



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr G Bagnall

**Councillors:** P Youngblutt (Deputy Mayor)  
M Armstrong  
C Byrne  
B Longland  
K Milne  
W Polglase

# Minutes

## **Planning Committee Meeting Thursday 6 November 2014**

held at Murwillumbah Cultural and Civic Centre  
commencing at 5.00pm

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 79C**  
**79C Evaluation**

(1) Matters for consideration-general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
- (iii) any development control plan, and
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979 ),

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

**Note:** See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

The consent authority is not required to take into consideration the likely impact of the development on biodiversity values if:

- (a) the development is to be carried out on biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995 ), or
- (b) a biobanking statement has been issued in respect of the development under Part 7A of the Threatened Species Conservation Act 1995 .

(2) Compliance with non-discretionary development standards-development other than complying development If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

- (a) is not entitled to take those standards into further consideration in determining the development application, and
- (b) must not refuse the application on the ground that the development does not comply with those standards, and
- (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

and the discretion of the consent authority under this section and section 80 is limited accordingly.

- (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:
  - (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 80 is not limited as referred to in that subsection, and
  - (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

**Note:** The application of non-discretionary development standards to complying development is dealt with in section 85A (3) and (4).

- (4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.
- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).
- (6) Definitions In this section:
  - (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
  - (b) "non-discretionary development standards" means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

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The Meeting commenced at 5.01pm.

### **IN ATTENDANCE**

Cr G Bagnall (Mayor), Cr P Youngblutt (Deputy Mayor), Cr M Armstrong, Cr C Byrne (attended at 5.44pm), Cr B Longland, Cr K Milne, and Cr W Polglase.

Also present were Mr Troy Green (General Manager), Mr Neil Baldwin (Acting Director Corporate Services), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Mr Shane Davidson (Executive Officer) and Ms Ann Mesic (Minutes Secretary).

Attendee Cr C Byrne was not present at the commencement of the meeting 05:01 PM.

### **ABORIGINAL STATEMENT**

The Mayor acknowledged the Bundjalung Aboriginal Nation with the following statement:

*"We wish to recognise the generations of the local Aboriginal people of the Bundjalung Nation who have lived in and derived their physical and spiritual needs from the forests, rivers, lakes and streams of this beautiful valley over many thousands of years as the traditional owners and custodians of these lands."*

### **PRAYER**

The meeting opened with a Prayer read by the Mayor.

### **APOLOGIES**

Attendee Cr C Byrne has informed the General Manager that her absence is caused by work commitments.

### **P 171**

**Cr K Milne**  
**Cr P Youngblutt**

**RESOLVED** that the apology of Cr Byrne be accepted and the necessary leave of absence be granted.

The Motion was **Carried**

**FOR VOTE - Unanimous**

### **DISCLOSURE OF INTEREST**

Cr P Youngblutt declared a Non-Pecuniary, Non-Significant conflict of interest in Item 6 due to a relative having interest in property within the area. Cr P Youngblutt will manage the conflict by leaving the Chamber and taking no part in the discussion or voting.

**ITEMS TO BE MOVED FROM ORDINARY TO CONFIDENTIAL - CONFIDENTIAL TO ORDINARY**

**P 172**

**Cr G Bagnall  
Cr B Longland**

**RESOLVED** that Item 4 [PR-PC] Unauthorised Earthworks and Pollution Events at Lots 113, 124, 127-129, 136 and 138 DP 755724 Tyalgum Road, Tyalgum from Ordinary Agenda be considered in Confidential session due to its Confidential Nature in accordance with the Local Government Act 1993 Clause 10(A)(2):

*(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*

The Motion was **Carried**

**FOR VOTE - Unanimous  
ABSENT. DID NOT VOTE - Cr C Byrne**

**SCHEDULE OF OUTSTANDING RESOLUTIONS**

**1 [SOR-PC] Schedule of Outstanding Resolutions - Planning Committee**

That the Schedule of Outstanding Resolutions was received and noted.

**REPORTS THROUGH THE GENERAL MANAGER**

Nil.

**REPORTS FROM THE DIRECTOR PLANNING AND REGULATION**

**2 [PR-PC] Development Application DA14/0373 for a Detached Dual Occupancy and Garage Over Three Stages at Lot 2 DP 582784; No. 7 Mitchell Street Uki**

**P 173**

**Cr B Longland  
Cr P Youngblutt**

**RECOMMENDED** that Development Application DA14/0373 for a detached dual occupancy and garage over three stages at Lot 2 DP 582784; No. 7 Mitchell Street, Uki be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans listed in the below table, as numbered in red, except where varied by the conditions of this consent.

Drawing No.	Issue	Sheet No.	Prepared by	date
843/14	-	1 of 6	Trevor White - building design	8/5/2014
843/14	-	2 of 6	Trevor White - building design	8/5/2014
843/14 <sup>A</sup>	A	3 of 6	Trevor White - building design	2/9/2014
843/14	-	4 of 6	Trevor White - building design	8/5/2014
843/14	O	5 of 6	Trevor White - building design	28/8/2014
843/14	O	6 of 6	Trevor White - building design	28/8/2014

[GEN0005]

2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
 

[GEN0115]
3. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.
 

