

**Mayor:** Cr K Milne

**Councillors:** P Allsop  
R Byrnes (Deputy Mayor)  
C Cherry  
R Cooper  
J Owen  
W Polglase

# Minutes

## **Planning Committee Meeting Thursday 2 August 2018**

held at  
**Council Chambers, Murwillumbah Civic & Cultural  
Centre, Tumbulgum Road, Murwillumbah**  
commencing at 5.30pm

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - Section 4.15 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 Secretary 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 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, 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.

(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 4.16 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 4.16 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 4.28 (3) and (4).

(3A) **Development control plans**

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and
- (c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, **standards** include performance criteria.

(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 5.32pm.

### **IN ATTENDANCE**

Cr Katie Milne (Mayor), Cr Reece Byrnes (Deputy Mayor), Cr Pryce Allsop, Cr Chris Cherry, Cr Ron Cooper, Cr James Owen and Cr Warren Polglase

Also present were Mr Troy Green (General Manager), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Mrs Suzanne Richmond (Executive Manager People, Communication and Governance), Mr Shane Davidson (Executive Officer), Ms Stephanie Papadopoulos (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 Jacob Van Der Steen of Murwillumbah Christian Community Church.

*"God of justice and mercy, thank you for the gift of life, and the opportunity to serve the people of the Tweed Shire. We thank you for the land and community we serve, the beauty and richness of this valley. We thank you for the peace and security of our country and the many opportunities it provides.*

*Help us to act with character and conviction; help us to listen with understanding and good will; help us to speak with charity and restraint. Help us when we make decisions, so that these decisions will be for the greater good of the people we serve, and for the benefit of future generation of the shire. Lord grant us a spirit of service.*

*Remind us that we are stewards of your authority. Guide us to be the leaders your people need. Help us see the humanity and dignity of those who disagree with us, and to treat all persons, no matter how weak or poor, with the reverence your creation deserves.*

*Finally Father, renew us with the strength of your presence and the joy of helping to build a community worthy of the human person. We ask this as your sons and daughters, confident in your goodness and love. Amen."*

### **APOLOGIES**

Nil.

### **DISCLOSURE OF INTEREST**

Nil.

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

Nil.

**SCHEDULE OF OUTSTANDING RESOLUTIONS**

Nil.

**ORDERS OF THE DAY**

Nil.

**REPORTS THROUGH THE GENERAL MANAGER**

**REPORTS FROM THE DIRECTOR PLANNING AND REGULATION**

- 1 **[PR-PC] Development Application DA17/0805 for a Helipad at Lot 1 DP 735658 No. 477 Urliup Road, Urliup**

**ALTERNATE MOTION**

**P 49**

**Cr K Milne  
Cr R Byrnes**

**RECOMMENDED** that Development Application DA17/0805 for a helipad at Lot 1 DP 735658 No. 477 Urliup Road, Urliup be refused:

1. Pursuant to Section 4.15 (1) (b) the development is considered to be unacceptable due to noise impacts on the neighbours including cumulative impact from bulk water extraction trucks currently accessing the site.
2. Pursuant to Section 4.15 (1) (b) the development is considered to be unacceptable due concerns about the assumptions made in the acoustic report particularly in regard to the single flight path identified whereas this will be dependent on wind direction, as highlighted in a recent report on helicopter noise impacts 'Short Round Trip Helicopter Activity' 2018 by Air Services Australia
3. Pursuant to Section 4.15 (1) (a) (i) the operation is not consistent with the rural zone as it is not for rural purposes or ancillary to rural development.

Cr R Cooper temporarily left the meeting at 05:38 PM.

