



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr K Milne

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

# Minutes

## **Planning Committee Meeting Thursday 4 August 2016**

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

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

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

(a) the provisions of:

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

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

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

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

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

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

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

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

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

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

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

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

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The Meeting commenced at 5.03pm.

**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 Michael Chorlton (Manager Financial Services), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Mr Shane Davidson (Executive Officer), 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.

**APOLOGIES**

Nil

**DISCLOSURE OF INTEREST**

Nil.

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

Nil.

**SCHEDULE OF OUTSTANDING RESOLUTIONS**

Nil.

**REPORTS THROUGH THE GENERAL MANAGER**

Nil.

## REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 1 [PR-PC] Development Application DA10/0737 for Alterations to Existing Highway Service Centre Comprising of Two (2) New Diesel Refuelling Points, Expansion of Truck Refuelling Canopy, New Truck Parking Area (30 New Bays) and the Replacement of Existing Truck parking area with additional car parking spaces and dedicated bus drop-off area at Lot 1 DP 1127741 and Lot 2 DP 1010771 No. 1 Ozone Street, Chinderah

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Cr W Polglase  
Cr P Youngblutt

**RECOMMENDED** that Council, in respect of Development Application DA10/0737 for alterations to existing highway service centre comprising of two (2) new diesel refuelling points expansion of truck refuelling canopy new truck parking area (30 new bays) and the replacement of existing truck parking area with additional car parking spaces and dedicated bus drop-off area at Lot 1 DP 1127741 and Lot 2 DP 1010771 No. 1 Ozone Street, Chinderah, endorse that a further report be brought back to Council with a more detailed assessment of the latest plans and information, and with a recommendation for determination.

The Motion was **Carried**

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

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- 2 [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

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Cr W Polglase  
Cr P Youngblutt

**PROPOSED** 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:

### 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.
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[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 TCCCKPoM) 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 TCCCKPoM (under Section 5.12):

- c. Capture an existing cleared area of the site to enable the establishment of new

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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.

[PCC0285]

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 filling 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:
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- 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 TCKPoM 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 TCKPoM *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
  - l. 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 lathami*) 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 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 sewer pressure systems shall comply with the Water Services Association (WSA) of Australia's Pressure Sewerage Code of Australia WSA07-2007.
- The pressure pump unit must be installed 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 the rising main.
- The rising main to be located in the road reserve on the appropriate alignment
- The pressure sewerage system manufacturer must be Council approved.
- At least 24 hours emergency storage capacity shall be provided within the system.
- Pumps should be designed to pump a minimum of less than every 8 hours to reduce septicity in the pump well and rising mains.

[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.

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: [DUR0005]

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
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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.
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. [DUR2455]
81. Dust and Erosion Management [DUR2800]
- (a) Site earthworks are to be limited to a 5ha maximum at any time to reduce exposed areas. Completed area's 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.
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. [DUR2825]
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
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Sewer Hastings Point: 18 ET @ \$6431 per ET	\$115,758
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[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.

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(a) Tweed Road Contribution Plan: 110.5 Trips @ \$1395 per Trips (\$1,145 base rate + \$250 indexation) S94 Plan No. 4 Sector7_4	\$154,148
(b) Open Space (Casual): 17 ET @ \$557 per ET (\$502 base rate + \$55 indexation) S94 Plan No. 5	\$9,469
(c) Open Space (Structured): 17 ET @ \$638 per ET (\$575 base rate + \$63 indexation) S94 Plan No. 5	\$10,846
(d) Shirewide Library Facilities: 17 ET @ \$859 per ET (\$792 base rate + \$67 indexation) S94 Plan No. 11	\$14,603
(e) Bus Shelters: 17 ET @ \$67 per ET \$1,139 (\$60 base rate + \$7 indexation) S94 Plan No. 12	
(f) Eviron Cemetery: 17 ET @ \$125 per ET (\$101 base rate + \$24 indexation) S94 Plan No. 13	\$2,125
(g) Community Facilities (Tweed Coast - North) 17 ET @ \$1425 per ET (\$1,305.60 base rate + \$119.40 indexation) S94 Plan No. 15	\$24,225
(h) Extensions to Council Administration Offices & Technical Support Facilities 17 ET @ \$1909.57 per ET (\$1,759.90 base rate + \$149.67 indexation) S94 Plan No. 18	\$32,462.69
(i) Cycleways: 17 ET @ \$485 per ET (\$447 base rate + \$38 indexation) S94 Plan No. 22	\$8,245
(j) Regional Open Space (Casual) 17 ET @ \$1119 per ET	\$19,023

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(\$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.

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.

[PSC0395]

[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

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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 sewered 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:
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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'.

## **AMENDMENT 1**

**P 69**

**Cr K Milne  
Cr G Bagnall**

**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 deferred to seek a site inspection and for a workshop in regard to impacts on core koala habitat and the endangered ecological community.

Amendment 1 was **Carried** on the casting vote of the Mayor

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

Amendment 1 on becoming the Motion was **Carried** on the casting vote of the Mayor- (Minute No **P 69** refers)

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

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**3 [PR-PC] Development Application DA15/1069 for a Child Care Centre at Lot 1701 DP 1214550 No. 44 Seabreeze Boulevard, Pottsville**

**P 70**

**Cr W Polglase  
Cr P Youngblutt**

**RECOMMENDED** that Development Application DA15/1069 for a Child Care Centre at Lot 1701 DP 1214550 No. 44 Seabreeze Boulevard, Pottsville be approved subject to the following conditions:

### **GENERAL**

1. The development shall be completed in accordance with the Statement of

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Environmental Effects, Acoustic Report prepared by CGCAcoustics dated 21 April 2016, except where varied by the conditions and the Approved Plans provided in the following table:

Title	Prepared By	Dated	Reference
Site Plan	Raymond Design	11/04/2016	RD15002/P3
Floor Plan	Raymond Design	08/05/2015	RD15002/P1
Landscape Intent Plan	Raymond Design	05/05/2015	RD15002/P1
Planting Schedule and Details	Raymond Design	08/05/2015	RD15002/P1
Elevations	Raymond Design	TBA	RD15002/PTBA
Material and Colour Schedule	Raymond Design	TBA	RD15002/PTBA

2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0115]
3. 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]
4. Sewer manholes are present on this site. Manholes are not to be covered with soil or other material. Should adjustments be required to the sewer manhole, then 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. 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.
5. Any business or premises proposing to discharge wastewater containing pollutants differing from domestic sewage must submit a Liquid Trade Waste Application Form to Council. The application is to be approved by the General Manager or his delegate prior to any discharge to the sewerage system. A Liquid Trade Waste Application fee will be applicable in accordance with Council's adopted Fees and Charges.  
[GEN0190]
6. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.  
[GEN0300]
7. Separate approval must be obtained from Council for permission to carry out works within a road reserve under S138 of the Roads Act 1993. An application is to be made to council seeking approval of works to carry out the construction of the crossover and driveway to service the development. This application is to be lodged with Council prior to or as part of the application for Construction Certificate.

The application shall include engineering plans and specifications for the following required works:

- (a) Provision of an access for the Child Care in accordance with Council's standard drawing S.D.017 and Section A2 - "Site Access and Parking Code" of Council's consolidated Tweed Development Control Plan and Council's "Driveway Access to Property - Part 1" Design Specification June 2004



- (b) Concrete sealing of the access from the existing road kerb to the property boundary in accordance with Tweed Shire Councils standards and specifications.
- (c) The submitted plans are to detail a minimum driveway width of 9m at the kerb line and of 6m at the property boundary as per Tweed Shire Councils standard drawing S.D.017 - Driveway Access to Properties Fronting Road with Kerb & Gutter.

Additional documentation to be included is available from Council's website, <http://www.tweed.nsw.gov.au/Building/Stage2> (Driveway Application s138).

[GENNS01]

- 8. 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 or drainage works (including connection of a private stormwater drain to a public stormwater drain or installation of erosion and sediment control works.)

[GENNS02]

- 9. Stormwater management shall be in general accordance with the Stormwater Management Plan prepared by Cozens Regan Williams Prove Pty Ltd dated May 2015, except where varied by the conditions of this consent.

[GENNS03]

- 10. Erosion and Sediment Control shall be designed, installed and maintained 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".

[GENNS04]

- 11. All deferred payments approved by Council will require the recipient to provide a bank guarantee for the full amount of any outstanding deferred monies prior to the issue of a Construction Certificate.

Alternatively Council may choose to enter into a general or specific security agreement/deed under the *Personal Property Securities Act 2009*. The bank's obligations are discharged when payment to the council is made in accordance with this guarantee or when council notifies the bank in writing that the guarantee is no longer required.

Where a bank guarantee has been deposited with council, the guarantee shall not be cancelled until such time as the original contribution and accrued interest (if applicable) are paid. The bank guarantee must be provided by an Australian bank or recognised financial institution.

[PCCNS03]

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

- 12. 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.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Certificate of Compliance" signed by an authorised officer of Council.

BELOW IS ADVICE ONLY

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The Section 64 Contributions for this development at the date of this approval have been estimated as:

Water:	5.3 ET @ \$13,386	= \$70,945.80
Sewer:	9.5 ET @ \$6,431	= \$61,094.50

13. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all relevant 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.

