

TWEED SHIRE COUNCIL

# PLANNING PROPOSAL (PP19/003) - VERSION 2 COUNCIL POUND AND REHOMING CENTRE

AN ANIMAL LIBERATION SUBMISSION



AL.ORG.AU



We acknowledge the  
Traditional Owners of  
country throughout  
Australia and recognise  
their continuing  
connection to land, waters  
and culture.

We acknowledge that this  
document was written on  
land stolen from and never  
ceded by the Gadigal  
People.

We pay our respects to  
their Elders past, present  
and emerging.





We don't have a duty to **speak** for the animals;  
we have an obligation to be **heard** for the animals.

Matt Ball (2006)

## DOCUMENT DETAILS

Animal Liberation 2021. A submission by Animal Liberation in response to the TSC Planning Proposal (PP19/0003), Version 2, for a Council Pound and Rehoming Centre at Lot 1 DP 232745 and part Lot 2 DP 1139059 at number 92 Lundberg Drive, South Murwillumbah. Sydney: Animal Liberation.

## ABOUT ANIMAL LIBERATION

Animal Liberation has worked to permanently improve the lives of all animals for over four decades. We are proud to be Australia's longest serving animal rights organisation. During this time, we have accumulated considerable experience and knowledge relating to issues of animal welfare and animal protection in this country. We have witnessed the growing popular sentiment towards the welfare of animals, combined with a diminishing level of public confidence in current attempts, legislative or otherwise, to protect animals from egregious, undue, or unnecessary harm. Our mission is to permanently improve the lives of all animals through education, action, and outreach.

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**DOGS ARE  
NOT OUR  
WHOLE LIFE,  
BUT THEY  
MAKE OUR  
LIVES WHOLE**

## **DISCLOSURE**

In line with section 147(4) of the Environmental Planning and Assessment Act 1979, Animal Liberation confirms its understanding and acceptance that any submissions made in respect of the proposed development are available for public inspection under the provisions of the Government Information (Public Access) Act 2009 (GIPA Request).

In line with Amendments to Local Government and Planning Legislation requiring the public disclosure of donations or gifts when lodging or commenting on development proposals, Animal Liberation discloses and confirms that it has not made any political donations and/or of gifts in the 2 years preceding the application.

21 April 2021

Tweed Shire Council  
tsc@tweed.nsw.gov.au



We present this submission on behalf of Animal Liberation.

Animal Liberation is grateful to Tweed Shire Council ('TSC') for the opportunity to lodge a submission in response to Planning Proposal (PPI9/0003 - Version 2) for a Council Pound and Rehoming Centre at Lot 1 DP 232745 and part of Lot 2 DP 1139059 at number 92 Lundberg Drive, South Murwillumbah in the Tweed Shire LGA, including Amendment No. 30 to the Tweed Local Environmental Plan ('LEP').

We also wish to express our gratitude to council for its proactive collaboration and invitation to inspect the proposed site for the TSC Pound and Rehoming Centre.

We request that it be noted from the outset that the following submission is not intended to provide an exhaustive commentary or assessment in response to the issues contained within the proposed planning proposal, and/or, the corresponding documents including the related Gateway Determination and correspondence from the Department of Planning, Industry & Environment ('DPIE').

Rather, our submission is intended to provide a general examination and responses to select areas of key interest and concern relevant to the proposed site. As such, the absence of discussion, consideration or analyses of any particular aspect or component must not be read as or considered to be indicative of consent or acceptance. For the purposes of this submission, Animal Liberation's focus covers aspects that we believe warrant critical attention and response.

We have thoroughly reviewed and considered the planning proposal, supporting documents and the relevant planning instruments, and our submission comments and feedback in response to this proposal are outlined as follows.

