



# **Council Pound at 92 & 102 Lundberg Drive South Murwillumbah (Tweed Shire Council)**

**Independent Peer Review of Council's Assessment Report**

**For the Northern Regional Planning Panel  
PPSNHTH – 197 (DA 22/0854)  
16 November 2023**



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**Commissioned by the Department of Planning and Environment**

## EXECUTIVE SUMMARY

This report comprises an independent review of the Council's Assessment Report dated 2 November 2023 for the proposed development. This Review has been commissioned by the Department of Planning and Environment for the Northern Regional Planning Panel, as the site is owned by Tweed Shire Council and proposes a Council facility.

The proposal involves the construction of a Council pound and Ranger's Facility and also proposes external hardstand storage areas and ancillary development including parking, landscaping, and signage at No 92 and 102 Lundberg Drive South Murwillumbah. The proposal is permissible as an additional permitted use under Schedule 1 of the *Tweed Local Environmental Plan 2014* ('TLEP 2014') and a *Public Administration Building*.

A site inspection was undertaken with the Panel and Council staff on 12 September 2023 for the purposes of this independent review. The development application and its accompanying consultant reports have also been reviewed.

The main sections of Council's Assessment Report have been considered in this Review Report and found to be generally satisfactory. The recommendation for approval and recommended conditions are supported subject to some suggested changes to the recommended conditions as outlined in this Review Report.

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## Contents

<b>1. INTRODUCTION .....</b>	<b>4</b>
<b>1.1 Reason for the Report and Structure of the Review.....</b>	<b>4</b>
<b>1.2 Background to the Development Application.....</b>	<b>5</b>
<b>2. THE SITE AND LOCALITY .....</b>	<b>8</b>
<b>2.1 The Site.....</b>	<b>8</b>
<b>3. THE PROPOSAL.....</b>	<b>11</b>
<b>4. REVIEW OF THE COUNCIL ASSESSMENT REPORT.....</b>	<b>13</b>
<b>4.1 Section 4.15(1) Assessment.....</b>	<b>13</b>
<b>4.2 Site Constraints .....</b>	<b>14</b>
<b>4.3 Key Issues .....</b>	<b>14</b>
<b>4.4 Recommendation.....</b>	<b>23</b>
<b>4.5 Recommended Conditions.....</b>	<b>23</b>
<b>5. CONCLUSION.....</b>	<b>27</b>
<b>6. RECOMMENDATION.....</b>	<b>28</b>

## 1. INTRODUCTION

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Development Application No DA 22/0854 proposes the construction of a new Council Pound (animal rehoming facility) and Ranger's depot for Tweed Shire Council (**'the proposal'**) at 92 and 102 Lundberg Drive South Murwillumbah (**'the site'**). The proposal seeks to provide these facilities in a new location as the former pound facility was located in the area approved for the expansion of Council's waste operations at Stotts Creek Resource Recovery Centre.

The consent authority for the development application is the Northern Regional Planning Panel (**'the Panel'**) pursuant to Section 4.5(b) of the *Environmental Planning and Assessment Act 1979* (**'the EP&A Act'**) and Section 2.19 of *State Environmental Planning Policy (Planning Systems) 2021*. Clause 3 of Schedule 6 of the Planning Systems SEPP provides that Council related development, in this case where Council is the owner of the land, with a capital investment value of more than \$5 million is regionally significant development. The *Tweed Local Environmental Plan 2014* (**'TLEP 2014'**) is the principal environmental planning instrument applying to the proposal.

Tweed Shire Council (**'the Council'**) has prepared an Assessment Report for the application, recommending approval dated 2 November 2023 (**'Council's Assessment Report'**).

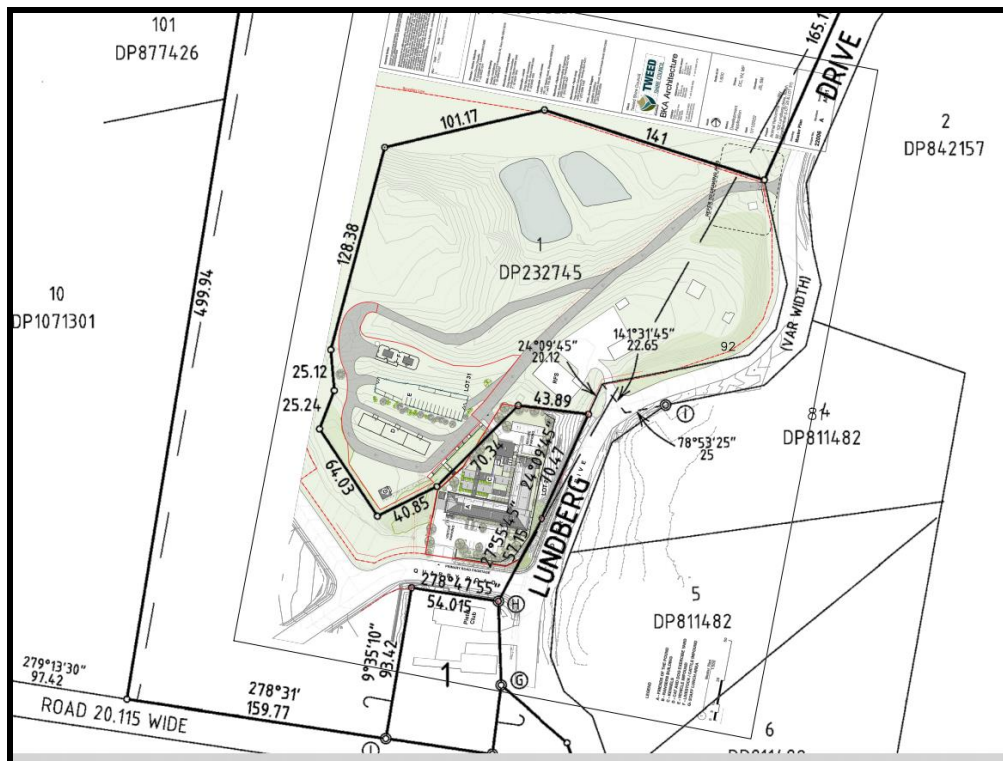
### 1.1 Reason for the Report and Structure of the Review

This report comprises an independent peer review (**'the Review Report'**) of the Council's Assessment Report for the proposed development and has been commissioned by the Planning Panels Secretariat of the Department of Planning and Environment for the Panel. The Panel requested this independent peer review as the Council is the landowner and the proposal is for a Council facility (Pound and Ranger facilities).

