, the applicant sought design input from experts in animal welfare during the initial design and planning phase of the project. Based on verbal discussion with NSW RSPCA, design outcomes for this site are consistent with recent RSPCA shelter developments.</p> <p>Finally, the RSPCA were consulted with by Council as part of the assessment of this application. RSPCA were unable to provide their formal advice before the determination meeting for the DA however they advised Council that their role in the process is marginal given they are not a statutory referral authority. Notwithstanding, it was advised that the application could be on-referred to their design team who provide input on RSPCA projects for animal shelters and the like. During the discussion it was revealed that the design team nominated by the RSPCA is the same design team whom provided initial input on the design of the proposal for the applicant and therefore as opposed to on-referring the application, it was recommended that a condition of consent be imposed to require pre construction design verification (see recommended Condition 32 and 33 in Attachment A).</p> <p>From a pragmatic perspective, provision has been made within the facility to assist with adoption services and allow for the public to attend the site to engage with these services which is contrary to any of the existing arrangements for the Tweed Shire Council pound operations. As such, it is considered that given that this is a joint venture by Tweed Shire Council and Friends of the Pound, the proposed facility will be beneficial in terms of animal welfare, resourcing and public engagement for the adoption of animals.</p> <p>The applicant has advised in their response to the submissions that further stakeholder engagement will be undertaken post DA to respond to stakeholder concerns in relation to detailed design issues.</p> <p>Finally, many of the concerns raised by objectors where it relates to animal welfare and provision of exercise in extreme weather etc, could be dealt with via the Operational Management Plan. That is, where concerns do not specifically relate to the design of the development but rather how the use is</p>

	managed, they could be resolved at a future stage after the development application has been determined. Such a time would likely be when the collaboration between FOP and Council Rangers is nearing commencement and the ongoing use and function of the two entities would be delineated and some of the operational needs of the site to benefit the animals (based on number of volunteers etc) would be finalised.
The larger exercise yard to the north has two entrances, one from the pound section and one from the rehoming kennels, this needs some sort of warning system so that dogs can't be put in there by both pound staff and rehoming centre volunteers at the same time.	This is not a matter for merit assessment under Section 4.15 of the Act.
It is unclear with any of the exercise yards as to whether they have any shelter from the elements. Every exercise yard needs a sheltered section for dogs/cats to get out of the elements, particularly with the climate crisis upon us. The 3 x dog and cat exercise yards are a long way from the kennels which is fine if you have plenty of volunteers and the weather is good, but this is not a good design without protection from the elements.	See previous comments above in relation to Operational Management Plans and measures that could be employed to address these concerns. In addition, it is noted that these concerns have been forwarded to the applicant for further consideration at the detailed construction design phase of the development.
Cat assessment area is visible but it is unclear where impounded cats will be held. The cat assessment area is in the middle of the rehoming centre so there is a risk of spread of disease if the cat to be assessed has not had a medical clearance first. So there would be a need to ensure that the cats were free of disease before placing them in the assessment area.	This is addressed in the updated Waste Management Plan which outlines protocols for assessment to take place to avoid the spread of pathogen and disease. The recommendations in the updated Waste Management Plan will need to be included in the updated Operational Management Plan and this has been included in a recommended condition of consent.
As previously mentioned, the Rehoming office needs to be adjacent to 02. reception to minimise the numbers of volunteers needed so the person on reception can easily access the office as needed or vice versa. It is always problematic finding enough volunteers to help and with 24 kennels to clean and the equivalent dogs to exercise as well as needing to clean all the cat enclosures that will take priority over manning the office. So, if the rehoming partner is short on volunteers to man the reception, which is highly possible, having the reception and offices next to each other makes common sense.	This design input is superfluous to the assessment criteria under Section 4.15 of the Act. The design of the proposal has been subject to stakeholder engagement at the pre DA stage and further input by relevant experts (landscape, parking, traffic, ecological, bushfire, architects etc) and the suggestions in this comment are not something that Council planners can request of the applicant. Notwithstanding, it is understood the facility is designed for maximum capacity and will be supported by an Operational Management Plan that would flush out the needs of the operation compared to available staff and volunteers.
Meet and Greet and Interview Room has a concrete yard outside of it. This could be enhanced and softened with plantings.	Minimum landscaping requirements have been satisfied. This suggested has been forwarded to the applicant for further consideration at the construction design detail phase.