[GEN0300]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. A staged landscape plan, consistent the staging of the development is to be submitted (at 1:100 to 1:1000 scale) and approved by Council's General Manager or delegate prior to the issue of a Construction Certificate. The landscape plan shall include:
  - a) A site showing the existing features, including north point, access driveways and an outline of proposed buildings indicating doors and windows. All trees marked as 'retain' in Appendix 1 are to be located to scale on the map, marked as to be retained and identified by the following features:
    - botanical and common names,
    - height and girth,
    - habitat features,
    - radial distance of canopy and calculated tree protection zone, in accordance with Australian Standard AS 4970-2009 Protection of trees on development sites.
  - b) A detailed plant schedule indicating the location of all proposed planting and any existing vegetation to be retained on the site. The plan is to include a detailed plant schedule which shall include:
    - species listed by botanical and common names, where the proportion of total plant numbers meets a minimum 80% local native plant composition.
    - noxious or environmental weed species shall not be proposed.

- specific location, planting densities and quantities of each species; pot sizes; the estimated sizes of the plants at maturity, and proposed staking methods, if applicable.

c) While other plants may be considered, a selection of the recommended plants identified in Appendix 1 should be used in the plan.

5. In reference to Appendix 1 (to be read in conjunction with *dwg No. 834/16 sheet 5 of 6 prepared by Trevor White building designs dated 28<sup>th</sup> August 2014*) the scope of vegetation works shall be limited to trees identified as 'remove' or 'remove if desired'.

Appendix 1. List of tree species to be retained/removed (to be read in conjunction with *dwg No. 834/16 sheet 5 of 6 prepared by Trevor White building designs dated 28<sup>th</sup> August 2014*).

Botanical name	Common name	Tree #	Council decision
<i>Flindersia australis</i>	teak	1	retain
	<i>dead tree</i>	2	remove
<i>Eucalyptus pilularis</i>	blackbutt	3	remove
<i>Corymbia torelliana</i>	cadagahi	4	remove
<i>Corymbia citriodora</i>	lemon scented gum	5	retain
<i>Stenocarpus sinuatus</i>	wheel of fire	6	retain
<i>Psidium cattleianum</i>	strawberry guava	7	remove
<i>Family Melastomataceae</i>	Tibouchina	8	remove if desired
<i>Spathodea campanulata</i>	African tulip tree	9	remove
<i>Syzygium crebrinerve</i>	purple cherry	10	retain
<i>Ceiba speciosa</i>	silk floss tree	11	remove if desired
<i>Koelreuteria paniculata</i>	golden rain tree	12	remove
<i>Brachychiton australis</i>	broad leaved bottle tree	13	retain
<i>Caesalpinia ferrea</i>	leopard tree	14	remove if desired
<i>Jagera pseudorhus</i>	foambark	15-20	remove
<i>Jagera pseudorhus</i>	foambark	21	retain

Appendix 2. Recommended plant list

Species name	Common name	Height - typical upper (m)
<i>Archontophoenix cunninghamiana</i>	bangalow palm	5-8
<i>Adiantum hispidulum</i>	rough maidenhair	<0.5
<i>Alpinia caerulea</i>	native ginger	1-2
<i>Atractocarpus chartaceus</i>	thin-leaved gardenia	0.5-1
<i>Breynia oblongifolia</i>	coffee bush	1-2
<i>Callistemon salignus</i>	willow bottlebrush	5-8
<i>Callistemon viminalis</i>	weeping bottlebrush	5-8
<i>Carex appressa</i>	tall sedge	0.5-1
<i>Commelina cyanea</i>	native wandering jew	2-5
<i>Cordyline congesta</i>	tooth-leaved palm lily	1-2
<i>Cordyline petiolaris</i>	broad-leaved palm lily	0.5-1
<i>Cordyline rubra</i>	palm-lily	<0.5
<i>Cupaniopsis anacardioides</i>	tuckeroo	8-20
<i>Dianella caerulea</i>	blue flax-lily	2-5
<i>Doodia aspera</i>	prickly rasp fern	2-5
<i>Duboisia myoporoides</i>	corkwood	5-8
<i>Hovea acutifolia</i>	pointed-leaved hovea	2-5
<i>Eupomatia laurina</i>	bolwarra	5-8



<i>Linospadix monostachya</i>	walking-stick palm	<0.5
<i>Lomandra longifolia</i>	spiny-headed mat-rush	<0.5
<i>Macaranga tanarius</i>	blush macaranga	5-8
<i>Melastoma affine</i>	blue tongue	1-2
<i>Ptilidostigma glabrum</i>	plum myrtle	1-2
<i>Pittosporum revolutum</i>	rough fruit pittosporum	0.5-1
<i>Psychotria loniceroides</i>	hairy psychotria	1-2
<i>Syzygium hodgkinsoniae</i>	red lilly pilly	5-8
<i>Viola hederacea</i>	ivy-leaved violet	2-5
<i>Wikstroemia indica</i>	tiebush	1-2

[PCC0585]

6. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

(a) Vehicular access

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following:

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

7. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0945]

8. A construction certificate application for works that involve any of the following:

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for subdivision works, the abovementioned works can be incorporated as part of the construction

certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.