Cr R Cooper has returned from temporary absence at 05:40 PM

The Motion was **Carried**

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne**  
**AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop**

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- 2 [PR-PC] Development Application DA18/0278 for the Use of an Additional (Third) Bedroom in Unit 6 at Lot 6 SP 16028 and the Provision of a Car Parking Space on the Driveway No. 6/14 Boundary Street, Tweed Heads**

**ALTERNATE MOTION**

**P 50**

**Cr K Milne**  
**Cr C Cherry**

**RECOMMENDED** that the item be deferred for determination of the NCAT meeting.

The Motion was **Carried**

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne, Cr P Allsop**  
**AGAINST VOTE - Cr J Owen, Cr W Polglase**

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- 3 [PR-PC] Development Application DA18/0030 Alterations to an Existing Residential Flat Building Unit (Unit 5) Comprising Two Additional Bedrooms, Construction of a Laundry Room, Alterations to Kitchen and Bathroom and Creation of a Car Parking Space at Lot 5/14 Boundary Street, Tweed Heads**

**P 51**

**Cr W Polglase**  
**Cr J Owen**

**PROPOSED** that:

- A. Development Application DA18/0030 for alterations to an existing residential flat building unit (unit 5) at Lot 5 SP 16028; No. 5/14 Boundary Street, Tweed Heads be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Zone Planning dated March 2018 (Ref Z17291), further information received 16 July 2018 and the following Plans except where varied by the conditions of this consent:
  - Site Plan Sheet 1 of 2 prepared by Gavin Duffie dated 15 December 2017;
  - No 01 Driveway – Proposed uncovered car parking spaces dated 14 June 2018 annotated in red;

- No 01 Floor Plans – Main Level Floor Plan prepared by Gold Coast Building Designers dated 4 March 2018 annotated in red;
- Garage Level Floor Plan Sheet 2 of 2 prepared by Gavin Duffie dated 15 December 2017 annotated in red;

[GEN0005]

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

[GEN0115]

3. A construction certificate for proposed works including the reconfiguration of the garage level, is required to be obtained within 90 days from the date of this consent. Construction certificate plans are to include only one laundry within the unit.

[GENNS01]

4. A final occupation certificate is to be obtained within 6 months from the date of this consent.

[GENNS01]

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. Section 7.11 Contributions

Payment of the following contributions pursuant to Section 7.11 of the Act and the relevant Contribution 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 7.11 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 Section 7.11 Contribution 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 7.11 Contribution Plan current at the time of the payment.

A copy of the Section 7.11 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

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|---|-------|
| (a) Open Space (Casual):<br>0.2917 ET @ \$624 per ET<br>(\$502 base rate + \$122 indexation)<br>CP Plan No. 5     | \$182 |
| (b) Open Space (Structured):<br>0.2917 ET @ \$714 per ET<br>(\$575 base rate + \$139 indexation)<br>CP Plan No. 5 | \$208 |



(c)	Shirewide Library Facilities: 0.2917 ET @ \$933 per ET (\$792 base rate + \$141 indexation) CP Plan No. 11	\$272
(d)	Bus Shelters: 0.2917 ET @ \$71 per ET (\$60 base rate + \$11 indexation) CP Plan No. 12	\$21
(e)	Eviron Cemetery: 0.2917 ET @ \$135 per ET (\$101 base rate + \$34 indexation) CP Plan No. 13	\$39
(f)	Community Facilities (Tweed Coast - North) 0.2917 ET @ \$1539 per ET (\$1,305.60 base rate + \$233.40 indexation) CP Plan No. 15	\$449
(g)	Extensions to Council Administration Offices & Technical Support Facilities 0.2917 ET @ \$2187.14 per ET (\$1,759.90 base rate + \$427.24 indexation) CP Plan No. 18	\$637.99
(h)	Cycleways: 0.2917 ET @ \$526 per ET (\$447 base rate + \$79 indexation) CP Plan No. 22	\$153
(i)	Regional Open Space (Casual) 0.2917 ET @ \$1215 per ET (\$1,031 base rate + \$184 indexation) CP Plan No. 26	\$354
(j)	Regional Open Space (Structured): 0.2917 ET @ \$4264 per ET (\$3,619 base rate + \$645 indexation) CP Plan No. 26	\$1,244

[PCC0215]

6. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council prior to the issue of a Construction Certificate 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, an 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: 0.17 ET @ \$13,632 = \$2,317.45

Sewer: 0.25 ET @ \$6,549 = \$1,637.25

[PCC0265]

7. 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 and sewerage works prior to the issue of a Construction Certificate.