This Review provides the following sections:

- Section 2 – The Site
- Section 3 – The Proposal (including a chronology)
- Section 4 – Review of Council's Assessment Report
- Section 5 – Conclusion
- Section 6 - Recommendation





**Figure 2: The Proposal within the existing lot layout (Source: Plan overlay, Council, 22 August 2023)**

The site was also the subject of a Planning Proposal to add a *Council pound* and a *place used for rehoming animals* to be added as an additional permitted use (with consent) pursuant to Schedule 1 of the LEP (as a Community Facility), which was gazetted on 25 June 2021. The site is now within the E4 General Industrial Zone pursuant to the employment zones amendments to the TLEP 2014 on 26 April 2023.

The site is adjacent to the former Murwillumbah Landfill, which was predominantly north of Lot 31, however minor ancillary activities extended into Lot 31, including some uncontrolled filling with soil intermixed with minor anthropogenic material. The potential for Landfill Gas ('LFG') migration associated with the former landfill, as well as potential soil contamination, is a matter for consideration in this proposal.

A Part 5 Review of Environmental Factors ('REF') prepared by Council, titled *Murwillumbah Landfill Batter Maintenance* dated September 2022, was prepared to consider the potential environmental impacts of the proposed batter maintenance works at Lot 31 to increase the thickness of the cover layer over part of the former operational area of the landfill. This was based on the approved final capping profile of the Site Closure Plan for the Murwillumbah landfill.



The design was modified slightly to reflect the existing site conditions and the potential future utilisation of the site. The proposed batter maintenance includes the placement of material and bulk earthworks to create and shape a 500mm thick clay barrier layer over the existing surface. The top layer would comprise a sub-base material for roads and hardstand areas, and topsoil material for grassed areas and bulk earthworks to create and shape a 200mm thick cover layer over the barrier layer. Following final placement of material, all disturbed surfaces and battered slopes would be stabilised to minimise dust generation and erosion and sediment loss.

This batter maintenance work is still to be undertaken on the site, with the proposal designed to suit the final site levels following these earthworks approved under Part 5 of the EP&A Act. Therefore, the current proposal and plans reflect the proposed levels post-capping.

A Pre-lodgement meeting (Development Assessment Panel (DAP)) meeting was held on 11 May 2022 where several issues were discussed as outlined in Council's Assessment Report. One of the key issues at the DAP Meeting related to the required assessments and reporting associated with potential land contamination on the southern portion of approved Lot 31. The Part 5 REF pathway was adopted as an alternate planning approval pathway to the requirements outlined within the Pre-lodgement Minutes.

This development application was lodged on 10 January 2023, with an application chronology in **Table 1**.

**Table 1: Chronology of the DA - 2023**

Date	Event	Comments
10 January 2023	DA lodged	DA (DA 22/0854) lodged with Council
1 February 2023	Notification	Notification of DA until 1 March - seven (7) submissions were received however one (1) additional late submission
15 March 2023	Panel briefing	Key issues discussed included permissibility (confirm whether vehicle impounding is permissible as ancillary development or meets definition of 'public administration building'), site suitability, contamination (including potential leachate) and gas migration, site audit report required prior to installation of any further fill, stormwater (pre and post flows), waste management (animal waste), acoustic impacts from surrounding sites (including gun club, which is not acoustically treated or as operating hours), animal behaviourist in relation to noise, submissions received, solar

		panels and Lot 31 to have a 1m cap installed.
24 March 2023	Council RFI	Requested information included: <ul style="list-style-type: none"> <li>Existing lot layout</li> <li>contamination information,</li> <li>noise assessment including updated in relation to noise from pistol club,</li> <li>animal expert advice,</li> <li>updated stormwater and flooding information, updated waste management plan (animal wastes).</li> </ul>
25 August 2023	Amended info lodged	Information lodged included: <ul style="list-style-type: none"> <li>Preliminary Landfill Gas Assessment &amp; addendum</li> <li>DSI, RAP for proposed Lot 31 and Preliminary LTEMP</li> <li>Updated Noise Impact Assessment</li> <li>Updated Animal Behaviourist Assessment</li> <li>Updated draft Operational Management Plan</li> <li>Amended Stormwater Management Plan</li> <li>Sediment and Erosion Control Plan</li> <li>Amended Waste Management Plan</li> </ul>
12 September 2023	Site Inspection	Site inspection by Panel, Council and Peer Reviewer
3 November 2023	Final report	Council recommended approval subject to conditions

## 2. THE SITE AND LOCALITY

### 2.1 The Site

The site is currently legally described as Lot 1 in DP 232745 and Lot 2 in DP 1139059 and is known as No 92 and 102 Lundberg Drive South Murwillumbah. As outlined above, the site has a further subdivision approval as Lots 23 and 31 under DA19/0875, however, this approved subdivision has not been completed or registered at this stage.

Following completion of the approved subdivision, the site will comprise (**Figure 3**):

- Approved Lot 23 – This allotment will be located at the corner of Lundberg Road and the Quarry Road extension (currently under construction and not yet dedicated to Council) with an area of approximately 5,926m<sup>2</sup>. This lot has undergone extensive site modification as part of the subdivision construction and is situated on natural ground and compacted engineered clay fill material adjacent to part of the former landfill. The



site is devoid of trees and vegetation; and

- Approved Lot 31 – This allotment will have vehicular access from an existing driveway connection to Lundberg Road with an area of 6.62 hectares which has been modified for development. Lot 32 will have driveway access to Lot 23 via a right of carriageway. This site has previously been capped with general fill of varying thickness between 0.2 to 1.5 metres. A new capping layer is proposed under the Part 5 approval. This portion of the site was also previously benched to create level areas for site offices and associated construction equipment for the subdivision.