**Lisa J. Ryan**  
Regional campaign co-ordinator

**Alex Vince**  
Campaign director

**THE DOG HAS SELDOM BEEN SUCCESSFUL  
IN PULLING MAN UP TO ITS LEVEL OF SAGACITY  
BUT MAN HAS FREQUENTLY DRAGGED THE DOG  
DOWN TO HIS**

**JAMES THURBER**



# 1 INTRODUCTION AND PREFACE

- 1.1 At the outset, Animal Liberation confirms its full support the development of any compliant, high functioning and animal welfare focussed impounding facility for nonhuman animals, where there is a priority on progressive, positive animal welfare outcomes, animal and human safety and saving lives, in line with the statutory requirements and obligations of local government, progressive and best practice animal sheltering practices, and alignment with contemporary public expectations.
- 1.2 Animal Liberation understands that the TSC's assessing staff and decision-makers have an onerous responsibility with this planning proposal and that the **assessment review must remain independent, objective and informed** during the entire process. We acknowledge and appreciate that this planning proposal also includes risks and impacts including, strong public interest, which extends beyond the TSC LGA, and accordingly, carries an added and heavy burden of responsibility.
- 1.3 All these considerations are an important and integral part of any comprehensive, objective and meaningful assessment in line with the applicable planning instruments. **Decision-makers must consider current strong public perceptions and expectations about local government's role and responsibilities with the management of impounded nonhuman animals, and the operation of council pounds and rehoming centres.**
- 1.4 Animal Liberation maintains that our previous objections, made through Lisa Ryan, in response to the proposed temporary impounding facilities at 751 Eviron Road, Eviron, 751 Eviron Road, Eviron and then Tumbulgum, were warranted and justified. These objections were made in consideration of the long-term needs and best interests of the animals and the community.
- 1.5 We fully understand the scarcity of suitable land in the Tweed region which would enable the construction and operation of a suitable council Pound and Rehoming Centre, and which would also meet and adhere to the relevant planning instruments and requirements.
- 1.6 We congratulate council on its patience, persistence and diligence in seeking a suitable site. We consider the presently proposed site, which is owned by council rather than leased, to represent a far better choice that offers long-term, permanent security, flexibility, and a far preferable essential community service for the impounded animals and the Tweed community.

- 1.7 Animal Liberation has no economic or other vested interest pertinent to this planning proposal, however, we care deeply about animals, our shared environment and people (including our wider citizenry extending to our unique rural communities). We also support the democratic process of public exhibition and the right to have and voice an opinion. Similarly, we support and encourage a rigorous and robust Council assessment process.
- 1.8 We look forward to offering our significant experience to council in a collaborative manner when the anticipated future Development Application ('DA') is lodged for the design and construction of the new TSC Pound and Rehoming Centre.



## 2 BACKGROUND

- 2.1 TSC's animal pound and rehoming centre located on land associated with Council's Resource Recovery Centre ('RRC') at Stotts Creek was recently decommissioned and relocated to a temporary facility in order to accommodate the expansion of the RRC as part of Council's ongoing responsible management of waste.
- 2.1.1 Council commenced investigations in 2016 to secure a new location for Council's animal pound and rehoming centre. This led to the crafting of an LEP amendment on 18 January 2019 for a Council owned property at 719 Eviron Road, Eviron. The property was later deemed unsuitable, however, given possible impacts resulting from the expanded RRC.
- 2.1.2 On 4 April 2019, Council resolved to proceed with a further LEP amendment to allow a Council Pound and Rehoming Centre at 751 Eviron Road, Eviron (also owned by Council). Following ongoing investigation, the site was deemed unsuitable for this purpose. This conclusion was based on the high cost associated with site preparation works due to steep and heavily vegetated terrain, difficulty establishing safe and stable site access and the extent of vegetation clearing required.
- 2.1.2 On 4 July 2019, Council considered a different approach and adopted the Part 5 assessment pathway permitting a Council Pound and Rehoming Centre on any land. Whilst Part 5 of the Environmental Assessment Act 1979 ('EA Act') is fundamentally a system of self-assessment, it has more exacting and stringent provisions than the Part 4 assessment pathway and requires the determining authority to take into account "to the fullest extent possible all matters affecting or likely to affect the environment". Allowing public infrastructure works to be carried out under Part 5 is a common practice for many public infrastructure authorities, including councils, and it provides a very robust and tested environmental assessment regime better tailored to public infrastructure works.
- 2.2 On 4 July 2019, Council resolved: "that in relation to the Planning Proposal PP19/0003 Amendment to Permit the Staged Development of a new long-term Tweed Pound and Rehoming Centre:
- (1) The preparation of a draft planning proposal seeking an amendment to the Tweed Local Environmental Plan 2014, amending the Local Environmental Plan requirements to only require a Part 5 approval relating to a Council pound as the primary use and rehoming centre ancillary to that, is endorsed;