[PCC1195]

8. Prior to the release of the construction certificate details demonstrating compliance with the following requirements are to be submitted to and approved by the nominated PCA.

9. These works are to ensure Unit 5 is provided with a satisfactory level of fire safety/BCA compliance;

- a) The existing fire rated ceiling to Unit 5 is damaged in places. Repair works are required to ensure the ceiling has a minimum resistance to the incipient spread of fire of not less than 60 minutes.

- b) Smoke alarms are to be installed in Unit 5 (garage level and main level) in accordance with Part E Volume 1 of the BCA. Details of the proposed location and design of the smoke alarms are to be submitted to and approved by the nominated PCA prior to works commencing. Upon installation a certificate from a licensed electrician certifying that the smoke alarms have been connected to the consumer mains power is to be submitted to the PCA.

- c) The window (installed without approval) located in the northern wall of the workshop/garage to Unit 5 is required to achieve an FRL of 90/90/90. This window is to be removed and the opening filled with masonry work having a minimum FRL of 90/90/90. Alternatively the opening is to be protected in accordance with Part C3 of the BCA.

- d) The windows to all bedrooms of Unit 5 (Third floor) are to be provided with protection in accordance with the requirements of D2.24 of the BCA.

Further to the above fire upgrading, the option is available to submit a fire engineering report containing an alternative solution addressing the Performance Requirements contained in Volume 1 of the Building Code of Australia relating to the non-compliance issues arising from the above BCA assessment. This report is to be submitted to the nominated PCA for assessment and determination prior to issue of the Construction Certificate.

[PCCNS01]

## PRIOR TO COMMENCEMENT OF WORK

10. The erection of a structure (Unit 5 - ground and third floors) 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]
11. 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]
12. Residential building work:
- (a) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
    - (i) in the case of work for which a principal contractor is required to be appointed:
      - \* in the name and licence number of the principal contractor, and

- \* the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - \* the name of the owner-builder, and
    - \* if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
  - (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.  
[PCW0235]
13. 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]

## DURING CONSTRUCTION

14. All proposed works are to be carried out in accordance with the conditions of development consent, any approved Management Plans, approved Construction Certificate, drawings and specifications.  
[DUR0005]
15. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.  
[DUR0015]
16. Commencement of work, including the switching on and operation of plant, machinery and 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]

17. 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]

18. 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]

19. 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 6.6 of the Environmental Planning and Assessment Act 1979.

[DUR0405]

20. 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]

21. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Work Health and Safety Regulation 2011.

The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the Dangers of Lead" and the Workcover Guidelines on working with asbestos.

[DUR0645]

22. 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]

23. 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]

24. 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;
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- (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]

25. 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]

26. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.

[DUR2525]

27. 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]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

28. Prior to issue of an Occupation Certificate, all works/actions/inspections etc required at that stage by other conditions or any approved Management Plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

29. 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 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

30. 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]

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

[POC0355]

32. 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]

33. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met.

[POC1055]

34. Prior to the issue of an occupation certificate, a copy of the by-laws for Strata Plan 16028 shall be submitted to the Principal Certifying Authority demonstrating that an exclusive use by-law has been made for the exclusive use by Unit 5 of part of the common property (driveway) for the purposes of a car parking space.

[POCNS01]

#### USE

35. Unit 5 is to be used as a single dwelling unit. The garage level is not to be used or adapted for separate residential habitation or occupation. The unit is to include only one laundry.

[USE0465]

- B. A Penalty Infringement Notice be issued to the owner of Lot 5 SP16028 for undertaking development without consent.