The featured dog in the rehoming centre is surrounded by walls so will not be easily featured unless this is a glass or transparent wall. As I previously recommended this area needs to include a small outside area for the dog to be able to toilet and get fresh air if need be, instead of locked in an enclosed room when volunteers are busy elsewhere.	This suggestion/comment has been forwarded to the applicant for further consideration at the construction design detail phase.
There appears to be no accommodation for small animals such as birds, chickens, ducks, rabbits etc who need a secure and predator -proof place away from other animals.	Proposed Lot 31 contains a livestock/small animal impound yard that would accommodate these types of animals.

The proposal is considered to generally be in the public interest as it will provide for a purpose-built, state of the art flood free Pound and Animal Rehoming Facility for the provision of services to the community of Tweed Shire local government area. The proposed development will deliver a service in conjunction with Friends of the Pound to not only provide animal shelter (via the pound) but to also provide foster care and rehome domestic animals.

In addition to the above, the proposed building provides a Public Administration Building which will house Council Rangers and allow a more effective delivery of service to the public given one of their main functions is associated with the administration of the Companion Animals Act (administration of the Pound), in addition to impounding vehicles and other vehicle and parking related regulatory functions. The co- location of Council Rangers with Friends of the Pound to impound and care for animals plus provide a rehoming service will have economic benefit for the community given it will provide a more effective use of Council resources and reduce the incidence of costs related to prolonged animals stays at the facility.

The proposal is consistent with the applicable planning controls as outlined in this report. The proposal is considered to have a positive social and economic impact to the community without impact the amenity of the surrounding area.

The subject site is deemed to be suitable for the development and is capable of catering for the impacts of the proposal now and in the future.

On balance, the proposal is consistent with the broader 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 Water NSW 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 5 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 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	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
Tweed Byron Local Aboriginal Land Council	Aboriginal Cultural Heritage Management Plan 2018 (ACHMP)	No objection subject to recommended conditions.	Y
NSW Rural Fire Service	Section 4.13 of the EP&A Act	No objection subject to recommended conditions.	Y
NSW DPI – Agriculture	Prevention of Cruelty to Animals Act 1979 (the POCTA Act) Biosecurity (National Livestock Identification System) Regulation 2017	Conditions recommended to assist with regulatory compliance issues.	Y
RSPCA	Prevention of Cruelty to Animals Act 1979 (POCTA Act)	On Monday 30 October 2023, following a verbal consultation regarding the RSPCA referral and whether advice could be provided, Scott Meyers (Chief Inspector) of the RSPCA	Y

		<p>advised that RSPCA is not able to provide comment on the proposal given that RSCPA does not have any statutory authority to provide input to DAs in relation to site suitability and/or design verification to achieve industry best practice. Rather, the RSCPA has administrator functions post DA phase in terms of regulating conduct and ensuring animal welfare for the ongoing operations of such facilities. Notwithstanding, Mr Meyers suggested an onward referral to their consultant designer could be undertaken to determine whether the design of the proposal is suitable. Further discussion in relation to that designer revealed that it was the same designer whom peer reviewed the design and layout of the proposed facility. As such, conditions are recommended to provide design verification prior to the issue of a Construction Certificate for each stage of the development. However, given the circumstances, onward referral by the RSPCA to that designer was superfluous given the extent of consultation that has already occurred with NSW DPI – Agriculture, the Animal Behavioral specialist, the acoustic specialist, and the private design consultants involved with RSPCA projects and who also provided input on the proposed development pre-DA lodgment.</p>	
Integrated Development (S 4.46 of the EP&A Act)			
NSW Department of Industry and Environment – Water Operations	Controlled Activity Approval pursuant to Clause 91 of Water Management Act 2000 for works within 40m of mapped watercourse.	Historic and highly modified mapped watercourse traverses the site however pursuant to Clause 41 of the Water Management (General) Regulation 2018 , a public authority is exempt from all controlled activity that it carries out in, or under waterfront land	N/A