[PCC1145]

9. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a construction certificate.

[PCC1195]

#### PRIOR TO COMMENCEMENT OF WORK

10. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

11. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
- (b) the person having the benefit of the development consent has:
  - (i) appointed a principal certifying authority for the building work, and
  - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (c) the principal certifying authority has, no later than 2 days before the building work commences:
  - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
  - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
  - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
  - (ii) notified the principal certifying authority of any such appointment, and
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

12. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

13. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:

- \* in the name and licence number of the principal contractor, and
- \* the name of the insurer by which the work is insured under Part 6 of that Act,

- (ii) in the case of work to be done by an owner-builder:

- \* the name of the owner-builder, and
- \* if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

14. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 15 persons employed at the site. Each toilet provided must be:

- (a) a standard flushing toilet connected to a public sewer, or  
(b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

15. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and  
(b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

(c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

16. Prior to commencement of building works a stormwater drainage plan is to be submitted to and approved by the Principal Certifying Authority.

[PCW0955]

17. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

[PCW0985]

18. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

19. Prior to the commencement of work erosion and sedimentation control measures are to be installed and operational. Erosion and sedimentation control devices shall be installed in accordance with the publication, "Managing Urban Stormwater - Soil and Construction", prepared by the NSW Department of Housing. All erosion and sedimentation controls shall be maintained throughout the period of construction.

[PCWNS01]

## DURING CONSTRUCTION

20. All proposed works are to be carried out in accordance with the conditions of development consent, approved management plans, approved construction certificate, drawings and specifications.

[DUR0005]

21. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council:

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

22. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.  
[DUR0245]
23. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).  
[DUR0375]
24. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.  
[DUR0395]
25. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.  
[DUR0405]
26. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.  
[DUR0415]
27. Excavation
- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.  
[DUR0425]
28. The finished floor level of the building should finish not less than 225mm above finished ground level.  
[DUR0445]
29. A survey certificate from a Registered Surveyor is to be submitted to the Principal Certifying Authority at garage slab or footing stage, prior to pouring concrete, to confirm that the approved driveway gradients will be achieved.  
[DUR0475]
30. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.  
[DUR0905]
31. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from:
- Noise, water or air pollution.

- Dust during filling operations and also from construction vehicles.
- Material removed from the site by wind.

[DUR1005]

32. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.

[DUR1015]

33. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

34. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

35. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blown from the site.

[DUR2185]

36. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.

[DUR2245]

37. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

38. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

39. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR2505]

40. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

41. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

\* 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and

\* 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

42. Weed control works shall be undertaken across the entire site and will be managed in perpetuity of the dwelling. The Class 4 Noxious weed *Cinnamomum camphora* (camphor laurel) shall be eradicated from the site using appropriate control methods.

43. All tree removal works shall be undertaken by a suitably qualified and experienced local Arborist (minimum qualification being TAFE Certificate III in Arboriculture).

44. All material removed shall be mulched on site or the timber recovered for use as appropriate.

[DURNS01]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

45. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

46. Prior to the issue of an occupation certificate,

(a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and

(b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-

(i) the method of protection; and

(ii) the date of installation of the system; and

(iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and

(iv) the need to maintain and inspect the system on a regular basis.

[POC0235]

47. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

[POC0355]

48. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with. [POC0435]
49. All landscaping work is to be completed in accordance with the approved plans prior to the issue of a final occupation certificate for each stage. [POC0475]
50. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993. [POC0745]
51. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works. [POC1045]

## USE

52. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like. [USE0125]
53. Subdivision of the development, including strata subdivision, is not permitted. [USE1255]

## GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. The recommendations are based on the plan prepared by Trevor White Building Design, titles 'Proposed Dual Occupancy Comprising Two Dwellings & One Garage', numbered 843/14A and dated 2 September 2014 (Amendment A).
2. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
3. Electricity and gas services are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
4. New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3935-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
5. Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall be non-combustible.
6. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bushfire Fire Protection 2006'.



**AMENDMENT**

**P 174**

**Cr K Milne  
Cr G Bagnall**

**PROPOSED** that:

- A. Development Application DA14/0373 for a detached dual occupancy and garage over three stages at Lot 2 DP 582784; No. 7 Mitchell Street, Uki be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans listed in the below table, as numbered in red, except where varied by the conditions of this consent.