- (2) Once finalised, the draft planning proposal is to be referred to the NSW Department of Planning and Environment for Gateway Determination, in accordance with s3.34 of the Environmental Planning and Assessment Act 1979;
- (3) On receipt of the Minister's Gateway Determination Notice to continue, any Gateway conditions or other identified study or work is to be duly completed and included within the material for public exhibition;
- (4) Public exhibition is to occur for a period of not less than 28 days and;
- (5) Submissions received during public exhibition are to be reported to Council at the earliest time and detailing the issues raised and a recommended planning response."

2.3

On 13 September 2019, Council lodged a planning proposal seeking land-use permissibility for a Council Pound and Rehoming Centre without consent on any land. The Department of Planning, Industry and Environment ('DPIE') responded on 7 November 2019 requesting a revised planning proposal be submitted providing additional information.

- 2.3.1 Since this time, Council has identified a suitable site (Lot 1 DP 232745 and part Lot 2 DP 1139059, 92 Lundberg Drive, South Murwillumbah). This site is the subject of this revised planning proposal (refer to Figures 1 and 2).
- 2.3.2 The subject site is currently zoned IN1 General Industrial under the Tweed LEP 2014 (refer to Figure 1). Development for the purposes of a council pound is currently not a permitted land use.
- 2.3.3 The NSW Minister for Planning and Public Spaces has delegated Tweed Shire Council as the local plan-making authority for this planning proposal under clause 2.4 of the EP&A Act.
- 2.3.4 This planning proposal arises from the need of Council to provide an ongoing and highly valued community service relating to animal management and welfare and the closure of the existing council pound and rehoming facility.

## **OBJECTIVES AND INTENDED OUTCOMES**

- 2.4 The objective of this planning proposal is to amend Schedule 1 of the Tweed Local Environmental Plan ('Tweed LEP') 2014 to permit an additional permitted use with consent (being a Council Pound and Rehoming Centre) on the subject site. This would enable the subject land to be developed for the purpose of a Council Pound and Rehoming Centre subject to a development consent being granted under Part 4 of the Environmental Planning and Assessment Act 1979 ('EPA Act').
- 2.5 It is proposed to rely on the Companion Animals Act 1998 ('CA Act'), dictionary definition of "Council Pound", being:
- 2.5.1 (A) A public or private pound established by a council under the Impounding Act 1993 or;
  - 2.5.2 (B) Any other place approved by a council as a place for the holding of animals for the purposes of this Act.
- 2.6 It is also proposed to rely on the CA Act dictionary definition of "Rehoming Organisation", being:
- 2.6.1 (A) a council or any other operator of a council pound or;
  - 2.6.2 (B) the Animal Welfare League NSW or;
  - 2.6.3 (C) the Cat Protection Society of NSW Inc or;
  - 2.6.4 (D) the Royal Society for the Prevention of Cruelty to Animals; New South Wales or
  - 2.6.5 (E) any other organisation that is, for the time being, designated as a rehoming organisation by the Departmental Chief Executive under section 88B.
- 2.7 A Rehoming Centre is not defined and for council purposes is "an ancillary and complimentary use of a council pound focused on the rehoming of animals received by the council pound".

