

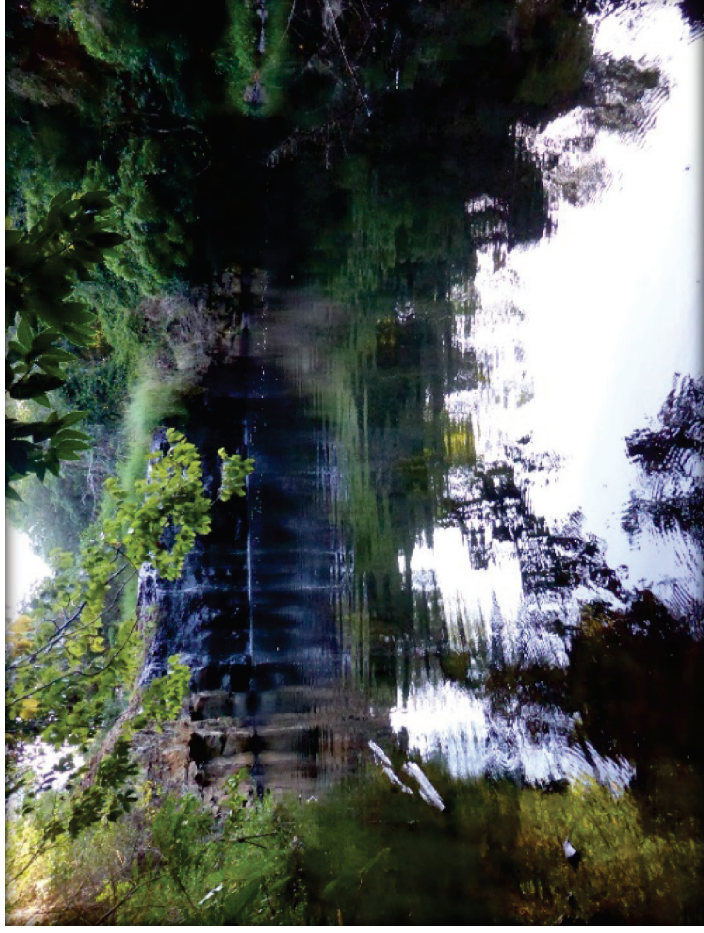


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# Tosha Falls Management Plan

## Part B

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Prepared for Ballina Shire Council

by MikeSvikisPlanning

Adopted by Ballina Shire Council on 25 January 2018

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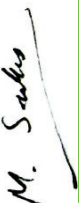


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		Signature	Date
A	Mike Svikis		6 March 2017
B	Mike Svikis		24 March 2017
C	Mike Svikis		8 June 2017
D	Mike Svikis		22 February 2018

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# 1 Background

In July 2016, Council resolved that a management plan be prepared for Tosha Falls to assist with the long term planning of the site.

The management plan seeks to:

- provide options for management of the site
- identify potential opportunities for future development of facilities, access, and use of the site
- document a risk management strategy for the site.

The Tosha Falls Management Plan has been split into two parts to make it easier to read and simpler to access online. Part A has sufficient information to document the actions and strategies that are the basis of the management plan, while Part B documents a range of issues including the early neighbour, community and agency consultation. Part B also outlines the costs of actions and infrastructure, and how it might be funded. Part B includes the appendices with additional supporting information such as site photographs and infrastructure examples.

The draft management plan was publicly exhibited, submissions received and considered, and then adopted by Ballina Shire Council on 25 January 2018.

# 2 Early Consultation

## 2.1 Who We Spoke To

There are two land owners that directly abut the Tosha Falls land owned by Council. One is the Prendergast land (Alstonville Tree Farms); and the other is the Mitchell land, known as Cascade Farm (or Tosha Farm). Both these owners were interviewed, their property inspected and discussions held on site. Direct contact was also made with a land owner in Kim Court that has previously made representations to Council concerning this access to Tosha Falls. All three have made written submissions (Appendix A).

Contact was also made with:

- the Alstonville STP operators that work daily at the Johnstons Road site.
- the Office of Environment and Heritage, and a written submission is at Appendix B.
- the Jali Aboriginal Land Council (at this stage it has not made a written response).

A summary of the early consultation with neighbours is at Appendix C. Key issues raised include trespass and privacy, Johnstons Road and other access options, tracks and other Infrastructure, environmental restoration, water quality, toilets and rubbish, cliff jumping, safety and risk.

## 2.2 Online and On-site Survey

A survey of some of the public that use Tosha falls was also undertaken through January and February 2017. The purpose was to gain an idea of the range of people that use Tosha Falls, where they live, the way in which they access it and use it, and what the community values about the falls. It is important to note that the results collected in this survey represent a

snapshot in time of some of the site users, and are not statistically accurate due to sample size and methodology. Filling out the survey did not require names or other identification.

Seventy-two (72) people filled out the eight question survey, and a summary of the survey results is at Appendix C.

## 2.3 Community Values

Tosha Falls' users and neighbours (contacted in early consultation) describe the values of the subject land as:

- Ecologically significant
- Habitat for native species
- Pleasant to visit and look at the waterfall
- Great swimming hole
- Great jumping rocks
- Fun to visit
- Quiet, peaceful and secluded
- Close to Alstonville
- Easy walk via Johnstons Road
- Special local spot

## 2.4 Recreation Needs and Opportunities

Early consultation and site visits indicate that the subject land fulfils a range of recreation needs and opportunities. People of all ages come to the falls to:

- Swim in the pool and/or jump off the rocks
- Look at the waterfall and take photos
- Picnic on the mown grass area with family and friends
- Enjoy a short walk to an interesting destination

## 2.5 Commercial Activities

One tour operator was encountered when conducting early consultation on this management plan. He runs a mini-bus tour that takes tourists (mostly backpackers) to local swimming holes and waterfalls for a “freshwater” experience that is an alternative to the obvious coastal attractions of the Ballina area. On the day that he was interviewed he had five guests and stayed about 15 minutes at the site before departing to another waterfall location. Only one of his guests chose to swim at Tosha Falls. He accessed the site via Johnstons Road.

There do not appear to be any other regular commercial activities carried out at Tosha Falls, although it has been used in commercials and music film clips. This is supported by the observations of the STP operators.

## 3 Costs and Funding

### 3.1 Costs

<b>Implement the Risk Management Strategy</b>	Council needs to implement its risk management strategy for this site including water quality testing, site safety inspections and hazard signage maintenance and replacement. This is a recurrent cost that will be impacted by the incidence of vandalism. It is assumed to be \$2,500 per year.
<b>Update Tosha Falls Vegetation Management Plan</b>	This document could be readily updated by Envite (the original authors). Envite has indicated the update would cost approximately \$3,000.
<b>Rainforest Rehabilitation</b>	The costs for rehabilitation vary considerably. However, over the long term, Council should budget \$50,000 to \$100,000 to get this site on its way to long term rehabilitation as a riparian rainforest.
<b>Signage and Track Markers</b>	<p>Council signs that warn or advise the public (in accordance with Australian Standards) cost \$250 per sign installed. These will be used for a variety of purposes and warnings.</p> <p>Track markers are a simple directional sign fixed to a steel or treated pole that guides a visitor to a point where the next marker can be seen until you arrive at the destination (in this case the falls). They are used where the track is not formalised. In this case a mown grass track. They cost approximately \$125 installed, and up to four are required from Johnstons Road to the falls.</p>
<b>Rubbish Bins</b>	A wheelie bin is normally set on a concrete plinth with steel structure that restricts opening, to reduce household dumping and vermin issues (from leaving the lid open). Assuming traffic control may be required (probably not on Johnstons Road) then this would cost \$1,000 installed.
<b>Signage at Trespass Locations</b>	It is assumed that signage will be required at five key trespass locations. Assuming three signs will be required at each location (either initially or as replacement signs) then this will cost \$1,500. The wording can be discussed with land owners, however it needs to be clear that they are marking the boundary of private land, and Tosha Falls can be accessed via Johnstons Road.

<b>Fencing</b>	<p>Security fencing is typically steel posts in concrete with security mesh to 1.8 metres high, and then three strands of barbed wire above that. This is the sort of fence that surrounds the Alstonville STP. It can generally be constructed for about \$50 per lineal metre. In some locations such as Kim Court, a strip of fencing approximately 10 metres is required (\$500). Hillburn Place could be fenced at the end of the road reserve (20 metres) as this is not required as an access to Lot 2 DP 1182136 (\$1,000). However, Rosedale Place is problematic as this location has an open gate that is used as an access to the rural worker's dwelling on Lot 2 DP 1182136. This needs to be discussed with the land owner. The Banjo Place also has an open gate and currently no front fence. This needs to be discussed with the land owner. The northern boundary of Tanamera Reserve is approximately 300 metres long. The key access point is in the north-western corner. Security fencing along the whole boundary would cost \$15,000 and is not practical as it is a drainage reserve and the fencing would restrict water flows in high rainfall events. Fencing the north-western corner (approximately 20 metres for \$1,000) may be sufficient. This needs to be discussed with the land owner. As with normal neighbour fencing arrangements, Council would expect that 50% of the cost of fencing would be borne by each party. This can be negotiated.</p>
<b>Rock Bollards</b>	<p>Typically, Council uses these when vehicles are accessing parks and reserves unlawfully and doing damage or creating hazards for other users. The size is usually about 2 tonnes, and each rock costs about \$100 delivered to a local site. Up to eight rocks may be needed to block off the Johnstons Road access, leaving only the locked gate for vehicles to do maintenance or for emergencies.</p>
<b>Fact Sheet for Alstonville Residents</b>	<p>If Council wants to inform residents that they can access Tosha Falls via Johnstons Road and not via private land then it needs to prepare a fact sheet to use on its website or to use with a press release or advertisement in the local press. The draft management plan will generate interest, and Council needs to back this up with information once a position is taken regarding access to Tosha Falls. It will take approximately \$1,000 to put this information together plus printing costs if this is required (such as a letterbox drop to houses within 800 metres of the key trespass points).</p>
<b>Lumley Park to Tosha Falls Walking Track</b>	<p>This needs to be considered as part of the overall plan for walking trails around Alstonville and the Shire. Although the easement is there, it is not clear that a track can be built along its length and how this would be done. There is likely to be at least one creek crossing and this could be expensive in a high velocity environment. The impact of the track on the riparian zone is also a consideration. A detailed feasibility and cost benefit analysis is required to decide if this track is appropriate. That should be the subject of future work. A cost cannot be estimated at this stage.</p>
<b>Negotiate to acquire part of Lot 2 DP 1182136 for the public through a voluntary sale to Council</b>	<p>The offer has been made to sell a part of this land to Council and negotiations should commence. However, it is not clear how easily an arrangement can be reached or whether Council can afford the cost (as yet unknown). A cost cannot be estimated at this stage.</p>

