



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr K Milne

**Councillors:** G Bagnall (Deputy Mayor)  
C Byrne  
B Longland  
W Polglase  
P Youngblutt

# Minutes

## Ordinary Council Meeting Thursday 1 September 2016

held at **Council Chambers, Murwillumbah Civic & Cultural Centre,**  
**Tumbulgum Road, Murwillumbah** commencing at 5.00pm

### **COUNCIL'S CHARTER**

Tweed Shire Council's charter comprises a set of principles that are to guide Council in the carrying out of its functions, in accordance with Section 8 of the Local Government Act, 1993.

Tweed Shire Council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- to exercise community leadership;
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism;
- to promote and to provide and plan for the needs of children;
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development;
- to have regard to the long term and cumulative effects of its decisions;
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government;
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants;
- to keep the local community and the State government (and through it, the wider community) informed about its activities;
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected;
- to be a responsible employer.

The Meeting commenced at 5.10pm.

### **IN ATTENDANCE**

Cr K Milne (Mayor), Cr G Bagnall (Deputy Mayor), Cr C Byrne, Cr B Longland, Cr W Polglase and Cr P Youngblutt.

Also present were Mr Troy Green (General Manager), 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), Mr Neil Baldwin (Manager Corporate Governance) and Miss Janet Twohill (Minutes Secretary).

### **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 General Manager.

### **DISCLOSURE OF INTEREST**

Nil.

### **CONFIRMATION OF PLANNING COMMITTEE MINUTES**

**1 [CONMIN-CM] Adoption of the Recommendations of the Planning Committee Meeting held Thursday 1 September 2016**

**428**

**Cr C Byrne**

**Cr K Milne**

**RESOLVED** that the recommendations of the Ordinary Planning Committee Meeting held Thursday 1 September 2016 be adopted.

**1 [PR-PC] Development Application DA14/0435 for a 21 Lot Subdivision and Associated Road Infrastructure at Lot 115 DP 755701 & Lot 4 DP 549393 Clothiers Creek Road, Lot 2 DP 873399 Poinciana Avenue, Lots 1 & 2 DP 1172935, Lot 192 DP 217678, Poplar Avenue, Bogangar**

**RECOMMENDED** that Development Application DA14/0435 for a 21 lot subdivision and associated road infrastructure at Lot 115 DP 755701 & Lot 4 DP 549393 Clothiers Creek Road, Lot 2 DP 873399 Poinciana Avenue; Lots 1 & 2 DP 1172935 & Lot 192 DP 217678 Poplar Avenue Bogangar be approved subject to the following conditions:

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GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 19090 D Rev E sheet 1, 2 and 3, dated 01/07/2015 prepared by B&P Surveys Plan Nos Sk.8 Issue C prepared by Cozens Regan Williams Prove and dated 02/16 Plan Sk.7 Issue C dated 03/15 prepared by Cozens Regan Williams Prove, except where varied by the conditions of this consent.

[GEN0005]

2. The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application.

[GEN0045]

3. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.

[GEN0125]

4. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

5. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material.

Should adjustments be required to the sewer manhole, then applications for these details are to be shown on the application for a Construction Certificate.

[GEN0155]

6. The 17 lot residential subdivision (Lots 5-21) requires each lot to be serviced by a pressure sewer system. A capital contribution of \$14,800 per lot shall be provided for the installation of each individual pressure sewer pump station prior to the issue of the subdivision certificate. Tweed Shire Council will then install the pump station at a suitable location within each lot at the building stage.

[GENNS01]

7. The applicant shall not remove, damage or disturb native vegetation unless such activity is carried out in accordance with the approved site based Vegetation and Fauna Management Plan and where all necessary permits/approvals have been obtained from the relevant authority/s.

[GENNS02]

8. To achieve the aims of the *Tweed Coast Comprehensive Koala Plan of Management 2015* ('TCCCKPoM'), the applicant must provide an onsite 'koala habitat restoration and management area' capturing the following areas:

- a. An area of 10.73 ha based on:

- i. A ratio of 1:22 (remove:replace) to offset the direct loss of 0.48 ha of Core Koala Habitat (CKH) totalling 10.56 ha; and
- ii. Section 5.9.4 of the TCCCKPoM, where 10% of the land area of the proposed development envelope must be revegetated to create additional CKH.

- b. An appropriate area of the site to achieve compensation for the loss of individual Preferred Koala Food Trees (as defined under the TCCKPoM) greater than 250 mm Diameter at Breast Height in the form of revegetation at a ratio of 1:33 (remove:replace). Revegetation shall involve the planting of preferred koala feed tree species at a density of one (1) plant per four (4) square metres and occur within an area additional to that required above (Condition 8(a)(i-ii)).

The 'koala habitat restoration and management area' described above shall meet the following criteria and be reflected in an approved site based Koala Offset and Habitat Management Plan to be accepted as a variation to development assessment provisions of the TCCKPoM (under Section 5.12):

- c. Capture an existing cleared area of the site to enable the establishment of new Core Koala Habitat
- d. Be largely contiguous and consolidated
- e. Be exclusive of land afforded statutory protection under the following land use zones
  - i. 7(a) Environmental Protection (Wetlands and Littoral Rainforests); and
  - ii. 7(l) Environmental Protection (Habitat) zoningOr any equivalent zone as adopted under any future local statutory environmental planning instrument
- f. Not form part of a bushfire management zone as approved by the NSW Rural Fire Service and required by conditions of this consent
- g. Be actively managed under an approved restoration program for a minimum of five (5) years
- h. Be protected under a Section 88B Restriction of Use (*Conveyancing Act 1919*) for long term protection.

[GENNS02]

- 9. To compensate for direct development impact on 0.48 ha of an Endangered Ecological Community being *Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions* the applicant shall:
  - a. Undertake ecological restoration of an area of 1.47 ha in the location as generally shown on Figure 12 *Proposed Offset Site* in *Revised Ecological Assessment (REA) dated June 2015 prepared by JWA Ecological Consultants* (reference to the REA is only made for the purposes of this condition only) identified as the 'Proposed Offset Area - 1.47 ha'
  - b. Actively manage the specified restoration area under an approved restoration program for a minimum of five (5) years

Register a Section 88B Restriction of Use (*Conveyancing Act 1919*) instrument over the specified restoration area to ensure the area is secured and managed for conservation purposes in the long term.

[GENNS02]

10. A Section 88B Restriction of Use (*Conveyancing Act 1919*) shall be registered on Lots 5-21 indicating that Preferred Koala Food Trees (as scheduled under the TCCKPoM) are not to be planted to avoid encouraging koalas to enter the enclaved development area (consistent with Section 5.10.5 of the TCCKPoM).  
[GENNS02]
11. The 'Potential Building Envelope Proposed Lot 2 (10 m x 15 m) on the subdivision plan *Dwg. No. 19090 D Rev. E Sheet 2 of 3 dated 02 October 2012 prepared by B&P Surveys* is not approved.  
[GENNS03]
12. The Office of Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).  
[GENNS04]
13. Once notified, the Office of Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.  
[GENNS04]
14. The Office of Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.  
[GENNS04]
15. The Office of Water requests notification of any legal challenge to the consent.  
[GENNS04]
16. The attached GTA are not the licence. The applicant must apply (to the Office of Water) for a licence after consent has been issued by Council and before the commencement of any dewatering.  
[GENNS04]
17. The development is to occur in the following stages:  
  
Stage 1 - Lots 1, 2 and residual lot.  
Stage 2 - subdivision of the residual lot into Lots 3 to 21.  
  
All conditions within this consent are to be applied to each relevant stage, where applicable.  
[GENNS05]

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

18. Prior to the issue of a Civil Construction Certificate for each stage of the project, a Construction Management Plan shall be submitted to and approved by the Principle Certifying Authority. A copy of the approved plan shall be submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:
  - a) Hours of work;

- b) Contact details of site manager;
- c) Traffic and pedestrian management;
- d) Noise and vibration management;
- e) Construction waste management;
- f) Erosion and sediment control; and,
- g) Flora and fauna management.