Initial Payment (required prior to issue of Construction Certificate)

- (a) Tweed Road Contribution Plan:  
48.325 Trips @ \$1364 per Trips \$39,549.00  
((\$1,284 base rate + \$80 indexation)  
(\$26,366 has been subtracted from total for commercial job creating developments)  
S94 Plan No. 4  
Sector8\_4
- (b) LCA3 - Koala Beach/Seabreeze: \$2,087.40  
48.325 trips at \$72 per trip  
((\$68.00 base rate + \$4.00 indexation)  
(\$1,391.60 has been subtracted from this total as this is deemed a commercial job creating development)

Second payment (required 1 year from the date of issue of the Construction Certificate)

- (a) Tweed Road Contribution Plan:  
48.325 Trips @ \$1364 per Trips \$39,549.00  
((\$1,284 base rate + \$80 indexation)  
(\$26,366 has been subtracted from total for commercial job creating developments)

S94 Plan No. 4

(b) Sector8\_4

LCA3 - Koala Beach/Seabreeze: \$2,087.40

48.325 trips at \$72 per trip

(\$68.00 base rate + \$4.00 indexation)

(\$1,391.60 has been subtracted from this total as this is deemed a commercial job creating development)

Third payment (required 2 years from the date of issue of the Construction Certificate)

(a) Tweed Road Contribution Plan:

48.325 Trips @ \$1364 per Trips \$39,549.00

(\$1,284 base rate + \$80 indexation)

(\$26,366 has been subtracted from total for commercial job creating developments)

S94 Plan No. 4

Sector8\_4

(b) LCA3 - Koala Beach/Seabreeze: \$2,087.40

48.325 trips at \$72 per trip

(\$68.00 base rate + \$4.00 indexation)

(\$1,391.60 has been subtracted from this total as this is deemed a commercial job creating development)

Final payment (required 3 years from the date of issue of the Construction Certificate)

(a) Tweed Road Contribution Plan:

48.325 Trips @ \$1364 per Trips \$39,549.00

(\$1,284 base rate + \$80 indexation)

(\$26,366 has been subtracted from total for commercial job creating developments)

S94 Plan No. 4

Sector8\_4

(b) LCA3 - Koala Beach/Seabreeze: \$2,087.40

48.325 trips at \$72 per trip

(\$68.00 base rate + \$4.00 indexation)

(\$1,391.60 has been subtracted from this total as this is deemed a commercial job creating development)

14. 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.  
[PCC0285]
15. In accordance with Section 68 of the Local Government Act, 1993 any premises proposing to discharge wastewater into Councils sewerage system other than domestic sewage, shall submit to Council a completed Liquid Trade Waste Application for a Liquid Trade Waste Services Agreement. The Application is to be approved by the General Manager or his delegate PRIOR to the issuing of a Construction Certificate to discharge to Council's sewerage system.  
[PCC1255]
16. Pursuant to Section 68 of the Local Government Act, 1993 an approved pre-treatment device (eg. grease arrestor, oil separator, basket traps) must be installed in accordance with Tweed Shire Council's Policy - Discharge of Liquid Trade Waste to Council's Sewerage System. Submission of detailed hydraulic plans and specifications indicating the size, type and location of pre-treatment devices and full details of drainage installations in accordance with AS 3500 shall be submitted to Council for approval along with a Liquid Trade Waste Application Form and all required information required therein.  
[PCC1265]
17. Three copies of detailed hydraulic plans shall be submitted with all Liquid Trade Waste Applications indicating the size, type and location of pre-treatment devices. All plumbing and drainage installations to these devices must comply with AS3500.  
[PCC1275]
18. A single dwelling or group of up to three attached or detached dwellings, having a Building Code classification of 1a, must be connected by means of a single 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.  
[PCC1305]
19. 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]
20. If the development is likely to disturb or impact upon telecommunications infrastructure, 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. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.  
[PCC1325]

21. Prior to the construction certificate being issued plans drawn to a scale of 1:50 detailing the following with regards to all food related areas (storage & preparation) shall be provided to Council for assessment and approval, accompanied by a completed Application for Approval of Food Premise Fitout and the adopted fee in Council's Fees and Charges. Evidence of the plans being approved shall be provided prior to release of the construction certificate:

- Floor plan
- Layout of kitchen showing all equipment and washing facilities
- All internal finish details including floors, wall, ceiling and lighting
- Hydraulic design in particular method of disposal of trade waste where required
- Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required

[PCCNS01]

22. A revised landscaping plan is to be submitted to Council identifying that at least 80 percent of plantings are local species. The applicable list of species to choose from is available on Council's website titled "Native Flora for Planting at Koala Beach". The revised landscaping plan must be approved to the satisfaction of the General Manager or delegate prior to the issue of Construction Certificate.

#### PRIOR TO COMMENCEMENT OF WORK

23. 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]

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

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

- (ii) notified the principal certifying authority of any such appointment, and
- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

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

[PCW0225]

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

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

[PCW0245]

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

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

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

[PCW0255]

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

[PCW1065]

29. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.

[PCW1085]

#### DURING CONSTRUCTION

30. 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]

31. 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]

32. 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]

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

[DUR0375]

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

[DUR0405]

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

[DUR0415]

36. 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]

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

[DUR1015]

38. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development. [DUR1025]
39. 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]
40. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blown from the site. [DUR2185]
41. A garbage storage area shall be provided in accordance with Council's "Development Control Plan Section A15 - Waste Minimisation and Management". [DUR2195]
42. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
  - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - (c) external drainage prior to backfilling.
  - (d) completion of work and prior to occupation of the building. [DUR2485]
43. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
  - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500. [DUR2495]
44. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard. [DUR2535]
45. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR2545]
46. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and



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

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

[DUR2555]

- 47. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. The pre-treatment device service frequency will be approved as part of the Liquid Trade Waste Services Agreement and General Conditions of Approval.

[DUR2595]

- 48. A Liquid Trade Waste Services Agreement will be issued and a Liquid Trade Waste Approval Number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement

[DUR2685]

- 49. Council is to be notified, in writing, of any proposed changes to the wastewater pre-treatment devices.

[DUR2765]

- 50. 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 lot, from the existing water main in Seabreeze Boulevard. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

- 51. Works in the vicinity of public infrastructure must comply with the following requirements:

- a) No portion of any structure may be erected over or within one meter of the public infrastructure over the subject site. All structures shall be designed and sited such that all structure loads will be transferred to the foundation material outside of the zone of influence of any public infrastructure.
- b) Surface treatment over the sewer pipe shall be limited to soft landscaping, non-interlocking paving, asphalt or similar treatments as specified by Council officers, to allow ready access to the pipe for excavation. Council will not be responsible for the reinstatement of plantings, unauthorised structures or decorative surfacing in the vicinity of the pipe in the event of pipe excavation or other maintenance works.

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0205]

- 53. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

54. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professionally painted in black numbers 75-100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

55. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.

[POC0615]

56. The premises is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.

[POC0635]

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

[POC1045]

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

[USE0125]

59. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]

60. Hours of operation of the business are restricted to the following hours:

- \* 6am to 6pm - Mondays to Fridays
- \* All deliveries and pickups relating to the business are to occur between the hours 7am to 6pm Mondays to Fridays

[USE0185]

61. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

[USE0225]

62. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the

satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.

[USE0245]

63. The servicing of waste facilities shall be limited to between the hours of 7am to 6pm Monday to Friday.

[USE0285]

64. The development shall be carried out in accordance with the provisions of the acoustic assessment report prepared by CRG Acoustics and dated 21 April 2016.

[USE0305]

65. All plant and equipment installed or used in or on the premises:

(a) Must be maintained in a proper and efficient condition, and

(b) Must be operated in a proper and efficient manner.

In this condition, "plant and equipment" includes drainage systems, infrastructure, pollution control equipment and fuel burning equipment.

[USE0315]

66. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003*, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval.

[USE0835]

67. All commercial / industrial / residential wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate.

[USE0875]

68. The disposal of all wash water, oil, grease or other pollutants from the business shall be disposed of to the satisfaction of Council's General Manager or his delegate as outlined in the Liquid Trade Waste Services Agreement and General Conditions of Approval.

[USE1055]

69. Hours of operation of the business are restricted to between 6am and 6pm Monday to Friday

70. All deliveries to the premises are to occur only within the hours of 6am to 6pm Monday to Friday unless otherwise approved by Councils General Manager or his delegate.

71. The Child Care Centre is restricted to a maximum capacity of 90 children and 15 staff.

## AMENDMENT 1

P 71

Cr K Milne

Cr G Bagnall

**PROPOSED** that Development Application DA15/1069 for a Child Care Centre at Lot 1701 DP 1214550 No. 44 Seabreeze Boulevard, Pottsville be deferred to seek a site inspection and for a workshop in regard to the potential for enhancing the visual outcomes for this landmark site and for a more suitable design response (ie. than of air conditioning) in regard to noise.

Amendment 1 was **Lost**

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

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

The Motion was **Carried** (Minute No **P 70** refers)

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

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

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**4 [PR-PC] Development Application DA16/0031 for a Recreation Facility Including Gym and Swimming Pool and Signage at Lot 1702 DP 1214550 No. 42 Seabreeze Boulevard & Lot 1701 DP 1214550 No. 44 Seabreeze Boulevard Pottsville**

**P 72**

**Cr P Youngblutt**

**Cr C Byrne**

**RECOMMENDED** that Development Application DA16/0031 for a recreation facility including gymnasium and swimming pool and signage at Lot 1702 DP 1214550 No. 42 Seabreeze Boulevard and Lot 1701 DP 1214550 No. 44 Seabreeze Boulevard Pottsville be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos DA02 to DA17 prepared by Glen Petersen Architect and dated 20 June 2016, except where varied by the conditions of this consent. [GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0115]
3. The 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 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. 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.

[GEN0155]

6. Any business or premises proposing to discharge wastewater containing pollutants differing from domestic sewage must submit a Liquid Trade Waste Application Form to Council. The application is to be approved by the General Manager or his delegate prior to any discharge to the sewerage system. A Liquid Trade Waste Application fee will be applicable in accordance with Council's adopted Fees and Charges.

[GEN0190]

7. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

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

[GEN0300]

9. Owners Consent is required from adjacent allotment 1701 on DP 1214550 for a shared driveway arrangement for a Right of Carriageway benefiting Lot 1702 and burdening Lot 1701 on DP 1214550.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. The developer shall provide 19 parking spaces including parking for the disabled (as required) in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to the Principal Certifying Authority with the Construction Certificate for Building/Civil Works.