## **EXPLANATION OF PROVISIONS**

- 2.8 The proposed outcome will be achieved by:

- 2.8.1 Amending Schedule 1 Additional Permitted Uses of the Tweed LEP 2014 to include a new clause for the use of certain land as a Council Pound and Rehoming Centre on Lot 1 DP 232745 and part Lot 2 DP 1139059, Lundberg Drive, South Murwillumbah.
- 2.8.2 Amending the Additional Permitted Uses Map of the Tweed LEP 2014 to indicate the area to which the additional permitted use applies.
- 2.8.3 Allowing Council, as a rehoming organisation, to establish a Rehoming Centre as an ancillary use to a Council Pound.
- 2.8.4 Enabling a Council Pound and Rehoming Centre to be “permitted with consent”.



### 3 SUBMISSION FEEDBACK AND COMMENTS

- Animal Liberation confirms its support, in principle, for the proposed site at Lot 1 DP 232745 and part Lot 2 DP 1139059 at number 92 Lundberg Drive, South Murwillumbah in the Tweed Shire LGA for the TSC Pound and Rehoming Centre.
- Animal Liberation concurs and supports that the planning proposal will enable a currently prohibited use for the purpose of a Council Pound and Rehoming Centre.
- Animal Liberation acknowledges the closest land-use definition to the proposed use is “community facility” under the Standard Instrument (Local Environmental Plans) Order 2006. However, legal advice obtained by Council has pointed to shortcomings with the application of this definition, such that the level of certainty is at the outer limit of acceptability of risk. It warrants a more reliable approach to the definition of the land-use for Council Pound and/or Rehoming Centre.
- Animal Liberations concurs that, as a public infrastructure facility owned and controlled by the Council, the appropriate planning approval/assessment pathway is established under Part 5 Infrastructure and Environmental Impact Assessment of the EP&A Act. This assessment pathway is tailored to public infrastructure. It is widely accepted as being more suited to public works infrastructure and activities due to its inherently quicker and more flexible application. This includes associated efficiency gains while maintaining the highest standards of environmental assessment, including - where the council considers appropriate in the specific circumstances - public notification of the proposal under assessment. These practices are well established within TSC.
- The planning proposal is consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies, such as the NSW North Coast Regional Plan 2036).
- The planning proposal is consistent with Council’s Community Strategic Plan, or other local strategic plans, including the Tweed Community Strategic Plan (‘CSP’) 2017-2027.

- The planning proposal is consistent with relevant State Environmental Planning Policy applicable to the Tweed LGA and specifically, State Environmental Planning Policy No.55 – Remediation of Land.
  
- While the subject land does not contain any environmentally sensitive areas and is not subject to an environment protection zone, it does buffer an environmentally sensitive area. Animal Liberation, therefore, urges extreme caution.
  
- The subject land is situated adjacent to an existing shooting range and Animal Liberation urges careful consideration in regards to the layout of proposed infrastructure.
  
- It is noted though that the subject site is of a relatively large size, where the majority of the proposed extent of the additional permitted use falls within an area of the site not mapped as bushfire prone land. A minor portion falls within the ‘vegetation buffer’ area, however. In this context, the planning proposal does not introduce site-specific controls and aims to facilitate the determination of the appropriate location of any further development through the assessment process. These would include referral to NSW Rural Fire Services. Ergo, this planning proposal is generally consistent with Direction 4.4 (Planning for Bushfire Protection), with the exception of consistency with the requirement to provide site-specific controls, as discussed above. While Council considers this inconsistency is considered to be of minor significance, Animal Liberation does not.
  
- The planning proposal is unlikely to have any adverse impacts on the environment (i.e., critical habitat or threatened species, their populations, ecological communities or their habitats). It is noted that the environmental assessment regime for assessment under the proposed Part 5 pathway is more rigorous under the NSW planning scheme. The proposed Council Pound and Rehoming Centre will be sited on land that is highly disturbed, urban use land and, in parts, rehabilitated contaminated land formerly associated with a prior landfill use of the land. Animal Liberation again urges extreme caution and particularly in relation to local birdlife and migratory birds.
  
