

1 June 2016

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Dear Jackie

**aquaSplash - Jack Evans Boat Harbour - Draft Reconciliation  
Action Plan**

I acknowledge receipt of your letter dated 26 May 2016 written on behalf of the Tweed Shire Council Aboriginal Advisory Committee and the Tweed Wollumbin Local Aboriginal Education Consultative Group.

As your letter has raised a number of concerns, I will respond to them individually, but I will preface the responses by advising that in relation to the aquaSplash matter, that in the Report considered by council on 21 April 2016, the following information was highlighted:

*A letter of support from Council is required so the proponents can commence their Crown Land licence application procedures. The proposed activity will require development consent from Council and approvals from the Department of Primary Industry - Lands, the Jack Evans Boat Harbour Trust and Council as owners and or managers of Jack Evans Boat Harbour. These processes are separate to the current request and any initial indication of support does not pre-empt the statutory processes.*

*Prior to advancing any support for individual proponents such as aquaSplash, Council will need to conduct a Tender process to provide an equitable opportunity for other commercial proponents to use Jack Evans Boat Harbour.*

This aspect was further reinforced in the Council Resolution:

- ii. The proposed activity requires development consent from Council and the above support does not pre-empt or fetter any discretion Council exercises for the assessment and determination of a development application or any other statutory function Council has for Jack Evans Boat Harbour.*

I need to stress that this initial request from aquaSplash is the first step in a long process and should a Development Application for the facility be lodged, the normal community consultation and advertising of the proposal will be undertaken. As you are aware this normal process would in this instance include consultation with the

AAC. As the Resolution of council indicates for the proposal to proceed, a formal Development Application is required.

I offer the following responses to your specific concerns:

- **the lack of consideration given to the contribution our community has made to the IPP and the impact the Aquasplash proposal will have on our Council endorsed plans for *Goorimabah*.**

I can assure you that the council is acutely aware of the contribution made by the Aboriginal Advisory Committee (AAC) in previous proposals placed before council and in this instance the Mayor (delegate to AAC) was involved in the initial discussions with aquaSplash in promoting their proposal. In fact all Councillors had been advised of this proposal during February 2016.

- **Council's bypassing of the role of the Aboriginal Advisory Committee (AAC) in the decision making process for all stages of the Aquasplash proposal.**

As I have mentioned previously this is the first step in a long process should a formal Development Application be forthcoming and all Councillors have been aware of this proposal since February 2016. Further should this proposal proceed to a Development Application, the process would as you are aware in this instance require consultation with the AAC.

I can further advise that on Tuesday 5 April 2016 I personally spoke with aquaSplash and suggested that they consult with the AAC prior to a Development Application and whilst this was not recorded in the Council report, Council's records show email communication that I advised the Mayor, the Director Planning and Regulation and the Manager Development Assessment and Compliance of such at 4.10pm on that same day.

- **the complete omission of the AAC, as key stakeholders, in The General Manager's advice to the firm Aquasplash; Section B, iv. (a) *Evidence of consultation with residents of Seascapes, Twin Towns, Centro Shopping Centre, Tweed Heads Residents Association, Tweed Heads Chamber of Commerce and Big Trev Water Sports.* Ref: Summary Report, Council meeting date 21 April 2016.**

You will note that this part of the council Resolution states:

- iv. Any future development application submitted to Council must include but not be limited to the following:
  - a. Evidence of consultation with residents of Seascapes, Twin Towns, Centro Shopping Centre, Tweed Heads Residents Association, Tweed Heads Chamber of Commerce and Big Trev Water Sports.

In the context of this part of the Resolution, this indicates to the proponent an expectation by Council to consult with the above parties in addition to those that would ordinarily be consulted with in a Development Application process. By way of example a proponent is not compelled in normal circumstances to consult with Big Trev or the Tweed Heads Chamber of Commerce. It is a moot point therefore to include those parties that would be required to be consulted

with as part of the normal statutory process. Further should a formal Development Application be lodged the mandatory advertising and opportunity for public submissions will be undertaken. As you are aware, council staff regularly briefs the AAC on upcoming Development Applications and in relation to aquaSplash this would also apply. The bringing of Development Applications to the AAC for comment is in fact an additional form of community consultation and in this instance would occur should a Development Application be lodged.

Also, as advised above, on Tuesday 5 April 2016 I personally spoke with aquaSplash and suggested that they consult with the AAC and whilst this was not recorded in the Council report, Council's records show email communication that I advised the Mayor, the Director Planning and Regulation and the Manager Development Assessment and Compliance of such at 4.10pm on that same day.