[PCC0065]

11. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued 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:

80.5 Trips @ \$1364 per Trips \$65,881.20

(\$1,284 base rate + \$80 indexation)

**(\$43,920.80 has been subtracted from total for commercial job creating**

developments @ 40%)

S94 Plan No. 4

Sector8\_4

Or in accordance with Council's deferred payment scheme as per TRCP.

(b) LCA3 - Koala Beach/Seabreeze: \$3,477.60

80.5 trips at \$72 per trip

(\$68.00 base rate + \$4.00 indexation)

(\$2,318.40 has been subtracted from total for commercial job creating developments @ 40%)

Or in accordance with Council's deferred payment scheme as per TRCP.

[PCC0215]

12. 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.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Certificate of Compliance" signed by an authorised officer of Council.

BELOW IS ADVICE ONLY

The Section 64 Contributions for this development at the date of this approval have been estimated as:

Water: 2.594 ET @ \$13,386.00/ET \$34,723.28

Sewer: 3.9188 ET @ \$6,431.00/ET \$25,201.80

[PCC0265]

13. 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 - insert / delete as applicable) 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/Occupation Certificate is issued.

[PCC0275]

14. 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.

[PCC0285]

15. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for the approval of the General Manager or his delegate.

[PCC0465]

16. 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 submitted with a S68 stormwater application for Council approval.

[PCC0485]

17. 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]

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

- (a) Vehicular access

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

- Traffic control plan

[PCC0895]

19. 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) 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.
- (ii) Runoff from all hardstand areas, (including car parking and hardstand landscaping areas and excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All “end of line” proprietary permanent stormwater treatment devices must be sized according to Council’s Development Design Specification D7 - Stormwater Quality, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.

- (d) Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.

[PCC1105]

20. 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]

21. 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]

22. Medium density/integrated developments, excluding developments containing less than four attached or detached dwellings and having a Building Code classification of 1a, will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

Note: 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.



- [PCC1185]
23. 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]
24. In accordance with Section 68 of the Local Government Act, 1993 any premises proposing to discharge wastewater into Councils sewerage system other than domestic sewage, shall submit to Council a completed Liquid Trade Waste Application for a Liquid Trade Waste Services Agreement. The Application is to be approved by the General Manager or his delegate PRIOR to the issuing of a Construction Certificate to discharge to Council's sewerage system.
- [PCC1255]
25. 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]
26. Prior to the construction certificate being issued, plans drawn to a scale of 1:50 detailing the following with regards to all food related areas shall be provided to Council's Environmental Health Officer for assessment and approval. Prior discussion with Council's Environmental Health Officer is recommended:
- a. Floor plan and sectional elevations in two directions
  - b. Layout of kitchen showing all equipment
  - c. All internal finish details including benches and work surfaces, floors, wall, ceiling and lighting
  - d. Hydraulic design in particular method of disposal of trade waste
  - e. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required
  - f. Servery areas including counters etc.
- [PCCNS01]
27. The proposed mechanical design for the site shall be reviewed by an acoustic consultant during the design phase to ensure that all required treatments as specified within the Environmental Noise Impact Report for 42 Seabreeze Boulevard, Pottsville prepared by CRG Acoustics Pty Ltd dated 7 June 2016 (crgref: 16091 report) have been incorporated into the design. Written confirmation of compliance from the acoustic consultant shall be submitted to the satisfaction of Council's General Manager or delegate prior to the Construction Certificate being issued.

[PCCNS02]

#### PRIOR TO COMMENCEMENT OF WORK

28. 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]

29. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

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

(a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and

(b) the person having the benefit of the development consent has:

(i) appointed a principal certifying authority for the building work, and

(ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and

(c) the principal certifying authority has, no later than 2 days before the building work commences:

(i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and

(ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

(d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:

(i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and

(ii) notified the principal certifying authority of any such appointment, and

(iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

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

(a) a standard flushing toilet connected to a public sewer, or

(b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

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

(a) showing the name, address and telephone number of the principal certifying authority for the work, and

(b) showing the name of the principal contractor (if any) for any building work and a

telephone number on which that person may be contacted outside working hours,  
and

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

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

[PCW0255]

33. Subdivision work in accordance with a development consent must not be commenced until:

- (a) a Construction Certificate for the subdivision 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 a Professional Engineer (Civil) with National Engineering Register (NER) or a Registered Surveyor. Documentary evidence is to be provided to Council demonstrating currency of the above accreditation, and

- (iv) has notified the Consent Authority and the council (if the council is not the Consent Authority) of the appointment,  
(v) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Certifying Engineer 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 subdivision work.

[PCW0815]

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

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

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

[PCW0985]

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

[PCW1065]

#### DURING CONSTRUCTION

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

[DUR0005]

39. 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]

40. 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]

41. The development shall be carried out in accordance with the provisions of the the Environmental Noise Impact Report for 42 Seabreeze Boulevard, Pottsville prepared by CRG Acoustics Pty Ltd dated 7 June 2016 (crgref: 16091 report) or any addendum to the report to the satisfaction of Council's General Manager or delegate.

[DUR0275]

42. If window systems to be used are not openable or are required to remain closed in order to satisfy the requirements of the Environmental Noise Impact Report for 42 Seabreeze Boulevard, Pottsville prepared by CRG Acoustics Pty Ltd dated 7 June 2016 (crgref: 16091 report), then a system of mechanical ventilation complying with the relevant provisions of the Building Code of Australia shall be installed to service all habitable areas of the dwelling.

[DUR0295]

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

[DUR0375]

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

[DUR0395]

45. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979. [DUR0405]
46. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011. [DUR0415]
47. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited. [DUR0815]
48. 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]
49. 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]
50. 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]
51. All works shall be carried out in accordance with Councils Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works. [DUR1075]
52. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate. [DUR1545]
53. During the course of the construction and fitout of the kitchen/food premises periodic inspections must be arranged with Councils Environmental Health officer to ensure compliance with all health related conditions of approval and respective legislation. [DUR1575]
54. 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]

55. The proponent must not undertake any work within the public road reserve without giving Council's Engineering Division (48 hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken. [DUR1845]
56. 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]
57. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed. [DUR1905]
58. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection. [DUR1925]
59. A garbage storage area shall be provided in accordance with Council's "Development Control Plan Section A15 - Waste Minimisation and Management". [DUR2195]
60. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. [DUR2205]
61. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate and NSW Office of Water. [DUR2425]
62. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection. [DUR2445]
63. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
  - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - (c) external drainage prior to backfilling.
  - (d) completion of work and prior to occupation of the building. [DUR2485]
64. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
  - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500. [DUR2495]

65. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

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

- \* 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- \* 50°C in all other classes of buildings.

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

[DUR2555]

67. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act.

[DUR2625]

68. The Applicant shall submit the appropriate 'Application for Water Service Connection' to Council's Water Unit to facilitate a property service water connection for proposed Lot 1702, from the existing water main in Seabreeze Boulevard. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

[DUR2800]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

69. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

70. A Site Management Plan shall be prepared and submitted to the satisfaction of Council's General Manager or his delegate which details how noise from onsite activities will be managed and controlled, so as to prevent the generation or emission of intrusive noise. Such management plan shall be submitted and approved prior to the issue of the occupation certificate.

[POC0125]

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

[POC0205]

72. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

73. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professionally painted in black numbers 75-100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

74. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.

[POC0615]

75. The proprietor of the food premises shall provide appropriate notification to Council prior to commencement of operations by completing the "Application for Food Premises Registration" form available from [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) or alternatively by contacting Council on 02 6670 2400.

[POC0625]

76. The premises is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.

[POC0635]

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

[POC0745]

78. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Council's Development Design and Construction Specifications.

[POC0755]

79. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

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

[POC1045]

81. Prior to occupation the applicant or business operator is to be registered in Council's Public Swimming Pool Register and pay the appropriate fee under Council's schedule of fees and charges.

[POC1095]

82. Prior to the issue of an Occupation Certificate, documentary evidence shall be provided to Council to confirm the registration of a Right of Carriageway for a shared driveway arrangement burdening Lot 1702 and benefiting Lot 1701 in DP 1214550.

No permanent structures are permitted within this easement, unless endorsed by Council.

## USE

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

[USE0125]



84. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise. [USE0175]
85. Hours of operation of the business are restricted to the following hours:  
\* 5.00am to 10.00pm - Mondays to Sunday [USE0185]
86. All deliveries to the premises are to occur only within the hours of 7.00am to 6.00pm Monday to Saturday and 8.00am to 6.00pm Sunday and public holidays, unless otherwise approved by Councils General Manager or his delegate. [USE0195]
87. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises. [USE0225]
88. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer. [USE0245]
89. The servicing of waste facilities shall be limited to between the hours of 7.00am to 6.00pm Monday to Saturday and 8.00am to 6.00pm Sunday and public holidays. [USE0285]
90. A noise impact compliance assessment report prepared by a suitably qualified acoustic consultant shall be prepared and submitted to the satisfaction of the General Manager or delegate in respect to noise generated by the activities associated with the recreation facility.

The assessment report shall consider the Environmental Noise Impact Report for 42 Seabreeze Boulevard, Pottsville prepared by CRG Acoustics Pty Ltd dated 7 June 2016 (crgref: 16091 report) and any addendum(s) or amendment(s) to this report as approved by Council's General Manager or delegate and include any recommended noise amelioration measures to be carried out by the applicant. The report shall be submitted within a period not exceeding 60 days of the date of operation of the recreation facility.