### 3.2 Funding

<b>North Coast Local Land Services Grants</b>	<p>Each year North Coast Local Land Services deliver a number of grant and funding programs to support the community to undertake natural resource management and sustainable agriculture activities.</p> <p>When available, funding opportunities are advertised on this website and promoted through the North Coast Local e-newsletter. Each funding program has clearly defined objectives and selection criteria, and must be lodged using specific application forms. Available funding is highly sought after, and opportunities are very competitive.</p> <p>This funding could be used for updating the Tosha Falls Vegetation Management Plan 2007, and for rainforest rehabilitation on the subject land consistent with that plan.</p>								
<b>Australian Government's National Landcare Program</b>	<p>The Australian Government will invest \$1 billion through the National Landcare Program over four years from 2014–15, including support for the Landcare Networks, 20 Million Trees and Australia's 56 regional natural resource management (NRM) organisations. This funding helps support local environmental and sustainable agriculture projects, including the Reef 2050 implementation, and complements funding for the Land Sector Package.</p> <p>Applications for funding in regional locations is likely to occur again in 2017–18.</p> <p>There are four Strategic objectives including the following:</p> <table><tr><th>Strategic Objective 1</th><th>Strategic Outcomes</th><th>Contribution to National and International Obligations</th></tr><tr><td>Communities are managing landscapes to sustain long term economic and social benefits from their environment</td><td>Maintain and improve ecosystem services through sustainable management of local and regional landscapes</td><td>Protection and restoration of ecosystem function, resilience and biodiversity; appropriate management of invasive species which threaten ecosystems, habitats or native species</td></tr></table> <p>This funding could be used for updating the Tosha Falls Vegetation Management Plan 2007, and for rainforest rehabilitation on the subject land consistent with that plan.</p>			Strategic Objective 1	Strategic Outcomes	Contribution to National and International Obligations	Communities are managing landscapes to sustain long term economic and social benefits from their environment	Maintain and improve ecosystem services through sustainable management of local and regional landscapes	Protection and restoration of ecosystem function, resilience and biodiversity; appropriate management of invasive species which threaten ecosystems, habitats or native species
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## Crowdfunding

Crowdfunding is the practice of funding a project or venture by raising money from a large number of people who each contribute a relatively small amount, typically via the internet. Although it has been used widely to fund music, cultural or business projects, it has also been used to fund natural resource and land management outcomes.

The technique is currently being used by three Victorian Catchment Management Authorities to pay for the conservation project called “Funds for Fish”. The Victorian Government will agree to match dollar for dollar the money raised by crowdfunding with the aim of raising \$40k. It gives a sense of community ownership to projects and a very direct and local outcome with money being spent only on local projects.

More locally, Brunswick Valley Landcare has run a “Pozible” crowdfunding project to raise money for nest-boxes for owls. The target was \$7,500 and this was reached in the time allowed from 81 supporters. That is an average of \$92 per donation.

This funding could be used for updating the Tosha Falls Vegetation Management Plan 2007, and for rainforest rehabilitation on the subject land consistent with that plan. It may also be used to acquire land for rainforest rehabilitation (and access) or to build a walking trail from Lumley Park to Tosha Falls. Council could consider matching money raised dollar for dollar to achieve better outcomes. It could be used in conjunction with other grant funding.

## Appendices

Appendix A: Written submissions from neighbours

Appendix B: OEH submission

Appendix C: Summary of early neighbour consultation and survey consultation

Appendix D: Pedestrian easements on DP 253899 near Tosha Falls

Appendix E: Maguires Creek water quality data summary

Appendix F: Site photographs and infrastructure examples



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# APPENDIX A

## Written submissions from neighbours

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**Re: Lot 1-2 DP 1182136**

**Submission Prior to the Draft Plan of Management for Tosha Falls**

Attention: the Strategic and Community Facilities Group

Dear Jessica Saad & Mike Svikis,

Thank you for the opportunity to provide a submission to the Draft Plan of Management for Tosha Falls. We have long-sought meaningful engagement with Council regarding the management of Tosha Falls and particularly the significant impost of trespassers accessing the Falls from Council land through our property. The issues associated with land-use conflict relating to Lot 1-2 DP 1182136 and public access to Tosha Falls remain un-resolved and need urgent, transparent and considered attention by Council.

This submission outlines a number of concerns and some ideas/opportunities that may be useful to Council undertaking the draft planning. A variety of excerpts of letters previously provided to Council over recent years are also included which refer to matters that remain relevant to significant zoning problems and land-use conflict associated with public use of Tosha Falls.

It is unfortunate that council has not undertaken consultation with neighboring landholders before release of the public survey. Furthermore, no terms of reference related to the proposed Plan of Management of Killen and Tosha Falls was communicated (nor are the terms of reference apparently available through the council website.) We have been proactively seeking dialogue with Council about the management of Tosha Falls and Maguire's creek for the best part of three decades, so it is disappointing and discouraging to learn of the preparation for this plan without first engaging with us.

The survey demonstrates inadequacy and what can only be viewed as a cursory inclusion of Tosha Falls as a survey subject - it appears the survey is aimed at resolving public health and access concerns raised at Killen Falls (which is located on and accessed solely via Council land, starkly different to the context of Tosha Falls, its proximity to the township and private landholdings). What are aims of the survey in relation to Tosha Falls? How does the survey seek community need/want regarding access to Tasha Falls and how will a survey like this engage members of the public who are those knowingly trespassing to volunteer this information? We feel these questions remain unanswered – an indication of an ill-thought-through survey.

If a communications plan, regarding the preparation stage of the plan of management and the survey, was developed it does not appear to have been very effective and since it was not shared with neighboring and affected landholders the effectiveness of the survey questions related to Tosha falls has been compromised.

Any improvement to the amenities offered by Council at Tosha Falls will have an adverse impact on neighboring landholders without additional measures aimed at managing trespass on private land. The ongoing and increased cost of malicious damage to buildings, trees, water-infrastructure and farming activities, as well as trespassers continuing to disrespect and abuse landholders is a real concern. This is a concern that Council has failed over the years to address with us, time-and-time again.

Any plans to improve access, signage or amenities associated with Tosha Falls must be prepared by something similar to a Steering Committee made up of neighboring landholders, council representatives and the public to ensure meaningful engagement and the need to improve the significant conflict of land-use currently experienced, while also aiming to the address public amenity desires. The terms of reference of any Plan of Management for Tosha falls must also include Maguire's creek, and may need to refer to other key natural assets like remnants of "Big Scrub" and existing public reserves and council land.

We are encouraged that Council is now looking to take accountability to effectively manage conflict of land use imposed by area zoning and public amenity associated with accessing the Maguire's creek & Tosha Falls and we are willing to work with the Council and the public to the mutual benefit of all.

A key commitment of Council within the management plan must include the maintenance of effective fences and clear signage to manage boundaries between council and private lands where trespass is known to be a significant problem – these areas includes:

- Tanamera Drive Reserve,
- Kim Court,
- Rosedale Place,
- Hillburn Place,
- Banjo Place,
- BSC operational land adjacent to Tosha Falls/Sewerage Plant.

The management plan must also allow for meaningful and ongoing dialogue with landholders affected by public access to Tosha Falls & Maguire's Creek. The plan needs to consider the deployment of a suite of useful/practical remedies to respond to landholder, Council and public concerns as well as conflicts between these stakeholders. These remedies and responses include providing the public and tourists with effective information, including, but not limited to, social media and local newspapers content, about how to access Tosha Falls and the need of the public to be respectful of neighboring landowners.

It has been suggested to Council previously that their acquisition of land between Tosha Falls and the township of Alstonville (which is currently used by the trespassing-public to gain access to Maguire's Creek and Tosha Falls) may be a strategic corridor offering high value amenity to the public and tourists. In 2011 Council requested an indicative of the value of the property that would be offered for sale, that offer is contained in the excerpts below.

We are very pleased that Council is preparing a Draft Plan of Management for Tosha Falls and we are looking forward to meaningful engagement within the terms of reference of the process that will be used to realise this Plan.

Regards,  
Sue & Terry Prendergast  
0412 665 558

**Excerpt from letter October 2011,**  
**[111015\_Boundary\_Sale\_Development\_JPratten.docx ]**

*RE: Common Boundary Issues and Sale of Land - Lot 2 DP 253899, "Talisman" 1336 Teven Road, Alstonville*

We are writing to discuss matters further to our meeting on 15 August 2011. There exist numerous long-standing issues relating to the management of boundaries that are shared by Council public space/reserve and our property and the increasing land-use conflict between the operation of the property and neighbouring community. The public amenity our property provides to the community is an unreasonable burden that we alone carry at substantial risk and cost.

Correspondence to council on 18 July 2011 outlined the following areas we wish to work with council to effectively resolve, manage or work toward solutions for the following matters:

1. Develop a management plan to prevent and repair fencing damage/removal on boundaries shared with Council managed land.
2. Consider installing council endorsed "No Trespassing by order of Council General Manager" signage, consistent with signage used on the Lennox township foreshore.
3. Recognise the community value of Maguires Creek and the Waterfall which is a significant recreation destination resulting in five to 20 trespassers on our property daily through six entry points shared with public amenity land or council operational land). Commence dialogue with stakeholders to assess if public access to the Creek and Waterfall is in the public best interest and what means maybe applied to enable these parties to work together to provide appropriate access.
4. Develop an engineering solution to the storm-water run-off from residential and public land and subsequent erosion/land degradation issues associated with the dead end roads of Evelyn Villa Drive, Hillburn and Rosedale Place.