#### AMENDMENT 1

##### P 52

Cr K Milne  
Cr R Cooper

**RECOMMENDED** that the item be deferred for the determination of NCAT

Amendment 1 was **Carried**

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne, Cr P Allsop**  
**AGAINST VOTE - Cr J Owen, Cr W Polglase**

Amendment 1 on becoming the Motion was **Carried** - (Minute No P 52 refers)

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne, Cr P Allsop**  
**AGAINST VOTE - Cr J Owen, Cr W Polglase**

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- 4 [PR-PC] Development Application DA17/0634 for a Proposed Conversion of an Existing Managers Residence to Permanent Dwelling Site, Fence to Lot 336, Alterations and Additions to Existing Administration Building/Office (use only as works have already been done without development consent) and an extension to community building (use only as works have already been done without development consent) within an existing manufactured home estate at Lot 1 DP 860569 No. 192 Piggabeen Road, Tweed Heads West**

**P 53**

**Cr J Owen  
Cr R Cooper**

**RECOMMENDED** that Development Application DA17/0634 for the proposed conversion of an existing managers residence to permanent dwelling site, fence to Lot 336, alterations and additions to existing administration building/office (use only as works have already been done without development consent) and an extension to community building (use only as works have already been done without development consent) within an existing manufactured home estate at Lot 1 DP 860569 No. 192 Piggabeen Road, Tweed Heads West be approved subject to the following conditions:

**GENERAL**

1. This consent authorises alterations and additions and the use of unauthorised structures at 192 Piggabeen Road, Cobaki in accordance with the November 2017 Statement of Environmental Effects and Plan Nos:
  - Proposed Extension to Community Facility Plan 1 and 2 dated 13/05/2017,
  - Proposed Alterations to Ex Admin Building and creation of managers residence and office dated 19/05/2017,
  - Proposed Conversion of managers residence (Lot 336) to permanent site and proposed 1.8m high fence dated 13/05/2017,except where varied by the conditions of this consent.

[GEN0005]
2. Not more than 90 days after the date of this consent the applicant is to lodge a Building Certificate Application inclusive with a structural engineers report and a NCC – BCA compliance report in respect of the unauthorised building works subject to this consent (extension to community building, conversion of office to managers residence and changes to the office).

[GENNS01]
3. Not more than 90 days after the date of this consent a revised updated community map (showing the correct alignment for Lot 336 and the 49 visitor parking spaces, 4 of which are required to be parking spaces for people with disabilities) shall be submitted to Council for approval, to the satisfaction of the General Manager or his delegate.

[GENNS02]
4. Not more than 90 days after the date of this consent 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, an Occupation 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: Nil  
Sewer: Nil

[GENNS03]

5. Not more than 150 days from the date of this consent the bar area within the Community Building shall be provided with a separate hand basin with warm water through a single spout to the satisfaction of Council's Environmental Health Officer.

[GENNS04]

6. Not more than 150 days from the date of this consent Site 336 shall be delineated in accordance with Clause 15 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 to the satisfaction of Council's Environmental Health Officer.

[GENNS05]

7. Not more than 150 days from the date of this consent 49 sealed visitor parking spaces shall be constructed and marked to the satisfaction of the General Manger or his delegate, 4 of which are required to be parking spaces for people with disabilities in accordance with Clauses 23, 24(2) and 24(3) of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. Parking spaces for people with disabilities shall be AS/NZS 2890.1:2004 compliant.

[GENNS06]

8. The estate shall be designed, constructed, maintained and operated in accordance with the relevant requirements of Division 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

[GENNS07]

9. The estate shall be kept in a clean and tidy manner at all times, specifically but not limited to the following:

- Caravans are only to be stored in the approved nominated caravan storage area (sealed gravel car park near the office) until such time as development consent is sought for additional suitable locations.
- The fringe environmental areas are to be kept clear of junk, storage containers, unauthorised sheds, mulch/soil bays.
- The habitable parts of the estate are to be treated for vermin annually.

[GENNS08]

10. Section 7.11 Contributions

Payment of the following contributions is required within 150 days from the date of this consent pursuant to Section 7.11 of the Act and the relevant Contribution Plan. Section 7.11 Contributions must have been paid in full (within 150 days) and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

These charges include indexation provided for in the Section 7.11 Contribution 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 7.11 Contribution Plan current at the time of the payment.