The applicant shall carry out any such recommendations as provided within the noise impact compliance assessment report to the satisfaction of the General Manager or delegate within 30 days from the date of the acoustic assessment, provided that the General Manager or delegate may extend the time period for the carrying out of any recommended acoustic treatment to a date which may be determined by the General Manager or delegate.

91. The development shall be carried out in accordance with the provisions of the Environmental Noise Impact Report for 42 Seabreeze Boulevard, Pottsville prepared by CRG Acoustics Pty Ltd dated 7 June 2016 (crgref: 16091 report), the approved Site [USE0295]
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Management Plan, and any addendum(s) or amendment(s) to these reports as approved by the General Manager or delegate.

[USE0305]

92. All plant and equipment installed or used in or on the premises:

(a) Must be maintained in a proper and efficient condition, and

(b) Must be operated in a proper and efficient manner.

In this condition, "plant and equipment" includes drainage systems, infrastructure, pollution control equipment and fuel burning equipment.

[USE0315]

93. All trade materials, product and plant to be kept within confines of the building at all times.

[USE0515]

94. All loading/unloading to take place within the boundary of the subject property.

[USE0525]

95. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003*, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Council's Environmental Health Officer included in this approval.

[USE0835]

96. All wastes shall be collected, stored, and disposed of to the satisfaction of the General Manager or his delegate.

[USE0875]

97. The premises shall be maintained in a clean and tidy manner.

[USE0965]

98. The public swimming pool shall be operated in accordance with the Public Health Act 2010, Part 3 of the Public Health Regulation 2012 and the current NSW Health Public Swimming Pool and Spa Pool Advisory Document, NSW Ministry of Health 2012.

[USE0985]

99. Suitable receptacles with close fitting lids must be provided and maintained in a clean and serviceable condition for soiled towels and trade wastes.

[USE1015]

100. The disposal of all wash water, oil, grease or other pollutants from the business shall be disposed of to the satisfaction of Council's General Manager or his delegate as outlined in the Liquid Trade Waste Services Agreement and General Conditions of Approval.

[USE1055]

101. A backflow containment device will be installed adjacent to Council's water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense.

[USE1455]

102. Food is to be restricted to the sale of coffee and pre-packaged non-potentially hazardous food products to visitors of the gym only. No food is to be prepared at the premises without the prior approval of Council's General Manager or delegate.

[USENS01]

## AMENDMENT 1

P 73

Cr K Milne

Cr G Bagnall

**PROPOSED** that Development Application DA16/0031 for a recreation facility including gymnasium and swimming pool and signage at Lot 1702 DP 1214550 No. 42 Seabreeze Boulevard and Lot 1701 DP 1214550 No. 44 Seabreeze Boulevard Pottsville be deferred to seek a site inspection and for a workshop in regard to the potential for enhancing the visual outcomes for this landmark site and for a more suitable design response (ie. than of air conditioning) in regard to noise.

Amendment 1 was **Lost**

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

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

The Motion was **Carried** (Minute No **P 72** refers).

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

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

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**5 [PR-PC] Development Application DA12/0170.13 for an Amendment to Development Consent DA12/0170 for Alterations and Additions to Motel (Staged) at Lot 100 DP 1208306 Nos. 19-25 Cypress Crescent, Cabarita Beach, Lot 1 Sec 4 DP 29748, Lot 2 Sec 4 DP 29748 No. 26-28 Tweed Coast Road, Cabarita Beach**

**P 74**

**Cr P Youngblutt**

**Cr W Polglase**

**RECOMMENDED** that Development Application DA12/0170.13 for an amendment to Development Consent DA12/0170 for alterations and additions to motel (staged) at Lot 100 DP 1208306 Nos. 19-25 Cypress Crescent, Cabarita Beach, Lot 1 Sec 4 DP 29748, Lot 2 Sec 4 DP 29748 No. 26-28 Tweed Coast Road, Cabarita Beach be approved subject to the modification or addition of the following conditions:

1. Delete Condition 1C and replace with Condition 1D as follows:

1D The development shall be carried out in five (5) stages as follows:

Stage 1:

- Demolition Work, Earthworks and Extension of walls to third floor roof.

Stage 2:

- Construction of new covered entry including common amenities;
  - Conversion of existing caretakers dwelling, laundry, reception and restaurant service kitchen area to new circulation space, reception, reception office, restaurant dining space, new kitchen, chef office, dry store, cold store, freezer, lift and laundry;
  - Renovation of rooms 1 through 5 including room enlargement and new individual ground level balcony areas;
-

- Conversion of room 6 and adjoining storage space into new kitchen store and communal lounge room;
- Renovation of existing south apartment and existing rooms 7 through 12 (identified as rooms 6 through 11 on proposed plans) including room and balcony enlargement;
- Conversion of rooms 14 and 15 into new north apartment;
- Renovation of existing external staircase access upgraded to comply with the Building Code of Australia (BCA);
- Construction of outdoor food and beverage service area;
- Construction of lounge, bar and outdoor bar area;
- Construction of external bin storage area, equipment store and new at grade car parking;
- Partial site landscaping;
- Renovation of existing stair access to foreshore reserve;
- Retention and renovation of existing swimming pool; and
- New section of timber pool fencing to eastern boundary.

Stage 3:

- Final construction of third level including new motel rooms 12 through 19;
- Extension of existing external stairs to provide access to third level; and
- Partial site landscaping.

Stage 4:

- Construction of car park room and covered pedestrian entry.

Stage 5:

- Construction of new day spa, storeroom, manager's office and staff room.

2. Delete Condition 1.1B and replace with Condition 1.1C as follows:

1.1C. The development shall be completed in accordance with the Statement of Environmental Effects and Plans identified as:

- Site Plan, S96 101 Revision B, dated 28/11/2014;
- Ground Level Option 1, S96 101 Revision B, dated 28/11/2014;
- Level One, S96 102, Revision B, dated 28/11/2014;
- Level Two, S96 103, Revision B, dated 28/11/2014;
- Roof, S96 104, Revision B, dated 28/11/2014;
- Section AA, S96 200, Revision B, dated 28/11/2014;
- North and South Elevation, S96 300, Revision B, dated 28/11/2014;
- East and West Elevation, S96 310, Revision B, dated 28/11/2014.

For the Stage 5 building:

- Site Plan with reference DA100 dated 20/04/2016.
- Ground Floor Plan Proposed with reference DA110, nd.
- First Floor Plan Proposed with reference DA120 dated 20/04/2016.
- North Elevations Proposed with reference DA200 dated 20/04/2016.
- East and West Elevations Proposed with reference DA210 dated 20/04/2016.
- South Elevations Proposed with reference DA220 dated 20/04/2016.

All prepared by Virginia Kerridge Architect, except where varied by the conditions of this consent.

3. Delete condition 99B and replace with Condition 99C as follows:

99C. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council for each of the remaining applicable stages to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Certificate of Compliance" signed by an authorised officer of Council.

[PCC0265]

4. New Condition 38.1 is to be inserted under heading PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE as follows:

38.1. An updated noise management plan shall be prepared and submitted to the satisfaction of the General Manager or delegate detailing the type of plant and equipment proposed, proposed location of all plant and equipment, and proposed noise mitigation measures to ensure that the emission of intrusive noise from the operation of the proposed Day Spa is prevented. Such management plan shall be submitted and approved prior to the issue of the construction certificate.

[PCCNS01]

5. New Conditions 89.1-89.4 are to be inserted under heading DURING CONSTRUCTION as follows:

89.1. 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]

89.2. The premises shall be constructed in accordance with the provisions of Part 3 of Schedule 2, Standards for Beauty Salons, under the Local Government (General) Regulation 2005.

[DUR1665]

89.3. Swimming Pools (Building)

- (a) The plunge pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 - 2012 & AS 1926.3 -2010 & AS 1926.2-2007, the Swimming Pool Act 1992 and the Swimming Pool Regulation 2008.
- (b) The plunge pool is to have suitable means for the drainage and disposal of overflow water.
- (c) The plunge pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.
- (e) Once your plunge pool is complete please register it at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).

[DUR2075]

89.4. Backwash from the plunge pool and the existing swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR2085]

6. New Conditions 109.1-109.3 are to be inserted under heading PRIOR TO ISSUE OF OCCUPATION CERTIFICATE as follows:

109.1. Upon completion of the plunge pool the builder is to submit to the Principal Certifying Authority a certificate stating that the "Water Recirculation System" has been installed in accordance with AS 1926.3-2010.

[POC0905]

109.2. Prior to occupation the applicant or business operator is to be registered in Council's Public Swimming Pool Register and pay the appropriate fee under Council's schedule of fees and charges.

[POC1095]

109.3. Prior to commencement of operations the applicant or business operator is to be registered on Council's Public Health Register, and pay the appropriate fee under Council's schedule of fees and charges

[POCNS01]

7. New Conditions 120.1-120.8 are to be inserted under heading USE as follows:

120.1. Hours of operation of the Day Spa business are restricted to the following hours:

- \* 10am to 6pm - Mondays to Sundays
- \* All deliveries and pickups relating to the business are to occur within the approved hours

[USE0185]

120.2. The premises shall be maintained in a clean and tidy manner.

[USE0965]

120.3. Skin penetration activities at the premises shall be conducted in accordance with the Public Health Act 2010 and Part 4 of the Public Health Regulation 2012.

[USE0975]

120.4. The public swimming pool shall be operated in accordance with the Public Health Act 2010, Part 3 of the Public Health Regulation 2012 and the current NSW

Health Public Swimming Pool and Spa Pool Advisory Document, NSW Ministry of Health 2012.

[USE0985]

120.5. The premises must be provided with facilities that are adequate for the purpose of keeping towels, appliances, utensils and the like clean.

[USE1005]

120.6. Suitable receptacles with close fitting lids must be provided and maintained in a clean and serviceable condition for soiled towels and trade wastes.