Drawing No.	Issue	Sheet No.	Prepared by	date
843/14	-	1 of 6	Trevor White - building design	8/5/2014
843/14	-	2 of 6	Trevor White - building design	8/5/2014
843/14 <sup>A</sup>	A	3 of 6	Trevor White - building design	2/9/2014
843/14	-	4 of 6	Trevor White - building design	8/5/2014
843/14	O	5 of 6	Trevor White - building design	28/8/2014
843/14	O	6 of 6	Trevor White - building design	28/8/2014

[GEN0005]

2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

3. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

4. A staged landscape plan, consistent the staging of the development is to be submitted (at 1:100 to 1:1000 scale) and approved by Council's General Manager or delegate prior to the issue of a Construction Certificate. The landscape plan shall include:

- a) A site showing the existing features, including north point, access driveways and an outline of proposed buildings indicating doors and windows. All trees marked as 'retain' in Appendix 1 are to be located to scale on the map, marked as to be retained and identified by the following features:
- botanical and common names,
  - height and girth,

- habitat features,
  - radial distance of canopy and calculated tree protection zone, in accordance with Australian Standard AS 4970-2009 Protection of trees on development sites.
- b) A detailed plant schedule indicating the location of all proposed planting and any existing vegetation to be retained on the site. The plan is to include a detailed plant schedule which shall include:
- species listed by botanical and common names, where the proportion of total plant numbers meets a minimum 80% local native plant composition.
  - noxious or environmental weed species shall not be proposed.
  - specific location, planting densities and quantities of each species; pot sizes; the estimated sizes of the plants at maturity, and proposed staking methods, if applicable.
- c) While other plants may be considered, a selection of the recommended plants identified in Appendix 1 should be used in the plan.
5. In reference to Appendix 1 (to be read in conjunction with *dwg No. 834/16 sheet 5 of 6 prepared by Trevor White building designs dated 28<sup>th</sup> August 2014*) the scope of vegetation works shall be limited to trees identified as 'remove' or 'remove if desired'.

Appendix 1. List of tree species to be retained/removed (to be read in conjunction with *dwg No. 834/16 sheet 5 of 6 prepared by Trevor White building designs dated 28<sup>th</sup> August 2014*).

Botanical name	Common name	Tree #	Council decision
<i>Flindersia australis</i>	teak	1	retain
	<i>dead tree</i>	2	remove
<i>Eucalyptus pillularis</i>	blackbutt	3	remove
<i>Corymbia torelliana</i>	cadagahi	4	remove
<i>Corymbia citriodora</i>	lemon scented gum	5	retain
<i>Stenocarpus sinuatus</i>	wheel of fire	6	retain
<i>Psidium cattleianum</i>	strawberry guava	7	remove
Family Melastomataceae	Tibouchina	8	remove if desired
<i>Spathodea campanulata</i>	African tulip tree	9	remove
<i>Syzygium crebrinerve</i>	purple cherry	10	retain
<i>Ceiba speciosa</i>	silk floss tree	11	remove if desired
<i>Koelreuteria paniculata</i>	golden rain tree	12	remove
<i>Brachychiton australis</i>	broad leaved bottle tree	13	retain
<i>Caesalpinia ferrea</i>	leopard tree	14	remove if desired
<i>Jagera pseudorhus</i>	foambark	15-20	remove
<i>Jagera pseudorhus</i>	foambark	21	retain

Appendix 2. Recommended plant list

Species name	Common name	Height - typical upper (m)
<i>Archontophoenix cunninghamiana</i>	bangalow palm	5-8
<i>Adiantum hispidulum</i>	rough maidenhair	<0.5
<i>Alpinia caerulea</i>	native ginger	1-2

<i>Atractocarpus chartaceus</i>	thin-leaved gardenia	0.5-1
<i>Breynia oblongifolia</i>	coffee bush	1-2
<i>Callistemon salignus</i>	willow bottlebrush	5-8
<i>Callistemon viminalis</i>	weeping bottlebrush	5-8
<i>Carex appressa</i>	tall sedge	0.5-1
<i>Commelina cyanea</i>	native wandering jew	2-5
<i>Cordyline congesta</i>	tooth-leaved palm lily	1-2
<i>Cordyline petiolaris</i>	broad-leaved palm lily	0.5-1
<i>Cordyline rubra</i>	palm-lily	<0.5
<i>Cupaniopsis anacardioides</i>	tuckeroo	8-20
<i>Dianella caerulea</i>	blue flax-lily	2-5
<i>Doodia aspera</i>	prickly rasp fern	2-5
<i>Duboisia myoporoides</i>	corkwood	5-8
<i>Hovea acutifolia</i>	pointed-leaved hovea	2-5
<i>Eupomatia laurina</i>	bolwarra	5-8
<i>Linospadix monostachya</i>	walking-stick palm	<0.5
<i>Lomandra longifolia</i>	spiny-headed mat-rush	<0.5
<i>Macaranga tanarius</i>	blush macaranga	5-8
<i>Melastoma affine</i>	blue tongue	1-2
<i>Ptilidiostigma glabrum</i>	plum myrtle	1-2
<i>Pittosporum revolutum</i>	rough fruit pittosporum	0.5-1
<i>Psychotria loniceroides</i>	hairy psychotria	1-2
<i>Syzygium hodgkinsoniae</i>	red lilly pilly	5-8
<i>Viola hederacea</i>	ivy-leaved violet	2-5
<i>Wikstroemia indica</i>	tiebush	1-2

[PCC0585]

6. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

(a) Vehicular access

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following:

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

7. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0945]

8. A construction certificate application for works that involve any of the following:

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for subdivision works, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.