Where construction work is to be undertaken in stages, the Proponent may, subject to agreement with the Principle Certifying Authority, stage the submission of the Construction Management Plan consistent with the staging of activities relating to that work. The Proponent shall submit a copy of the approved plan to Council.

- [PCC0125]
19. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the (public infrastructure) works as set out in Council's fees and charges at the time of payment.

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision is issued.

- [PCC0275]
20. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

21. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be detailed in the application for a Construction Certificate.

- [PCC0485]
22. Notwithstanding any other condition of this consent separate construction certificates for bulk earthworks and subdivision works may be issued and the carrying out of bulk earthworks may be commenced prior to the issue of a Construction Certificate for subdivision works where it can be demonstrated all works are compatible.

[PCC0495]

23. Prior to the issue of a Construction Certificate, a Detailed *Geotechnical Investigation* shall be undertaken by an appropriately qualified practising professional Geotechnical Engineer, unless considered unjustified by the Geotechnical Engineer and supported in writing and endorsed by Council.

In addition further geotechnical testing and advice is required through the uncontrolled fill material on proposed residential allotments 1, 2, 3, 5 to 21. A series of boreholes and DCP testing in a maximum 20m grid pattern over the proposed allotments is to be carried out along with density testing at various levels in the fill material.

The investigation shall identify any areas of compressible clay materials, loose sands, landslip, subsidence or reactive soil profiles which may impact on construction or building activities. If unsuitable materials are identified the investigation shall provide recommendations such as a preloading or other forms of treatment necessary to achieve surface movement ( $y_s$ ) rates consistent with a site classification M as defined by AS 2870 (current version). All consolidation resulting from preloading shall be monitored by settlement plates or detailed survey to determine consolidation/settlement characteristics.

[PCC0500]

24. All residential allotments shall be filled to a minimum of the design flood level (DFL), in accordance with the following:

Lot 1 DFL = RL 3.1m AHD

Lots 5 - 21 (inclusive) DFL = RL 3.0m AHD

Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimising the impact of filing on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted for Council approval.

[PCC0675]

25. A Traffic Control Plan in accordance with AS1742 and the latest version of the NSW Government Roads and Maritime Services (RMS) publication "Traffic Control at Work Sites" shall be prepared by an RMS accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate for Subdivision Works. Safe public access shall be provided at all times.

[PCC0865]

26. The proponent shall submit plans and specifications with an application for construction certificate for Stage 2 for the following civil works and any associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils Development Design and Construction specifications.

#### URBAN ROAD

- (a) Construction of an urban sealed road formation, 7.5m in width within a 14m wide road reserve with upright kerb and guttering to service future Lots 5 to 21 in accordance with Council's road standards.
- (b) Kerb and guttering and any associated road widening is to be provided along the full frontage of Rosewood Avenue / Clothiers Creek Road between the proposed T intersection and roundabout to accommodate the future access road. Adequate drainage is also to be addressed in the kerb and guttering design / required road widening.



- (c) The new subdivision road servicing lots 5 to 21 shall be designed to achieve minimum top of kerb levels of 3.0m AHD to provide flood evacuation access.
- (d) A 1.2m wide concrete reinforced footpath is to be provided on the proposed road serving Lots 5-21. The footpath is to link into the existing footpath on Rosewood Avenue. Pram ramps are to be provided on both sides of Rosewood Avenue to facilitate safe crossing.

#### INTERSECTIONS / ROUNDABOUT

- (a) Construction of a roundabout in accordance with Ausroads Guide to Traffic Engineering Practice, Part 6 Roundabouts at the intersection of the proposed new road servicing future Lots 5 to 21, Kauri Avenue, Clothiers Creek Road and Rosewood Avenue. The design of the concrete raised apron is to be a minimum of 50mm.
  - (b) The proposed roundabout is to ensure that minimum lane widths of 3.4m to 3m are shown on the plans as specified in Ausroads Guide to Traffic Engineering Practice, Part 6 Roundabouts.
  - (c) Construction of an intersection layout to service future Lots 5 to 21 with a 'left in and left out' type arrangement in accordance with AUSTRROADS Pt 5 "Intersections at Grade" giving particular attention to sight distance.
  - (d) Turning templates for a 12.5m long bus and 19m semi trailer are to be shown for the proposed roundabout on Clothiers Creek Road.
27. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.

[PCC0935]

28. Prior to the issue of a Construction Certificate for civil works, the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

(a) copies of compliance certificates relied upon

(b) four copies of detailed engineering plans and specifications, *prepared in accordance with Development Design Specification D13 - particularly Section D13.09*. The detailed plans shall include but are not limited to the following:

- earthworks
- roadworks/furnishings
- stormwater drainage
- water supply works
- sewerage works

(c) All pressure mains shall be located in road reserve. The Developer shall provide a Boundary Kit for connection for each lot to be serviced by the pressure sewer within each associated lot, in accordance with Council's standard specifications and drawings. The location of connection or the pressure main to sewerage shall be determined in consultation with Council during preparation of the engineering design plans so as to minimise the

length of rising main so as to reduce any potential odour and septicity issues.

- landscaping works
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure), *as well as details and locations of any significant electrical servicing infrastructure - such as transformers and substations*

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

29. Permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) The Construction Certificate Application shall detail stormwater management for the occupational or use stage of the development in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.
- (d) Specific Requirements to be detailed within the Construction Certificate application include:
  - (i) Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

30. 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]

31. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.

- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".
- [PCC1155]
32. For developments containing less than four attached or detached dwellings having a Building Code classification of 1a, each premises must be connected by means of a separate water service pipe, each of which is connected to an individual Council water meter to allow individual metering. Application for the meters shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.
- [PCC1175]
33. 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]
34. If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first. Applications for these works must be submitted on Council's standard Section 68 Application to Alter Councils Water or Sewer Infrastructure application form accompanied by the required attachments and the prescribed fee. The arrangements and costs associated with any adjustment to water and wastewater infrastructure shall be borne in full by the applicant/developer.
- [PCC1310]
35. A site based Koala Offset and Habitat Management Plan ('KO&HMP') shall be submitted and approved by Council's General Manager or delegate prior to the issue of the first of any construction certificate or prior to the issue of Stage 1 - Lots 1, 2 and residual lot subdivision certificate whichever occurs first. The KO&HMP shall be prepared by persons suitably qualified in Zoology, Botany and/or Ecology and shall include the following information:
- a. Detailed tree survey of suitable scale overlaid onto bulk earthworks and civil plans showing the following:
    - i. Preferred Koala Food Trees to be removed and those to be retained; and
    - ii. Description of surveyed Preferred Koala Food Trees including height, canopy spread, diameter at breast height, condition, any habitat features or evidence of fauna use
  - b. Identify the location/s of the 'koala habitat restoration and management area' pursuant to Condition 8a-8b demonstrating achievement of criteria specified in Condition 8c-8h
  - c. Provide a summary of those actions prescribed in the site based Vegetation and Fauna Management Plan and Habitat Restoration Plan (pursuant to

Condition 36 and Condition 37) as they relate to Koala management

- d. Detail the following specific Koala management measures:
- i. Fencing specifications in accordance with TCCCKPoM Appendix D - Wildlife Infrastructure Design Guidelines for both fauna friendly fencing and fauna exclusion fencing in the following locations:
    - A. Fauna friendly fencing:
      - Around the perimeter of the 'koala habitat restoration and management area' (pursuant to Condition 8) of a design that would restrict the entry of domestic animals/livestock
      - Where fencing exists this shall be either replaced or retrofitted to be fauna friendly
    - B. Fauna exclusion fencing:
      - At the common boundary between proposed Lots 10-20 and the riparian reserve to be dedicated to Council
      - Along the entire southern boundary of proposed Lot 10
      - At the common boundary between proposed Lot 1 and Lot 2
      - An approximate 85 m section of fencing at the boundary between proposed Lot 2 and the Clothiers Creek Road reserve to be taken from the north-eastern boundary of proposed Lot 2. The fence shall have a perpendicular return of no less than 10 m at each terminal end
  - ii. Koala monitoring shall be completed in accordance with the TCCCKPoM *Appendix E - Koala Activity Assessment* methodology. In this regard sampling intervals shall be based on greater than 50 ha criteria;
  - iii. The management and monitoring period (habitat restoration and koala monitoring) shall not be less than five (5) years;
  - iv. An interval of two (2) years is considered appropriate where the abovementioned methodology and scope of monitoring is adopted. A final monitoring report shall be provided at completion of year five (5); and
  - v. Baseline monitoring shall be undertaken at commencement of works.