**Sale of land option:**

Recent local government acquisition of similar size property for community use by Lismore City council of Simoni's Land in Goonellabah resulted in transaction of in excess of two million dollars (circa 2002). Due to the long-standing issues and conflicts of land use (and ultimate restrictions relating to the right to farm) present compelling reasons to divest the land. Due to uncertain draft LEP zoning and continuing public exhibition as well the unique location and character of the land it is different to provide a valuation. As a guideline we seek to encourage dialogue with council in the range of \$1.5 or 2 million for the portion of land described on page three of this correspondence, we provide this pricing indication in good faith and we are willing to negotiate with council to arrive at a mutually agreeable price.

**Alternative option:**

An alternative approach we have discussed with council in the past is the appropriate zoning of the lands to reflect current residential/urban character of the area outlined by the concept sketch on page four of this correspondence. Rezoning and subsequent development of the land would be carried out under close cooperation with council to provide public access to Maguires Creek and waterfall. Any development would be low impact residential development that is well located and designed so that it would not have an adverse effect on the environmental qualities of the lands, furthermore development would also have positive benefits to the public interest with respect to social and economic prosperity of the area and as part of a comprehensive and considered land supply and demand strategy.

The property contains high value qualities conducive to housing with respect to the accessibility to services and public transport within the Alstonville Village for future residents and the

compatibility with the adjoining residential settlement to the south of the site. This land is consistent with lands sought as part of Council's affordable housing strategy.

### **Excerpt from Letter, December 2013**

**[reference: 111213\_LEP\_Letter\_BSC\_Councillors\_rev JA.docx ]**

... The issues associated with land use conflict relating to Lot 2 DP 253899 remain un-resolved and need urgent, transparent and considered attention by Council and the LEP process.

Consultation with Tintenbar Shire Engineer Peter Thorp in 1976 (prior to our purchase of the property) made allowance for a 40 meter pedestrian access easement along Maguires creek linking Lumley Park and remnant rainforest (lot 5) with the unnamed waterfall. However, in 1987 Council applied 7(i) zoning on the same property without notice or any consultation in a manner contrary to advice from then State Planning Commissioner Simpson who made assurances that rounding off would occur and allow for development in line with a prior approved subdivision on the property. This has not occurred and Council has repeatedly failed to engage in dialogue with us regarding this matter. Its reluctance to discuss these options with us is confusing and does not present a transparent case or acknowledge significant changes that have been made to zoning on our property without proper or reasonable consultation. We have been seeking to address this issue since becoming aware of the improper application of 7(i) in 1988 and hoped the recent LEP process would enable this matter to be resolved in a transparent manner.

### **Excerpt from Letter, June 2014**

**[Reference: Review of Northern Councils E zones submission\_ 1336 Teven Road\_050614.pdf ]**

...the close proximity to urban areas along the entire length of our longest boundary renders normal farming practices exceedingly difficult due to high levels of land use conflict as arising from both children and adults trespassing through the property, and many residential neighbours that historically have and continue to restrict/interfere with certain rural activities....

Lot 2 DP 253899 [should be] included in 'Minor Rounding-off', which means developing a small area of land occupying a gap in an urban zone. This would make 'good planning sense' with improved community and environmental outcome while also alleviating existing land use conflict (eg by the incorporation of a buffer imposed on the developer) as well as efficient and economic use of infrastructure.

#### **Community value & ownership maximised**

The council could acquire and establish community owned buffers in the new LEP, such as parks, water management zones, scenic areas and outdoor recreational areas that resolve or minimise land use conflicts between urban and rural areas.

This review of zonings is a great time to get the correct, transparent planning zones and guidelines established and break the cycle that has been based on incorrect and inaccurate assumptions. With care and meaningful consultation it will be possible to resolve long-standing land use conflicts by engaging directly with the landowners and community thus helping to produce positive, sustainable outcomes on all levels: environmentally, socially and financially.

We welcome the opportunity to work with Council to this end.

27 January 2017

Ballina Shire Council

Attention: Jessica Saad

Property Officer

Strategic and Community Facilities Group

Cascade Farm Pty Ltd

56 Pearces Creek Road

Alstonville NSW 2477

Tel: 0266280022

Mob: 0416280022

Dear Jessica

Re: Plan of Management for Tosha Falls (316-04)

I am responding with regards to the plan of management proposal, to access Tosha Falls adjacent to our property.

We have valid concerns regarding the plan by council for potential facilities, access and infrastructure - points made in your letter from 20 December 2016 and how it will affect the existing habitat, the safety of visitors and access to our property.

As we have been the owners of the adjoining property to Tosha Falls for forty years (since 1977) we have had minimal issues concerning the numbers of visitors from Alstonville and the immediate surrounds (to the falls). Occasionally we have had to collect rubbish left behind along the top of the falls from short-term (local) visitors from town, however it has been minimal. We have also found that the local community have been respectful with regards to not using the area as a toilet. Likely due to the short-term nature of their visit (generally under 2 hours).

We strongly feel that implementing infrastructure would cause an increase in; larger groups of people visiting the area, commercial tour operators from outside the shire and free campers. This would increase the management and maintenance requirements by council. At present the area has co-existed satisfactorily for all these years with local community patronage and respect.

Our major points of concern are as follows:

- The safety of people jumping off the falls. For the forty year period we have lived here, we've had no fatalities or injuries by members of the local community. An overflow of visitors will place a higher risk of visitors slipping and falling off the rocks or jumping on top of swimmers below.
- Over the years we have noticed the ledges around the waterfall are intermittently changing - with pieces of rock falling into the waterhole. (This has made some areas of the waterhole unsafe for jumping into – such as the middle to western edge).
- In periods of heavy rain, debris such as logs and other plant rubbish washes over the falls – submerged logs are a potential hazard – how will this be managed to prevent accidents if there is an increase in patronage?
- With an increase in usage, visitors bring dogs. Marsupials are prominent in this area and without proper management of pets, this will affect current and future wildlife numbers.
- At times, we sight the special occurrence of platypus swimming in the Tosha Falls waterhole. The banks of the waterfall are also their breeding habitat. With an influx of visitors due to the proposed increased facilities, visitors may damage platypus inhabited holes and edges of the waterhole.

- How will 'free camping,' overnight visits and fires, if facilities are provided be managed? We have recently this year found a foam mattress submerged in the waterhole, presumably camping waste which is extremely hazardous for visitors jumping from the falls.
- How will potential fishing and trapping of perch, eels, freshwater crayfish and turtles in the waterhole be managed? (Last year we found a yabbie trap submerged and roped to a tree)
- Access to the top of the falls is by either side of the waterhole. As our land is one access point, will we be liable for accidents from people scaling the area?
- From 2003, we have invested in the regeneration of indigenous subtropical planting and camphor laurel eradication and erosion management along our side of the boundary creek bank. Will access to Tosha Falls by increased visitors climbing to the top of the falls and along the creek damage and affect this regeneration?
- Our farm is a commercial enterprise with income generating macadamia trees. As there are no fence lines - how will we prevent people trespassing onto private land and potentially damaging trees and crops?

A major concern at hand these past weeks is that the fence-lines have been cut at Johnston's Road and for the first time in the forty years that we have been monitoring the waterfall, vehicles are now accessing the grass path and parking near the Shire Council sign at the base of the waterfall. In the age of social media – we do not want this kind of behaviour multiplied and advertised.

In January this year Mike Svikis, Planning Consultant to Ballina Shire Council, visited and observed the regeneration we have undertaken along the creek boundary and heard our request to reject all facility infrastructures to meet the needs of increased visitor numbers.

The infrastructure we would like to suggest is for the regeneration of subtropical plants indigenous to this area along the creek bank on Council land - providing a meandering showcase as people walk to the falls. This will also enhance the current animal and plant habitats ensuring that the Alstonville community and short-term visitors can continue to enjoy this unique natural setting.

Please contact us if you require any information with regards to the above.

Your sincerely

Leslye, Tiffany, Georgie and James Mitchell

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Alstonville NSW 2477  
T: 02 6628 5168 - 0409 984 488  
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25 January 2017

Ms Jessica Saad  
Property Officer  
Strategic and Community Facilities Group  
Ballina Shire Council

By email: jessicas@ballina.nsw.gov.au

**Re: Killen and Tosha Falls Plans of Management (316-04)**

Dear Ms Saad,

Thank you for contacting us after receiving our letter of 13 Jan 2017 regarding Council's development of a management plan for Tosha Falls, a main access point to which abuts our property.

We also thank you for the opportunity to share our views with consultant Mike Svikis who visited our property last week and showed a good understanding of the issues at stake.

Prior to coming here Mr Svikis had discussed the situation with Mr and Mrs Prendergast, the owners of the land upon which a significant number of people trespass on their way to the waterhole.

We previously had the impression that the Prendergasts may have considered, under certain circumstances, including a yet to be determined entry point, or points, granting an easement through their land to Tosha Falls. However, Mr Svikis made clear that this is not the case, and that they do not want any unauthorised people entering their property.

Similarly, as we have stated previously, we do not want a daily succession of trespassers walking down the 'track' adjacent to our boundary, within two metres of our lounge-room window, often using bad language and, even unprovoked, behaving abusively towards us.

Leaving aside whether Council decides to make a more formal access to Tosha Falls from the land around the sewerage treatment plant, and provide some facilities, the issue for us is the entry to the Prendergasts' land via the bottom of Kim Court, where the barbed wire fence is frequently cut (and now is an open space).

While a sign there advises 'No trespassing', the fact that it is authorised by Ballina Shire Council suggests it is Council land, which is not the case, and more or less open to visit.

Our proposal, then, is that the boundary at this point be resolutely fenced; that signage makes clear that it is private land and not a thoroughfare to the waterhole, and that the access to Tosha Falls is (assuming Council decides in this way) via the area near the STP, perhaps including a map; and that this arrangement, like the rest of the eventual management plan, be suitably publicised.