[USE1015]

120.7. A sharps container shall be provided for the storage of used disposable needles in any skin penetration process. The sharps container shall be collected by an authorised medical waste collection service to the satisfaction of Council's General Manager or his delegate.

[USE1025]

120.8. The ancillary use of the Day Spa is exclusively for guests of the motel only and will not be open to the general public.

[USENS01]

The Motion was **Carried**

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

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**6 [PR-PC] Development Application DA12/0170.14 for an Amendment to Development Consent DA12/0170 for Alterations and Additions to Motel (Staged) at Lot 100 DP 1208306 Nos. 19-25 Cypress Crescent, Cabarita Beach, Lot 1 Sec 4 DP 29748, Lot 2 Sec 4 DP 29748 No. 26-28 Tweed Coast Road, Cabarita Beach**

**P 75**

**Cr W Polglase**  
**Cr P Youngblutt**

**RECOMMENDED** that Development Application DA12/0170.14 for an Amendment to Development Consent DA12/0170 for Alterations and Additions to Motel (Staged) at Lot 100 DP 1208306 Nos. 19-25 Cypress Crescent, Cabarita Beach, Lot 1 Sec 4 DP 29748, Lot 2 Sec 4 DP 29748 No. 26-28 Tweed Coast Road, Cabarita Beach be approved subject to amendment of the following conditions:

1. Condition No. 84B is to be deleted and replaced with Condition No. 84C which reads as follows:

84C. The development shall be carried out in accordance with the provisions of the Environmental Noise Impact report prepared by CRG Acoustical Consultants (ref: crgref12008a report dated 10 April 2012) and recommendations made in the Noise Management Plan Review prepared by MWA Environmental (ref: L37014/PAK/13-048 dated 1 December 2014) and MWA Environmental (ref: L26315/PAK/13-048 dated 11 August 2015) except where modified by this consent.

2. Condition No. 113C is to be deleted and replaced with Condition No. 113D which reads as follows:

113D. Hours of operation of the business are restricted to the following:

- Enclosed Dining/Lounge/Bar areas and Outdoor Bar – 7am to 12 midnight Monday to Sunday.
- Outdoor facilities, including pool and BBQ - 7am to 10pm Monday to Sunday.

The Motion was **Carried**

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

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

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**7 [PR-PC] Development Application DA15/0532.01 for an Amendment to Development Consent DA15/0532 for Use of Part of Tavern Floor Area as a Retail Shop at Lot 2 Section 10 DP 2087 No. 9 Commercial Road, Murwillumbah**

The General Manager vacated the Chamber at 5.39pm during discussion and voting on this item.

**P 76**

**Cr P Youngblutt**

**Cr W Polglase**

**PROPOSED** that Council engage solicitors to undertake enforcement action to address the car park layout and construction at Lot 2 Section 10 DP 2087 No. 9 Commercial Road, Murwillumbah.

**AMENDMENT 1**

**P 77**

**Cr K Milne**

**Cr G Bagnall**

**RECOMMENDED** that Council defers engaging solicitors pending the outcome of the current litigation involving the site between the landowner and a third party and a report be brought back to a future meeting.

**FOR VOTE - Cr G Bagnall, Cr K Milne, Cr C Byrne**

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

The Amendment 1 was **Carried** on the Casting Vote of the Mayor (Minute No **P 77** refers).

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**8 [PR-PC] Development Application DA04/0162.02 for an Amendment to Development Consent DA04/0162 for Expansion and Amalgamation of Existing Quarries at Lot 28 DP 1079480 Pollards Road, Dulguigan**

P 78

**Cr P Youngblutt**  
**Cr W Polglase**

**RECOMMENDED** that Development Application DA04/0162.02 for an amendment to Development Consent DA04/0162 for expansion and amalgamation of existing quarries at Lot 28 DP 1079480 Pollards Road, Dulguigan be approved subject to the following changes being made to Schedule B of the consent:

1. Delete Schedule B Condition 1 and replace it with Condition 1A which reads as follows to reflect the new plan:
  - 1A. The development shall be completed in accordance with the following:
    - a. Statement of Environmental Effects prepared by Jim Glazebrook & Associates Pty Ltd (JGA) dated February 2004,
    - b. Further information as per the JGA letter of 30 July 2004 as later amended by their letter of 8 October 2004
    - c. The approved "Rehabilitation and Environmental Management Plan" approved from time to time by Council's Director of Planning & Regulation

Except where varied by the approved S96 DA04/0162.02 application material specifically incorporating Dwg. No. 1374.044 Rev. 6 Extraction Boundary Alignment dated 02 May 2016 prepared by Groundwork Plus

AND

Except where varied by the following conditions

2. Insert new condition in Schedule B after Condition 1A which is numbered 1.1 which reads as follows to reflect the NSW Office of Environment & Heritage requirement for BioBanking:
  - 1.1. Prior to the commencement of the quarry expansion (as approved by DA04/0162.02), the proponent must develop a biodiversity offset strategy to the written satisfaction of the Office of Environment and Heritage and the Tweed Shire Council. The strategy must quantify the biodiversity impacts of the quarry expansion using the BioBanking Assessment Methodology and identify the BioBanking biodiversity credit requirements required to offset the impacts of the proposal. The strategy must also identify the measures proposed to offset these impacts. If the measures include the securing of any identified offset site in perpetuity, then this strategy must identify a suitable mechanism to achieve this.
3. Insert new condition in Schedule B after Condition 1.1 which is numbered 1.2 which reads as follows to reflect the requirements for the REMP:

- 1.2. Within 90 days of the issue of S96 DA04/0162.02 consent, the amended REMP prepared in accordance with those matters prescribed in new Attachment 1 forming part of this consent shall be submitted to and approved by Council. The amendments may be made as an attachment and/or addendum of the REMP. Where any conflict or inconsistency exists between the REMP and attachment and/or addendum (consistent with Attachment 1 of this consent) the provisions detailed in the later shall prevail.
4. Insert new condition in Schedule B after Condition 1.2 which is numbered 1.3 which reads as follows to reflect the requirements for the Restrictive Covenant:
- 1.3. Within 90 days of the issue of S96 DA04/0162.02 consent a restrictive statutory covenant for conservation purposes in respect of the entire area described as 'Offset Area (15.08 ha)' shown on Dwg. No. 1374.044 Rev. 6 Extraction Boundary Alignment dated 02 May 2016 prepared by Groundwork Plus shall be created under s. 88B of the Conveyancing Act 1919 for the benefit of the Tweed Shire Council on the terms specified below:
- a. The area described as 'Offset Area (15.08 ha)' must be subject to a habitat restoration program undertaken in accordance with an approved REMP and managed as a natural area for conservation purposes in perpetuity.
  - b. The following activities are not permitted within the 'Offset Area (15.08 ha)':
    - i. Clearing, lopping or removal of any native plants, whether existing at the date of this approval or planted pursuant to conditions of this consent;
    - ii. Erection of any fixtures or improvements, including buildings or structures;
    - iii. Construction of any trails or paths unless otherwise approved by the NSW Rural Fire Service (or equivalent state agency) and Council;
    - 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 Offset Area; and
    - vi. Performance of any other acts which may have detrimental impact on the values of the Offset Area.

Burden: Part Lot 28 DP1079480. Benefit: Tweed Shire Council

5. Insert new condition in Schedule B after Condition 1.3 which is numbered 1.4 which reads as follows to reflect the requirements for the new boundary to be surveyed:
- 1.4. Within 90 days of the issue of S96 DA04/0162.02 consent the following boundary lines as shown on Dwg. No. 1374.044 Rev. 6 Extraction Boundary Alignment dated 02 May 2016 prepared by Groundwork Plus shall be physically surveyed, clearly marked and delineated at regular intervals by a registered surveyor:

The 'Offset Area (15.08 ha)'; and  
The 'Proposed Extraction Boundary (19 ha)'

6. Insert new condition in Schedule B after Condition 1.4 which is numbered 1.5 which reads as follows to reflect the requirements for separate approvals:
  - 1.5. The applicant is required to seek under a separate application to the NSW Local Land Services (or equivalent state consent authority), approval for the removal of native vegetation regulated under the *Native Vegetation Act 2003* where:
    - a. The native vegetation proposed to be removed occurs within the 'Proposed Extraction Boundary (19 ha)' shown on *Dwg. No. 1374.044 Rev. 6 Extraction Boundary Alignment dated 02 May 2016 prepared by Groundwork Plus* the 'plan' referred herein) yet not within the area identified on the plan as 'Approved Extraction Boundary (15.08 ha)' (pursuant to Condition 26A); and/or
    - b. Where clearing is proposed within the 'Approved Extraction Boundary (15.08 ha)' as shown on the plan and is to exceed 2 ha per annum
7. Insert new condition in Schedule B after Condition 1.5 which is numbered 1.6 which reads as follows to reflect the requirements for an 88B Instrument until the BioBanking Agreement is in place:
  - 1.6. Upon entering into a BioBanking Agreement with the NSW Office of Environment and Heritage that involves securing in perpetuity the onsite Offset Area under the Threatened Species Conservation Act 1995, the Tweed Shire Council (as covenantee) will agree to revoke any 88B instrument (registered for conservation purposes under the Conveyancing Act 1919) that applies to that land.
8. Insert new condition in Schedule B after Condition 1.6 which is numbered 1.7 which reads as follows to reflect the requirements for a S68 Approval for onsite sewage management system:
  - 1.7. Within 90 days from the date of consent (DA04/0162.02) the applicant is required to lodge an application to operate any new onsite sewage management system under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with a determination.
9. Insert new condition in Schedule B after Condition 1.7 which is numbered 1.8 which reads as follows to reflect the requirements for a S68 Approval for onsite sewage management system:
  - 1.8. In regard to DA04/0162.02 prior to the relocation of the amenities building the applicant is required to lodge an application to install/operate any new onsite sewage management system under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with a determination. Any application shall be supported by design report prepared by a suitable qualified and experienced consultant.
10. Insert new condition in Schedule B after Condition 1.8 which is numbered 1.9 which reads as follows to reflect the requirements for a S68 Approval for onsite sewage management system:

- 1.9. If during construction works any Aboriginal object or relic is disturbed or uncovered, works are to cease and the NSW Office of Environment & Heritage are to be notified immediately, in accordance with the provisions of the National Parks and Wildlife Act 1974.
11. Delete condition 26 in Schedule B and replace it with a new proposed Condition 26A which updates the conditions to reflect the new plan:
- 26A. No work (excluding rehabilitation) shall be undertaken beyond the 'Proposed Extraction Boundary (19 ha)' as shown on Dwg. No. 1374.044 Rev. 6 Extraction Boundary Alignment dated 02 May 2016 prepared by Groundwork Plus unless works are required by the NSW Rural Fire Service (or equivalent state agency) for bushfire hazard management and those works are concurrently approved by Council's General Manager or delegate.
12. Delete condition 27 in Schedule B (as noise barrier not required for adjoining site anymore) and replace it with a new proposed Conditions 27.1 and 27.2 which provides generic noise conditions leaving specific noise criteria to the NSW EPA:
- 27.1. The LAeq, 15 min noise level emitted from the premises shall not exceed the adopted noise criteria of 37dB(A) during the approved operating hours at any affected residence as detailed in the Assessment of Noise and Dust Impacts prepared by MWA Environmental dated 17 November 2014.
- 27.2. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant that assesses compliance with the adopted noise criteria detailed in the Assessment of Noise and Dust Impacts prepared MWA Environmental dated 17 November 2014. The NIS is to be submitted to the satisfaction of the General Manager or delegate and is to include recommendations for noise attenuation if required. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's Authorised Officer.
13. Delete condition 32 in Schedule B and replace it with a new proposed Condition 32A which updates the condition to reflect the current provisions surrounding Native Vegetation removal with the relevant State Agency:
- 32A. Any proposal to clear native vegetation in excess of 2ha per annum within the area shown as 'Approved Extraction Boundary (15.08 ha)' on *Dwg. No. 1374.044 Rev. 6 Extraction Boundary Alignment dated 02 May 2016 prepared by Groundwork Plus* (the 'plan' referred herein) yet not within the expanded area shown on the plan as 'Proposed Extraction Boundary' (pursuant to Condition 1.5) is to be the subject of a separate application to the NSW Local Land Services (or equivalent state consent authority).
14. Delete condition 36 in Schedule B relating to hours of operation as this is licenced by NSW EPA and detailed in the General Terms of Approval by NSW EPA which form part of this consent.

15. Delete condition 41 in Schedule B relating to noise levels and blasting criteria as this is licenced by NSW EPA and detailed in the General Terms of Approval by NSW EPA which form part of this consent.
16. Insert After Condition 43) – The NSW EPA – GENERAL TERMS OF APPROVAL as follows:

*GENERAL TERMS OF APPROVAL UNDER SECTIONS 43(b), 48 and 55 OF THE PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997 (Environment protection licence to authorise carrying out of scheduled activities at any premises)*

*Administrative conditions*

*Note: Mandatory conditions for all general terms of approval*

*A1. Information supplied to the EPA*

*A1.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:*

- *Development Application No.2015.069 submitted to Council on 30 September 2014 and attachments;*
- *Statement of Environmental Effects - Section Amendment to DA04/0162 and attachments.*

*Discharges to Air and Water and Applications to Land*

*P1.1 The following utilisation areas referred to in the table below are identified in the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, for the purposes of the monitoring and/or setting of limits for any application of solids or liquids to the utilisation area.*

<i>EPA Identification no.</i>	<i>Type of Monitoring Point</i>	<i>Type of Discharge Point</i>	<i>Location Description</i>
<i>Sediment Basin Discharge</i>	<i>Water</i>	<i>Water</i>	<i>Overflow point of stormwater from quarry floor</i>

*Limit conditions*

*L1. Pollution of waters*

*Note: Mandatory condition*

*L.1.1 Except as may be expressly provided by a licence under the Protection of the Environment Operations Act 1997 in relation of the development, section 120 of the Protection of the Environment Operations Act 1997 must be complied with in and in connection with the carrying out of the development.*

*L2. Concentration limits*

L2.1 For each monitoring/discharge point or utilisation area specified in the tablets (by a point number), the concentration of a pollutant discharged at that point, or applied to that area, must not exceed the concentration limits specified for that pollutant in the table.

L2.2 Where a pH quality limit is specified in the Table, the specified percentage of samples must be within the specified ranges.

L2.3 To avoid any doubt, this condition does not authorise the pollution of waters by any pollutant other than those specified in the tablets.

#### L2.4 Water and/or Land Concentration Limits

##### DISCHARGE POINT 1 (Sediment Basin Discharge)

<b>Pollutant</b>	<b>Units of measure</b>	<b>100% concentration</b>
Total Suspended Solids	mg/L	50
pH	pH units	6.5-8.5
Oil and grease	mg/L	Nil

L2.5 The concentration limits in the above table do not apply to any discharge from the sediment basin (at Point 1) solely arising from rainfall measured at the premises exceeding 82.5 mm in total falling over any consecutive five day period.

L2.6 If the applicant uses turbidity (NTU) in place of total suspended solids (TSS) to determine compliance with the EPA's general terms of approval, or a licence issued under the Protection of the Environment Operations Act 1997, the applicant must develop a statistical correlation which identifies the relationship between NTU and TSS for water quality in the sediment basin/s in order to determine the NTU equivalent of 50 mg/L TSS prior to its use.

L2.7 If the applicant uses turbidity (NTU) in place of total suspended solids (TSS) to determine compliance with the EPA's general terms of approval, or a licence issued under the Protection of the Environment Operations Act 1997, the applicant must provide the EPA with a copy of the statistical correlation assessment methodology and results before using NTU in place of TSS.

L2.8 If the applicant uses turbidity (NTU) in place of total suspended solids (TSS) to determine compliance with the EPA's general terms of approval, or a licence issued under the Protection of the Environment Operations Act 1997, the applicant must develop and implement a method to enable the ongoing verification of the relationship between NTU and TSS.

L2.9 If the applicant uses turbidity (NTU) in place of total suspended solids (TSS) to determine compliance with the EPA's general terms of approval, or a licence issued under the Protection of the Environment Operations Act 1997, the applicant must provide the EPA with any amendments the applicant makes to the statistical correlation as a result of the ongoing verification required by Condition L2.8 before using the revised statistical correlation.

#### L3. Waste

L3.1 The applicant must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing,

*reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.*

*L3.2 This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.*

#### *L4. Noise limits*

*L4.1 Noise from the premises must not exceed an LAeq (15 minute) noise emission criterion of 37 dB(A) for the nearest residential receivers as identified in Statement of Environmental Effects - Drawing 1, except as expressly provided by these general terms of approval.*

*L4.2 Noise from the premises is to be measured at nearest residential receiver as identified in the Statement of Environmental Effects - Drawing 1, that does not have written permission from the property owners for an exceedance of condition L4.1 has been provided to the EPA.*

*L4.3 The noise limits set out in condition L4.1 apply under all meteorological conditions except for the following:*

- Wind Speeds greater than 3 metres/second at 10 metres above ground level; or*
- Temperature inversion conditions up to 30 C/100m and wind speeds greater than 2 metres/second at 10 metres above ground level; or*
- Temperature inversion conditions greater than 30Cf100m.*

#### *L5. Blasting*

*L5.1 Blasting operations at the premises may only take place between 09:00 to 15:00 Monday to Friday. (Where compelling safety reasons exist, the Authority may permit a blast to occur outside the above mentioned hours. Prior written (or facsimile) notification of any such blast must be made to the Authority).*

*L5.2 The airblast overpressure level from blasting operations in or on the premises must not exceed:*

- a) 115 dB (Lin Peak) for more than 5% of the total number of blasts during each reporting period;*

*and*

- b) 120 dB (Lin Peak) at any time,*

*at any point within 1 metre of any affected residential boundary or other noise sensitive location unless the location is owned by the licensee or is subject to a private written agreement between the owner of the residence or noise sensitive location as to an alternative overpressure level.*

*L5.3 The ground vibration peak particle velocity from blasting operations carried out in or on the premises must not exceed:*

- a) 5mm/s for more than 5% of the total number of blasts carried out on the premises during each reporting period; and*
- b) 10 mm/s at any time,*

*at any point within 1 metre of any affected residential boundary or other noise sensitive location unless the location is owned by the licensee or is subject to a private written agreement between the owner of the residence or noise sensitive location as to an alternative ground peak velocity level.*

*L5.4 All sensitive receivers are to be given at least 24 hours' notice when blasting is to be undertaken.*

#### *L6. Hours of operation*

*L6.1 Activities covered by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, must only be carried out between the hours of 7:30 am and 6:00 pm Monday to Friday, and 8:00 am and 1:00 pm Saturday, and at no time on Sundays and Public Holidays.*

*L6.2 This condition does not apply to the delivery of material outside the hours of operation permitted by condition L6.1 if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification must be provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.*

*L6.3 The hours of operation specified in condition L6.1 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.*

*L6.4 Heavy vehicles (including excavators, haul trucks, loader and water carts) and machinery [including screening plant, jaw crusher, feed bin, cone crusher, rock drill, water pump and generator (genset)] cannot be started, maintained, arrive or leave the site or operated outside of operating hours as detailed in L6.1 and at no time on Sundays and Public Holidays."*

#### *Operating conditions*

##### *01. Dust*

*01.1 Activities occurring in or on the premises must be carried out in a manner that will minimise the generation, or emission from the premises, of wind-blown or traffic generated dust.*

##### *02. Processes and management*

*02.1 Sediment basins shall be treated, if required, to reduce the Total Suspended Solids level to the concentration limit of 50 mg/L provided by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, before being released to the environment. Treatment can be with gypsum or any other material that has been approved by the EPA.*

*02.2 The applicant must maximise the diversion of run-on waters from lands upslope and around the site whilst land disturbance activities are being undertaken.*

*02.3 The applicant must maximise the diversion of stormwater runoff containing suspended solids to sediment basins installed on the premises.*

*02.4 Where sediment basins are necessary, all sediment basins and associated drainage must be installed and commissioned prior to the commencement of any clearing or grubbing works within the catchment area of the sediment basin that may cause sediment to leave the site.*



02.5 The applicant must ensure the design storage capacity of the sediment basins installed on the premises is reinstated within 5 days of the cessation of a rainfall event that causes runoff to occur on or from the premises.