[PCCNS01]

36. A Vegetation and Fauna Management Plan ('V&FMP') shall be prepared by a suitably qualified ecologist to be implemented during the construction (for all relevant stages of the development) and operational phase of the development (where specified). The V&FMP shall be submitted and approved by Council's General Manager or delegate prior to the first of any construction certificate or prior to the issue of Stage 1 - Lots 1, 2 and residual lot subdivision certificate whichever occurs first. The currency period of the approved FMP component is two (2) years from the date of FMP approval. A contemporary FMP component or addendum must be submitted to Council for approval if works are not substantially started within the 2 year period. The V&FMP shall include (but not be limited to) the following:

### Vegetation Management

- a. A vegetation management figure/plan shall be provided showing:
  - i. Areas to be protected and those areas of habitat to be removed;
  - ii. Locations of specific Preferred Koala Food Trees to be removed and retained consistent with the site based Koala Offset and Habitat Management Plan;
  - iii. Details of all proposed infrastructure, site access and services;
  - iv. Direction of clearing;
  - v. Locations of preferred Glossy Black Cockatoo (*Calyptorhynchus lathamii*) feed trees (i.e. *Allocasuarina littoralis* and/or *Allocasuarina torulosa*) greater than 100 mm diameter at breast height (measured at 1.4 m above natural ground level); and
  - vi. Location, alignment and specifications of vegetation protection fencing consistent with *AS4970:2009 Protection of trees on development sites*.
- b. Include management measures to minimise disturbance as a result of stormwater infrastructure installation
- c. Specify that all clearing operations and the installation and maintenance of vegetation protection measures are to be supervised by a project arborist (minimum AQF Level 5 arboricultural qualifications).

### Fauna Management

- d. Identification of known and potential habitat trees (displaying values such as hollows, fissures, nests, drays, arboreal termitaria used as nests etc.) and description of fauna species known/likely to utilise habitat features
- e. Targeted pre-works search methodology (as endorsed by the Office of Environment & Heritage based on accepted best practice / current state of scientific knowledge) for those threatened species known or likely to occur on the subject site.
- f. Information on how trees are to be inspected for denning or nesting animals including constraints for inspecting trees (to provide acceptable alternative methods) and summary of removal and relocation methods for each faunal group (including observed species and species likely to occur in the area to be disturbed)
- g. Considerations relating to time periods for when fauna is to be removed/flushed prior to clearing
- h. Details of special equipment required (such as cameras, elevated platforms etc.)
- i. Identification of general locations that wildlife will be relocated/translocated to if required (based on habitat requirements and in accordance with licence/permit conditions)
- j. Specify that a suitably qualified ecologist who holds a fauna survey licence is required to manage wildlife onsite during any tree removal and/or disturbance to wildlife habitat. Fauna management methods employed should be generally consistent with the *Draft Queensland Code of Practice for the Welfare of Wild Animals Affected by Clearing and Other Habitat and Wildlife Spotter/Catchers* (Hangar & Nottidge 2009). Where translocation is required the proponent shall seek any relevant permits from the state regulating agency (Office of Environment & Heritage). It is the responsibility of the proponents to ensure all relevant licences have been obtained prior to any fauna interactions
- k. Specify Koala management pre-survey and construction phase measures

consistent with Section 5.10.3.7 of the TCCKPoM

- I. Provide details of post clearing reporting to be provided by a suitably qualified ecologist engaged to oversee clearing works.
- [PCCNS01]
37. A Habitat Restoration Plan ('HRP') shall be prepared generally in accordance with TSC Draft Habitat Restoration Plan Preparation Guideline (HRPPG) - Site specific guidelines for the ecological restoration and ongoing management of habitat utilised by native flora and fauna dated February 2012 by a person suitably qualified in Bushland Regeneration or Ecological Restoration and with knowledge and experience in local vegetation communities (e.g. wetlands, rainforest, riparian areas) to address the following areas and actions:
- a. The 'koala habitat and restoration management area' pursuant to Condition 8
  - b. The endangered ecological community offset area (1.47 ha) pursuant to Condition 9
  - c. Riparian zone to be dedicated to Council adjacent to proposed Lots 5-21 - 7(d) Environmental Protection (Habitat) zone (LEP 2000) as shown on the approved subdivision plan
  - d. Riparian zone to be dedicated to Council along the perimeter of proposed Part Lot 2 (North) associated with the canal - RU2 Rural Landscape (LEP 2014) and 7(a) Environmental Protection (Wetlands and Littoral Rainforests) (LEP 2000) as shown on the approved subdivision plan
  - e. Incorporation of compensatory Glossy Black Cockatoo (*Calyptorhynchus lathamii*) feed tree (*Allocasuarina littoralis* and/or *Allocasuarina torulosa* - greater than 100 mm dbh) offset plantings at a ratio of 1:5 (remove:replace). The quantum of offsets shall be based on the number of preferred Glossy Black Cockatoo feed trees removed to facilitate the development as identified in the site based Vegetation and Fauna Management Plan.

The HRP shall be submitted and approved by Council's General Manager or delegate prior to the first of any construction certificate or prior to the issue of Stage 1 - Lots 1, 2 and residual lot subdivision certificate whichever occurs first prior to issuing the first of any construction certificate associated with the development and shall include the following:

- g. A description of the overall site based ecological restoration strategy involving all areas prescribed in Condition 37a - 37e above. The total collective of offset areas shall be clearly shown on an overall offset area plan depicting/describing:
  - i. Area estimates
  - ii. An appraisal of the present condition of remnant vegetation
  - iii. The purpose of the offset
  - iv. The approach to habitat restoration
- h. The approach to restoration i.e. assisted natural regeneration, reconstruction and/or a combination shall be determined based on the level of site resilience and at the end of year one (1) the offset areas shall achieve one (1) native plant per m<sup>2</sup> (whether planted or naturally recruited)
- i. Plan overlaying an aerial photograph of the site which divides the area into