We felt it unfortunate that the wet weather last Saturday 21 January, was less conducive to visiting Tosha Falls so Mr Svikis may not have been able to interview many people about how they got to the waterhole, where they live, etc (a survey that, you may recall, we had mentioned in an earlier letter). Suffice it to say, there have been plenty visiting this week, including many with mountain bikes and skateboards.

We appreciate your ongoing attention to this issue, and in closing would note that we have not yet received the promised letter from Council inviting us to participate in this process.

We look forward to seeing the draft recommendations for the management of Tosha Falls, and trust that Council will not delay in taking appropriate action for the benefit of both users and surrounding residents of this lovely area.

Yours faithfully

(Signed)

Robin Osborne (Mr)

Grainne O'Brien (Ms)

26 Kim Court,  
Alstonville NSW 2477  
T: 02 6628 5168 - 0409 984 488  
E: rosborne860@gmail.com

27 January 2017

Ms Jessica Saad  
Property Officer  
Strategic and Community Facilities Group  
Ballina Shire Council

By email: jessicas@ballina.nsw.gov.au

**Re: Killen and Tosha Falls Plans of Management (316-04)**

Dear Ms Saad,

I would like to clarify a comment we made in our letter to you dated 25 January 2017 regarding this matter.

In that letter we wrote -

*We previously had the impression that the Prendergasts may have considered, under certain circumstances, including a yet to be determined entry point, or points, granting an easement through their land to Tosha Falls. However, Mr [Mike] Svikis made clear that this is not the case, and that they do not want any unauthorised people entering their property.*

However, since then we have been visited by Mr Terry Prendergast who advised that this is not the case. In fact, he and his wife *are* willing to consider an easement (in the form of a properly constructed and identified pathway) through their land to Tosha Falls from the reserve/parking area at Lumley Park, Alstonville. He said he had communicated this to Mr Svikis in their recent meeting, explaining it was the same proposal they had made years ago.

The rest of the information in our letter is still relevant, especially that in relation to the frequently used, and illegal, entry point to the land at the end of Kim Court, adjacent to our property. This has just been re-fenced with barbed wire (by Mr Prendergast), but we expect it will not be long before it is vandalised again.

We thank Council for giving due consideration to the issues we have raised.

Yours faithfully  
(Signed)

Robin Osborne (Mr)

Grainne O'Brien (Ms)

26 Kim Court,  
Alstonville NSW 2477  
T: 02 6628 5168 - 0409 984 488  
E: rosborne860@gmail.com

2 February 2017

Ms Jessica Saad  
Property Officer  
Strategic and Community Facilities Group  
Ballina Shire Council

By email: jessicas@ballina.nsw.gov.au

**Re: Killen and Tosha Falls Plans of Management (316-04) -  
Tosha Falls Survey**

Dear Ms Saad,

Further to our previous correspondence on this issue, we now wish to comment on Council's online survey of the two Falls, notably that section relating to Tosha Falls, in advance of the closing date of 6 Feb 2017.

Our responses to the survey can be viewed by those managing this exercise, but we believe they bear repeating, for the record.

The first assumption is that those undertaking the survey have already visited Tosha Falls, or do so regularly, so rightly it should be called "Tosha Falls Users Survey", despite the fact that it is not legal to visit the falls, whether entering the area via the Council facility in Johnston's Road, or via the other access points, including the one adjacent to our property, in Kim Court, Alstonville.

On the assumption that most people going there would be aware that they are trespassing, one must wonder if they are likely to undertake such a survey, especially if they felt they might somehow be identified, and prosecuted.

Moreover, as the great majority of visitors are young people, how likely are they to be undertaking a survey on a Council website? Highly unlikely, we would submit.

Absent from the survey are questions about whether people feel there should be any public access to Tosha Falls, and if so, how the area should be accessed.

I would be interested to know how many respond to question 5, 'How do you get to Tosha Falls', by saying, "We cut the barbed wire at the bottom of Kim Court and climbed through the fence."

Another doubtful question relates to whether one improvement would be a “better walking track”. This implies there is already an approved walking track, but that it is sub-standard, whereas we know that any tracks are through non-public land.

Perhaps some respondents might say “There should be better walking tracks from all of the [unauthorised] entry points to the land surrounding the Falls.”

As we noted in our online responses and above, we believe the phrasing of the questions means that the survey is fundamentally flawed, that it is unlikely to get meaningful feedback from current users, and does not touch in any meaningful way on access as a key part of a workable management plan.

Consequently, we submit that the information received from the survey should be significantly discounted and have only minor influence on the deliberations regarding this matter.

We thank Council for giving due consideration to the further issues we have raised.

Yours faithfully  
(Signed)

Robin Osborne (Mr)

Grainne O’Brien (Ms)

Cc Mayor David Wright

26 Kim Court,  
Alstonville NSW 2477  
T: 02 6628 5168 - 0409 984 488  
E: rosborne860@gmail.com

5 February 2017

Ms Jessica Saad  
Property Officer  
Strategic and Community Facilities Group  
Ballina Shire Council

By email: jessicas@ballina.nsw.gov.au

**Re: Killen and Tosha Falls Plans of Management (316-04) -  
Tosha Falls Survey**

Dear Ms Saad,

We write again on this subject, following our letter of 2 Feb 2017, and earlier, to express our serious concerns about the unapproved access to Tosha Falls via Kim Court, and particularly today regarding the aggressive behaviour of young people - approximate ages 10 to 14 - who had gone down to the Falls, and returned to Kim Court, abusing us as they passed close to our house.

In response to their behaviour, we followed them on their outward journey, up Kim Court and in a reasoned (from our perspective) but provocative (from theirs) encounter, stated that while we do not own the adjacent land, which is private property, we find it unacceptable that, without provocation, they behave offensively towards us.

They were unwilling to accept our concerns, and said we had no right to tell them what to do. They clearly felt they have every right to access the waterhole, in any way they choose.

When we said they should go the 'proper way' - along the watercourse from Lumley Park, or via Johnston's Road (not that this is a currently approved ingress) - they simply laughed and said we had to be joking that they'd go such a long way around.

Significantly, in the context of Council's online survey, closing tomorrow, they said they had never heard of it, nor knew of Council's website, and a few said they had no internet access. So much, then, for meaningful feedback from some of the main users entering via Kim Court.

Fortunately, a year 11 boy (also returning from the Falls) appeared on his own, and while stressing he had no connection with the group, said he knew the others

(mostly at Alstonville Primary or High Schools, he said) and would suggest to them that they should behave better while passing our property. He asked if they had damaged our property, and I replied that they had not, but if they did, or trespassed upon it, we would not hesitate in informing the Police.

He said he felt it unlikely he could discourage them from accessing the area at this 'entry' point.

This unpleasant confrontation in the middle of Kim Court continued for some 15 minutes, without proper resolution, and was briefly interrupted by a neighbour from No 22 Kim Court who was driving her car past.

This neighbour is an elderly, quite recently widowed lady whose property has, on numerous occasions, been trespassed upon by young people seeking access to Tosha Falls via the Council managed reserve (and then into the Prendergast owned land).

It is worth noting that her garage door was recently pelted with passionfruits from a rampant vine (part of the streetscape unpruned by Council - see my earlier email), and that she saw members of today's group breaking off branches from the shrubs along Kim Court some days ago.

It is appalling that an elderly person should feel under siege in this way. Fortunately, Grainne's 84-year old mother who lives with us has two younger adults to provide personal support.

As you would imagine, this has caused our neighbour considerable distress, and today's encounter has raised her anxiety to the point where my wife felt it necessary to visit her, discuss the issue and assure her of our ongoing support.

I (Robin) might just add that this ongoing situation has created personal wellbeing concerns to myself as well, as I work largely at home, and have been experiencing increasing hyper-vigilance when I suspect people are coming down the fence line track.

Given that we invested a significant sum to purchase this property, in what we understood to be a pleasant, well managed suburban area, we feel it is immensely disappointing, indeed completely unacceptable, to be paying such a high personal price for a situation that, at the end of the day, derives from people accessing a recreational facility that is under the control of Ballina Shire Council.

Should there be any doubt on the latter point, the fact is that Council is the party undertaking a consultation process to manage Tosha Falls, thus indicating whose responsibility it is to provide appropriate management, including access.

Indeed, the Council signage placed at the 'entry' point at the bottom of Kim Court (often pulled down - see previous correspondence and photos) - done for legal, rather than exclusionary reasons, we suggest - confirms this point.

In conclusion, should we need to repeat our concerns, this situation is not only unacceptable but escalating, at a personal (as per above) and financial (replacing fencing) cost to neighbours of the Falls area.

While we are heartened to see recent publicity about an enhanced Police presence in Alstonville, we question the agency's capacity to manage the issue, and request Council's greater involvement. It is incumbent on our elected representatives to take appropriate action to address this matter.

As our previous correspondence on the subject of the online survey indicates, we have little faith in this inadequately framed consultation, and we advocate for a proactive involvement that will take into account the rights of local residents and ratepayers, while offering access to a superb recreational setting in the local area.

As ever, we thank Council for giving due consideration to the further issues we have raised.

Yours faithfully  
(Signed)

Robin Osborne (Mr)

Grainne O'Brien (Ms)

Cc Mayor David Wright, Ballina 'C' Ward Councillors

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## **APPENDIX B**

**OEH submission**

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**Office of  
Environment  
& Heritage**

Our Ref: DOC17/20117

Your Ref: Killen & Tosha Falls Plans of Management (316-04)

Mr Paul Hickey  
General Manager  
Ballina Shire Council  
PO Box 450  
Ballina NSW 2478

Attention: Jessica Saad Property Officer

Dear Mr Hickey

**Re: Plans of Management for Killen and Tosha Falls, Ballina.**

Thank you for your letter dated 22 December 2016 requesting initial feedback on key issues or considerations to assist in the development of the Killen and Tosha Falls Plans of Management (plans). The Office of Environment and Heritage (OEH) appreciates the opportunity to provide input.

The OEH has responsibilities relating to biodiversity, Aboriginal and historic heritage, National Parks and Wildlife Service estate, acid sulfate soils, flooding, coasts and estuary management. In response to this request, the OEH advises that the following comments are provided in relation to Aboriginal cultural heritage and biodiversity (including threatened species, populations, ecological communities, or their habitats).