A copy of the Section 7.11 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

- |   |          |
|---|----------|
| (a) Tweed Road Contribution Plan:<br>3.9 Trips @ \$3203 per Trips<br>(\$2,836 base rate + \$367 indexation)<br>CP Plan No. 4<br>Sector4_4 | \$12,492 |
| (b) Open Space (Casual):<br>0.5417 ET @ \$624 per ET<br>(\$502 base rate + \$122 indexation)<br>CP Plan No. 5                             | \$338    |
| (c) Open Space (Structured):<br>0.5417 ET @ \$714 per ET<br>(\$575 base rate + \$139 indexation)<br>CP Plan No. 5                         | \$387    |
| (d) Shirewide Library Facilities:<br>0.5417 ET @ \$933 per ET<br>(\$792 base rate + \$141 indexation)<br>CP Plan No. 11                   | \$505    |
| (e) Bus Shelters:<br>0.5417 ET @ \$71 per ET<br>(\$60 base rate + \$11 indexation)<br>CP Plan No. 12                                      | \$38     |
| (f) Eviron Cemetery:<br>0.5417 ET @ \$135 per ET<br>(\$101 base rate + \$34 indexation)<br>CP Plan No. 13                                 | \$73     |
| (g) Community Facilities (Tweed Coast - North)  |          |

	0.5417 ET @ \$1539 per ET (\$1,305.60 base rate + \$233.40 indexation) CP Plan No. 15	\$834
(h)	Extensions to Council Administration Offices & Technical Support Facilities 0.5417 ET @ \$2187.14 per ET (\$1,759.90 base rate + \$427.24 indexation) CP Plan No. 18	\$1,184.77
(i)	Cycleways: 0.5417 ET @ \$526 per ET (\$447 base rate + \$79 indexation) CP Plan No. 22	\$285
(j)	Regional Open Space (Casual) 0.5417 ET @ \$1215 per ET (\$1,031 base rate + \$184 indexation) CP Plan No. 26	\$658
(k)	Regional Open Space (Structured): 0.5417 ET @ \$4264 per ET (\$3,619 base rate + \$645 indexation) CP Plan No. 26	\$2,310

[GENNS09]

11. Not more than 60 days from the date of this consent the two shipping containers and relocatable storage building next to the community facilities building are to be removed from the site.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**5 [PR-PC] Development Application DA18/0001 For a Rural Land Sharing Community Comprised of 13 Dwelling Sites Over 5 Stages at Lot 1 DP 1054943 No. 54 Wallum Court, Clothiers Creek**

**P 54**

**Cr P Allsop  
Cr W Polglase**

**PROPOSED** that Development Application DA18/0001 for a rural land sharing community comprised of 13 dwelling sites over 5 Stages at Lot 1 DP 1054943 No. 54 Wallum Court, Clothiers Creek, be approved subject to the following conditions:

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 12 months of the date of notification.

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

SCHEDULE "A"

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

- A. The Bushfire Risk Assessment (BRA) Incorporating Amendment 2: Proposed Development: 27 Lot Rural Landsharing Community Lot 1 DP 1054943 54 Wallum Court Reserve Creek NSW 2484 dated 23 May 2018 prepared by Bushfire Risk shall be amended by a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning and Design (BPAD) certified practitioner. The amended BRA must be approved by Council's General Manager or delegate. The amended BRA shall include the following:
- a. Calculate all asset protection zones for each site as shown on the site plan being Dwg. No. 5.6 Site Plan - Landuse dated the 18 June 2018 prepared by MilesWinter in accordance with Planning for Bushfire Protection (NSW RFS 2006) having regard to the following terms:
    - i. The calculation of asset protection zones shall not be contingent on the modification of Vegetation Communities 5 and 8 (as identified on Figure 7 Vegetation Communities & Threatened Species Records in Ecological Assessment Buglars Quarry Lot 1 DP 1054943 Version 4 dated 16 May 2018 prepared by JWA Ecological Consultants Pty Ltd) to a rainforest vegetation community. Reference to such modification shall be removed.
    - ii. No asset protection zone shall encroach within, or require modification of any Habitat Protection Area described in Condition 8 of the consent unless to the extent of encroachment identified as 'Partial Clearing APZ' as shown on Dwg. No 5.9 Site - Vegetation Management dated 17 June 2018 prepared by MilesWinter adjacent to Sites 1, Site 2 and Site 3 only.
  - b. Demonstrate that the position of all development sites as shown on the site plan complies with:
    - i. The terms listed above,
    - ii. Planning for Bushfire Protection (NSW RFS 2006)
    - iii. Relevant conditions of consent
  - c. An appropriately scaled plan showing all sites as shown on the site plan and individual asset protection zones for each site as calculated above.