- **the lack of consideration for the role of the AAC before offering other tender opportunities in JEBH.** Ref: The General Manager's advice to the firm Aquasplash. Section B. iii *Prior to advancing any support for individual proponents such as Aquasplash, Council will need to conduct a Tender process to provide an equitable opportunity for other proponents to use Jack Evans Boat Harbour.* Summary Report, Council meeting 21 April 2016.

As an outcome of this Tender (Request for Offer) process, due consideration will be given to the requirements of the various parties involved with the care, control and management of Jack Evans Boat Harbour.

- **Council's disregard for the NSW Crown Lands Review 2016 and Response to Crown Lands Legislation White Paper October 2015, presented to the AAC on 1 April 2016, a shocking coincidence.** The NSW Crown Lands Review 2016 states in their Key Points – Crown Lands on page 3. *'Recognise Aboriginal use of Crown land and the role of potential co-management'*.

Should a formal Development Application be lodged, consideration of all factors that may affect the use of the Jack Evans Boat Harbour will be considered.

- **Council's disregard for the Native Title Act and how the Aquasplash proposal may affect our Native Title rights and interests, since Native Title still exists and is not extinguished on the river bed of the Tweed River.**

Again, this concern is pre-emptive and should a formal Development Application be lodged, these considerations will be taken into account.

- **the affect the Aquasplash activity may have on the Dept. of Primary Industry Aboriginal Fishing Strategy.**

You will also note from the council Resolution the following part:

- d. A report from a suitably qualified ecologist or marine biologist assessing the impacts on the waterway including water quality

monitoring for the duration of the trial and recommended mitigation measures if required.

Your concerns will therefore be considered following the submission of these requested reports.

- **the sincerity and genuineness of Council's draft Reconciliation Action Plan (RAP) calling into question the integrity of the draft RAP.**

In response to this concern, I have provided an excerpt from the Outstanding Resolutions section of the Council Meeting Agenda of 19 May 2016 –

#### **4 [NOM-Cr B Longland] Aboriginal Employment Strategy**

##### **NOTICE OF MOTION:**

**532**

**Cr B Longland  
Cr K Milne**

**RESOLVED** that an Aboriginal Employment Strategy be developed as part of Council's Equal Employment Opportunity Management Plan which sets appropriate targets for Aboriginal employment participation in the organisation and includes annual reporting against these targets. The Aboriginal Employment Strategy should also be included as an element of the yet to be developed Reconciliation Action Plan.

**Current Status:** The Reconciliation Action Plan (RAP) is currently in draft form and the Director Corporate Services and Director Community and Natural Resources are championing the process internally to provide input into the RAP, including establishing a specific internal working group.

The Reconciliation Action Plan (RAP) is an operational commitment and as such there will be a range of operational projects, including the employment strategy implemented as part of the RAP.

Terms of Reference for the internal workshop group are currently being developed.

Reconciliation Australia will be requested to assist with workshops with staff early in 2016 to explain the purpose of the Reconciliation Action Plan (RAP) and how staff can become involved.

A Council workshop was held 26 May 2016.

The RAP will be finalised through the Executive Management Team and reported to Council for information by the end June 2016

To promote the RAP, there are a number of staff education sessions being coordinated by Community Development Officer - Aboriginal, Rob Appo and

these are due to occur in early June and a request has also been made to staff to nominate to be part of the RAP Working Group to champion reconciliation throughout the organisation, to provide strategic direction, leadership and advice to Council in order to encourage and monitor the implementation of the RAP within the organisation.

I am confident that you will see from these actions that the organisation is committed to its approach in adopting a robust and meaningful Reconciliation Action Plan.

I also thank you for the invitation to attend the next Aboriginal Advisory Committee meeting, but on this occasion I am unable to attend, as I already have a commitment to attend a meeting of the General Managers Group followed by the Northern Rivers Organisation of Councils on Friday 3 June 2016 commencing at 9am in Ballina.

As I have previously stated, Council is very appreciative and supportive of the role that the Aboriginal Advisory Committee contributes to the operation and governance of the organisation, and I thank you for bringing these concerns to my attention. As the matter you raised was a decision of the Council, I have forwarded your correspondence to the elected body and also will provide them with a copy of this response.

Yours faithfully



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**Troy Green**  
**GENERAL MANAGER**

Copy: Joyce Summers on behalf of Canowindra Aged & Disabled Corporation  
Desrae Rotumah on behalf of Tweed Aboriginal Co-Operative  
Des Williams on behalf of Tweed Byron Local Aboriginal Land Council  
Leweena Williams on behalf of the Tweed Aboriginal Corporation for Sport Councillors