1. Aboriginal cultural heritage (ACH)

The OEH advises that natural features in the landscape such as Tosha and Killen Falls may potentially have significant cultural values requiring additional consideration.

The OEH recommends:

- a) That consultation is undertaken with the local Aboriginal community representatives and/or knowledge holders to assess any cultural values within the area to inform the plan, the *Aboriginal Consultation Requirements for Proponents 2010* can be used as a guideline to assist with this process.
- b) A review of known ACH values, including the significance of Aboriginal objects and declared Aboriginal places, which exist within the local area. The *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (OEH, 2010) can be used as a guideline to this process.
- c) The design and location of infrastructure and any axillary services to avoid actual or likely harm to ACH values in consultation with the local Aboriginal community.

- d) The plans should consider appropriate management of ACH values if relevant and address any sensitivities requested by the local Aboriginal Community.

## 2. Biodiversity

In regards to biodiversity values, the OEH acknowledges that both Tosha and Killen Falls are located within highly modified landscapes, therefore any biodiversity values which exist in the riparian corridor are highly significant.

The OEH recommends:

- a) Biodiversity values at the falls are clearly identified, in that threatened species, populations, ecological communities and their habitat listed under the *Threatened Species Conservation Act 1995* are acknowledged in the early stages of the planning.
- b) The design and placement of infrastructure is sensitive to the riparian corridor and identified biodiversity/ecological values.
- c) The biodiversity values and ecosystem functions are preserved/improved over time and form part of the plans objectives and performance targets.
- d) Threatening processes and applicable aspects of recovery plans for threatened species and ecological communities present or with the potential to utilise (or recover) are included in detailed onsite actions (e.g. reducing trampling, weed control and rehabilitation of riparian vegetation communities).

Note: Consultation with Department of Primary Industry - Water and Fisheries is advised as activities proposed may occur in waterfront lands and affect species listed under the *Fisheries Management Act 1994*.

If you have any further questions about this issue, Ms Rachel Binskin, Regional Operations Officer, Regional Operations, OEH, can be contacted on 6659 8247 or at [rachel.binskin@environment.nsw.gov.au](mailto:rachel.binskin@environment.nsw.gov.au).

Yours sincerely



31/1/2017

**ROSALIE NEVE**  
**A/Senior Team Leader Planning, North East Region**  
**Regional Operations**

Contact officer: RACHEL BINSKIN  
6659 8247



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## **APPENDIX C**

### **Summary of early neighbour consultation and survey consultation**

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# Tosha Falls Neighbours Consultation Summary

## Trespass and Privacy

This is the key issue for Tosha Falls at this time. Although the site can be accessed by road (and a short walk), it is closer to the northern suburban edge of Alstonville than it is to Johnstons Road. The trespass occurs largely from drainage or road reserves that abut Lot 2 DP 1182136, owned by the Prendergast family. In particular, it occurs from the Tanamera drainage reserve, Banjo Place, Kim Court, Rosedale Place and Hillburn Place. The Prendergast's have more than 40 neighbours and more than 1 kilometre of fencing to maintain.

The trespass is often by teenagers and children who walk (or ride bikes, skateboards or scooters). and they are likely to live locally. If they do not have access to a vehicle then the shortest route to Tosha Falls is via the Prendergast property. After trespassing across the Prendergast property, they sometimes cross to the other side of Maguires Creek and trespass across the Mitchell family property (Lot 5 DP 253899) to walk the last stretch to the falls. When people are at the falls they often cross over to the Mitchell family property as they move around the site. Both land owners would strongly prefer that there were no trespass on their land. Both land owners indicate that they have been verbally abused when confronting trespassers. Mr Prendergast has suffered extreme acts of vandalism (including cut fences, damaged gates, signs removed, shed windows smashed multiple times, irrigation equipment damaged and trees damaged).

The Mitchell family does not support an access easement through their macadamia farm.

The Prendergast family does not support an access through their property other than from Lumley Park via the creek alignment. However, they would consider selling a piece of their land to Council for an appropriate price.

Once at Tosha Falls, there is evidence that users walk over private land to access different parts of the waterway. This can lead to issues with rubbish and damage to riparian vegetation, and erosion and track impacts.

In accessing Tosha Falls via the Prendergast land, there are significant privacy impacts for land owners at Kim Court (where one of the 'trespass trails' passes within 3 metres of their house). The occupants of a worker's dwelling on the Prendergast land, which is accessed off Rosedale Place, are also heavily impacted. Trespassers often walk down their driveway and past their house to access the falls, showing no concern for privacy or private property.

All parties suggested that fencing and signage were key issues that needed to be addressed. In particular, the Council /private land interface at key trespass locations.

## **Johnstons Road and other Access Options**

Both the Mitchell and Prendergast families support access to Tosha Falls via Johnstons Road and have no problem in principle with people using the falls for recreation.

The Prendergasts would also support an access from Lumley Park via a walking trail within 20 metres of the bed of Maguires Creek. The Prendergasts have also previously offered to sell land they own to Council to provide a corridor between the Alstonville urban area and Tosha Falls.

The Kim Court land owner does not support an access from Johnstons Road exclusively as it is unlikely to stop the trespass by young people that cannot drive to Johnstons Road. They support an access from Lumley Park, in addition to Johnstons Road. They do not support an access from Kim Court.

Recently there has been a vehicle accessing the falls by cutting the fence on Johnstons Road. They have also used a mattress to float on in the swimming hole and this has been left behind.

## **Tracks and Other Infrastructure**

At the termination of Johnstons Road, there is currently a wire fence that is signposted "Sewage Treatment Works – Private Property - No Entry Permitted". Despite this, there is a gap in the fence that clearly allows entry via a mown area beside the treatment ponds. There is no formed track to follow and it appears that Council does not want the public to reach Tosha Falls via its property. Subsequently, there is no current legal access to Tosha Falls as all surrounding land is either private or Council land marked "no entry".

There is no infrastructure at Tosha Falls other than a further sign warning people of the dangers of the locality.

Some of the neighbours do not support increased levels of infrastructure that they consider would increase patronage and make it more attractive to tour groups and free campers.

## **Environmental Restoration**

The rehabilitation of the Council riparian land is supported by neighbouring land owners. In particular, there is a stark contrast between the extensive rainforest regeneration undertaken by the neighbouring property and the weed dominated Council land.

## **Water Quality**

It is noted that streets such as Rosedale Place and Hillburn Place terminate without stormwater detention. This water flows onto private property and then into Maguires

Creek where a significant amount of Alstonville stormwater ends up and much of it has minimal treatment before reaching Tosha Falls.

Despite the origins of the water, some of the neighbouring families and many others have swum in Maguires Creek regularly with little evidence of sickness related to water quality (ear aches, etc). Anecdotally, it still contains Australian Bass, Freshwater Mullet and Herring as well as eels, turtles and platypus.

## **Rubbish and Toilets**

All neighbours, including Council STP workers, pick up rubbish left behind on tracks, Johnstons Road and at Tosha Falls. This action keeps it under control so it could be worse. There are no bins at Johnstons Road or near the falls. There are mixed feelings about whether they are required.

There are toilets at Lumley Park, so why are they needed closer to the falls? The Mitchell family does not support them because the general stay at the falls is short. Most people come for a look or a swim and then go. Some kids stay a bit longer.

The STP staff advised that a toilet could be built and connected direct to the STP at the Johnston Road entrance to the site, however they questioned whether visitor numbers and length of stay would warrant a toilet. They suggested a bin at the Johnston Road site entrance might be warranted as a trial.

## **Cliff Jumping**

The locals have jumped off the rocks at the falls for more than 40 years and there is no history of injury during that time. The drop is only about 3 metres and the water at the base of the jump is quite deep. Anecdotally, it is about 2 metres deep. They remove rubbish and tree branches from the water when they see it. Some time ago, they asked Council to remove a large limb that had floated down the creek and over the falls, and the STP workers did this in the interest of public safety.

## **Safety and Risk**

Slip and trip type injuries are possible, both when accessing the site and getting in and out of the water. If dogs are brought to the falls, this could be a risk to other users and wildlife. Snakes are an issue in hot weather.

## **Other Issues**

There was criticism of the public survey, which was run using SurveyMonkey. Both suggested the survey was not well thought through and would not reach the young people that trespass to gain access to the Tosha Falls. It would not generate reliable information.

# Tosha Falls – Survey Summary

## Introduction

A survey was collected from the public through January and February 2017, with the purpose of gaining an idea of the range of people that use Tosha Falls, the way in which they use it and the community's values in regard to the falls. It is important to note that the results collected in this survey represent a snapshot in time and are not statistically accurate due to sample size and methodology. Filling out the survey did not require names or other identification.