Advice Note: Reference to the Dwg. No 5.9 Site - Vegetation Management dated 17 June 2018 prepared by MilesWinter and Figure 7 Vegetation Communities & Threatened Species Records in Ecological Assessment Buglars Quarry Lot 1 DP 1054943 Version 4 dated 16 May 2018 prepared by JWA Ecological Consultants Pty Ltd does not invoke approval or acceptance of such plans.

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects, draft Community Management Statement dated 31 July 2018 and Plan Nos;

Plan Number	Plan Title	Dated
5.6	Site Plan - Landuse	18 June 2018
5.7	Site Plan	18 June 2018
5.10	Site Sections - Bushfire	6 June 2018
5.15	Site Plan - Staging	June 2018
5.20	Site Plan - Wallum Entry	June 2018
5.21	Site Plan - Dwellings 1-3	18 June 2018
5.22	Site Plan - Dwellings 6-7	18 June 2018
5.24	Site Plan - Dwellings 13 & 16	18 June 2018
5.25	Site Plan - Dwellings 17 & 18	18 June 2018
5.26	Site Plan - Dwellings 19 & 21	18 June 2018
5.28	Site Plan - Dwellings 26 & 27	18 June 2018
5.30	Quarry Rehabilitation Plan	18 June 2018

prepared by Mileswinter, except where varied by the conditions of this consent.

2. This development consent is for a rural landsharing community of 13 sites. This development will be undertaken in 5 stages and includes the surrendering of development consents for Buglars Quarry upon the subject Lot.

The following works will be completed to the satisfaction of the General Manager or delegate for each stage, as amended by any conditions of this consent:

Stage	Dwelling Sites	Additional Works
1	6, 7, 13, 17, 18	<p>New crossover Wallum Court Waste and recycle area.</p> <p>Gated entry 1150m bitumen seal on existing quarry road including turning area adjacent to dwelling 13.</p> <p>Upgrade the balance of the existing quarry road through to Woodfords Road as gravel suitable for bushfire vehicles for emergency exit only.</p> <p>Closure of commercial use quarry prior to commence of use of Stage 1.</p> <p>Wildlife corridor on north boundary and west boundary Water tank T1 and T4.</p>

		Remediation of land and completion of monocell installation.
2	1, 2, 3	Remediation of existing gravel road and bitumen seal. Wildlife corridor as per plan.  Water tank T2
3	19, 21	Extend main quarry road bitumen approx. 300m  Finalise rehabilitation of quarry  Extend bitumen to site boundary  Wildlife corridor to south and west boundary Access road Water tank T5
4	26, 27	Final areas of wildlife corridor.
5	16	Dwelling site and associated access road

- [GEN0005]
3. All remediation works including the installation of the containment monocell shall be undertaken in conjunction with the first Stage of development.
  4. No approval for a dwelling on any site shall be issued until all works required to be undertaken associated with that Stage have been completed and all applicable conditions of this development consent have been duly satisfied.
  5. Shares in the Home Unit Company cannot be sold until all works required to be undertaken with the relevant stage have been completed and all applicable conditions of development consent have been completed.
 

[GENNS01]
  6. All works shall be in accordance with the amended Bushfire Risk Assessment as prepared by a Fire Protection Association Australia Accredited Bushfire Planning and Design certified practitioner, as approved by Council's General Manager or delegate.
  7. Council advises that portions of the site are flood liable. The minimum habitable floor level for the site is 500mm above the nominated Design Flood Level as specified in Council's DCP Section A3 - *Development of Flood Liable Land*.
    - (a) All new building materials used below Council's Design Flood Level must not be susceptible to water damage.
    - (b) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. for any proposed building should, to the maximum extent possible, be located above the Design Flood Level. All new electrical wiring installed below the Design Flood Level should to suitably treated to withstand continuous submergence in water and provide appropriate earth leakage devices.
    - (c) Provide adequate provision for the flood free storage for goods and equipment susceptible to water damage.
 