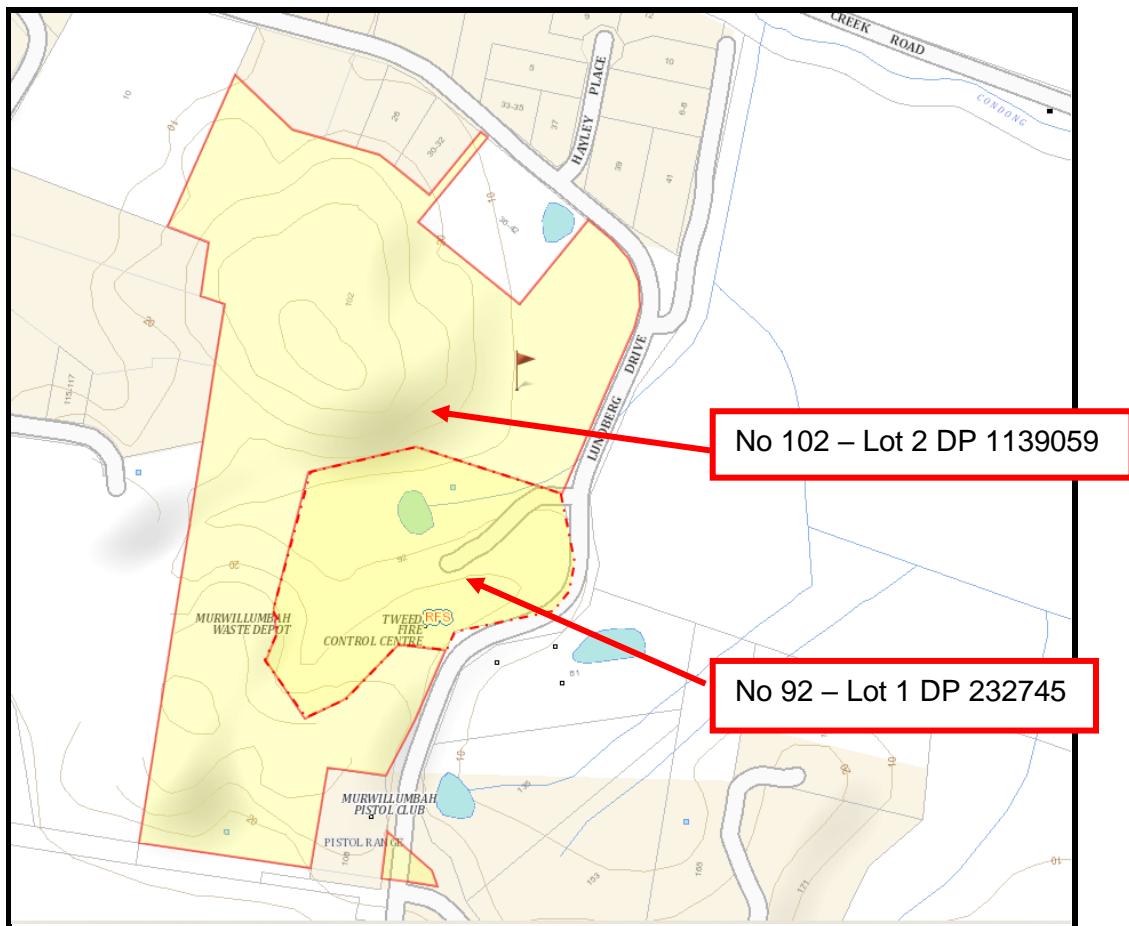
The site (proposed Lots 23 and 31) has a total area of approximately 7.2126 hectares and comprises vacant land with earthworks partially completed for the development

The northern portion of approved Lot 31 comprises the former Council operated Murwillumbah landfill and is subject to a Site Management Plan (SMP) linked to this former use. This former landfill has been closed, capped and the landfill Environmental Protection Licence (EPL 6106) surrendered.

The northern portion of the parent lot is heavily vegetated, however, this does not form part of the site for the purposes of this proposal and forms part of future Lot 32 (outside of the subject site). This area of land is also deferred under the TLEP 2014 and remains zoned 7(L) Environmental Protection under the *Tweed Local Environmental Plan 2000*.

The site is currently vacant land, which has been modified for development (with capping) and consists of disturbed exotic grassland. The site is relatively flat, although elevated above Lundberg Drive, as a result of previous filling of the land to achieve RL 6.7m AHD and does not contain any significant trees or other natural site features.

The site is located within zoned E4 General Industrial under the TLEP 2014.



**Figure 3: The Site - existing lots at No 92 & 102 (Source: SIX Maps)**

The surrounding land uses comprise the NSW RFS Tweed Fire Control Centre to the north (currently within No 92), while to the south is the Quarry Drive Extension currently under construction and awaiting dedication (currently within No 102).

The Murwillumbah Pistol Club is located to the south on the opposite corner of Lundberg Drive and Quarry Road. Adjoining to the east is Lundberg Drive beyond which are large lot residential uses and rural land, with the industrial subdivision to the west currently under construction.

The locality is generally of an industrial and rural residential nature, with subdivision works and roadworks currently under construction and/or nearing completion.

The site is affected by numerous site constraints including comprising bushfire Prone Land, Flood prone land (PMF of RL 9.2m AHD), regionally Significant Farmland and predictive for Aboriginal Cultural Heritage. Class 5 Acid Sulfate Soils and the airport Obstacle Limitation Surface also affect the site. the former Waste Management Facility is also relevant site history as well as first order watercourse on the site. these site constraints are considered in Council's Assessment Report.