The survey asked nine (9) questions as follows:

1. *What is your postcode at your regular place of residence? (or country of residence if from overseas)?*
2. *How often do you visit Tosha Falls?*
  - a. *Less than five times per year*
  - b. *Between five and ten times per year*
  - c. *More than ten times per year*
3. *When you visit Tosha Falls who do you travel with?*
  - a. *Family*
  - b. *Friends*
  - c. *Children*
  - d. *On my own*
  - e. *A tour group*
4. *Do you access Tosha Falls via Johnstons Road?*
  - a. *Yes*
  - b. *No*
5. *If not, how do you get to Tosha Falls?*
6. *When you visit Tosha Falls do you do any of the following?*
  - a. *Swim*
  - b. *Jump off the rocks*
  - c. *Picnic*
  - d. *Other (please specify)*
7. *What do you enjoy most about Tosha Falls?*
8. *What changes, facilities or infrastructure (if any) would most improve Tosha Falls?*
  - a. *A toilet*
  - b. *More parking*
  - c. *A better walking trail*
  - d. *Other (please specify)*
9. *Do you want to make any other comments about Tosha Falls?*

## Collection Methods:

Two methods were used to collect survey information:

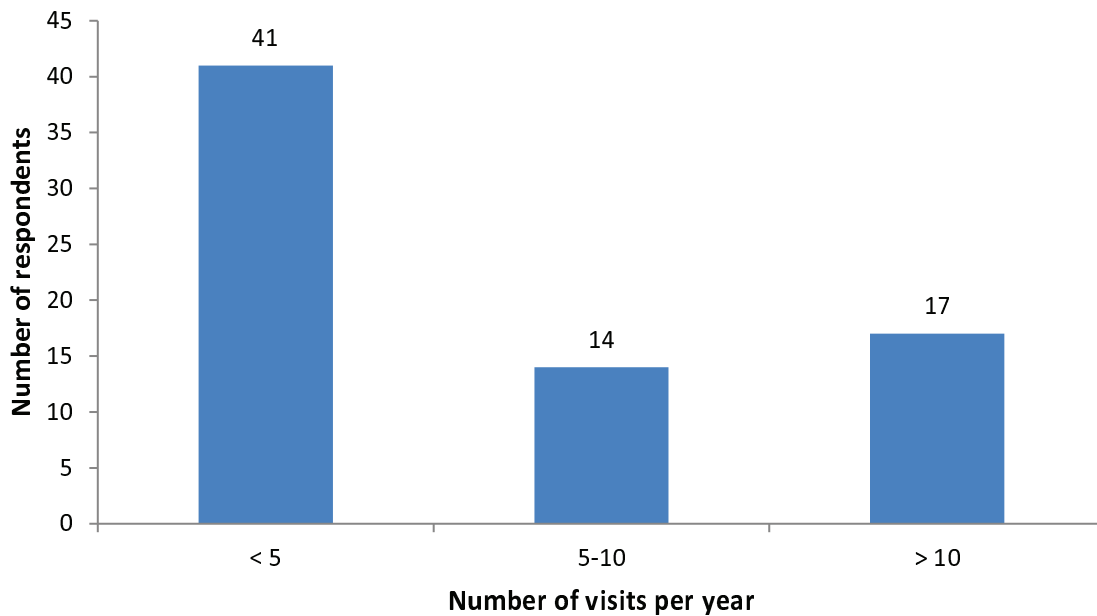
- The survey could be accessed online on SurveyMonkey from 1 January 2017 to 10 February 2017 using the following link:  
<https://www.surveymonkey.com/r/MDR5V9M>
- The public were made aware of the survey through Council's website. A press release was issued by Council on 9 January 2017, and it was subsequently run in *The Northern Star* and on Channel 7 and Channel 9 local TV news.
- On 21 January 2017 from 10 am to 2 pm, surveys were collected on-site. Users of the falls were approached to answer the survey questions.

## Summary of Results

Number of responses collected	
Online	65
On-site	7
<b>Total responses collected</b>	<b>72</b>

Respondents' place of residence	
Place of residence	Number of respondents
2477 – Alstonville area	41
2478 – Ballina/Lennox Head area	9
4209, 4212, 4216, 4217, 4218, 4220, 4227 – Gold Coast area, QLD	9 (7 of the 9 responses were submitted from the same IP address, one after another)
2480 – Lismore area	4
2481 – Byron Bay area	2
Netherlands	2
2488 – Cabarita area	1
4680 – Gladstone area, QLD	1
Melbourne	1
Sweden	1

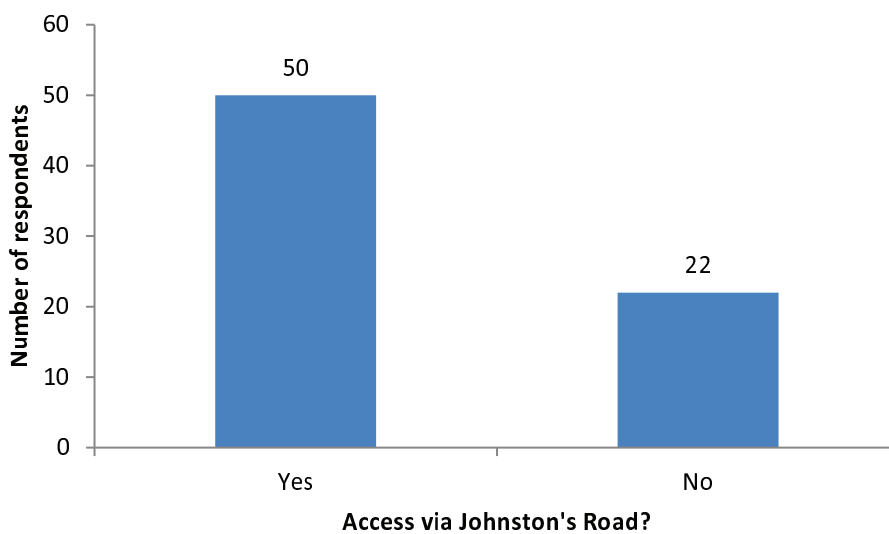
### Number of visits per year by respondents



### Who do respondents visit Tosha Falls with?

- 51 of 72 respondents visit with their **family**
- 33 of 72 respondents visit with **friends**
- 20 of 72 respondents visit **with children**
- 17 of 72 respondents visit **on their own**
- 5 of 72 respondents visited with a **tour group**

### Do respondents access Tosha Falls via Johnston's Road?



## Access to Tosha Falls by respondents that do not access it via Johnston's Road?

Access via	Number of respondents
Streets of Alstonville, then private property	8
Prendergast property	1
Mitchell's farm	2
Hole in the fence of someone's Macadamia farm	1
Council parkland off Tanamera Drv	1
Reserve off Fairfield Estate	1
Family farm	2
Private property	3
Friend's property	1
Have never accessed it	1
Not sure – haven't been for years	1
<b>TOTAL NUMBER OF RESPONDENTS</b>	<b>22</b>

### Assumptions:

Of the 22 respondents above that do not access the falls via Johnstons Road, it is likely:

- 17 respondents trespass onto private property to access the falls:
  - 8 via streets of Alstonville, then private property
  - 1 via Prendergast property
  - 2 via Mitchell's farm
  - 1 via hole in the fence of someone's Macadamia farm
  - 1 via Council parkland off Tanamera Drive (this route then requires crossing through private property to get to the falls)
  - 1 via reserve off Fairfield Estate (this route then requires crossing through private property to get to the falls)
  - 3 via private property
- 11 respondents access the falls via suburban streets of Alstonville, before walking through private property which adjoins the falls:
  - 8 via streets of Alstonville, then private property
  - 1 via Prendergast property
  - 1 via Council parkland off Tanamera Drive (this route then requires crossing through private property to get to the falls)
  - 1 via reserve off Fairfield Estate (this route then requires crossing through private property to get to the falls)
- 3 respondents access the falls via Pearces Creek Road, before walking through the Mitchell's Macadamia farm. Pearces Creek Road is the only public access point to Mitchell's farm:
  - 2 via Mitchell's farm
  - 1 via hole in the fence of someone's Macadamia farm (the only Macadamia farm that adjoins Tosha Falls is Mitchell's farm)

- 3 respondents access the falls through adjoining private property that either they themselves own or a friend owns:
  - 2 via family farm
  - 1 via friend's property
  
- 2 of the respondents have noted that they access the falls through a Council reserve or parkland, and may be under the impression that they are walking solely through Council land to access Tosha Falls. These routes would require trespassing onto private property at some point to access the falls:
  - 1 via Council parkland off Tanamera Drive
  - 1 via reserve off Fairfield Estate

### Activities respondents engaged in at Tosha Falls

Activity	Number of respondents
Bushwalking along the creek	3
Fauna watching	1
Fishing	1
Jumping off the rocks	43
Paddling around in creek	1
Photography	2
Picking up rubbish	1
Picnic	26
Sightseeing	2
Smoking	1
Swimming	61
Walking the dog	2

### Aspects of Tosha Falls that respondents most enjoyed

Ability to jump off the top of a waterfall into a swimming hole
Fun spot to go to
Bushwalking around the falls
Natural beauty/natural setting of the falls and surrounds
Natural asset
The rainforest
Watching the native animals
Feeling like you are in the wilderness
It's unspoilt and untouched/clean environment
The lack of infrastructure
The waterfall itself
Great spot to swim in
Cool freshwater
Close proximity to Alstonville
Close proximity to respondents' homes
Peacefulness/serenity/quietness
Feeling of seclusion and uncrowdedness

### Aspects of Tosha Falls that respondents most enjoyed

Less crowded than other local waterfalls
Easy walking access to the falls
The grassy path from Johnstons Road to the falls
A lovely walk to get to the falls from Johnstons Road
Unique spot
Special locals' spot
Safe spot for the whole family

### Changes that could be made to Tosha Falls

Improvement	Number of respondents
Better walking trail (from Johnstons Road)	14
Better walking trail (from streets in the residential areas of Alstonville)	9
Better walking trail (Pearces Creek Road to Johnstons Road)	1
Construct additional walking trails to the rainforest remnant along Maguires Creek and make more of a bushwalking experience	
Environmental restoration	11
More parking at Johnstons Road	11
Toilet	20
Bins/rubbish management	4
Café/kiosk	1
No improvements needed – leave it as it is	23
Do not install a toilet	1
Do not allow vehicles to access the bottom of the falls	1
Build steps/ramp into the waterhole	1
Install some fun equipment – slippery slide and ropes to swing from	1
Protect it from tourists	1
Johnstons Road access should be opened officially as the only trail to the falls. All other accesses through private property should be fenced off with prohibition/trespassing signage erected and a publicity campaign to make this known	1

### Other comments

#### No changes

- Leave it as it is. No changes are needed. The community have maintained it well all of these years.
- Adding any infrastructure would destroy the natural ambience of the falls and the feeling of being in a relatively untouched spot. It is the natural, serene setting that makes this place special.
- Don't add any infrastructure. It would bring too many people to a spot that has been relatively secluded for years.
- No toilets are needed – over the 40 years I have been visiting the falls, I've never seen excrement.

#### Visitors and numbers

- Don't promote Tosha Falls – too many people coming to it will wreck it. Keep it as a special spot for locals.
- Protect the falls as a spot for locals.
- No backpackers.
- As a teacher, I used to take groups of Alstonville High students here.