02.6 The applicant must ensure that sampling point(s) for water discharged from the sediment basin(s) are provided and maintained in an appropriate condition to permit:

- a) the clear identification of each sediment basin and discharge point;
- b) the collection of representative samples of the water discharged from the sediment basin(s); and c) access to sampling point(s) at all times by an authorised officer of the EPA.

02.7 The applicant must endeavour to maximise the reuse of captured stormwater on the premises.

02.8 Each sedimentation basin must have a marker (the "sediment basin marker") that identifies the upper level of the sediment storage zone.

02.9 Whenever the level of liquid and other material in any sedimentation basin exceeds the level indicated by the sedimentation basin marker, the licensee must take all practical measures as soon as possible to reduce the level of liquid and other material in the sedimentation basin.

02.10 The sediment basins must meet the design and operational standards of *Managing Urban Stormwater Soils and Construction: Volume 1 and Volume 2 E. Mines and quarries*. This document requires that at a minimum 85 percentile five-day rainfall event be used to determine basin sizing for quarries.

02.11 All liquid chemicals, fuels and oils must be stored in tanks or containers inside suitable bund(s). Bund(s) are to be designed, constructed and maintained in accordance with AS1940-2004 *Storage and Handling of Flammable and Combustible Liquids*.

#### *Monitoring and recording conditions*

##### *M1 Monitoring records*

M1.1 The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the *Protection of the Environment Operations Act 1997*, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

M1.2 All records required to be kept by the EPA's general terms of approval, or a licence under the *Protection of the Environment Operations Act 1997*, must be:

- a) in a legible form, or in a form that can readily be reduced to a legible form;
- b) kept for at least 4 years after the monitoring or event to which they relate took place; and
- c) produced in a legible form to any authorised officer of the EPA who asks to see them.

M1.3 The following records must be kept in respect of any samples required to be collected:

- a) the date(s) on which the sample was taken;

- b) *the time(s) at which the sample was collected;*
- c) *the point at which the sample was taken; and*
- d) *the name of the person who collected the sample.*

*M2. Requirement to monitor concentration of pollutants discharged*

*M2.1 The applicant must monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in Column 1. The applicant must use the sampling method, units of measure, and sample at the frequency, specified opposite in the other columns:*

*POINT 1 Water and Land*

*Discharge point 1*

<i>Pollutant</i>	<i>Units of measure</i>	<i>Frequency</i>
<i>Total Suspended Solids</i>	<i>mg/L</i>	<i>Special Frequency 1</i>
<i>pH</i>	<i>pH units</i>	<i>Special Frequency 1</i>
<i>Oil and grease</i>	<i>mg/L</i>	<i>Special Frequency 1</i>

*< Special Frequency 1 > means sampling any discharge, whether controlled or otherwise, which has not occurred from rainfall exceeding 82.5 mm over any consecutive five day period.*

*M3. Testing methods - concentration limits.*

*M3.1 Subject to any express provision to the contrary of the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, monitoring for the concentration of a pollutant discharged to waters or applied to a utilisation area must be done in accordance with the Approved Methods Publication unless another method has been approved by the EPA in writing before any tests are conducted.*

*M4. Environmental monitoring*

*M4.1 The applicant is required to install and maintain a rainfall depth measuring device.*

*M4.2 Rainfall at the premises must be measured and recorded in millimetres per 24 hour period, at the same time each day.*

*Note: The rainfall monitoring data collected in compliance with Condition M4.2 can be used to determine compliance with L2.4.*

*M6. Other monitoring and recording condition*

*M6.1 For the purposes of monitoring for compliance with the noise limit conditions of the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, (condition L4) noise emitted from the premises must be measured or computed at 30 metres from the nearest residential dwelling/s over a period of 15 minutes using the "FAST" response on the sound level meter. A modifying factor correction must be applied for tonal, impulsive, or intermittent noise in accordance with the document NSW Industrial Noise Policy (NSW EPA, January 2000).*

*M7. Blast Monitoring*

*M7.1 The time of blasting, the air-blast overpressure level from blasting operations and the ground vibration peak particle velocity from blasting operations must be measured at the nearest sensitive receiver for each blast.*

*Reporting conditions*

*Note: Mandatory condition to be used on all general terms of approvals*

*R1.1 The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the Protection of the Environment Operations Act 1997 in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.*

*Special Conditions*

*E1. Noise and dust mitigation measures*

*E1.1 The applicant must implement all noise and dust mitigation measures recommended in the Statement of Environmental Effects - Attachment 6 - Assessment of noise and dust impacts of proposed modification of extraction boundary Tumbulgum Quarry Dulguigan, prepared by MWA Environmental dated 17 November 2014.*

*Noise mitigation measures to be implemented are to be found in section 2.3.2 of the aforementioned Statement of Environmental Effects attachment.*

*Dust mitigation measures to be implemented are to be found in section 3.4 of the aforementioned Statement of Environmental Effects attachment.*

*E1.2 The noise and dust mitigation measures outline in condition E1.1 must be completed prior to the commencement of quarrying activities.*

17. Insert (after GENERAL TERMS OF APPROVAL) ATTACHMENT 1 - CONDITIONS – REHABILITATION AND ENVIRONMENTAL MANAGEMENT PLAN (REMP) AMENDMENTS as follows:

ATTACHMENT 1

CONDITIONS – REHABILITATION AND ENVIRONMENTAL MANAGEMENT PLAN (REMP) AMENDMENTS

As referenced in Condition 1.2 of the s96 Consent DA04/0162.02

The applicant shall amend the existing approved REMP being *Rehabilitation & Environmental Management Plan for Reedy Creek Quarry at Dulguigan Road North Tumbulgum dated December 2004 prepared by Jim Glazebok & Associates Pty Ltd* in accordance with all the amendment items detailed herein.

The amendments may be made as an attachment and/or addendum of the REMP. Where any conflict or inconsistency exists between the REMP and attachment and/or addendum (consistent with Attachment 1 of this consent) the provisions detailed in the later shall prevail.

To be clear, the following amendments have been based on review of the contemporary draft REMP being *Rehabilitation and Environmental Management Plan*

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(REMP 2015) *Version 5.0 dated May 2015 prepared by Groundwork Plus* submitted on the 19 May 2015 as part of the application material for DA04/0162.02

1. Amendment Item 1 General Provisions

- a. All REMP components and reference to the quarry layout plan shall be consistent with and reflect the approved layout plan being *Dwg. No. 1374.044 Rev. 6 Extraction Boundary Alignment dated 02 May 2016 prepared by Groundwork Plus*
- b. Ensure consistency between any general provisions of the REMP and those stipulated in specific supplementary management plan sub-components described below
- c. Remove reference to:
  - i. NSW National Parks & Wildlife Service concurrence requirements
  - ii. Survey requirements of the ecotone line - Monitoring shall be focussed on the progress of restoration effort and health of threatened flora species in accordance with the Habitat Restoration Plan (HRP) sub-component of the REMP (pursuant to the relevant provisions detailed below)
- d. Section 3.10.4 Monitoring
  - i. The 'Monitoring Table' shall be modified to be consistent with the Vegetation Management Plan (VMP) and HRP sub-components of the REMP
  - ii. On-site *Endiandra muelleri ssp. bracteata* population monitoring shall be undertaken for the duration of quarry operations. Based on the monitoring an annual health status report shall be provided to Council's Natural Resource Management (NRM) Unit every year for the 5 (five) year HRP monitoring period and 2 (two) years thereafter.
- e. Section 3.10.7 Corrective Action - This shall include consultation with Council's NRM Unit to ensure corrective actions are appropriate
- f. Provide an updated Environmental Monitoring Summary Table (similar to that included in the REMP 2004) based on the detail provided in the supplementary plans

2. Amendment Item 2 Vegetation and Fauna Management Plan

A Vegetation and Fauna Management Plan ('V&FMP') shall be prepared by a suitably qualified ecologist to be implemented during the construction and operational phase of the development. The V&FMP shall be included as a sub-component of the REMP and detail the following:

- a. Particulars and locations of vegetation to be removed and vegetation to be retained in order to facilitate the development
- b. Clearly identify the 'Proposed Extraction Boundary (19 ha)' (as shown on *Dwg. No. 1374.044 Rev. 6 Extraction Boundary Alignment dated 02 May 2016 prepared by Groundwork Plus* to ensure all necessary measures are implemented to:
  - i. Ensure works remain within the 'Proposed Extraction Boundary (19 ha)'
  - ii. Habitat beyond the 'Proposed Extraction Boundary (19 ha)' is afforded adequate protection during the construction and operational phase of quarry operations