[PCC1145]

9. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a construction certificate.

[PCW1195]

#### PRIOR TO COMMENCEMENT OF WORK

10. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

11. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
- (b) the person having the benefit of the development consent has:
  - (i) appointed a principal certifying authority for the building work, and
  - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (c) the principal certifying authority has, no later than 2 days before the building work commences:

- (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
  - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
  - (ii) notified the principal certifying authority of any such appointment, and
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]
12. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.
- [PCW0225]
13. Residential building work:
- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
    - \* in the name and licence number of the principal contractor, and
    - \* the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - \* the name of the owner-builder, and
    - \* if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- [PCW0235]
14. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 15 persons employed at the site. Each toilet provided must be:

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

15. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

16. Prior to commencement of building works a stormwater drainage plan is to be submitted to and approved by the Principal Certifying Authority.

[PCW0955]

17. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

[PCW0985]

18. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

19. Prior to the commencement of work erosion and sedimentation control measures are to be installed and operational. Erosion and sedimentation control devices shall be installed in accordance with the publication, "Managing Urban Stormwater - Soil and Construction", prepared by the NSW Department of

Housing. All erosion and sedimentation controls shall be maintained throughout the period of construction.

[PCWNS01]

#### DURING CONSTRUCTION

20. All proposed works are to be carried out in accordance with the conditions of development consent, approved management plans, approved construction certificate, drawings and specifications.

[DUR0005]

21. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council:

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

22. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.

[DUR0245]

23. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

24. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

25. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

26. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.

[DUR0415]

27. Excavation

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

28. The finished floor level of the building should finish not less than 225mm above finished ground level.

[DUR0445]

29. A survey certificate from a Registered Surveyor is to be submitted to the Principal Certifying Authority at garage slab or footing stage, prior to pouring concrete, to confirm that the approved driveway gradients will be achieved.

[DUR0475]

30. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

31. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from:

- Noise, water or air pollution.
- Dust during filling operations and also from construction vehicles.
- Material removed from the site by wind.

[DUR1005]

32. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.

[DUR1015]

33. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

34. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

35. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blown from the site.

[DUR2185]



36. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed. [DUR2245]
37. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
  - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - (c) external drainage prior to backfilling.
  - (d) completion of work and prior to occupation of the building. [DUR2485]
38. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
  - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500. [DUR2495]
39. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR2505]
40. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR2545]
41. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50°C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR2555]
42. Weed control works shall be undertaken across the entire site and will be managed in perpetuity of the dwelling. The Class 4 Noxious weed *Cinnamomum camphora* (camphor laurel) shall be eradicated from the site using appropriate control methods.
43. All tree removal works shall be undertaken by a suitably qualified and experienced local Arborist (minimum qualification being TAFE Certificate III in Arboriculture).

44. All material removed shall be mulched on site or the timber recovered for use as appropriate.

[DURNS01]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

45. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

46. Prior to the issue of an occupation certificate,

- (a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and
- (b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
  - (i) the method of protection; and
  - (ii) the date of installation of the system; and
  - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
  - (iv) the need to maintain and inspect the system on a regular basis.

[POC0235]

47. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

[POC0355]

48. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

49. All landscaping work is to be completed in accordance with the approved plans prior to the issue of a final occupation certificate for each stage.

[POC0475]

50. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.

[POC0745]

51. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

USE

52. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

53. Subdivision of the development, including strata subdivision, is not permitted.

[USE1255]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. The recommendations are based on the plan prepared by Trevor White Building Design, titles 'Proposed Dual Occupancy Comprising Two Dwellings & One Garage', numbered 843/14A and dated 2 September 2014 (Amendment A).

2. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

3. Electricity and gas services are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

4. New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3935-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

5. Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall be non-combustible.

6. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bushfire Fire Protection 2006'.

B. Council issues a Penalty Infringement Notice for removal of vegetation prior to development.

**FOR VOTE - Cr K Milne**

**AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr M Armstrong, Cr B Longland, Cr G Bagnall**

**ABSENT. DID NOT VOTE - Cr C Byrne**

The Amendment was **Lost**

The Motion was **Carried** (Minute No. P173 refers)

**FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr M Armstrong, Cr B Longland, Cr G Bagnall**

**AGAINST VOTE - Cr K Milne**

**ABSENT. DID NOT VOTE - Cr C Byrne**

**3 [PR-PC] Development Application DA14/0388 for Conversion of Garage to a Study/Lounge and Master Bedroom with Carport within Existing Dual Occupancy at Lot 2 SP 17450 No. 2/68 Oyster Point Road, Banora Point**