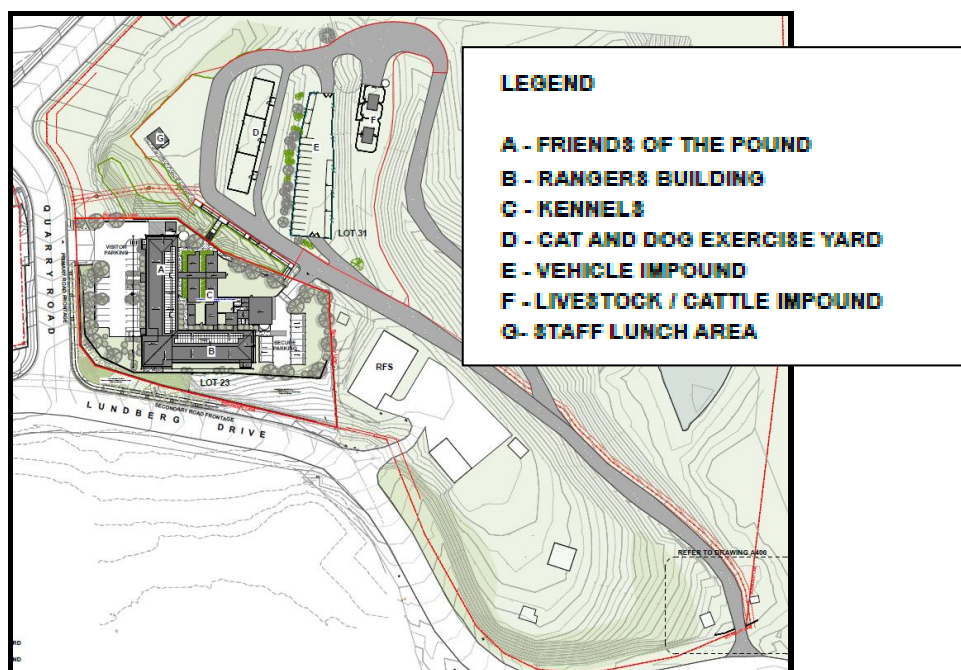
### 3. THE PROPOSAL

The proposal is for the construction and operation of a proposed Council Pound (animal rehoming facility) which will contain an area to be operated by a local non-for-profit organisation for the rehoming of impounded animals and an office space and for Council's Rangers. The proposal also includes associated car parking, servicing, earthworks, vegetation management works and landscaping.

The proposal will be located across the two (2) future lots known as Lots 23 and 31 and is to comprise two (2) stages (**Figures 4, 5 and 6**).

The proposal involves the following components and is detailed in Council's Assessment Report:

- Stage 1 – Construction of the L shaped single storey building on Lot 23 and associated car parking and the establishment of a right of carriageway over Lot 31 to benefit Lot 23; and
- Stage 2 - Construction of uncovered external dog and cat exercise yard, external vehicle impound area, covered livestock/Cattle and livestock/small animal impound area and a staff lunch area on Lot 31.



**Figure 4: Proposed Development (Source: BKA Architecture, 1 November 2022)**

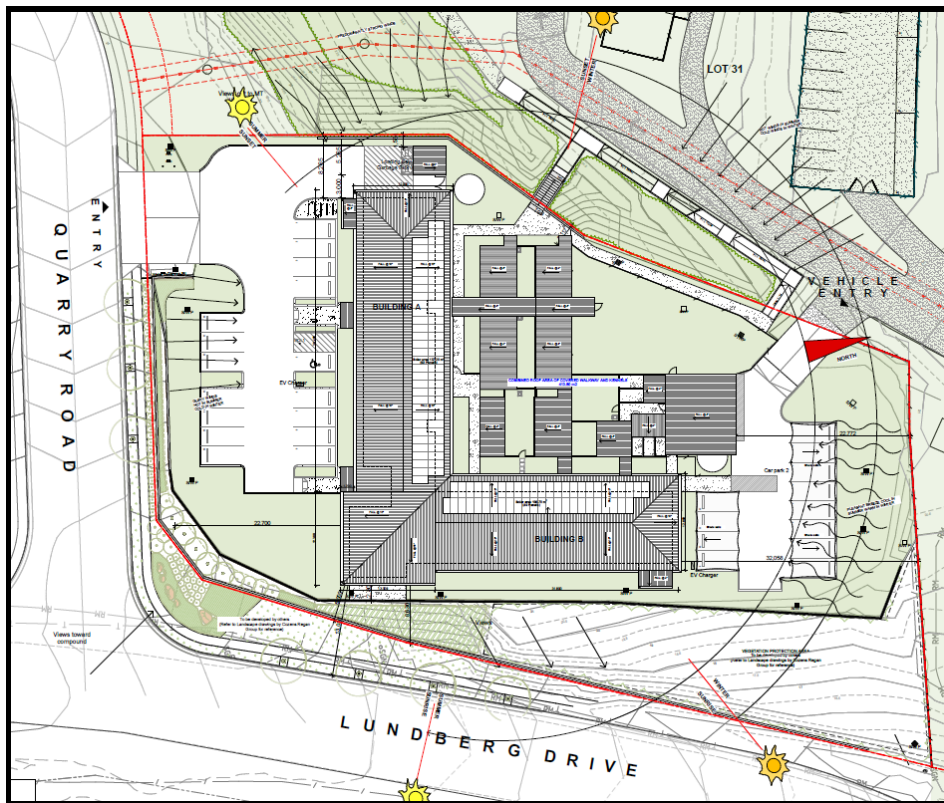


Figure 5: Proposed Development - Lot 23 (Source: BKA Architecture, 1 November 2022)

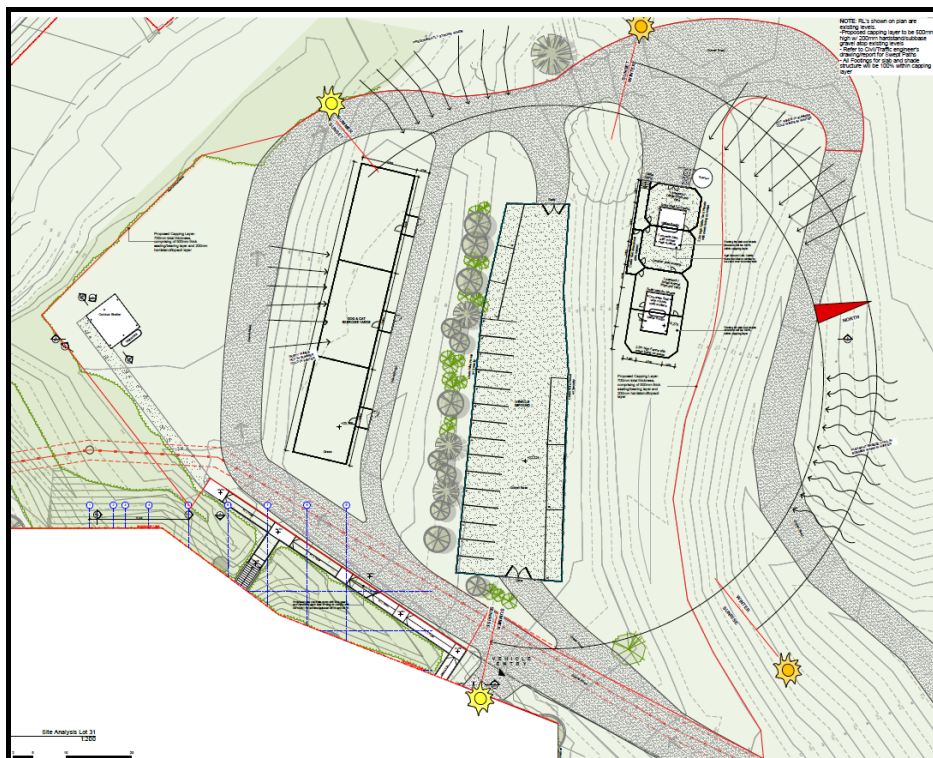


Figure 6: Proposed Development - Lot 31 (Source: BKA Architecture, 1 November 2022)