- Council confirms that relevant authorities and organisations, including the NSW Rural Fire Service, the Civil Aviation Safety Authority and Bob Whittle Airfield (lessee/operator), will be consulted in accordance with the requirements of the Gateway Determination. Animal Liberation also requests, at a future time, relevant animal welfare agencies are also consulted.



# 3 SUMMARY AND CONCLUSION

- 3.1 TSC is compelled to act impartially and ensure the correct and consistent application of local, state and federal legislation, including the objective and transparent assessment of planning proposals. Councillors are elected to represent everyone in the community. This includes exercising balanced consideration of matters which hold strong public interest.
  
- 3.2 This planning proposal arises from the need of TSC to provide an ongoing and highly valued community service relating to animal management and welfare, especially following the closure of the existing council pound and rehoming facility.
  
- 3.3 The objective of this planning proposal is to amend Schedule 1 of the Tweed Local Environmental Plan ('Tweed LEP') 2014 to permit an additional permitted use with consent, being a Council Pound and Rehoming Centre, on the subject site at 92 Lundberg Drive, South Murwillumbah. This would enable the subject land to be developed for the purpose of a Council Pound and Rehoming Centre subject to a development consent being granted under Part 4 of the EPA Act.
  
- 3.4 As the planning proposal will not result in any change to the current land zoning and will merely add one more additional permitted use, being a 'Council Pound and Rehoming Centre', to the existing list of permitted uses currently allowable within the existing IN1 zone, and as project area is primarily cleared due to previous land use as part of an old quarry operation, Animal Liberation considers the proposed changes warranted.
  
- 3.5 Animal Liberation thanks Council for reading and considering our submission. For all the above reasons, we are requesting Council endorse and approve this planning proposal.