**P 175**

**Cr W Polglase  
Cr P Youngblutt**

**RECOMMENDED** that:

- A. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- B. Council continues investigating the additional unauthorised works at Unit 2, 68 Oyster Point Road which fall outside the scope of DA14/0388 (as detailed in this report). Council staff should work with the owner to rectify the works and obtain the approvals necessary to regularise the works.
- C. Council issues the owner of Unit 2 with a Penalty Infringement Notice for the unauthorised works addressed within DA14/0388 (illegal conversion of garage into habitable space).
- D. Development Application DA14/0388 for a conversion of garage to a study/lounge and master bedroom with new car space within existing dual occupancy at Lot 2 SP 17450 No. 2/68 Oyster Point Road, Banora Point be approved subject to the following conditions:

**"DEFERRED COMMENCEMENT"**

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within six months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 95 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

**SCHEDULE "A"**

**Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 95 of the Regulations as amended.**

- A. The owner is to provide additional information in regard to the existing Building Certificate application (BC14/0078) in respect of the conversion of the garage to a study/lounge and master bedroom with carport. The Building Certificate application is to include the following;
  - a) A compliance certificate in respect that cross flow sub-floor ventilation in accordance with Part 3.4.1 Sub-floor Ventilation of the NCC (BCA) 2014 has to be provided to the timber floor of the garage conversion.

- b) A compliance certificate in respect that a termite barrier in accordance with Part 3.1.3 Termite Risk Management of the NCC (BCA) 2014 has been incorporated into the design of the garage conversion.
- c) A compliance certificate in respect that a hard wired smoke detector has been installed outside the bedroom door of the recently constructed bedroom in accordance with Part 3.7.2 Smoke Alarms of the NCC (BCA) 2014.
- d) Structural Engineers certification in respect of the garage conversion and the carport construction inclusive of the floor, post, roof and connection to the existing dwelling.
- e) Evidence that the roller door and storm screens has been removed from the carport.
- f) Details are to be submitted detailing the disposal of roof water drainage from the carport.
- g) Submission of an up to date survey report prepared by a registered surveyor.

It is to be noted that the Building Certificate cannot be issued until such time that a new laundry has been constructed subject to obtaining prior Development Consent and a Construction Certificate, and a Final Occupation Certificate.

- B. The owner is to lodge a Development Application proposing the construction of a new laundry. Additionally such application should also seek approval for all unauthorised works as detailed in this report which fall outside the scope of this DA (where statutorily required). Such application must be accompanied with a Building Code of Australia Compliance/Rectification Report prepared by a qualified Building Certifier.

#### SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

#### GENERAL

- 1. This consent only authorises the:

- Use of the previous garage within Unit 2 to be used as a study/lounge and master bedroom; and
- Revised driveway and use of two new car spaces for use by Unit 2.

The approved development (as detailed above) shall be completed in accordance with the Statement of Environmental Effects and Plan Nos:

- Job No: BGP 131102 Sheet 01 of 08 prepared by B.G.Plans Design and Drafting and dated 20 November 2013;
- Job No: BGP 131102 Sheet 02 of 08 prepared by B.G.Plans Design and Drafting and dated 20 November 2013;

- Job No: BGP 131102 Sheet 03 of 08 prepared by B.G.Plans Design and Drafting and dated 20 November 2013;
- Job No: BGP 131102 Sheet 04 of 08 prepared by B.G.Plans Design and Drafting and dated 20 November 2013;
- Job No: BGP 131102 Sheet 05 of 08 prepared by B.G.Plans Design and Drafting and dated 20 November 2013;
- Driveway Plan dated 21 September 2014;

except where varied by the conditions of this consent.

[GEN0005]

## 2. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Prior to Council issuing Building Certificate BC14/0078 all Section 94 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

- |   |       |
|---|-------|
| (a) Open Space (Casual):<br>0.1667 ET @ \$549 per ET<br>(\$502 base rate + \$47 indexation)<br>S94 Plan No. 5           | \$92  |
| (b) Open Space (Structured):<br>0.1667 ET @ \$629 per ET<br>(\$575 base rate + \$54 indexation)<br>S94 Plan No. 5       | \$105 |
| (c) Shirewide Library Facilities:<br>0.1667 ET @ \$847 per ET<br>(\$792 base rate + \$55 indexation)<br>S94 Plan No. 11 | \$141 |

(d) Bus Shelters: 0.1667 ET @ \$64 per ET (\$60 base rate + \$4 indexation) S94 Plan No. 12	\$11
(e) Eviron Cemetery: 0.1667 ET @ \$124 per ET (\$101 base rate + \$23 indexation) S94 Plan No. 13	\$21
(f) Community Facilities (Tweed Coast - North) 0.1667 ET @ \$1404 per ET (\$1,305.60 base rate + \$98.40 indexation) S94 Plan No. 15	\$234
(g) Extensions to Council Administration Offices & Technical Support Facilities 0.1667 ET @ \$1880.38 per ET (\$1,759.90 base rate + \$120.48 indexation) S94 Plan No. 18	\$313.46
(h) Cycleways: 0.1667 ET @ \$478 per ET (\$447 base rate + \$31 indexation) S94 Plan No. 22	\$80
(i) Regional Open Space (Casual) 0.1667 ET @ \$1103 per ET (\$1,031 base rate + \$72 indexation) S94 Plan No. 26	\$184
(j) Regional Open Space (Structured): 0.1667 ET @ \$3872 per ET (\$3,619 base rate + \$253 indexation) S94 Plan No. 26	\$645

[POC0395/PSC0175] - [GENNS01]

3. Unit 2 is to have two onsite parking spaces in accordance with the approved driveway plan. If the resident of Unit 1 parks in front of the Unit 1 garage Unit 2 is to reverse out of the driveway to exit the property.