[GEN0195]
  8. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

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- [GEN0265]
9. The approved development shall not result in any clearing, damage or disturbance of native vegetation unless such activity is carried out in accordance with the following:
- a. A site based Vegetation and Fauna Management Plan pursuant to Condition 33 as approved by Council's General Manager or delegate; and/or
  - b. A Bushfire Risk Assessment pursuant to Condition 6, approved by Council's General Manager or delegate.
10. A roof catchment water supply source shall be provided for domestic purposes where a Council reticulated supply is unavailable. Any domestic water supply roof collection system should be fitted with a first flush device and adequately maintained to ensure a safe and suitable drinking water supply, where applicable. The minimum storage tank capacity shall reflect the dry seasonal periods experienced in the locality and shall be in addition to any fire-fighting capacity requirements stipulated by the NSW Rural Fire Services. The minimum storage capacity required shall be 15,000L per bedroom with a minimum 20,000L to be provided. This storage is independent to any required for fire-fighting purposes.

[GEN0310]

11. Bushfire Protection

Except where varied by the Rural Fire Service's conditions within this consent on the consent, the development shall comply with the following intent of measures to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire-fighting activities.

- (a) Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.
- (b) Water, electricity and gas are to comply with the following requirements, unless superseded by section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
- (c) A 20,000 litre water supply shall be provided for fire-fighting purposes per dwelling. A 65mm storz fitting and ball valve or gate valve shall be installed on the tank designated for fire-fighting purposes.
- (d) Polycarbonate/plastic tanks shall be shielded from the impact of radiant heat and direct flame contact.
- (e) A hardened ground surface for truck access is to be supplied up to and within 4 metres of this water source.
- (f) A minimum 5hp or 3kW petrol or diesel powered pump shall be made available to the water supply. A 19mm (internal diameter) fire hose and reel shall be connected to the pump.
- (g) Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal. Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.

- (h) The occupier of the property is to participate in the Static Water Supply Project initiative of NSW Fire Brigade and make available the water in a swimming pool (or dam on site) for use as a static water supply for fire-fighting purposes by NSW Fire Brigade or Rural Fire Service.

[GEN0325]

12. The following areas referenced in this consent are to be collectively described as Habitat Protection Areas to be protected and managed for conservation purposes in perpetuity unless otherwise specified in this consent:

- a. The following vegetation communities and areas as shown on Figure 7 Vegetation Communities & Threatened Species Records in Ecological Assessment Buglars Quarry Lot 1 DP 1054943 Version 4 dated 16 May 2018 prepared by JWA Ecological Consultants Pty Ltd:
- i. Community 1 - Tall closed forest (*Cinnamomum camphora* +/- *Lophostemon confertus* and rainforest species) capturing an area of 1.97 hectares
  - ii. Community 2 - Tall closed wet sclerophyll forest (*Eucalyptus pilularis*/*Lophostemon confertus*) capturing an area of 0.95 ha
  - iii. Community 3 - Tall closed wet sclerophyll forest (*Lophostemon confertus* +/- *Eucalyptus microcorys*, *Eucalyptus propinqua*, *Eucalyptus siderophloia*, *Eucalyptus pilularis*) capturing an area of 7.44 ha
  - iv. Community 4 - Tall closed wet sclerophyll forest (*Eucalyptus grandis*/*Lophostemon confertus*) capturing an area of 0.98 ha
  - v. Community 5 - Camphor laurel dominated mixed regrowth (*Cinnamomum camphora* +/- *Acacia melanoxylon*, *Corymbia intermedia*, *Eucalyptus microcorys*, *Lophostemon suaveolens*, *Araucaria cunninghamii*) capturing an area of 15.56 ha
  - vi. Community 6 - Swamp sclerophyll woodland (*Callistemon viminalis*) capturing an area of 0.22 ha
  - vii. Community 7 - Tall open dry sclerophyll forest/woodland capturing an area of 5.19 ha
- b. All other areas occurring within the 24.45 ha Wildlife Corridor Reserve as identified on Dwg. No. 5.6 Site Plan - Landuse dated the 18 June 2018 prepared by MilesWinter not identified as a Vegetation Community listed in Condition 9.
- c. A 20 metre radius buffer around the following threatened flora species as identified on Figure 7 Vegetation Communities & Threatened Species Records in Ecological Assessment Buglars Quarry Lot 1 DP 1054943 Version 4 dated 16 May 2018 prepared by JWA Ecological Consultants Pty Ltd:
- i. Marks Cassia (*Cassia marksiana*)
  - ii. White Lace Flower (*Archidendron hendersonii*)