- zones for regeneration and zones for planting, including connections between existing vegetation where appropriate
- j. Management strategy for each of the zones, including the approach, methods and techniques to be used for vegetation restoration
  - k. Summary of actions required under the site based Koala Offset and Habitat Management Plan
  - l. Schedule of local native plant species to be used for planting
  - m. Incorporation of preferred Glossy Black Cockatoo feed tree offsets pursuant to Condition 37(e) within an appropriate area of the site
  - n. Program of works to be undertaken to remove invasive weed species
  - o. A schedule of activities not permitted within areas to be registered under an 88B Restriction as to User referred to in this consent
  - p. Requirement for a 132C Licence under the *National Parks and Wildlife Act 1974*
  - q. Management of domestic farm/feral animals (if appropriate) and any fencing/signage requirements to restrict access and increase landholder/public awareness
  - r. Schedule of timing of proposed works
  - s. Set of performance criteria to achieve site capture over the five (5) year management period
  - t. Maintenance, monitoring and reporting schedule with developer commitment for a period of not less than five (5) years. The number of treatment rotations shall be adequate to successfully achieve site capture by completion of the five (5) year maintenance period
  - u. An adaptive management statement detailing how potential problems arising may be overcome and requiring approval of the General Manager or delegate for such changes
  - v. Include working and hygiene protocol within/adjacent to areas known to be occupied by Grey-headed Flying-fox (*Pteropus poliocephalus*) and Wallum Froglet (*Crinia tinnula*)
  - w. An educational package shall be developed and attached to the HRP. The educational material is to be provided to all residents occupying future residential Lots created as part of the proposed development.
- [PCCNS01]
38. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or delegate prior to the issue of a Construction Certificate. The detailed plan of landscaping shall meet the following plant selection criteria:
- a. A minimum of 80% locally occurring Australian native species and maximum of 20% non-locally occurring Australian native species to apply to all trees
  - b. A minimum of 80% locally occurring Australian native species and maximum of 20% Australian native or exotic species to apply to other plants (shrubs, ground cover and similar)
  - c. No noxious or environmental weed species.
- [PCCNS01]
39. The extent of the proposed drainage reserve Lot 4 shall be amended to align generally with the mean high water mark of the drainage canals, and shall not include environmental land, buffers and/or asset protection zones.
- [PCCNS02]
40. All retaining walls and batters are to comply with Council's Development Design Specification D6 - Site regrading.
-

[PCCNS04]

41. The proposed pressure sewer system for Lots 5-21 shall comply with the following:
- The design of pressure sewer systems shall comply with Council's Development Design Specification D12 and the Water Services Association (WSA) of Australia's Pressure Sewerage Code of Australia WSA07-2007.
  - The pressure pump station sites shall be located in the front corner of each lot next to the proposed road for ease of access purposes.
  - The entire building lot envelope must be able to drain to the pressure pump unit.
  - An easement must be created on the lot for the pressure pump unit and connection to the boundary assembly.
  - The rising main to be located in the road reserve on the appropriate alignment.

[PCCNS05]

42. As the Water Supply Authority under the Water Management Act 2000, prior to the issue of a construction certificate the water supply and sewerage system information outlined in the Tweed Shire Council Development Design Specification - D13 shall be to be submitted to Council's General Manager or his delegate for approval.

[PCCNS05]

#### PRIOR TO COMMENCEMENT OF WORK

43. 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]

44. Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-

- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3<sup>rd</sup> Edition, NSW Government, or
- (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
- (c) WorkCover Regulations 2000

[PCW0025]

45. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.

[PCW0125]

46. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate. Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to the issue of the Subdivision Certificate.

[PCW0375]



47. Prior to start of works the PCA is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material. [PCW0745]
48. Dilapidation reports detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and driveway are to be prepared and certified by a suitably qualified and experienced structural engineer. The reports are to be submitted to Council prior to commencement of ANY works on the site. [PCW0775]
49. Civil work in accordance with a development consent must not be commenced until:
- (a) a Construction Certificate for the civil work has been issued in accordance with Councils Development Construction Specification C101 by:
    - (i) the consent authority, or
    - (ii) an accredited certifier, and
  - (b) the person having the benefit of the development consent:
    - (i) has appointed a principal certifying authority,
    - (ii) has appointed a Certifying Engineer to certify the compliance of the completed works.

The Certifying Engineer shall be an Institute of Engineers Australia Chartered Professional Engineer (Civil College) with NPER registration. Documentary evidence is to be provided to Council demonstrating current NPER accreditation.
    - (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,
    - (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and
  - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the civil work. [PCW0815]
50. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period. [PCW0835]
51. 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 to the satisfaction of the Principal Certifying Authority. These measures are to be in accordance with the approved erosion

and sedimentation control plan and adequately maintained throughout the duration of the development.

[PCW0985]

52. A Dewatering Management Plan shall be prepared and submitted to Council's General Manager or his delegate for consideration and approval, where dewatering is required, which details the following:

- \* A site plan drawn to scale which indicates the extent of the excavation area and estimated zone of influence of the dewatering activity relative to any adjoining buildings together with an assessment of any impacts likely to occur to any adjoining buildings as a result of the dewatering activities.
- \* The location to be indicated on the site plan of the area that will be utilised for the positioning of any treatment tank or sedimentation pond on the site including any reserve area to be used for such purpose in the event of the need for additional treatment facilities to be incorporated on the site.
- \* Details of the proposed method of mechanical aeration to be used in the event that it is necessary to aerate the groundwater to achieve an acceptable Dissolved Oxygen level prior to the offsite discharge of groundwater and where this will be incorporated on the site.
- \* The provision of written advice from the operator of any on site groundwater treatment system stating that the system to be used will be able to treat the groundwater to the required treatment level prior to discharge. Note. Particular attention is to be given to achieving the required detention times prior to discharge of the groundwater. Advice that the system is simply capable of achieving the necessary treatment will not be acceptable.

[PCW1015]

53. All pre-construction vegetation and fauna management measures shall be satisfactorily completed in accordance with the approved Vegetation and Fauna Management Plan.

[PCWNS01]

54. A suitably qualified ecologist who holds a fauna survey licence shall inspect the site no more than two (2) weeks prior to clearing works commencing onsite and prepare a Pre-Clearing Wildlife Fauna Report. The report shall include a full list of faunal species encountered during the inspection, as well as the marking and identification of significant habitat trees. The Pre-Clearing Wildlife Fauna Report shall be provided to Council prior to commencement of any works on-site.

[PCWNS01]

55. All vegetation clearing shall be carried out under the supervision of suitably qualified ecologist who holds a fauna survey licence. The qualified ecologist will be responsible for ensuring all construction phase management measures as prescribed in the approved Flora and Fauna Management Plan are successfully implemented and fauna is managed appropriately.

[PCWNS01]

#### DURING CONSTRUCTION

56. 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]

57. 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]

58. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

59. All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded to the satisfaction of Council's General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.

[DUR0225]

60. All earthworks and filling shall be carried out in accordance with AS 3798 (current version) to a Level 1 inspection regime and testing in accordance with Table 8.1. The earthworks and filling shall also be undertaken in accordance with the recommendations provided in the *Geotechnical Investigation* (provided prior to the issue of the Construction Certificate) and monitored by a Registered Geotechnical Testing Consultant.

Notwithstanding earthworks and filling, the frequency of field density tests for trenches shall be undertaken in accordance with Table 8.1 of AS 3798 (current version).

[DUR0795]

61. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.

[DUR0815]

62. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council General Manager or his delegate.

[DUR0985]

63. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any

such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

64. 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]

65. All works shall be carried out in accordance with the Acid Sulfate Soil Management Plan prepared by HMC Environmental Consulting PL dated February 2014 and numbered HMC2014.006 ASS.

[DUR1065]

66. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

67. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.

- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
- (c) That site fill areas have been compacted to the specified standard.
- (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

68. During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:

- (a) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.

- (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

69. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

70. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, cycleways - formwork/reinforcement
- (h) Final Practical Inspection - on maintenance
- (i) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final Practical Inspection - on maintenance
- (i) Off maintenance

Council's role is limited to the above mandatory inspections and does NOT include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

The fee for the abovementioned inspections shall be invoiced upon completion of all subdivision works, and subject to the submission of an application for a 'Subdivision Works Compliance Certificate'.

[DUR1895]

71. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Subdivision Certificate.

[DUR1955]

72. 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]

73. The applicant shall obtain the written approval of Council to the proposed road/street names and be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.

Application for road naming shall be made on Councils Property Service Form and be accompanied by the prescribed fees as tabled in Councils current Revenue Policy - "Fees and Charges".

The application shall also be supported by sufficient detail to demonstrate compliance with Councils Road Naming Policy.