## 4. REVIEW OF THE COUNCIL ASSESSMENT REPORT

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A thorough review of the Council's Assessment Report has been undertaken and the following aspects of the Council's assessment have been considered:

- Section 4.15(1) Assessment
- Site constraints
- Key Issues
- Recommendation
- Recommended Conditions

### 4.1 Section 4.15(1) Assessment

Section 3 of the Council's Assessment Report provides an assessment of the matters for consideration pursuant to Section 4.15(1) of the EP&A Act. This section correctly identifies the relevant environmental planning instruments for the proposal as including:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Biodiversity & Conservation) 2021 (Chapter 2)*
- *State Environmental Planning Policy (Industry and Employment) 2021 (Chapter 3)*
- *State Environmental Planning Policy (Resilience and Hazards) 2021 (Chapter 4)*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021 (Chapter 2)*
- *Tweed Local Environmental Plan 2014 ('TLEP 2014')*
- *Tweed Development Control Plan 2008*

The assessment of the proposal pursuant to the provisions of the relevant planning controls is satisfactory.

Council's assessment correctly identifies that the development application is not designated development or integrated development since Council is exempt from the requirement for a controlled activity approval pursuant to Section 91 of the *Water Management Act 2000* (pursuant to Clause 41 of the *Water Management Act (General) Regulation* 2018)). The application also does not require a bushfire safety authority under the *Rural Fires Act 1997*. Therefore the proposal is not integrated development.



Council's assessment in relation to the likely impacts of the development, the suitability of the site for the development, the submissions lodged in response to the notification of the proposal and the public interest have also been satisfactorily considered.

Council's Assessment Report satisfactorily considers the matters for consideration pursuant to Section 4.15(1) of the EP&A Act.

## **4.2 Site Constraints**

The site is mapped with the following site constraints:

- Regionally Significant Farmland
- Bushfire prone land
- Predictive for Aboriginal Cultural Heritage
- Class 3 and Class 5 Acid Sulfate Soils
- Probable Maximum Flood (PMF) of RL 10.9m AHD and a small portion of the land along the southern boundary affected by 'low flow' 1% AEP flood. The remainder of the site is above the 1% AEP of RL 5.5m AHD. The minimum habitable floor level of the site is RL 6m AHD.

The site constraints have been adequately considered in Council's Assessment Report.

## **4.3 Key Issues**

The Council's Assessment Report identified the following key issues in Section 5 of the Report:

- Potential land contamination
- Stormwater drainage and flooding
- Acoustic Impacts
- Animal Welfare
- Site Suitability

The issue of permissibility was also identified by the Panel as a key issue and is also discussed below, particularly in relation to the Panel's concerns as to whether vehicle impounding is permissible as ancillary development or meets the definition of *public administration building*.

### Potential Land Contamination

A number of reports have been prepared in response to this issue including a *Detailed Site Investigation* ('DSI'), a *Remedial Action Plan* ('RAP'), the *Preliminary Landfill Gas Assessment* ('the Preliminary LGA') and a *Long Term Environmental Management Plan* ('LTEMP').

The DSI concluded that 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 the RAP for the site to be suitable for the proposal. The future maintenance work or ground disturbance is to be managed via the LTEMP, which is to be updated following the placement of the fill layer over Lot 31. It is noted that the placement of the fill layer over proposed Lot 31 has been assessed under Part 5 of the EP&A Act by Council and does not form part of this application.

The RAP has been prepared to support the placement of an engineered fill layer over the existing finished surface level on Lot 31, required by the DSI. The earthworks strategy was designed in consideration of the final landform and geotechnical requirements, rather than for the purpose of managing potential contamination. The RAP has been prepared on the basis that any cut to fill activities will result in no offsite disposal of existing uncontrolled fill materials. 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.

The LTEMP will apply indefinitely for future site operations, which are intended to apply to any routine activities within the site which could involve disturbance or exposure of retained contaminated soil beneath the engineered fill and marker layers. It is not intended that the LTEMP will apply to major excavations, earthworks or construction activities.

The Preliminary LGA concluded that there are low quantities of LFG being generated and a low rate of LFG generation was modelled in the study, with current methane generation rate conservatively modelled below the relevant criteria.

Council's assessment report provides an accurate summary of these documents and recommends the following conditions:

- General – On completion of remediation and validation works, and prior to commencement



of any construction works associated with the built form, a site remediation and validation report to satisfactorily document that the remediation and validation of the site has been undertaken in accordance with the RAP and that the site is suitable for the proposed use is required;

- During works - All remediation and validation works are to be carried out in accordance with the RAP and EPA Guidelines; and
- Prior to the issue of any Occupation Certificate – A final LTEMP is required and a covenant must be registered on the title of the land binding owners/future owners with responsibility for ongoing maintenance and rehabilitation works required for the encapsulated/remaining contaminated materials, including the discharge or prevention of discharge from any contaminants.

This assessment and recommended conditions are supported.

#### Stormwater drainage and flooding

The Council's Assessment Report has considered flooding and stormwater management required by Clauses 5.21 and 7.6 of the TLEP 2014. The stormwater management arrangements for the site include:

- An OSD tank in the northern portion of the site for proposed Lot 23 as well as bio-retention basins located around the car parking and garden areas which are to be conveyed by an underground pipe system to discharge to an existing pit within the Lundberg Drive frontage in the northeast corner of the site. The proposed OSD system will reduce stormwater discharge to predevelopment rates.
- An existing OSD is provided on proposed Lot 31 in the form of a basin with a detention volume of 5,651sqm, which is the legal point of discharge. The stormwater from the site drains to the north and into the detention basin via existing drainage channels. There are minimal changes to this site given the proposal largely involves gravel hardstand storage areas. Therefore, no stormwater quality treatment is required or any additional OSD.