<b>Maintenance and improvements</b>
It's a regional asset which needs to be maintained by Council.
Only the local neighbours clean up the rubbish.
The only thing needed here are bins.
Formalised parking at Lumley Park and Johnstons Road.
This beautiful spot needs to be looked after.
Proper maintenance and planning from Council is needed as many thousands visit here already.
<b>Natural environment and habitat</b>
Preserve its natural ambience and as a natural spot.
Habitat should be protected and regenerated – platypus, eels, turtles and native fish all seen here.
Animals would disappear with more people accessing the spot.
Weed control and revegetation are needed around the creek and swimming hole.
<b>Ambience and feel</b>
The grassed path from Johnstons Road adds to the ambience, part of what makes it special.
The quiet surrounds and the small number of people that visit makes it special.
<b>Behaviour</b>
Kids are always trespassing through private property to get to the falls, and are rude and threatening.
Some people leave lots of rubbish.
<b>Access</b>
Improve access from Johnstons Road.
Construct a track along the creek from Pearces Creek Road.
Don't restrict access to the public, and make it more accessible. Shame to see a great natural asset so close to Alstonville be legally inaccessible.
Improve access to the falls. This is the best tourist attraction of Alstonville. Many use it for swimming and youth always access it.
Don't prevent access because of risk – users are responsible for their own actions, not Council.
Car access needs to be prohibited – I have seen 3 cars parked at the bottom of the falls.
A nature trail for bushwalking would be great around this spot.
Better access from Alstonville is needed – people will not stop accessing it this way, even through private property.
Its close proximity to Alstonville makes it unique and special.
<b>Other</b>
It's part of my daily routine to walk and swim here when I visit family in Alstonville.
Survey is flawed as people that trespass on private property to get to the falls are unlikely to answer questions regarding access for fear of incriminating themselves.



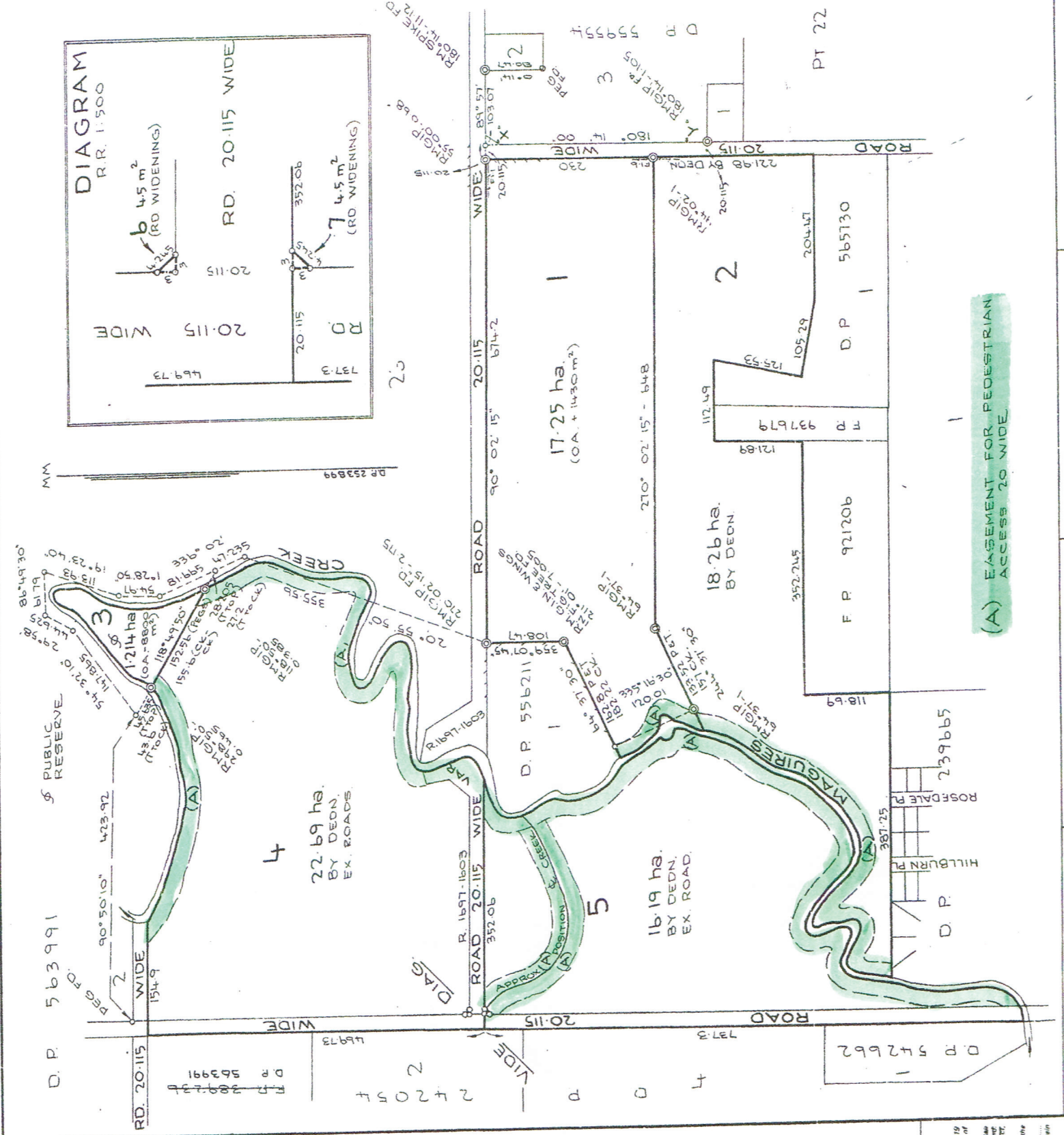
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## **APPENDIX D**

**Pedestrian easements on DP 253899  
near Tosha Falls**

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\* INSTRUMENT FILED AS Q101B13



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## **APPENDIX E**

### **Maguires Creek water quality data summary**

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# Water Quality Samples Summary Report

**Description:** Maguires Creek Environmental Monitoring

**Location Name:** Alstonville

**Location Address:** Maguires Creek

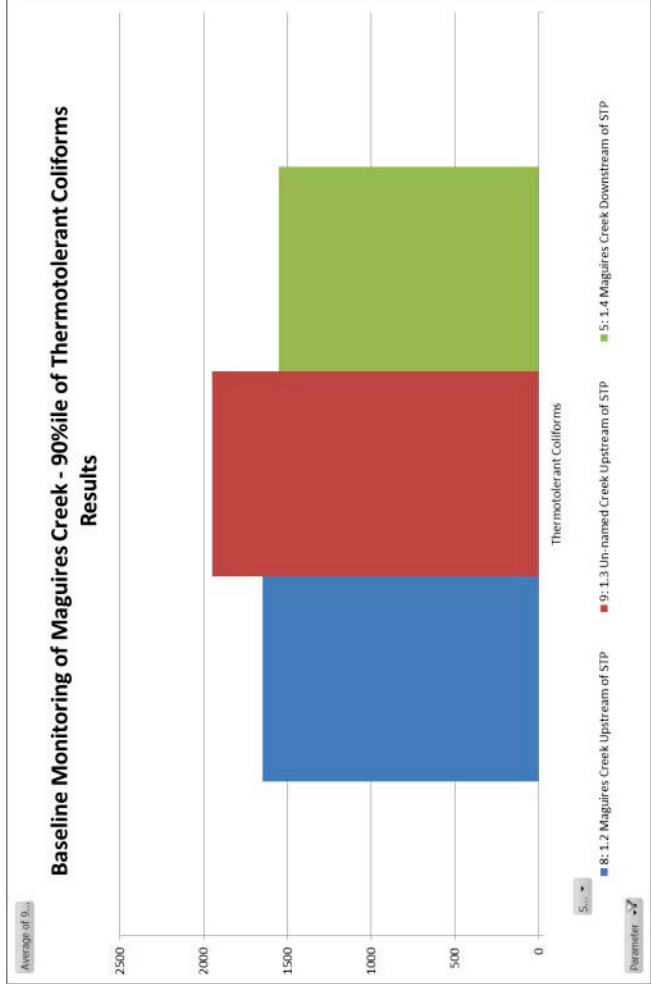
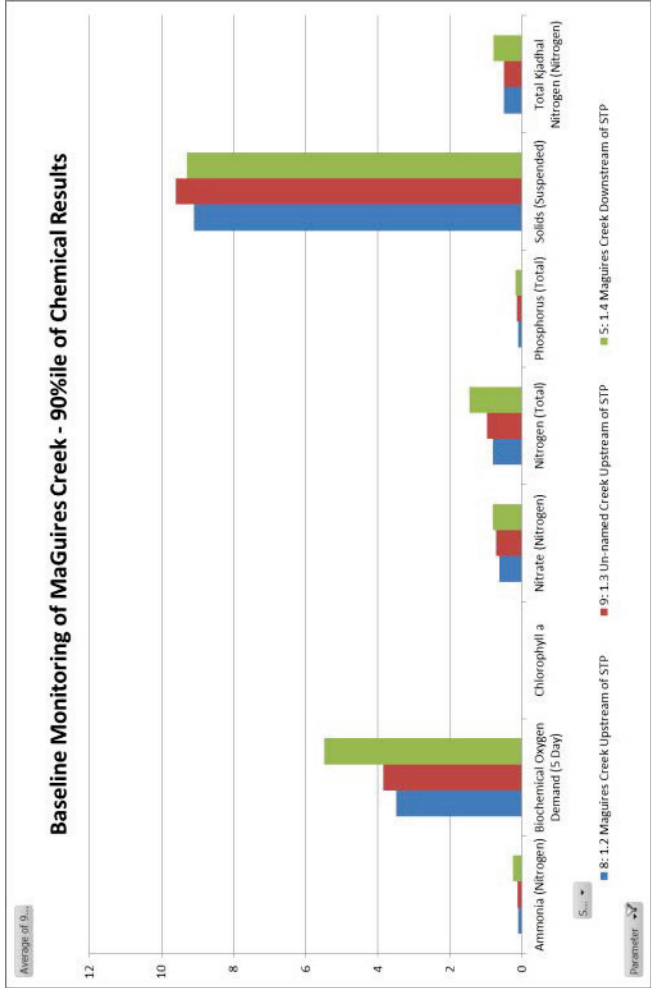
**Activity:** Environmental Monitoring