- c. Details of all proposed infrastructure, site access and services
  - d. Details of strategies and methods to be implemented to protect vegetation and habitat to be retained in accordance with the *Australian Standard AS 4970-2009 Protection of trees on development sites*
  - e. Information on how the clearing will be undertaken including:
    - i. Whether the clearing will be undertaken in stages
    - ii. Special considerations for clearing (e.g. juvenile vegetation first)
    - iii. Time periods between clearing of staged areas (where applicable) or immature vegetation
    - iv. Direction of clearing
    - v. Details of erosion and sediment control measures to be employed prior to, or immediately following clearing activity
  - f. Methods for the reuse of felled vegetation from the subject site (i.e. sensitively placing felled material where appropriate within retained areas to improve habitat values)
  - g. Disposal methods for remaining debris after the above methods have been employed
  - h. 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
  - i. 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)
  - j. Considerations relating to time periods for when fauna is likely to be removed/flushed prior to clearing. Regard shall be given to nesting/roosting times when scheduling tree works
  - k. Details of special equipment required (such as cameras, elevated platforms etc.)
  - l. Identification of general locations that wildlife may be relocated/translocated to if required (based on habitat requirements and subject to any required licences/permits)
  - m. Specify that all fauna management procedures shall be undertaken by a suitably qualified wildlife specialist who holds all necessary permits/licences issued by the NSW Department of Environment & Heritage (or equivalent agency at the time)
  - n. Any long term fauna management requirements i.e. installation of nest boxes (where hollows are to be removed), removal of unnecessary barbed fencing or retrofitting to make fauna friendly
  - o. Any other vegetation management measures as detailed in Section 5.0 of the *Further Ecological Assessment Tumbulgum Quarry, Dulguigan NSW dated 07 May 2015 prepared by BAMM Ecological Consultants*
3. Amendment Item 3 Long Term Voluntary Conservation Area Management Plan

A general long term Voluntary Conservation Area Management Plan (VCMP) sub- component for the area described as 'Offset Area (15.08 ha)' shown on *Dwg. No. 1374.044 Rev. 6 Extraction Boundary Alignment dated 02 May 2016*

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*prepared by Groundwork Plus* shall be incorporated into the REMP detailing all management measures and monitoring to be undertaken within the Offset Area in perpetuity (under a secure statutory mechanism). The VCMP sub-component shall include (but not be limited to):

- a. Description of the approved development including a plan showing the location of the Offset Area
- b. A description of how the document is to be read, including the purpose and intent of the Offset Area and general requirements at each phase of the development
- c. Schedule of prohibited activities within the Offset Area consistent with relevant conditions of the consent
- d. Detailed descriptions of the Offset Area including:
  - i. Topography
  - ii. Waterways, flow paths, gullies
  - iii. Vegetation communities and significant species
  - iv. Fauna habitat and significant species
  - v. Other significant features.
- e. Summary of requirements to be fulfilled by the proponent including:
  - i. Construction phase habitat protection requirements (vegetation and fauna management, sediment and erosion control)
  - ii. Rehabilitation, including summaries of rehabilitation activities (based on the Habitat Restoration Plan sub-component)
  - iii. Maintenance requirements including activities, timeframes and standards to be achieved following the five (5) year active establishment/maintenance phase
  - iv. Monitoring details including baseline data/photographs; and
  - v. Compliance/certification
- f. General information, including:
  - i. Duration of requirements / responsibilities;
  - ii. Checklists for Council to assess compliance with the VCMP sub-component (including remedial actions for non-compliance)

#### 4. Amendment Item 4 Habitat Restoration Plan

A Habitat Restoration Plan ('HRP') shall be prepared as a sub-component of the REMP for the entire 'Offset Area (15.08 ha)' as shown on *Dwg. No. 1374.044 Rev. 6 Extraction Boundary Alignment dated 02 May 2016 prepared by Groundwork Plus*

The HRP shall be prepared by a suitably qualified professional in accordance with Council's *Draft Habitat Restoration Plan Preparation Guideline dated February 2012* (attached) to include the following information (but not be limited to):

- a. An appraisal of the present condition of remnant and regrowth vegetation
  - b. A plan overlaying an aerial photograph of the site which divides the area into appropriate management zones
  - c. A management strategy for each of the zones, using a combined 'Assisted Natural Regeneration' and 'Reconstruction' approach
  - d. A schedule of local native plant species (necessary to re-establish the pre-clear vegetation community) including Glossy Black Cockatoo (*Calyptorhynchus lathami*) feed trees (i.e. *Allocasuarina littoralis* and *A.*
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- torulosa*). Planting density shall be prescribed at one (1) plant per two (2) square metres in areas where a 'reconstruction' approach is adopted.
- e. Where 'Assisted Natural Regeneration' is applied natural recruitment must exceed one (1) plant per metre square
  - f. A program of works to be undertaken to remove invasive weed species (noxious and environmental weeds);
  - g. A schedule of timing of proposed works and frequency of activities developed to achieve site capture and meet both the short and long term objectives of the Offset Area
  - h. A schedule of activities not permitted within the Offset Area consistent with relevant conditions of the consent
  - i. Requirement for a Section 132C Licence issued under the *National Parks and Wildlife Act 1974*
  - j. Management of domestic farm/feral animals (if appropriate) and any fencing/signage requirements to restrict access and increase landholder/public awareness
  - k. Nomination of key performance indicators/criteria for monitoring purposes
  - l. An active maintenance, monitoring and reporting schedule with developer commitment for a period of not less than five (5) years
  - m. An adaptive management statement detailing how potential problems arising may be overcome and requiring approval of Council's General Manager or delegate for such changes.
  - n. Incorporate threatened flora species monitoring and evaluation similar to that adopted in the REMP 2004

5. Amendment Item 5 Site Remediation Works

The applicant shall provide the following details in respect to progressive rehabilitation of internal quarry batters as shown on *Dwg. No. 1374.056 Rev.1* in *Rehabilitation Management Plan dated 05 May 2015 prepared by Groundwork Plus*:

- a. Clear schedule of timeframes for remediation activity and establishment and maintenance periods to achieve site capture and slope stabilisation
- b. Species list comprising 100% local native species suitable to the site and conditions
- c. Provide a 10 m x 10 m indicative planting palette showing one (1) plant per metre square.
- d. Provide details of performance criteria generally consistent with Council's *Draft Habitat Restoration Plan Preparation Guideline dated February 2012* requirements i.e. 90% success of planted stock, no environmental weed species present, growth of 1 m by year 3 and 1.5 m by year 5

The Motion was **Carried**

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

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**9 [PR-PC] Unlawful Dwelling at Lot 1 DP 740293 No. 217 Sleepy Hollow Road, Sleepy Hollow**

**P 79**

**Cr W Polglase  
Cr P Youngblutt**

**PROPOSED** that Council engage solicitors to undertake enforcement actions to address the unlawful dwelling at Lot 1 DP 740293 No. 217 Sleepy Hollow Road, Sleepy Hollow.

**AMENDMENT 1**

**P 80**

**Cr K Milne  
Cr G Bagnall**

**PROPOSED** that Council defers the matter to the next Planning Committee meeting.

Amendment 1 was **Lost**

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

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

The Motion was **Lost** on the Casting Vote of the Mayor (Minute No. **P 79** refers)

**FOR VOTE - Cr B Longland, Cr W Polglase, Cr P Youngblutt**

**AGAINST VOTE - Cr G Bagnall, Cr K Milne, Cr C Byrne**

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Cr P Youngblutt temporarily left the meeting at 6.13pm.

**PROCEDURAL MOTIONS**

**P 81**

**Cr W Polglase  
Cr G Bagnall**

**RESOLVED** that Items 10 to 13 be considered in block.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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



**P 82**

**Cr W Polglase  
Cr G Bagnall**

**RESOLVED** that Items 10 to 13 be moved in block.

The Motion was **Carried**

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

**10 [PR-PC] Report on the 2015-16 Local Heritage Assistance Fund and Future Funding**

**P 83**

**Cr W Polglase  
Cr G Bagnall**

**RECOMMENDED** that:

1. Council receives and notes the summary of the outcomes of the 2015-16 Local Heritage Assistance Fund Grants program (LHAF);
2. Council supports the continuation of the Local Heritage Assistance Fund and Heritage Advisor Programs;
3. Consideration be given in the September 2016 Budget Review for the permanent inclusion of a total operating budget of \$18,000 towards the LHAF and \$16,000 towards the Heritage Advisor, noting that Council's annual budget commitment will increase by a small amount each year as the OEH grants decrease, as shown in Table 1 of this report, and not exceeding a total budget commitment of \$34,000 at the end of the grant period.

The Motion was **Carried**

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

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**11 [PR-PC] Tweed Development Control Plan (DCP) Section A18 - Heritage**

**P 84**

**Cr W Polglase  
Cr G Bagnall**

**RECOMMENDED** that:

1. Tweed Development Control Plan, Section A18 – Heritage (Heritage DCP), as amended in attachment 2 be adopted.
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2. Public notification of the commencement of the adopted Tweed Development Control Plan, Section A18 – Heritage (Heritage DCP) be given in the Tweed Link within 28 days in accordance with Section 21(2) of the *Environmental Planning and Assessment Regulation 2000*.
3. A copy of the adopted Tweed Development Control Plan, Section A18 – Heritage (Heritage DCP) be referred NSW Department of Planning and Environment within 28 days of its commencement in accordance with Section 25AB of the *Environmental Planning and Assessment Regulation 2000*.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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

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**12 [PR-PC] Heritage Conservation and Demonstration Project 2015-16  
Murwillumbah Town Centre Pilot Project - 'Look Up' Completion Report**

**P 85**

**Cr W Polglase**

**Cr G Bagnall**

**RECOMMENDED** that the summary of the outcomes of the Heritage Conservation and Demonstration Project 2015-16 Murwillumbah Town Centre Pilot Project - 'Look Up' be received and noted.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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

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

**P 86**

**Cr W Polglase**

**Cr G Bagnall**

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

The Motion was **Carried**

***FOR VOTE - Unanimous***

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

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Cr P Youngblutt has returned from temporary absence at 6.15pm.

There being no further business the Planning Committee Meeting terminated at 6.15pm.



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