		and therefore concurrence referral is not statutorily required for this DA.	
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4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Flooding and Stormwater Engineering	Councils Flooding and Stormwater Engineer has reviewed the proposal in relation to site specific stormwater drainage (and associated bioretention and OSD basins/tanks) and flooding. Councils Flood and Stormwater Engineer have advised that the detail in the updated stormwater management report demonstrates post development discharge rates will not exceed predevelopment stormwater discharge rates and therefore no objection subject to standard conditions of consent.	Y
Development Engineering	The proposed development is supported subject to the recommended conditions of consent tabled at the end of this report being enforced in the generated consent.	Y
Sustainability & Environment Unit	Councils Sustainability and Environment Unit raise no objection to the proposal and are satisfied that the development would avoid adverse ecological impact subject to the following recommended environmental planning conditions that relate to: <ul style="list-style-type: none"> Ensuring adequate protection is afforded to landscape vegetation established under previously approved DA19/0875 and; Preparation of a detailed landscape plan to clearly reflect minimum 80% local native species plant selection. 	Y
Traffic	Proposed entry gate to be relocated inward of the site boundary. This is to be resolved via conditions. No objections subject to conditions	Y
Building	The property is located within a new council subdivision in Murwillumbah south industrial area. The application is for a single storey building to be used as an Animal rehoming facility and Council Pound. A building code compliance has been submitted with the application. No objections to the proposal from councils building unit subject to conditions.	Y
Environmental Health Matters	No objections subject to conditions	Y
Sewer and Water Engineering	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: <ul style="list-style-type: none"> - Payment of Section 64 developer contributions; 	Y

	<ul style="list-style-type: none"> - Application for a bulk water meter and; - Special conditions to prevent works within proximity of Council infrastructure. 	
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The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

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 Potential Land Contamination

As previously discussed under Section 3.1(a) of this report, the subject site has previously been used as a landfill facility and therefore pursuant to Chapter 4 of SEPP (Resilience and Hazards) 2021 rigorous site investigations and site monitoring together with subsequent action plans and long term management plans has been undertaken to determine whether the proposed land use and built form is appropriate on the site.

Based on the site investigations and site monitoring, the provision of gas migrations resulting from the historic landfill use is considered to pose negligible risks to site users. However, the DSI identified that there is potential for asbestos impacted soil and other contaminants of potential concern to be encountered and therefore a RAP has been submitted to address these contaminants and provide remediation strategies to ensure unacceptable health or ecological risks from uncontrolled fill left in-situ. In order for the RAP to meet the regulatory objective, a LTEMP was also prepared and has submitted with the DA.

The LTEMP summarises much of the RAP and DSI (as it should). It notes the need for encapsulation works across Lot 31 for anthropogenic material including Asbestos Contaminated Material ('ACM'). The LTEMP also indicates that Hazardous Ground Gases (HGG) should be monitored during construction works involving any excavation into Lot 31. Procedures for LFG monitoring are outlined in Appendix E of the plan.

Based on the findings of the RAP and preliminary LTEMP, a validation report is required to ensure that the engineered filled layer has been installed in accordance with the RAP. This is recommended as a condition of consent.

In addition, conditions of consent are recommended to require the creation of a covenant registered on title. The covenant is to bind the landowners with the responsibility for the ongoing maintenance and rehabilitation works required in terms of the encapsulated/remaining contaminated material, including the discharge or prevention of discharge from any contaminants.

A separate condition is recommended to require a final LTEMP to be prepared and submitted to Tweed shire Council for written approval.