Council's Assessment Report also recommends numerous stormwater conditions including:

- Prior to the issue of any Construction Certificate – The requirement for a detailed

Stormwater Management Plan outlining the permanent stormwater quality treatment devices, relevant Section 68 requirements, and the requirement to limit peak stormwater discharge to predevelopment flow rates; and

- During works and prior to the issue of an Occupation Certificate – The requirements for a satisfactory inspection report in relation to stormwater quality control devices,

Following an assessment of this matter, it is considered that the stormwater and flooding requirements of the TLEP 2014 have been adequately considered as stormwater runoff from the site will be appropriately managed and 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. The recommended conditions are considered to be satisfactory.

#### Acoustic Impacts

An *Acoustic Report* prepared by Acoustic Works dated 21 August 2023, has been provided for the proposal, which has been revised since the lodgement of the application following concerns raised in the RFI. This report considered the proposal in relation to the NSW *EPA Noise Policy for Industry 2017*, having particular regard to the nearby pistol club as well as likely future industrial uses adjoining the site to the west.

The project noise trigger levels for the project are 44dB(A) during the day, 36dB(A) during the evening and 35dB(A) at night. The receiver locations were the closest residential receivers being located to the south-east at No 135 Wardrop Valley Road/Lundberg Drive and another dwelling to the east of the site on Wardrop Valley Road. Noise monitoring was carried out at the pistol club and the adjoining site to the west (future industrial uses).

It is noted that the modelling in the acoustic report was prepared on the basis of 60 dogs, when the proposal is only for a 42 dog capacity, therefore the model is likely to be conservative. It is also likely that the facility would not operate at full capacity, therefore reducing further the noise potential. The Acoustic Report concluded that the proposal is satisfactory having regard to nearby uses (including the pistol club) as well as the proposed use on other nearby land uses (including dwellings) subject to a number of recommendations. These recommendations included building requirements as well as management measures.

One of the management controls in the Acoustic Report included:

*Allocate a number of kennels which are additionally upgraded to provide a higher degree of acoustic attenuation than standard kennels, for animals identified as having a heightened awareness to noise. It is likely that these kennels would also need to be mechanically ventilated.*

The Council have recommended the following acoustic conditions:

- Prior to the issue of any relevant Construction Certificate - The final construction drawings and final construction methodology must be assessed and reported to be in accordance with the requirements of the Acoustic Report;
- During works - All relevant performance parameters in the Acoustic Report are to be implemented;
- Prior to the issue of an Occupation Certificate - The provision of an Acoustic Verification Report to certify that the development complies with the requirements set out in the Acoustic Report and that a Final Operational Plan of Management to be submitted which is to include any recommendations outlined in the Acoustic Report (among other reports); and
- Use - The use of the premises must comply with the Final Operational Management Plan (which is to include any recommendations outlined in the Acoustic Report (among other reports)).

These recommended conditions are supported, subject to a revised 'Prior to Construction Certificate' condition being imposed which specifically requires the need to allocate a number of kennels which are to be additionally upgraded to provide a higher degree of acoustic attenuation than standard kennels, for animals identified as having a heightened awareness to noise.

This was one of the specific recommendations of the revised Acoustic Report, which was supported by the Animal Behaviour expert, however, is not specifically mentioned in the recommended conditions (outside of the general reference to the Acoustic Report requirements). This should be included and appropriately marked on the plans to accompany the Construction Certificate. This is included in the summary table on the recommended conditions in Section 4.5 of this Review Report.

### Animal Welfare

The potential impacts on animal welfare have been considered in the report prepared by the Animal Behaviourist updated on 28 July and 16 August 2023. This report supports the proposal as outlined in the application and the *Draft Operational Management Plan*. Council's Assessment Report provides a summary of these reports and is satisfactory.

The Council have recommended the following animal welfare conditions:

- General conditions that the facility is to be constructed and used in accordance with *NSW Animal Welfare Code of Practice No 5 - Dogs and cats in animal boarding establishments* and the provisions of the *Prevention of Cruelty to Animals Act 1979*. The recommended consent conditions also require that the livestock impound area shall comply with *Biosecurity (National Livestock Identification System) Regulation 2017*; and
- Use of the premises must comply with the final *Operational Management Plan* which includes animal welfare provisions.

The recommended conditions are satisfactory and it is considered that the issue has been adequately addressed in the Council's Assessment Report.

### Site Suitability

The suitability of the site for the development has been considered in Council's assessment Report, which reviewed the site constraints as well as the surrounding land uses for both potential to, and impacts from, such nearby uses. The potential acoustic impacts rising from the proposal have been considered in the Acoustic Report as well as the potential impacts rising from the pistol club to the south of the site. Subject to the recommended mitigation measures outlined in the Acoustic Report, the proposal is considered to be satisfactory having regard to these potential acoustic impacts.

The site constraints, including bushfire, flooding, Aboriginal cultural heritage, servicing and past uses, including the adjoining landfill site, have been adequately considered in Council's Assessment Report and appropriate consent conditions have been recommended where required.

### Permissibility and Characterising the Proposal

Council's assessment report considered the permissibility of the proposal and concluded that:

- The proposal is permissible in the zone subject to development consent pursuant to Clause 21 of Schedule 1 of TLEP 2014;
- 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; and
- The vehicle impound use is characterised as ancillary to the *Public Administration Building* (having regard to PS21-008 Planning circular).

The subject site is subject to Clause 21 of Schedule 1 of the TLEP 2014 which contains the following in relation to additional permitted uses:

#### **21 Use of certain land at 92 and 102 Lundberg Drive, South Murwillumbah**

(1) *This clause applies to the following land at South Murwillumbah, identified as “24” on the [Additional Permitted Uses Map](#)—*

(a) *92 Lundberg Drive, being Lot 1, DP 232745,*

(b) *102 Lundberg Drive, being part of Lot 2, DP 1139059.*

(2) *Development for the purposes of a community facility that is a council pound and a place used for rehoming animals is permitted with development consent.*

(3) *In this clause—*

**council pound** *has the same meaning as in the [Companion Animals Act 1998](#).*

It is noted that the *Companion Animals Act 1998* defines *council pound* as:

**council pound** *means—*

(a) *a public or private pound established by a council under the [Impounding Act 1993](#), or*

(b) *any other place approved by a council as a place for the holding of animals for the purposes of this Act.*

The Additional Permitted Uses Map illustrating the site is in **Figure 7**. The entirety of the site is

included in the additional permitted uses map, in that includes both future Lots 23 and 31.