[GENNS02]

4. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

The Motion was **Carried**

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr C Byrne**

**4 [PR-PC] Unauthorised Earthworks and Pollution Events at Lots 113, 124, 127-129, 136 and 138 DP 755724 Tyalgum Road, Tyalgum**

This item was dealt with in Confidential Session (Minute No. P172 and PC18 refers)

**5 [PR-PC] Landowner Request for Project Reprioritisation, Wardrop Valley Employment Land Planning Proposal**

**P 176**

**Cr W Polglase**

**Cr P Youngblutt**

**RECOMMENDED** that:

1. Council, in respect of the property known as Lots 4, 5, 6, 7, 8 and 9 of DP 811482, Lot 1 of DP 842157, Lot 1 of DP 1069561 and Part Wardrop Valley Road Reserve, Wardrop Valley Road, Murwillumbah, support the following option (referred to as Option 1 in the report), involving the reprioritisation of the Wardrop Valley Planning Proposal to Priority 1, subject to the following:
  - a) The Landowner is to undertake a market based analysis (study) of the projected demand for employment land (commercial, industry, retail and special uses) to 2021 and 2031, prior to the planning proposal being referred for a Gateway Determination and becoming an LEP amendment; and
  - b) The study is to include an evaluation of current land and floor plate availability, and establishes the land and floor plate requirements for each demand sector. This must include an assessment of the likely spatial demand for each sector within the broader Tweed LGA to clearly establish the location demand requirement for the subject lands over those periods. The analysis must not be solely limited to employment uses and must consider appropriate compatible uses, such as residential, recreation and tourist uses. Ultimately the final study must clearly identify the range of zonings required to achieve the demand and supply scenarios.
2. Council amends the 2014/2015 Work Plan by reprioritising the Urban Agriculture Policy to a Priority 2 project.

**AMENDMENT**

**P 177**

**Cr K Milne**

**Cr M Armstrong**

**PROPOSED** that the 2014/2015 Work Plan be deferred for a workshop to consider the Strategic Planning and Urban Design Unit's project priorities.

The Amendment was **Lost**



**FOR VOTE - Cr K Milne**

**AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr M Armstrong, Cr B Longland, Cr G Bagnall**

**ABSENT. DID NOT VOTE - Cr C Byrne**

The Motion was **Carried** (Minute No. P176 refers)

**FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr M Armstrong, Cr B Longland, Cr G Bagnall**

**AGAINST VOTE - Cr K Milne**

**ABSENT. DID NOT VOTE - Cr C Byrne**

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**6 [PR-PC] Coastal Villages Planning Proposal and Amendments to Tweed Development Control Plan - Section B23 Hastings Point**

**DECLARATION OF INTEREST**

Cr P Youngblutt declared a Non-Pecuniary, Non-Significant conflict of interest in this Item due to a relative having interest in property within the area. Cr P Youngblutt will manage the conflict by leaving the Chamber and taking no part in the discussion or voting.

**P 178**

**Cr B Longland  
Cr M Armstrong**

**RECOMMENDED that:**

1. A Planning Proposal to facilitate the strategic objectives of the Hastings Point and Pottsville Locality Based Development Codes be prepared and submitted to NSW Planning & Environment, requesting a Gateway Determination under Section 56(1) of the Environmental Planning and Assessment Act 1979;
2. Council staff amend the proposed extension to the environmental zones and the size and location of the developable footprint of Lot 156 by increasing the 50 metre buffers to 75 metre buffers and adjusting the footprint layout (roads, houses, stormwater treatment/filtration area and bushfire protection zone) accordingly where referred to in the text and diagrams of the draft Development Control Plan B23, Hastings Point and the Planning Proposal for submission to NSW Planning & Environment referred to in paragraph 1 above.
3. On receiving an affirmative Determination Notice, the Planning Proposal be finalised and exhibited in accordance with the Determination or where there is no condition, for a period not less than 30 days;
4. The Minister for Planning and Infrastructure or his Delegate be advised that Tweed Council is not seeking plan making delegations for this planning proposal;
5. The public exhibition of draft Tweed Development Control Plan, Section B23 – Hastings Point Locality Based Development Code, be undertaken for a minimum

period of 30 days, in accordance with section 74E of the Environmental Planning Assessment Act 1979; and

6. Following public exhibition a further report is to be submitted to Council detailing the content and response to submissions received.