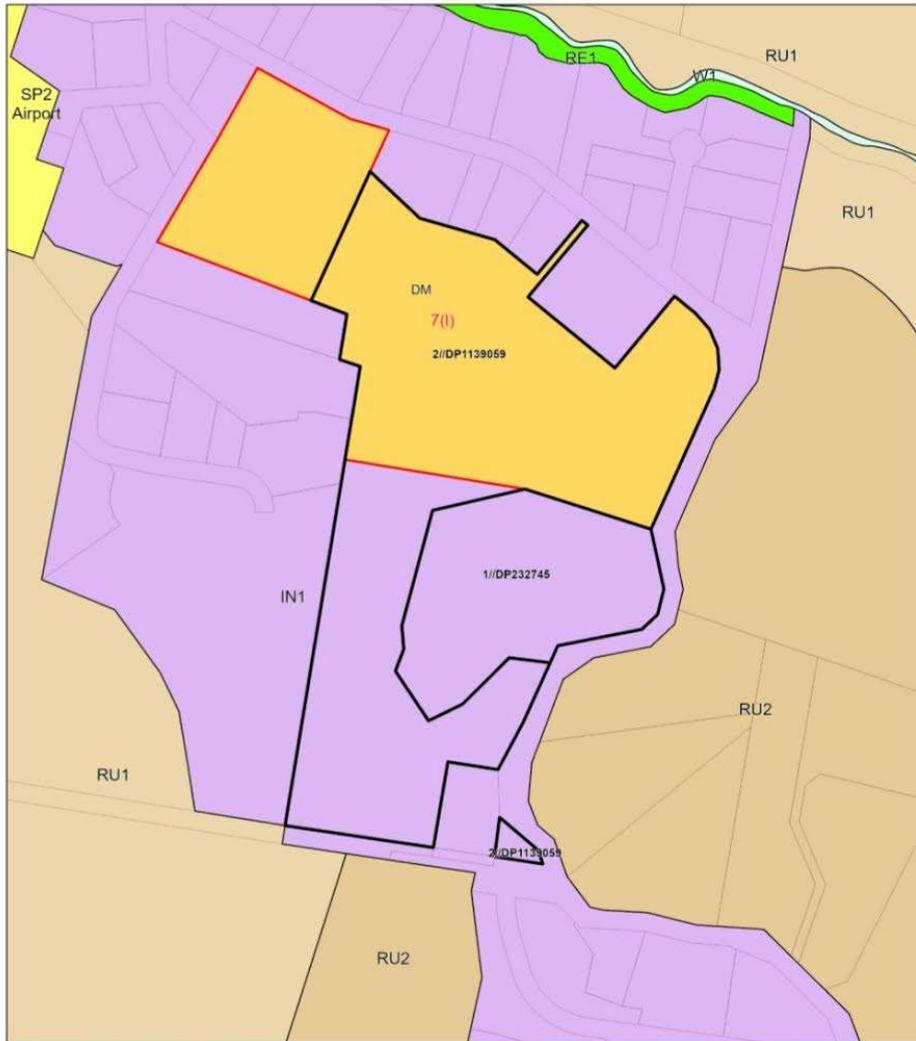
## 4 APPENDICES

Figure 1: Land zoning (LEP 2014 and LEP 2000) (p. 15)

Figure 2: Proposed land zoning (p. 16)

Figure 1: Land zoning (LEP 2014 and LEP 2000)

Planning Proposal PP19/0003 Lundberg Drive, South Murwillumbah



**Current Land Zoning Map**  
 Lot 1 DP 232745 and Lot 2 DP 1139059  
 No. 92 Lundberg Drive, South Murwillumbah

<b>Tweed Local Environmental Plan 2014</b>		<b>Tweed Local Environmental Plan 2000</b>	
IN1 General Industrial	RU2 Rural Landscape	7(i) Environmental Protection (Habitat)	
RE1 Public Recreation	SP2 Infrastructure		
RU1 Primary Production	W1 Natural Waterways		
	DM Deferred Matters		

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Coordinate System  
 MGA Zone 56  
 Datum - GDA 94

0 20 40 60 80 100 Metres  
 Approx. Scale 1:5,000 @ A4 Portrait

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Filepath: I:\GIS\_PROJECTS\6\_Planning\Proposals\PP19-0003 Council Plans\PP19-0003 Council Plans.aprx Author: J. Batchelor - Strategic Planning & Urban Design Date Printed: 24 August, 2020

Figure 2: Proposed land zoning



**WE THANK COUNCIL  
FOR READING AND  
CONSIDERING OUR  
SUBMISSION.**

**ANIMAL LIBERATION**



## SOURCES AND REFERENCE MATERIAL

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COUNCIL DOCUMENTS AND PLANNING INSTRUMENTS	TSC Planning Proposal, (PP19/0003), Draft Tweed LEP Amendment No. 30 to enable 'Council Pound and Rehoming Centre' as an additional permitted use at Lundberg Drive, Murwillumbah, March 2021
	Correspondence to TSC from Department of Planning, Industry & Environment, 5 November 2020, 'Gateway Determination'.
	Correspondence to TSC from Department of Planning, Industry & Environment, 15 November 2020.
	Planning proposal PP_2020_TWEED_005_00 to amend Tweed Local Environmental Plan 2014.
	Environmental Planning and Assessment Act 1979.
	Environmental Planning and Assessment Act Regulation 2000.
	Tweed Local Environment Plan 2014.
	Tweed Development Control Plan 2008.
	Community Engagement and Participation Plan 2019-2024.
	Standard Instrument (Local Environmental Plans) Order 2006.
	NSW North Coast Regional Plan 2036.,
	Tweed Community Strategic Plan (CSP) 2017-2027.
ANIMAL WELFARE LEGISLATION	Animal Welfare Code of Practice No 1 - Companion Animal Transport Agencies
	Companion Animals Act 1998
	Companion Animals Regulation 2008
	Impounding Act 1993
	NSW Animal Welfare Code of Practice No 5 - Dogs and cats in animal boarding establishments
	Prevention of Cruelty to Animals Act 1979
	Prevention of Cruelty to Animals Regulations 2012

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