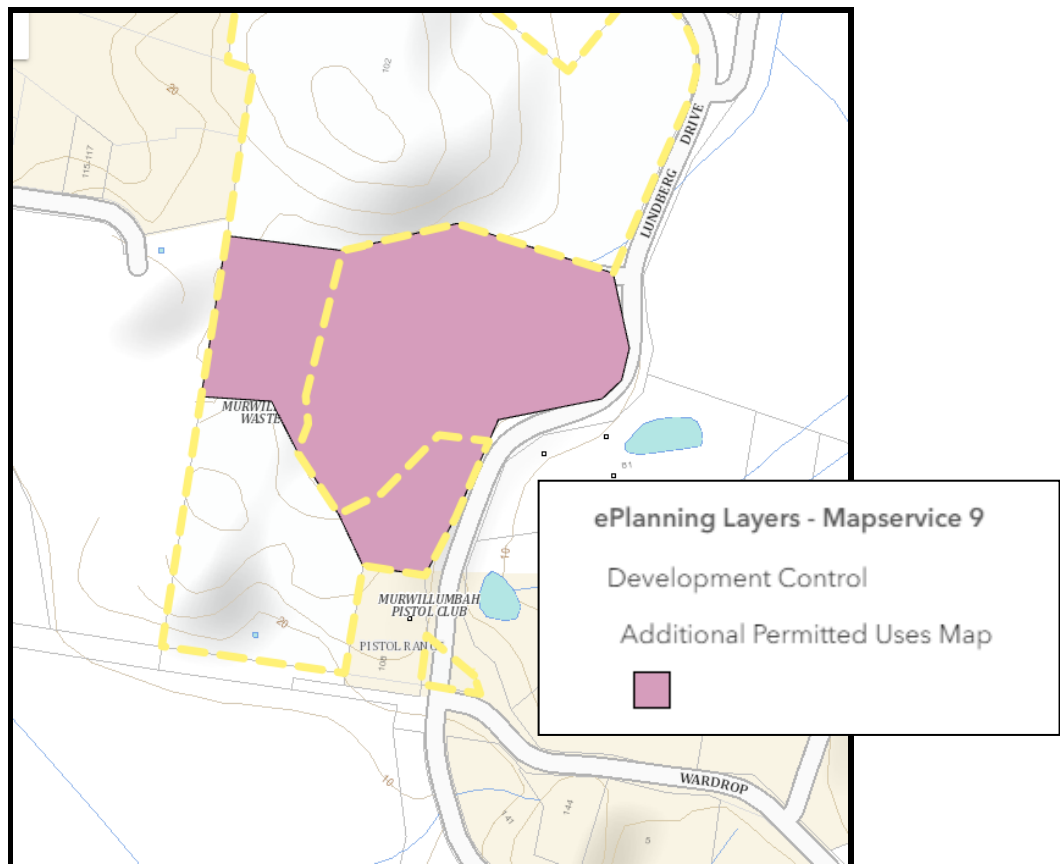


Figure 7: Additional Permitted Uses Map (Source: NSW Planning Portal Spatial Viewer)

The site is located in the E4 General Industrial zone where one of the permitted uses is 'Any other development not specified in item 2 or 4'. Uses which may be relevant to the proposal which are not contained in Item 2 (permitted without consent) or Item 4 (prohibited), and are therefore consistent with the include *Any other development not specified in item 2 or 4* is *Public Administration Building and Signage*.

A *public administration building* is defined in the definitions to TLEP 2014 as (emphasis added):

*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.*

In this case, it is considered that the proposed development on Lot 23, comprising the animal rehoming facility and associated kennels, is permissible under Clause 21 of Schedule 1 while the ranger's offices and impound area are permissible as such uses satisfy the definition of *Public*

*Administration Building.* **Table 2** outlines the various components of the proposal and their permissibility.

**Table 2: Proposed Land Uses on the Site**

COMPONENT/ BUILDING NO	LOCATION	DEFINED LAND USE	PERMISSIBLE
A: Friends of the Pound	Lot 23	<i>council pound and a place used for rehoming animals</i>	Yes (CI 21 of Schedule 1)
B: Rangers Building	Lot 23	Public administration Building	Yes (pursuant to CI 2.3 of the TLEP 2014 as <i>Any other development not specified in item 2 or 4</i> )
C: Kennels	Lot 23	<i>council pound and a place used for rehoming animals</i>	Yes (CI 21 of Schedule 1)
D: Dog & Cat yards	Lot 31	<i>council pound and a place used for rehoming animals</i>	Yes (CI 21 of Schedule 1)
E: Vehicle impound	Lot 31	Public administration Building	Yes (pursuant to CI 2.3 of the TLEP 2014 as <i>Any other development not specified in item 2 or 4</i> )
F: Livestock/cattle impound	Lot 31	<i>council pound and a place used for rehoming animals</i>	Yes (CI 21 of Schedule 1)
G: Staff/Lunch area	Lot 31	<i>council pound and a place used for rehoming animals</i>	Yes (CI 21 of Schedule 1)
Signage	Lots 23 & 31	Signage	Yes (pursuant to CI 2.3 of the TLEP 2014 as <i>Any other development not specified in item 2 or 4</i> )

It is considered that the vehicle impound area is not ancillary to, but is part of, the *Public Administration Building* as the ‘offices or for administrative or other like purposes’ part of the definition allows for additional activities/areas other than office and administration functions. Vehicle impounding is part of the role of the Council Ranger and therefore is part of the use of a *Public Administration Building*. The animal control functions of Council are also performed by Rangers and therefore it is considered that the proposal is permissible, however, the ‘pound’ functions are permissible by virtue of Clause 21 of Schedule 1.

It is noted that *animal boarding or training establishment* is a prohibited use in the E4 zone, which are defined as:

***animal boarding or training establishment*** means a building or place used for the



*breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.*

The proposal does not satisfy this definition as it is not for *commercial purposes*, given it is being run by Council as a pound under the *Companion Animals Act 1998*.

The characterisation of the proposal as being for a *Public Administration Building and Signage* is supported and are permissible in the zone with consent.

### ***Summary of Key Issues***

The assessment of the issues outlined in this section are generally considered to be satisfactory, with the recommended conditions adequate to ensure mitigation and management measures are sufficient. These matters have been satisfactorily addressed in the Council's Assessment Report. The recommended consent conditions are also generally satisfactory, subject to some recommended amendments as outlined in Section 4.5 of this Review Report.