Resolution: The issue of contamination resulting from previous land uses and ongoing management of the site in accordance with relevant site investigations,

action plans and long term management strategies have been resolved having regard to the statutory framework for the assessment of contaminated land. Recommended conditions of consent specific to land contamination and the findings of the various reports are outlined in **Attachment A**.

5.2 Stormwater Drainage and Flooding

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. An 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 in an effort to address the objectors concern and provide some commentary in relation to Clause 5.2 of TLEP2014 and address matters of public interest.

A copy of the objection was referred back to Council's 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 are considered.

An updated Stormwater Strategy detailing MUSIC modelling and specifications for OSD and bioretention basins for proposed Lot 23 and 31 be provided. Such information was supplied as part of a consolidated response to Councils RFI in August 2023. The updated information demonstrates that stormwater discharge from the site post development will not exceed predevelopment flows from the site and for this reason, the proposal satisfies Clause 5.21 in terms of impact on flooding in the downstream receiving environment for all events up to and including 1% AEP storm event.

Limiting post development flows to pre-development flows is considered the most appropriate method to avoid impact to the surrounding cane farms in terms of flooding and stormwater. Conditions of consent are recommended to secure the outcomes of the submitted stormwater management plan and the assessment outcomes in terms of discharge rates.

Resolution: The issue has been resolved through updated Stormwater Management information and recommended condition/s of consent.

5.3 Acoustic Impacts

The potential for noise from the proposed use and its impact on adjoining properties is an important consideration given the likely impact of barking dogs being housed in

the facility. The original application was accompanied by an Acoustic Report which aimed to respond to the likely impacts of dogs barking and also consider the impact of adjoining pistol club on the proposed use.

Council officers raised queries in relation to the data collection in the above stated report and requested that the applicant submit an updated report with more detailed analysis outlining “worst case scenario” results. That being, worst case scenario of 42 dogs barking* all at once and the most intense use of the nearby pistol club. In August 2023, an updated Acoustic Report prepared by Acoustic Works dated 21 August 2023 (referenced 2021272 R01K Tweed Animal Shelter) and covering letter dated 18 August 2023 was submitted to Council. The updated report recommended additional amelioration measures based on the worst case scenario of existing adjoining land uses (namely the pistol club). That is; modelling was conducted based on a larger calibre firearm and calibration of the noise emission from the proposed facility (based on all 42 dogs barking simultaneously) against measured animal shelter data using sound plan modelling. Analysis of this data has been conducted and updated recommendations are included in this report.

The report concludes that subject to recommendations in terms of building materials and management controls, the noise emission from the proposed facility (42 dogs barking simultaneously) at night-time will not intrude on sleep disturbance criteria for the closest sensitive receiver location (residential dwelling noted R1 on submitted report). A cross reference of the recommended management controls has been undertaken against the Updated Operational Management Plan to ensure that these controls are catered for. In addition to the management control measures, recommendations for building materials include additional kennels to be upgraded acoustically to a higher degree of attenuation for animals identified as having heightened awareness of noise triggering barking behaviour. The consultant notes that these kennels will likely require mechanical ventilation. Other building material controls to achieve the results in the Acoustic Report include structural works to attenuate to any noise from barking dogs. This includes minimum requirements for components such as walls and ceilings.

In addition to the above, the report also provides the applicant (Council) with options to further upgrade the development in future, if it is considered necessary to further reduce any noise impacts from the operation of the Pound facility. This is a highly desirable aspect of the noise assessment as it provides contingency for the use to operate and further ameliorate acoustic impact to sensitive receiver locations.

** The animal behaviourist has advised that based on a Therian Needs Analysis, it is expected that the facility would generally be operating at 50% occupancy. The animal behaviourist concludes that it is therefore unlikely that 42 dogs will bark at any onetime given the above and due to individual differences in behaviour and perceptions of loud noises.*

Resolution: Based on the above, the Acoustic Report suitably addressed impacts from the proposed land use on nearby sensitive receiver locations. Conditions of consent are recommended to require compliance with the recommendations in the Acoustic Report.