[DUR2035]

74. Inter allotment drainage shall be provided to all lots where roof water for dwellings cannot be conveyed to the street gutter by gravitational means.

[DUR2285]

75. Drainage Reserve

(a) The proposed drainage reserve is to be dedicated to Council at no cost.

(b) An accurate plan of the proposed drainage reserve shall be submitted to Council 60 days prior to lodgment of Application for Subdivision Certificate (form 13) to allow the land to be classified.

[DUR2295]

76. Council's Environmental Health Officer shall be advised within 24 Hours in the event of detection of any failure associated with the dewatering activity being carried out on the site.

[DUR2315]

77. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording in accordance with Councils Development Design and Construction Specifications.

[DUR2355]

78. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

79. 60 days prior to lodgement of Application for Subdivision Certificate, an accurate plan of the subdivision is to be submitted to Council indicating all public land to be dedicated to Council (including Drainage Reserves, Sewer Pump Stations, Parks, Sports Fields, Conservation Areas and other lands as defined and excluding Roads, etc). The function of all such public land is to be indicated to allow classification of the land parcel by Council as either Operational or Community Land, as detailed in the Local Government Act 1993.

[DUR2455]

80. The Applicant shall submit the appropriate 'Application for Water Service Connection' to Council's Water Unit to facilitate a property service water connection for the proposed Lots. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

[DUR2800]

81. Dust and Erosion Management

- (a) Site earthworks are to be limited to a 5ha maximum at any time to reduce exposed areas. Completed areas are to be topsoiled and seeded immediately to protect them from water and wind erosion.
- (b) All topsoil stockpiles are to be sprayed with dust suppression material such as "hydromulch", "dustex" or equivalent. All haul roads shall be regularly watered or treated with dust suppression material or as directed on site.
- (c) All construction activities that generate dust shall cease when average wind speeds exceed 15m/s (54 km/h). The applicant shall be responsible for the monitoring of on-site wind speeds and be able to produce this data to Council on request.

[DUR2825]

82. All operations must comply with the approved Vegetation and Fauna Management Plan. In the event that any threatened species, populations, ecological communities or their habitats not addressed in the report are discovered during operations appropriate Plans of Management for those species must be formulated to the satisfaction of the General Manager or delegate and/or if required the Department of Environment and Heritage. No further site clearing will take place until any respective Plan(s) of Management is/are approved.

[DURNS01]

83. A supervising Project Arborist with a minimum Australian Qualification framework (AQF) level 5 in Arboriculture is required to oversee, and if necessary carry out mitigation/remediation works during the construction period. The Project Arborist will be responsible for completing certification of tree protection through the various stages of development (where required).

[DURNS01]

84. During the construction period and with respect to vegetation and fauna management measures the applicant must comply with any directions given by:
- a. Project Arborist
  - b. Qualified ecologist; and/or
  - c. Council's General Manager or delegate

[DURNS01]

85. All practical 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.

[DURNS01]

86. Landscaping of the site shall be carried out in accordance with the approved landscaping plans.

[DURNS01]

87. All fauna management and habitat restoration works shall be carried out in accordance with:

- a. The approved Koala Offset and Habitat Management Plan; and
- b. The approved Habitat Restoration Plan.

[DURNS01]

**PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

88. Prior to issue of a subdivision certificate, all works/actions/inspections etc required by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

89. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

A Subdivision Certificate for Stage 2 shall NOT be issued unless the Certifying Authority is satisfied provisions pursuant to Section 109J of the EP&A Act, 1979 have been complied with and the Certifying Authority has sighted Council's Certificate of Compliance signed by an authorised officer of Council.

THIS IS ADVICE ONLY. The Section 64 Contributions for this development at the date of this approval have been estimated as:

Water DSP6:	19 ET @ \$13386 per ET	\$254,334
Sewer Hastings Point:	18 ET @ \$6431 per ET	\$115,758

[PSC0165]

90. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued for Stage 2 by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying



Authority has 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) Tweed Road Contribution Plan:<br>110.5 Trips @ \$1395 per Trips<br><br>((\$1,145 base rate + \$250 indexation)<br>S94 Plan No. 4<br><br>Sector7_4 | \$154,148 |
| (b) Open Space (Casual):<br>17 ET @ \$557 per ET<br><br>((\$502 base rate + \$55 indexation)<br>S94 Plan No. 5  | \$9,469   |
| (c) Open Space (Structured):<br>17 ET @ \$638 per ET<br><br>((\$575 base rate + \$63 indexation)<br>S94 Plan No. 5                                    | \$10,846  |
| (d) Shirewide Library Facilities:<br>17 ET @ \$859 per ET<br><br>((\$792 base rate + \$67 indexation)<br>S94 Plan No. 11                              | \$14,603  |
| (e) Bus Shelters:<br>17 ET @ \$67 per ET<br><br>((\$60 base rate + \$7 indexation)<br>S94 Plan No. 12   | \$1,139   |
| (f) Eviron Cemetery:<br>17 ET @ \$125 per ET<br><br>((\$101 base rate + \$24 indexation)<br>S94 Plan No. 13   | \$2,125   |
| (g) Community Facilities (Tweed Coast - North)<br>17 ET @ \$1425 per ET<br><br>((\$1,305.60 base rate + \$119.40 indexation)<br>S94 Plan No. 15       | \$24,225  |

- (h) Extensions to Council Administration Offices  
& Technical Support Facilities  
17 ET @ \$1909.57 per ET \$32,462.69  
(\$1,759.90 base rate + \$149.67 indexation)  
S94 Plan No. 18
- (i) Cycleways:  
17 ET @ \$485 per ET \$8,245  
(\$447 base rate + \$38 indexation)  
S94 Plan No. 22
- (j) Regional Open Space (Casual)  
17 ET @ \$1119 per ET \$19,023  
(\$1,031 base rate + \$88 indexation)  
S94 Plan No. 26
- (k) Regional Open Space (Structured):  
17 ET @ \$3928 per ET \$66,776  
(\$3,619 base rate + \$309 indexation)  
S94 Plan No. 26

[PCC0215/POC0395/PSC0175]

91. Prior to the issue of a Subdivision Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the (public infrastructure) works (minimum as tabled in Council's fees and charges current at the time of payment) which will be held by Council for a period of 6 months from the date on which the plan of subdivision is registered.

It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

92. Prior to the issue of a Subdivision Certificate, a performance bond equal to 25% of the contract value of the footpath construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

[PSC0225]

93. A bond to ensure acceptable plant establishment and landscaping performance at time of handover to Council shall be lodged by the Developer prior to the issue of the Subdivision Certificate. The bond shall be held by Council for a period of 12 months from the date of issue of the Subdivision Certificate and may be utilised by Council during this period to undertake essential plant establishment or related plant care works, should non compliance occur. Any balance remaining at the end of the 12 months establishment period will be refunded.

The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

- [PSC0235]
94. At the completion of the earthworks/filling and prior to the issue of the Subdivision Certificate, an appropriately qualified practising professional Geotechnical Engineer shall provide an Engineering Certification that clearly states the following:
1. All earthworks and filling have been inspected to a Level 1 standard in accordance with AS 3798 (current version) and in accordance with the recommendations of the detailed *Geotechnical Investigation* submitted prior to the issue of a Construction Certificate.
  2. All surface movement ( $y_s$ ) has achieved rates that are consistent with a site classification M as defined by AS 2870 (current version). If expected surface movement ( $y_s$ ) for the proposed allotments are likely to exceed a site classification of M, all affected allotments shall be burdened by a Restriction on Use pursuant to Section 88B of the Conveyancing Act advising future owners of the site classification.
  3. Trenches have been compacted in accordance with Council's Construction Specifications.

- [PSC0395]
95. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

- [PSC0725]
96. Prior to the issue of a Subdivision Certificate, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D13 - Engineering Plans.