## **4.4 Recommendation**

The Council's recommendation for approval is supported given the assessment is satisfactory and the application is generally consistent with the matters for consideration pursuant to Section 4.15(1) of the EP&A Act.

## **4.5 Recommended Conditions**

Council's recommended conditions address the relevant requirements for the development and are considered to adequately address the key issues, submissions and other matters raised in the in the Council's Assessment Report.

However, there are a number of concerns with some of the recommended conditions which are generally concerned with repeated conditions and/or requiring further details. These concerns are outlined in **Table 3** and should be addressed by Council prior to the Panel's determination meeting. The recommended conditions are otherwise satisfactory and are supported.

**Table 3: Concerns with Recommended Conditions**

CONDITION NUMBER/S	COMMENT
<b>GENERAL</b>	
Condition 7 (Liquid Trade Waste)	This condition is essentially the same as Condition 33. If this is the case, then one needs to be deleted.
Condition 14 (development to be staged)	Consideration to be given as to whether this condition should also state that separate Construction Certificates are required for each stage.
Condition 19 (detailed landscaped plan)	This condition should be included in the "Prior to Issue of Construction Certificate" section of the consent as it requires a detailed plan of landscaping to be submitted <u>prior to issue of Stage 1 Construction Certificate</u> .
Condition 20 (gate relocation for tow trucks)	This condition should be included in the "Prior to Issue of Construction Certificate" section of the consent as it requires the relocation of the proposed gate to behind the existing vegetation to accommodate a tow truck, which should be shown on the Construction Certificate plans.
<b>PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE</b>	
Condition 24 (Certificate of Compliance)	Confirmation whether this is required for both stages and if not, then the condition should clearly state which stage it relates to in relation to the issuing of Construction Certificates.
Condition 25 (long service levy)	<p>The reference to "<i>....OR Subdivision works Certificate for SUBDIVISION WORKS</i>" should be removed.</p> <p>Also, confirmation whether this is required for both stages and if not, then the condition should clearly state which stage it relates to in</p>

	relation to the issuing of Construction Certificates.
Condition 27 (Structural engineer)	Confirmation whether this is required for both stages and if not, then the condition should clearly state which stage it relates to in relation to the issuing of Construction Certificates.
Condition 29 & 32 (Section 68 approval)	These conditions appear to be the same. If this is the case, then one needs to be deleted.
Condition 34 (acoustic report)	<p>Amend this condition to include a specific reference to the requirement to allocate a number of kennels which are to be additionally upgraded to provide a higher degree of acoustic attenuation than standard kennels, for animals identified as having a heightened awareness to noise. This should be appropriately marked on the plans to accompany the Construction Certificate.</p> <p>This was one of the specific recommendations of the revised Acoustic Report, which was supported by the Animal Behaviour expert, however, is not specifically mentioned in the recommended conditions.</p>
Condition 35 (original peer review advice)	The original peer review advice provided to the applicant by DW & SL Baxter Pty Ltd for the preparation of the DA plans referred to in this condition is not provided on the Portal or Council's DA tracker. This document should be made available to the panel and referred to in the Council's Assessment Report. alternatively, this condition should include any specific recommendations of this original advice.
<b>PRIOR TO COMMENCEMENT OF WORK</b>	
Condition 47 (Airfield)	Some typographical and grammatical errors to be amended.

<b>DURING CONSTRUCTION</b>	
Conditions 52 & 84 (construction noise guidelines)	These conditions appear to be the same. If this is the case, then one needs to be deleted.
Conditions 64 & 65 (access for people with disabilities)	These conditions appear to be the same. If this is the case, then one needs to be deleted.
Conditions 78 and 79	These conditions should be amalgamated as they appear to refer to the liquid trade waste application and the required pre-treatment devices.
Condition 86	This condition is the same as Condition 101. Also, this condition should have been included in the "PRIOR TO OCCUPATION CERTIFICATE" section of this consent. This condition should be deleted.
<b>PRIOR TO ISSUE OF OCCUPATION CERTIFICATE</b>	
Conditions 87 & 89 (Occupation Certificate)	These conditions appear to be the same. If this is the case, then one needs to be deleted.
Conditions 97, 98, 100 & 103 (LTEMP)	These conditions are very similar and require further clarification. Also conditions 98 and 100 state " <i>Prior to the issue of any Occupation Certificate</i> ", while Condition 103 states " <i>Prior to the issue of the Stage 1 Occupation Certificate</i> ". Please also confirm/clarify which stages the conditions relate.
Conditions 99 & 102 (Covenant for remaining contaminated materials)	These conditions appear to be the same. If this is the case, then one needs to be deleted.
<b>USE</b>	
Condition 107 (Hours of Operation)	The original condition states 8.30am to 4.30pm Mondays to Sundays, however, the applicant has now requested 6.00am to 6.00pm Monday to Sunday. There are no objections raised to this request given these are standard industrial hours and the 6pm finish time is still within the "day" period in relation to the acoustic report. While the 6am start is outside the "day period" in relation to the acoustic assessment, the

	main noise source would be the dogs on the site, which will be located on the site 24 hours and therefore this is unlikely to impact on the hours of operation.
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## 5. CONCLUSION

This Peer Review has considered the Council's Assessment Report and the recommended conditions prepared for the proposal. Following a thorough review of Council's Assessment Report, recommended conditions and a site inspection, it is considered that the proposal has been adequately assessed by the Council.

The key conclusions arising from this review of Council's Assessment Report which have assisted in reaching this conclusion include:

- The Council's assessment pursuant to Section 4.15(1) of the EP&A Act is satisfactory;
- The site is suitable for the development with the site constraints adequately considered in the Council's Assessment Report and recommended conditions;
- The key issues have been adequately addressed and any impacts have been adequately mitigated in the recommended conditions;
- The recommendation for approval is supported; and
- Subject to the changes suggested in this Review Report, the recommended conditions are supported.

Accordingly, it is concluded that the Council's Assessment Report is supported subject to the recommended changes to some of the conditions outlined in **Table 3**.

## 6. RECOMMENDATION

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This Review report considers that the Council's Assessment Report is satisfactory and concurs with the recommendation for approval subject to the recommended consent conditions.

Accordingly, the following recommendations are made to the Panel:

- (a) The Council's Assessment Report in relation to the proposed development is satisfactory and is considered to accurately address the requirements for the assessment of development applications under the EP&A Act; and
- (b) The Council's recommended draft conditions are satisfactory subject to the changes in **Table 3**.