**Period:** Previous 5 Years

**Date Range From:** 01/01/2012 **Date Range To:** 01/01/2017

**Notes;**

- that although the report range covers the previous 5 years, the data is generally from 2012-2014 and not continuous for five years. Refer to individual trend graphs for data ranges.
- Data is provided as-is without review or interpretation. Reliance should not be made on this data without a review of individual analysis results and sampling procedures



Water Quality Samples Summary Report - Maguires Creek Environmental Monitoring 2012-2014  
**Summary Data**

17/6033

SITE DETAILS			RESULT					
Site	Parameter	Units	count	min	mean	50%	90%	max
1.2 Maguires Creek Upstream of STP	Ammonia (Nitrogen)	milligrams per litre	38	0.0025	0.058	0.035	0.1058	0.401
1.2 Maguires Creek Upstream of STP	Biochemical Oxygen Demand (5 Day)	milligrams per litre	38	1	1.998	1	3.489	14.29
1.2 Maguires Creek Upstream of STP	Chlorophyll a	milligrams per litre	38	0.0005	0.004	0.001	0.0045924	0.067
1.2 Maguires Creek Upstream of STP	Nitrate (Nitrogen)	milligrams per litre	38	0.0025	0.470	0.469	0.6245	0.756
1.2 Maguires Creek Upstream of STP	Nitrogen (Total)	milligrams per litre	38	0.4	0.649	0.633	0.813	1.682
1.2 Maguires Creek Upstream of STP	Phosphorus (Total)	milligrams per litre	38	0.017	0.065	0.044	0.1163	0.351
1.2 Maguires Creek Upstream of STP	Solids (Suspended)	milligrams per litre	38	1	4.045	2.5	9.1	21
1.2 Maguires Creek Upstream of STP	Thermotolerant Coliforms	per 100 millilitres	36	30	971.167	240	1650	15000
1.2 Maguires Creek Upstream of STP	Total Kjadhaf Nitrogen (Nitrogen)	milligrams per litre	37	0.025	0.208	0.148	0.5	1.02
1.3 Un-named Creek Upstream of STP	Ammonia (Nitrogen)	milligrams per litre	38	0.0025	0.069	0.055	0.1181	0.559
1.3 Un-named Creek Upstream of STP	Biochemical Oxygen Demand (5 Day)	milligrams per litre	38	1	2.034	1	3.843	14.15
1.3 Un-named Creek Upstream of STP	Chlorophyll a	milligrams per litre	38	0.0005	0.004	0.002405	0.00534	0.0214
1.3 Un-named Creek Upstream of STP	Nitrate (Nitrogen)	milligrams per litre	38	0.01	0.409	0.363	0.7167	0.884
1.3 Un-named Creek Upstream of STP	Nitrogen (Total)	milligrams per litre	38	0.219	0.591	0.5325	0.9701	1.149
1.3 Un-named Creek Upstream of STP	Phosphorus (Total)	milligrams per litre	38	0.018	0.071	0.045	0.1455	0.358
1.3 Un-named Creek Upstream of STP	Solids (Suspended)	milligrams per litre	38	1	5.053	3.5	9.6	28
1.3 Un-named Creek Upstream of STP	Thermotolerant Coliforms	per 100 millilitres	36	32	1668.667	470	1950	25000
1.3 Un-named Creek Upstream of STP	Total Kjadhaf Nitrogen (Nitrogen)	milligrams per litre	37	0.025	0.333	0.2	0.5	5.368
1.4 Maguires Creek Downstream of STP	Ammonia (Nitrogen)	milligrams per litre	38	0.023	0.156	0.09	0.2518	0.89
1.4 Maguires Creek Downstream of STP	Biochemical Oxygen Demand (5 Day)	milligrams per litre	38	1	2.261	1	5.481	13.76
1.4 Maguires Creek Downstream of STP	Chlorophyll a	milligrams per litre	38	0.0005	0.009	0.00356	0.021627	0.06141
1.4 Maguires Creek Downstream of STP	Nitrate (Nitrogen)	milligrams per litre	38	0.179	0.492	0.448	0.8066	1.077
1.4 Maguires Creek Downstream of STP	Nitrogen (Total)	milligrams per litre	38	0.308	1.105	0.811	1.4587	8.294
1.4 Maguires Creek Downstream of STP	Phosphorus (Total)	milligrams per litre	38	0.026	0.126	0.0715	0.1886	0.862
1.4 Maguires Creek Downstream of STP	Solids (Suspended)	milligrams per litre	38	1	5.039	4	9.3	20
1.4 Maguires Creek Downstream of STP	Thermotolerant Coliforms	per 100 millilitres	36	48	1265.333	350	1550	15000
1.4 Maguires Creek Downstream of STP	Total Kjadhaf Nitrogen (Nitrogen)	milligrams per litre	37	0.025	0.431	0.39	0.792	2



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# APPENDIX F

## Site photographs and infrastructure examples

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## SITE PHOTOGRAPHS: Access Points



Figure 1: Access point on Johnstons Road is on fairly flat ground. Track to be marked



Figure 2: Banjo Place trespass access point

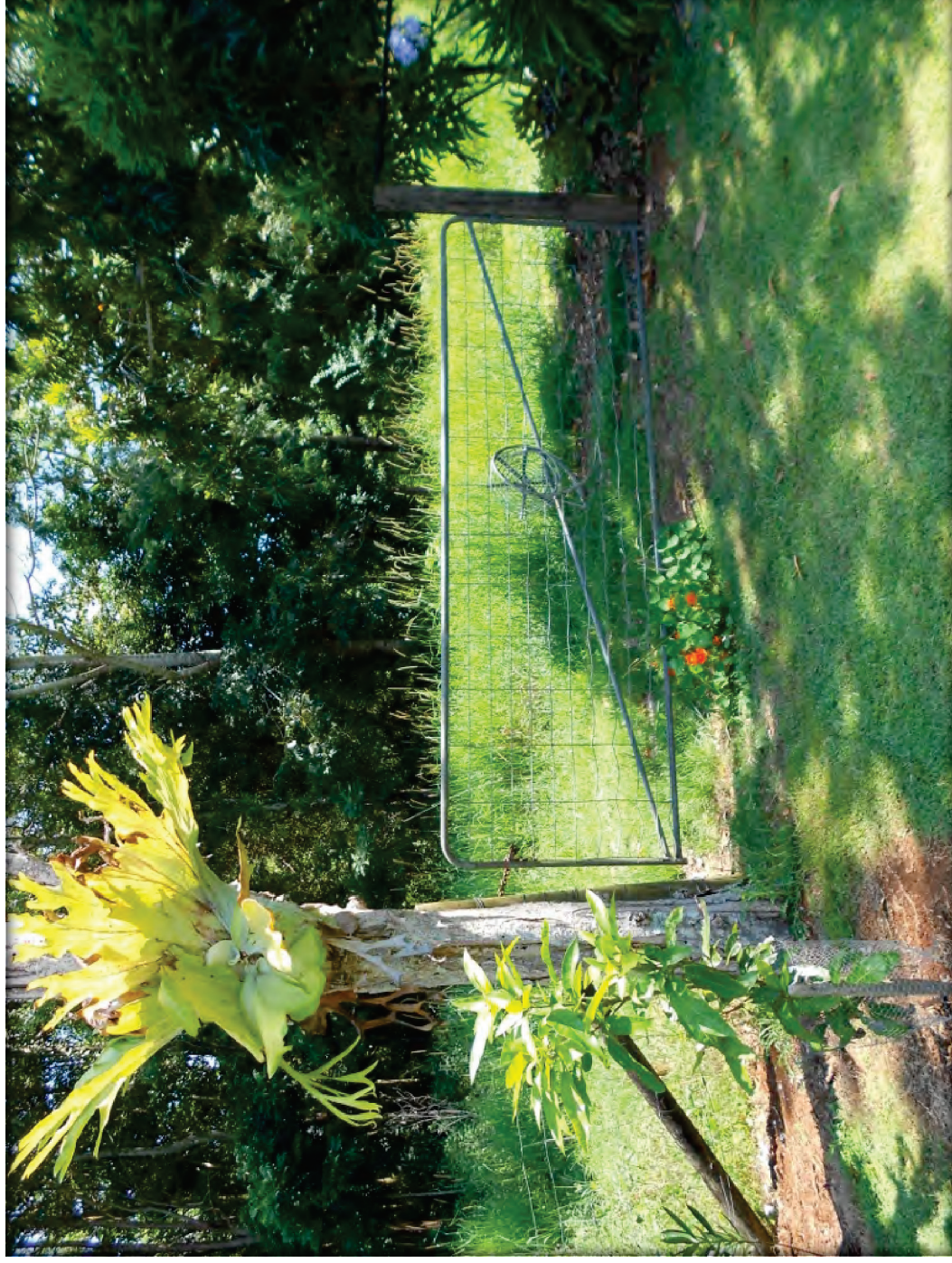


Figure 3: Hillburn Place trespass access point



Figure 4: Kim Court trespass access point (at left)



Figure 5: Rosedale Place trespass access point



Figure 6: Tanamera Reserve trespass access point

## SITE PHOTOGRAPHS



Figure 7: Bin to be located at end of Johnstons Road as a trial



Figure 8: Parking at end of Johnstons Road to be signposted



Figure 9: Point at which Maguires Creek crosses Pearces Creek Road near Lumley Park



Figure 10: Riparian land around the falls and Maguires Creek to be restored as rainforest



Figure 11: Small grassed area near falls to be retained for picnics



Figure 12: Track behind STP to be marked but kept as mown grass



Figure 13: Track markers to be used to get visitors to the falls



Figure 14: Vandalised fencing at Kim Court to be replaced

**INFRASTRUCTURE EXAMPLES**



Figure 15: Standard sign to also be located at Johnstons Road with additional warnings and swimming discouraged



Figure 16: Basic trail marker suitable for Tosha access from Johnstons Road to the falls



Figure 17: Rock bollards to prohibit vehicles at Johnstons Road



Figure 18: Security mesh fencing with barbed wire to deter trespass



Figure 19: Sign that could be used to denote private land in a number of locations