In terms of the impact of the proposal on the animals, the updated Acoustic Report makes additional recommendations to provide two (2) kennels in the Rangers area and another two (2) in the FOP area that will be fully enclosed. These will be used for the purposes of housing those dogs that are highly stressed or agitated by gun shots or other noises. The recommendations in the Acoustic were reviewed by the animal behaviouralist whom provided updated comments on the report as well as the Operational Management Plan. It was noted by the Animal Behaviouralist that the upgraded building materials with additional attenuated kennels will improve the overall operation of the site and assist in reducing auditory stress in shelter animals. It was also noted that the additional kennels close to areas of human interaction within the facility was another excellent mitigation measure.

The animal behaviouralist provided input on the draft Operational Management Plan and acknowledges that the measures originally included relate back to the various “management controls” to improve the amenity of the pound to aid positive dog behaviour and reduce stress and anxiety, as recommended by the Animal Behaviouralist and to adhere to regulations in terms of Animal Welfare. These aspects of the proposal (in terms of “management controls”) combined with additional building measures to attenuate the facility will reduce the impact of the nearby pistol club on the animals noting that the updated data collection reflects a negligible increase in dBZ resulting from the larger, more audible guns being used at the pistol club (5 dBZ difference compared to the original report).

Further discussion on impact from noise on Animal Behaviour based on the Animal Behavioural Report is contained under Section 5.4 of this Report.

Resolution: The issue of noise impacts resulting from the proposed use and its impact on nearby sensitive receiver locations (Dwellings) has been resolved through the updated Acoustic Report, Updated Operational Management Plan and Updated Animal Behavioural Assessment. recommended conditions of consent based on the findings of these report are outlined in **Attachment A**.

5.4 Animal Welfare

The proposal is supported by an Animal Behavioral Assessment Report prepared by Dr Kate Mornement (Certified Applied Animal Behavioralist). The report aims to specifically address the effect of gunshot noise in domestic pets and mitigation measures to prevent negative impact on animal behavior and welfare. The original report (dated 28 July) comprehensively addressed general statistics and research to address the topic of noise in domestic pets and mitigation measures however noted that there is no research that deals with noise sourced from gunshots and the impact on canines.

In addition to the above limitations in relation to research on the topic of gun shots and the impact on canines, it is noted that Council’s compliment of staff does not have technical understanding on the impact of noise to animals and the regulations around such. Rather, Council staff are only able to consider the impact of noise on humans. Therefore, Council staff have relied upon the findings in the Animal Behavioral Assessment Report and referrals to NSW DPI - Agriculture and the RSPCA respectively.

In addition to the above referrals, more rigorous Acoustic assessment was requested by Council, and it was suggested that the updated Acoustic assessment be referred to the Animal Behaviouralist for further consideration and comment. This was undertaken and whilst the NSW DPI – Agriculture had already provided their comments by the time the updated reports were supplied to Council, the RSPCA were provided the updated report(s) for the purpose of commenting on the proposed use and its appropriateness on the subject site having regard to the nearby land uses (pistol club). Further discussion in relation to RSPCA comments are detailed elsewhere in this report.

The Animal Behaviouralist provided the following key information in relation to Pounds and the general assumptions in terms of noise impact for these types of land uses and how the proposal compared to those general assumptions in terms of noise impact:

- a. Sound levels ranging from 85-100 dB are reportedly common in kennel and shelter environments and, as discussed previously, sources of noise in such environments often includes barking from dogs, use of equipment and routine husbandry procedures such as high pressure hoses which can reach 90dB. Other common noises include ventilation systems, temperature control devices, food and water bowls, doors opening and closing and motor vehicle traffic. The original acoustic report prepared by Acoustic works council stated that the highest LZPeak value measured from gunshot noise from the pistol club adjacent to the site of the proposed animal shelter and pound was 87dBZ. This level falls on the lower end of the scale of noise reported in similar environments. The updated measurements in the updated acoustic report show the highest LZPeak value measured from gunshot noise from the pistol club was 94dBZ, which is marginally higher than the initial measurement of 87dBZ but still within the range of noise reported in similar environments.
- b. The time it takes for dogs to habituate to loud noises occurring on a daily or weekly basis can vary depending on several factors, including the individual dog's temperament, prior experiences, and the specific characteristics of the loud noises. Habituation is the process by which an animal becomes desensitized to a repeated or continuous stimulus, leading to a reduced response over time. However, it is essential to note that not all dogs will habituate at the same rate, and some may never fully habituate to certain loud noises. Too much stress or fear during the habituation process can lead to sensitization rather than habituation, making some dogs even more reactive to the noise. The expected duration of the stay of these animals is limited to applicable statutory time frames as outlined within Section 8 of the Therian Needs Analysis and is expected to be weeks. This is preferential in terms of impact on animals as opposed to long periods of stay.
- c. Animal shelter, pound and kennel environments can be very stressful for many dogs. The novel environment, loss of familiar routine and attachment figures, new sites and smells, unfamiliar dogs and people can contribute to stress, fear anxiety and other negative emotions and behaviours. Research on the behaviour and welfare of animals temporarily housed in animal shelters and kennel facilities has identified a number of effective “management control” strategies for optimizing animal welfare and reducing stress, anxiety and associated problem behaviour including excessive barking. These include:

- a. Human Interaction Sessions;
- b. Classical Counter-conditioning;
- c. Environmental Enrichment;
- d. Physical barriers, low noise areas and noise abatement;
- e. Overnight foster programs;
- f. Nutraceuticals and other calming aids and;
- g. Cats being housed separately to dogs.

The above mentioned “management controls” are more capable of being achieved having regard to the collaborative approach between Council and Friends of the Pound. The provision of resources, budgets and volunteers is more abundant than many other circumstances for similar facilities (including the existing arrangements for Council Pound). Furthermore, the provision of the above has “management controls” have been included in a draft Operational Management Plan together with minimum regulatory requirements for Animal Welfare. The Animal Behaviouralist Assessment Report recommends that the draft plan be reviewed by the Animal Behavior expert prior to the issue of any Occupation Certificate. This recommendation has formed a condition of consent.

Resolution: The issue of animal welfare and whether the subject site is appropriate as a rehoming facility and Council Pound (based on the nearby pistol club) has been addressed by the updated Acoustic Report, the updated Animal Behavioural Assessment and updated Operational Management Plan. The updated information, combined with advice from NSW DPI – Agriculture and RSPCA has demonstrated that despite there being a Pistol Club within the vicinity of the site, the audibility of the noise from that land use does not exceed the generally accepted noise levels for a Pound Facility. In addition, for this particular development; additional measures to attenuate the kennels and provide “management controls” to assist the animals and prevent noise emission (barking dogs) from the site impacting nearby sensitive receiver site, additional measures above and beyond that originally proposed are recommended to improve the overall operation of the site and also engage with the animals more positively thus improving the welfare of the animals in particular, the dogs). As such, this matter is considered to be adequately resolved and recommended conditions of consent based on the findings of the various reports are outlined in **Attachment A**.

5.5 Site Suitability

The subject site is located with an E4 General Industry zone. The land has been subject to a recent industrial subdivision and the proposed use is permitted by virtue of Clause 21 in Schedule 1 of TLEP2014. Whilst the surrounding greenfield subdivision has no established uses (subdivided lots not yet registered), there are some unique and long-standing land uses nearby. In particular, the Murwillumbah pistol club and cane farms located on nearby RU2 Rural Landscape east of Lundberg Drive, opposite the subject site.

Given the context of the site and surrounds, potential impacts from the existing pistol club on the proposed land use and the likely impacts of the proposal (in terms of

noise) on existing and future land uses (in particular, dwellings on the nearby RU2 Rural Landscape land use), site suitability and potential land use conflict is a pertinent aspect of this assessment.