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer Certifying that:

- (a) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;
- (b) the plans accurately reflect the Work as Executed.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed (WAX) plans.

- [PSC0735]
97. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

- [PSC0825]
98. Prior to the issue of the Subdivision Certificate, certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to the PCA, confirming that the subject development complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.

[PSC0830]

99. The creation of easements for services, rights of carriageway and restrictions as to user (including restrictions associated with planning for bushfire) as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:
- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
  - (b) Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006" Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.
  - (c) All previous easements are to be shown on the plan of subdivision or deleted if not required.
  - (d) Right of carriageway for proposed Lots 6 & 7.
  - (e) Vehicular access to Clothiers Creek Road is prohibited for proposed Lots 5 - 21.
  - (f) Identify all allotments to be created as dual occupancies.
  - (g) A positive covenant is required on Proposed Lot 2 and the residual allotment created in Stage 1 advising of the following;  

Proposed Lot 2 and the residual allotment do not have reticulated water and sewer services connected to these allotments. Any future development on these allotments will require connection to reticulated water and sewer services to Tweed Shire Council standards at the expense of the future owner.
  - (h) A positive covenant is required on Proposed Lot 2 and the residual allotment created in Stage 1 advising of the following;  

Proposed Lot 2 and the residual allotment do not have electrical or telecommunication services connected to these allotments. Any future development on these allotments will require connection to electrical and telecommunication services as per the standards of the relevant authority at the expense of the future owner.
  - (i) Restriction as to user regarding the following areas referred to in the approved site based Koala Offset and Habitat Management Plan and Habitat Restoration Plan:
    - i. 'Koala habitat and restoration management area'
    - ii. Endangered Ecological Community Offset Area (1.47 ha)
      - a. These nominated areas must be subject to an approved ecological restoration program (undertaken in accordance with an approved habitat restoration plan) and managed as a natural area for conservation purposes in perpetuity.
      - b. The following activities are not permitted within this area:
        - i. Clearing, lopping or removal of any native plants, whether existing at the date of this approval or planted pursuant to conditions of this approval unless otherwise approved by

- Council's General Manager or delegate;
- ii. Erection of any fixtures or improvements, including buildings or structures;
  - iii. Construction of any trails or paths;
  - iv. Depositing of any fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the protected area
  - v. Keeping or permitting the entry of domestic animals or any other animals that are not indigenous to the Covenant Area; and
  - vi. Performance of any other acts which may have detrimental impact on the values of the nominate areas. The area must be managed in accordance with the approved habitat restoration plan for the life of the development and the use of the premises.

Burden: Part Lot 2 Benefit: Tweed Shire Council

The creation of restrictions as to user referred to under part (i) shall be registered at the issue of subdivision certificate for Stage 1- Lots 1, 2 and residual lot.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway / easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the Community Land Development Act, Strata Titles Act, Conveyancing Act, or other applicable legislation.

[PSC0835]

100. Submit to Council's Property Officer for approval an appropriate plan indicating the street/road address number to both proposed and existing lots. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each new lot in the deposited plan.

[PSC0845]

101. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.

[PSC0855]

102. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 2 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0885]

103. In conjunction with the application for a Subdivision Certificate, the applicant must also apply to Council (OR PCA if applicable) for a Compliance Certificate for Subdivision Works. This may require obtaining individual Compliance Certificates for various civil works components such as (but not limited to) the following:

- (a) Roads
- (b) Water Reticulation
- (c) Sewerage Reticulation
- (d) Sewerage Pump Station
- (e) Drainage
- (f) Bulk Earthworks
- (g) Retaining Walls

Note:

1. All compliance certificate applications for Subdivision Works must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.
2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[PSC0915]

104. The six (6) months Defects Liability Period commences upon the registration of the Plan of Subdivision.

[PSC0925]

105. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of any stormwater pipes and gravity sewerage systems installed and to be dedicated to Council including joints and junctions will be required to demonstrate that the standard of the infrastructure is acceptable to Council.

Any defects identified by the inspection are to be repaired in accordance with Councils Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC1065]

106. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act, 2000 to be certified by an Accredited Certifier.

[PSC1115]

107. A pressure sewer system shall be available to service those lots that cannot be serviced by conventional gravity sewers. Only those lots which are demonstrated to the satisfaction of the Director Engineering or his delegate not to be serviceable by conventional gravity sewers may be served by a pressure sewer system. Prior to the issue of the Subdivision Certificate, for each lot serviced by the pressure sewer system, a capital contribution of \$14,800 shall be paid by the Developer to Council for the installation of individual pressure sewer pump stations at a suitable location within each lot at the time of construction of the dwelling on that lot.

[PSC1135]

108. A Positive Covenant in relation to each lot to be seweraged by a pressure sewer system shall be created pursuant to Section 88B of the Conveyancing Act to provide Tweed Shire Council with rights to construct, install and maintain the pressure sewerage infrastructure in accordance with the following terms:

#### TERMS OF PUBLIC POSITIVE COVENANT

1. Pressure sewerage reticulation infrastructure is to be constructed within the land referred to herein and such infrastructure will comprise a pump station, valve pit, control panel and associated pipelines excluding gravity house connections and plumbing.
2. Such infrastructure is to be supplied by Tweed Shire Council at commencement of construction of a dwelling on the land referred to herein.
3. All costs in relation to the installation of the pressure sewer reticulation infrastructure within the land referred to herein will be borne by Tweed Shire Council.
4. The control panel for the pumping station is to be wired into the household switchboard by a registered electrician and all electricity to operate the control panel and pump station shall be supplied from the household switchboard. All costs in relation to the running of the pressure sewerage reticulation are to be borne by the registered proprietor.

5. The pressure sewer infrastructure will at all times remain the property of Tweed Shire Council to be inspected, serviced, repaired and maintained in good working order only by Tweed Shire Council.
6. Tweed Shire Council shall have the right to enter upon the land referred to herein with or without equipment, at all reasonable times to inspect, construct, repair, service and maintain in good working order all pressure sewerage reticulation infrastructure in or upon the said land pursuant to "Power of Entry" provisions under sections 191 and 191A of the NSW Local Government Act, 1993. This right to enter is restricted to the land in which the pressure sewerage infrastructure is placed for the time being and includes any points of egress or ingress to or from the said land.
7. The registered proprietor of the land referred to herein shall not construct any type of development, including external buildings, swimming pools or permanent structures which may interfere with the sewerage reticulation infrastructure, or impede access to any part of the sewerage reticulation infrastructure for the purposes of repair, maintenance and service.
8. If at any time it becomes necessary to relocate any part of the sewerage reticulation infrastructure for the purposes of construction of external buildings, swimming pools or building extensions and/or modifications Tweed Shire Council will not object to the relocation of the existing sewer pump station or associated pipeline providing that the registered proprietor makes the necessary application to Tweed Shire Council as the consent authority to modify the existing sewerage reticulation infrastructure and upon the registered proprietor obtaining development consent to do so. The registered proprietor will bear all costs in relation to the application and the re-location which is to be carried out by Tweed Shire Council.
9. The registered proprietor shall be responsible for notifying Tweed Shire Council when maintenance, repair, relocation or service is necessary on the sewerage reticulation infrastructure.
10. Should any part of the sewerage reticulation infrastructure be damaged by the registered proprietor or by any person who is a servant, workman, tenant, invitee, employee, or agent of the registered proprietor Tweed Shire Council will repair the damage at the cost of the registered proprietor.
11. The registered proprietor shall indemnify Tweed Shire Council and any adjoining landowners against any damage and injury to their land, property or person arising from the failure of any component of the sewerage reticulation infrastructure due to the negligent use or misuse of the sewerage reticulation system by the registered proprietor or any person who is a servant, workman, tenant, invitee, employee or agent of the registered proprietor.
12. Tweed Shire Council shall indemnify the registered proprietor against all damage and injury to property and person (including any damage to the land referred to herein and any land adjacent to the land referred to herein) arising from the failure of any component of the sewerage reticulation infrastructure and its construction, inspection, repair, service and maintenance and or in entering upon and occupying the subject property for such purposes.