The Motion was **Carried**

**FOR VOTE - Cr G Bagnall, Cr M Armstrong, Cr B Longland**

**AGAINST VOTE - Cr W Polglase**

**ABSENT. DID NOT VOTE - Cr C Byrne, Cr P Youngblutt**

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Cr P Youngblutt has returned from temporary absence at 05:38 PM

- 7 **[PR-PC] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards**

**P 179**

**Cr M Armstrong**

**Cr K Milne**

**RECOMMENDED** that Council notes the October 2014 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr C Byrne**

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- a7 **[PR-PC] Class 1 Appeal - Development Application DA13/0383 for Redevelopment of 'Jenners Corner' Site Incorporating a Boat Showroom, Boating Facility, Two Cafes and Caretakers Residence at Lot 1 DP 119054, Lot 1 DP 341470, Lot A DP 373769 No. 120 Chinderah Bay Drive, Chinderah; Lot 1 DP 382677, Lot C DP 373769 No. 122 Chinderah Bay Drive, Chinderah; Lot 1 DP 415533 No. 126 Chinderah Bay Drive, Chinderah; Lot 2 DP 415533 No. 128 Chinderah Bay Drive, Chinderah; Lot 3 DP 415533 No. 130 Chinderah Bay Drive, Chinderah**

Cr C Byrne has returned from temporary absence at 05:44 PM

**LATE ITEM**

**P 180**

**Cr K Milne**

**Cr M Armstrong**

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**RECOMMENDED** that Item a7 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**P 181**

**Cr P Youngblutt**

**Cr W Polglase**

**RECOMMENDED** that Council's solicitors be engaged to negotiate consent orders or a Section 34 Agreement subject to suitable consent conditions agreed to by the General Manager or Delegate for Development Application DA13/0383 for the redevelopment of 'Jenners Corner' site incorporating a boat showroom, boating facility, two cafes and caretakers residence at Lot 1 DP 119054, Lot 1 DP 341470, Lot A DP 373769 No. 120 Chinderah Bay Drive, Chinderah; Lot 1 DP 382677, Lot C DP 373769 No. 122 Chinderah Bay Drive, Chinderah; Lot 1 DP 415533 No. 126 Chinderah Bay Drive, Chinderah; Lot 2 DP 415533 No. 128 Chinderah Bay Drive, Chinderah; Lot 3 DP 415533 No. 130 Chinderah Bay Drive, Chinderah

#### **AMENDMENT**

**P 182**

**Cr K Milne**

**Cr M Armstrong**

**PROPOSED** that Council defends the appeal and engages Council's solicitors and suitable consultants.

The Amendment was **Lost**

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall**

**AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr B Longland**

The Motion was **Carried** (Minute No. P181 refers)

**FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong**

**AGAINST VOTE - Cr K Milne, Cr B Longland, Cr G Bagnall**

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#### **ORDERS OF THE DAY**

Nil.

## CONFIDENTIAL COMMITTEE

P 183

Cr M Armstrong  
Cr P Youngblutt

**RESOLVED** that Planning Committee resolves itself into a Confidential Committee in accordance with Section 10A(2) of the Local Government Act 1993 (as amended) and that the press and public be excluded from the whole of the Committee Meeting, because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reasons of the confidential nature of the business to be transacted.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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## CONFIDENTIAL ITEMS FOR CONSIDERATION

The General Manager reported that the Confidential Committee had excluded the press and public from the whole of the Committee Meeting because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reason of the confidential nature of the business to be transacted, and made the following recommendations to Council:-

**C1 [PR-PC] Penalty Infringement Notice - Development Application DA13/0618 for the Use of Existing Building and Internal Alterations of a Restaurant and Shop at Lot 618 DP 508200 No. 2-8 Willow Avenue, Bogangar**

### REASON FOR CONFIDENTIALITY:

This report has been made Confidential so as not to prejudice any future legal proceedings.

### Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

**PC 17**

**RECOMMENDED** that Council notes the compliance and enforcement action that has been undertaken to date with respect to the owner of Lot 618 DP 508200 No. 2-8 Willow Avenue, Bogangar.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**ITEM MOVED FROM ORDINARY TO CONFIDENTIAL**

**4 [PR-PC] Unauthorised Earthworks and Pollution Events at Lots 113, 124, 127-129, 136 and 138 DP 755724 Tyalgum Road, Tyalgum**

**REASON FOR CONFIDENTIALITY:**

This report has been made Confidential so as not to prejudice any future legal proceedings.

**Local Government Act**

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

**PC 18**

**RECOMMENDED** that:

- A. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- B. This item be deferred to 4 December 2014 Planning Committee meeting with an update on compliance activity on the site.

The Motion was **Carried**

***FOR VOTE - Cr M Armstrong, Cr K Milne, Cr B Longland, Cr G Bagnall  
AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne***

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**P 184**

**Cr K Milne**

**Cr M Armstrong**

**RECOMMENDED** that the recommendations of the Confidential Committee be adopted.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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There being no further business the Planning Committee Meeting terminated at 6.10PM.