As far as impact assessment is considered; the site, being in an E4 zone, means that sensitive receivers are unlikely to occur in proximity to the site in the future. As such, the impact assessment identified in the submitted Acoustic Report and detailed in Section 5.3 of this report will suitably address impacts to the nearby receiver locations as they currently exist. Beyond this, future development of the surrounds is likely to be limited to those otherwise permitted in the industrial zone and will not comprise of habitable uses. To this extent, it is worthy of noting that for the proposed use to be undertaken in a manner that is going to reduce noise impacts to nearby dwellings, “management controls” will need to be employed on the site to reduce the instance of noise disturbance and therefore this development relies on good site operations. For this reason, the provision of a robust Operational Management Plan is considered necessary (draft version supplied and is satisfactory).

In terms of existing nonresidential land uses and whether there is a potential conflict in land use, the submitted Animal Behavioral Assessment outlines the expected noise levels of a Pound is 100dBZ and the impact of the pistol club in “worst case scenario” is below the expected levels for a Pound. In addition, there are additional amelioration measures that have been recommended in the updated Acoustic Report in terms of building treatment to further attenuate the areas which house dogs. These measures combined with the “management controls” recommended by the Animal Behavioral Assessment specialist are likely to further mitigate any impacts resulting from noise generated from the pistol club and improve the animals experience at the facility.

It is noted that some of the additional noise resulting from the general operations in the Pound (pressure housing for cleaning, doors opening and closing, traffic noise etc) may need to be managed to ensure that they do not exacerbate the impact of noise during the pistol club operations. It is considered this could be achieved by avoiding cleaning of the kennels during the peak periods the pistol club is used or via utilizing the exercise yards located on the adjacent lot, away from the noise source(s) of doors opening and closing, the pressure cleaning of kennels, traffic noise and the pistol club.

Finally, it is acknowledged that future use of land surrounding the Pound will need to hold due regard to likely impacts resulting from noise on sensitive receiver locations (in the same manner this application has had to undertake acoustic impact assessment), such sensitive receiver locations will likely include the nearby residences along Lundberg Drive and possibly the established Pound. This will be a merit consideration for future development of surrounding lands and any noise generating land use will need to hold due regard to the use of this site as a Pound. This scenario would play out in any circumstance no matter the location of the Pound and it is likely that locations to which a Pound is situated (Rural or Industrial Lands) to avoid impact to sensitive receiver locations would be surrounded by noise generating land uses in any scenario.

Based on the above key considerations relevant to the site and its locality and the specifics technical understanding of the site and its operation, the subject site is considered to be suitable for the proposal despite the existing surrounding land uses and the future use of land within the greenfield industrial subdivision.

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 key issues of the proposal are considered to have been adequately addressed or impacts mitigated either through updated acoustic detail (including attenuation measures for the proposed design) and recommended conditions of consent.

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.

Given the nature of the proposal being a proposed Council asset on Council owned land, the assessment of this application has been peer reviewed by a consultant town planner. Subject to a recommendations to amend conditions of consent (refer to **Attachment I**) no objections were raised to the assessment report and its findings having regard to the statutory considerations under Section 4.15(1) of the Act. The revised conditions (in response to the peer review process) are contained in **Attachment A**.

7 RECOMMENDATION

That the Development Application DA22/0854 for proposed Public Administration Building and Community Facility for the purpose of an Animal Rehoming Facility and administrative offices for Council Rangers and Council Pound Facility on proposed Lots 23 and 31, 92 and 102 Lundberg Drive SOUTH MURWILLUMBAH be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the updated draft conditions of consent attached to this report at **Attachment A**.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Architectural Plans
- Attachment C: Updated Acoustic Report
- Attachment D: Updated Animal Behaviour Report
- Attachment E: Updated Draft Operational Management Plan
- Attachment F: Landscape Concept Plan
- Attachment G: NSW DPI – Agriculture advice dated 28 April 2023
- Attachment H: Submissions
- Attachment I: Council officers response to Table 3 in peer review report.