13. Any reference to Tweed Shire Council, excepting as consent authority, means its employees, agents, contractors, servants.

[PSC1145]

109. The production of written evidence from the local telecommunications supply authority certifying that the provision and commissioning of underground telephone supply at the front boundary of the allotment has been completed.

[PSC1165]

110. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity (residential) has been provided adjacent to the front boundary of each allotment; and
- (b) The reticulation includes the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

Street lighting is to be provided at the future left in left out intersection and the proposed roundabout in accordance with AS1158 - Lighting for roads and public spaces.

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

[PSC1185]

111. An arboricultural certification report prepared by the Project Arborist (Minimum AQF Level 5 Arborist) shall be submitted to Council prior to the issue of the subdivision certificate for Stage 2 - subdivision of the residual lot into Lots 3 to 21, demonstrating compliance with:

- a. The approved Vegetation and Fauna Management Plan (tree protection requirements only)
- b. Australian Standard AS4970 - 2009 *Protection of trees on development sites*; and
- c. Any other tree management measure to protect retained vegetation as directed by Council's General Manager or delegate or Project Arborist during the construction period.

[PSCNS01]

112. The applicant must provide to Council immediately prior to the issue of the respective subdivision certificate, certification from a suitably qualified professional that all works/measures have been completed in accordance with the following approved plans:

- a. Habitat Restoration Plan to a level specified in the plan - Stage 1- Lots 1, 2 and residual lot

- b. Flora and Fauna Management Plan - Stage 2 - Subdivision of the residual lot into Lots 3 to 21
- c. Koala Offset and Habitat Management Plan to a level specified in the plan - Stage 1 - Lots 1, 2 and residual lot

[PSCNS01]

113. Environmental restoration works shall be completed to a level specified in the approved Habitat Restoration Plan prior to the release of the Stage 1 - Lots 1, 2 and residual lot subdivision certificate and shall be maintained at all times in accordance with the approved Plans.

[PSCNS01]

114. A cash bond or bank guarantee to ensure that the approved Habitat Restoration Plan (HRP) is implemented and completed (within areas to be transferred to Council), must be lodged with Council prior to the release of the Stage 2 - Subdivision of the residual lot into Lots 3 to 21 subdivision certificate unless all ecological restoration works (within those areas to be transferred to Council) over a five (5) year period have been completed in accordance with the approved HRP to the satisfaction of Council's General Manager or delegate. The amount of such bond will be based on the cost of environmental repair, enhancement and maintenance works to be undertaken in accordance with the approved HRP. In this regard, two (2) written quotes from suitably experienced and qualified bush regenerators (to the satisfaction of the General Manager or delegate) must be submitted to Council which detail the cost of all works associated with the HRP. The amount of the bond will be equivalent to 130% of the estimated cost of works.

The bond will be held until Council is satisfied the condition has been complied with.

The cash bond is only to relate to land/areas to be transferred to Council.

[PSCNS01]

115. All landscaping shall be completed in accordance with the approved detailed landscape plan and maintained for a minimum period of twelve (12) months prior to the issue of subdivision certificate. Landscaping must be maintained at all times to the satisfaction of Council's General Manager or delegate.

[PSCNS01]

116. As part of the release of the subdivision the Stage 2 - Subdivision of the residual lot into Lots 3 to 21 proponent shall dedicate at no cost to Council the following riparian areas to be classified as public Community Land under the *Local Government Act 1993* as shown on the approved subdivision plan:

- a. Riparian zone adjacent to Lots 5-21 - 7(d) Environmental Protection (Habitat) zone (LEP 2000)
- b. Riparian zone along the perimeter of proposed Part Lot 2 (North) associated with the canal - RU2 Rural Landscape (LEP 2014) and 7(a) Environmental Protection (Wetlands and Littoral Rainforests) (LEP 2000)
- c. Riparian zone adjacent to proposed Lot 3 - 7(l) Environmental Protection (Habitat) zone (LEP 2000).

[PSCNS01]

GENERAL TERMS OF APPROVAL UNDER PART 5 OF THE WATER ACT 1912  
(dewatering)

1. Before commencing any works or using any existing works for the purpose of dewatering an approval under Part 5 of the Water Act 1912 must be obtained from the Department if the take of water exceeds 3ML/yr. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
2. An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
3. When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or let lapse.
4. All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
5. All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
6. The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
7. All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
8. The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
9. A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.
10. The water extracted under the approval to be granted shall be used for the purpose of dewatering and for no other purpose. A proposed change in purpose will require a replacement license to be issued.
11. Works for construction of a bore must be completed within such period as specified by the Department.
12. Within two months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are specified in the approval.
13. The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
14. The licensee must allow authorised officers of the Department, and it's authorised agents reasonable access to the licensed works with vehicles and equipment at any time for the purposes of:

1. Inspecting the said work
2. Taking samples of any water or material in the work and testing the samples.
15. The licensee shall within 2 weeks of being notified install to the satisfaction of the Department in respect of location, type and construction an appliance(s) to measure the quantity of water extracted from the works. The appliance(s) to consist of either a measuring weir or weirs with automatic recorder, or meter or meter(s) of measurement as may be approved by the Department. The appliance(s) shall be maintained in good working order and condition. A record of all water extracted from the works shall be kept and supplied to the Department upon request. The licensee when requested must supply a test certificate as to the accuracy of the appliance(s) furnished either by the manufacturer or by some person duly qualified.
16. The authorised work shall not be used for the discharge of polluted water into a river or lake otherwise than in accordance with the conditions of a licence granted under the protection of the Environment Operations Act 1997. A copy of the licence to discharge is to be provided to the Department.
17. The maximum term of this licence shall be twelve (12) months.
18. The volume of groundwater extracted from the work authorised by this licence shall not exceed 5 megalitres for the term of the licence.
19. The authorised work shall not be used for the discharge of water unless the ph of the water is between 6.5 and 8.5, or the water has been treated to bring the ph to a level between 6.5 and 8.5 prior to discharge, or the water is discharged through the council's sewerage treatment system.
20. The licensee shall test the ph of any water extracted from the work prior to the commencement of discharge and at least twice daily thereafter and record the date, time and result of each test in the site log. A copy of the records of the ph testing is to be returned with the form 'AG'.
21. The work shall be managed in accordance with the constraints set out in a Dewatering Management Plan approved by the Department.
22. The retention or holding pond must be lined with an impermeable material (such as clay or geotextile) to prevent seepage, leakage or infiltration of treated water.

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

1. The development proposal is to comply with the subdivision layout identified on the drawings prepared by B & P Surveys numbered 19190 D (Revision E) - Sheets 1, 2 and 3 (ref: T15844) dated 1 July 2015.

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on proposed Lots 1 and 5 to 21 requiring the entire area of each lot to be managed as an inner protection area 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. A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on proposed Lot 2 (benefiting proposed Lot 1) for the purpose of an asset protection zone over the area indicated as (R) on the plan prepared by B & P Surveys numbered 19090 D (Revision E) - Sheet 2 of 3 (ref: T15844) dated 1 July 2015. The asset protection zone shall be managed as an inner protection area 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'.
4. A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on proposed Lot 1 to prohibit any habitable building, or ancillary building within 10 metres of a habitable building, over the area indicated as (R) on the plan prepared by B & P Surveys numbered 19090 D (Revision E) - Sheet 2 of 3 (ref: T15844) dated 1 July 2015.
5. A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on proposed Lots 10 to 20 to prohibit any habitable building, or ancillary building within 10 metres of a habitable building, over the area indicated as "10m APZ buffer" on the plan prepared by B & P Surveys numbered 19090 D (Revision E) - Sheet 3 of 3 (ref: T15844) dated 1 July 2015.
6. The building envelope on proposed Lots 5, 9 and 10 shall be no closer than 21 metres to the edge of the vegetation (drip line) on the southern side of Clothiers Creek Rd.
7. A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on proposed Lots 5, 9 and 10 to prohibit any habitable building, or ancillary building within 10 metres of a habitable building, between the building envelope and the southern lot boundary.
8. The area of proposed off-set planting within proposed Lot 2 to the south and west of Kauri Avenue and Kurrajong Avenue shall not encroach within 20 metres of the interface boundary between the existing residential lots and proposed Lot 2.

#### Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

9. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

#### Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

10. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

#### General Advice - consent authority to note

Any future development application lodged within this subdivision under section 79BA of the 'Environmental Planning & Assessment Act 1979' will be subject to requirements as set out in 'Planning for Bush Fire Protection 2006'.

The establishment of asset protection zones required under this bush fire safety authority may involve the clearing of vegetation. This bush fire safety authority does not authorise the clearing of any vegetation, nor does it include an assessment of potential ecological impacts of clearing vegetation for the purpose of establishing asset protection zones. Approvals necessary for the clearing of vegetation should be obtained prior to the establishment of any asset protection zones.

The building envelopes on proposed Lots 5, 9 and 10 are approved on the basis that existing vegetation between the Clothiers Creek Road formation and the proposed building envelopes (including any vegetation within the road reserve) will be managed as an asset protection zone, as indicated in the Bushfire Threat Assessment Report prepared by Bushfire Certifiers (ref: 14/020a) dated 2 July 2015 (amended).

Any easement or restriction to use required under this approval should be implemented in accordance with the NSW Rural Fire Service Community Resilience Practice Note 1/12 'Establishment of Easements for the Purpose of Asset Protection Zones'.

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

**RECOMMENDED** that Council notes the August 2016 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

## **C1 [PR-CM] Class 1 Appeal DA14/0892 for a Staged Development for a Dwelling House and Related Works, the First Stage for Which Development Consent is Sought to Define a Dwelling House Pad Site. Concept Approval is Also Sought for a Second Stage Dwelling, Access and tree removal at Lot 1 DP 408972 Wooyung Road, Wooyung**

#### **REASON FOR CONFIDENTIALITY:**

This report concerns legal matters that could influence the appeal process.

**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.

That Council's solicitors be engaged to defend the appeal for Development Application DA14/0892 for a staged development for a dwelling house and related works, the first stage for which development consent is sought to define a dwelling house pad site. Concept approval is also sought for a second stage dwelling, access and tree removal at Lot 1 DP 408972 Wooyung Road, Wooyung.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**REPORTS THROUGH THE GENERAL MANAGER**

**REPORTS FROM THE GENERAL MANAGER**

**LATE ITEM**

**429**

**Cr C Byrne  
Cr K Milne**

**RESOLVED** that Items a1 and b1 being Addendum items be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**a1 [GM-CM] Constitutional Referendum - Councillor Numbers**

**430**

**Cr C Byrne  
Cr K Milne**

**RESOLVED** that the:

1. Revised date of Saturday 29 October 2016 be noted as the date of the election and the constitutional referendum.

2. Caretaker Period commencing Friday 30 September 2016 and concluding Saturday 29 October 2016 be noted.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**b1 [CS-CM] Conduct of Local Government Election 29 October 2016**

**431**

**Cr C Byrne  
Cr K Milne**

**RESOLVED** that the revised estimate from the NSW Electoral Commission for the conduct of the election and constitutional referendum on Saturday 29 October 2016 of \$555,645 (excluding GST) be received and noted and the necessary budget adjustments be made in the September 2016 quarterly budget review.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**URGENT MAYORAL MINUTE**

**c1 [URG] Mayoral Elections**

**432**

**Cr K Milne**

**PROPOSED** that Council does not conduct an election for the Mayor or Deputy Mayor during the month of September 2016 in accordance with s290 of the NSW Local Government Act.

***Cr W Polglase temporarily left the meeting at 05:20 PM.***

***Cr P Youngblutt temporarily left the meeting at 05:20 PM.***

***Cr C Byrne temporarily left the meeting at 05:20 PM.***

**It is noted that a Quorum is not present to allow consideration of this matter.**

Please note that Crs Milne, Bagnall and Longland remained in the Chamber.

**ADJOURNMENT OF MEETING**

The meeting was adjourned at 5.43pm to be resumed for consideration of this item at 3.30pm on Thursday, 8 September 2016.

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## **RESUMPTION OF MEETING**

The Meeting resumed at 3.30pm

### Background Notes

## **LOCAL GOVERNMENT ACT 1993 - SECT 290**

### **290 When is an election of a mayor by the councillors to be held?**

- (1) *The election of the mayor by the councillors is to be held:*
- (a) *if it is the first election after an ordinary election of councillors-within 3 weeks after the ordinary election, or*
  - (b) *if it is not that first election or an election to fill a casual vacancy-during the month of September, or*
  - (c) *if it is the first election after the constitution of an area-within 14 days after the appointment of a provisional council or the first election of the council if a provisional council is not appointed, or*
  - (d) *if the relevant council is a non-functioning council, or a council of which all civic offices have been declared vacant, and the election is the first to be held after the appointment or election of the councillors-within 14 days after the appointment or election of the councillors.*
- (2) *If the councillors fail to elect a mayor as required by this section, the Governor may appoint one of the councillors as the mayor.*
- (3) *For the purposes of this section, an election of councillors does not conclude until the declaration of election of all the councillors of the council concerned.*

**Note :** *The filling of a casual vacancy in the office of a mayor elected by the councillors is dealt with in section 295.*

**Note :** *Elections are not held while a council is suspended under Part 7 or 8 of Chapter 13.*

## **RESUMPTION OF THE MEETING ADJOURNED FROM THURSDAY 1 SEPTEMBER 2016**

The Meeting resumed at 3.30pm on Thursday, 8 September 2016.

### **IN ATTENDANCE**

Cr K Milne (Mayor), Cr G Bagnall (Deputy Mayor), Cr C Byrne, Cr B Longland, Cr W Polglase.

Also present were Mr Troy Green (General Manager), Mr Paul Morgan (Manager Design for Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Ms Liz Collyer (Director Corporate Services), Mr Shane Davidson (Executive Officer), Mr Neil Baldwin (Manager Corporate Governance) and Miss Janet Twohill (Minutes Secretary).

### **DISCLOSURE OF INTEREST**

Nil.

**433**

#### **Cr K Milne**

**RESOLVED** that Council in interpreting Section 318, and more specifically Section 318(1)(a), that has been triggered by Section 309(3) of the Local Government Act 1993 is of the view that because the election scheduled for Saturday 10 September 2016, has failed, that the holders of all civic offices (including the civic office of Mayor) be preserved until the Declaration of the Poll of the Election to be held on Saturday 29 October 2016.

The Motion was **Carried**

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

**AGAINST VOTE - Cr C Byrne, Cr W Polglase**

**ABSENT. DID NOT VOTE - Cr P Youngblutt**

### **APOLOGIES**

Attendee **Cr P Youngblutt** has informed the General Manager that his absence is caused by illness.

434

Cr C Byrne  
Cr W Polglase

**RESOLVED** that the apology of Cr **P Youngblutt** be accepted.

The Motion was **Carried**

***FOR VOTE - Cr B Longland, Cr K Milne, Cr G Bagnall, Cr C Byrne, Cr W Polglase  
ABSENT. DID NOT VOTE - Cr P Youngblutt***

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There being no further business the Meeting terminated at 3.49pm on Thursday, 8 September 2016.



**Minutes of Meeting Confirmed by Council  
at the Meeting held on  
xxx**

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**Chairman**

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