13. The land within the 24.45 ha Wildlife Corridor Reserve as identified on Dwg. No. 5.6 Site Plan - Landuse dated the 18 June 2018 prepared by MilesWinter shall be subject to a habitat restoration program in accordance with a site based Habitat Management and Restoration Plan approved by Council.
14. Telecommunication/internet services via the mobile/broadband network will only be permitted for the subject site if services are considered satisfactory for reliable coverage. Alternatively, landline services shall be provided for each dwelling that does not have satisfactory coverage. Details to the satisfaction of the General Manager or delegate.
15. The Remediation Action Plan shall be approved in writing by a NSW EPA Accredited Site Auditor and a copy of the approval be supplied to Council prior to the commencement of remediation work.
16. The By-Laws of the final Community Management Statement shall include a section with words to the effect that the on-site sewage management system shall be operated and maintained in a sanitary condition, and in accordance with the relevant requirements of the Local Government (General) Regulation 2005, and other relevant operating specifications.
17. Separate approval is required for any future dwellings or associated structures. [GENNS02]
18. Proposed dwelling sites shall be located in accordance with the Preliminary Site Investigation prepared by HMC Environmental Consulting Pty Ltd dated November 2017 (HMC 2017.085.02) and the Remediation Action Plan approved by the NSW EPA Accredited Site Auditor. Proposed changes to the locations of proposed dwelling sites shall be communicated to Tweed Shire Council for consideration, and may require additional contaminated land investigation of the site(s) to the satisfaction of the General Manager or their delegate. [GENNS03]
19. Prior to the construction of any building requiring an on-site sewage management systems within the landsharing community, approval to install/operate an onsite sewerage management system under Section 68 of the Local Government Act 1993 shall be obtained from Council. [GENNS04]

The development shall be compliant with the following conditions recommended by the NSW Rural Fire Service(NSW RFS), as amended by any conditions of this consent.

- i. The proposed 13 dwelling site - rural land sharing community shall comply with the following documents except where modified by the following conditions:
  - Coolamon Site Plan - Landuse dated 18 June 2018;
  - Coolamon Community Management Statement dated 31 July 2018.
- ii. Management of community roads, community asset protection zones and community fire fighting water supply(s) shall be undertaken in accordance with the Coolamon Community Management Statement.

- iii. A Bush Fire Management Plan for the Rural Landsharing Community is to be prepared that addresses the following requirements:
- Contact person/department and details;
  - Schedule and description of works for the construction of the communal asset protection zones and their continued maintenance; and
  - location of firefighting water supplies and their on-going maintenance.

A copy of the Bush Fire Management Plan shall be attached to the Coolamon Management Statement.

### 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:

- iv. Asset Protection zones for future dwelling sites shall be in accordance with:
- Site Bushfire Management Plan dated 18 June 2018.

### Access

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

- v. Internal vehicle roads shall be constructed before any dwelling application development approval. The internal vehicle roads shall comply with the following requirements:
- The primary access road (Quarry Road) shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006';
  - Secondary access roads to proposed dwelling sites 1, 2, 3 and 16 shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006' with the exception that no alternative access is required.
  - A turning head or loop road will be required for the secondary access road to dwelling site 16.

### Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

- vi. An Emergency/Evacuation Plan is to be prepared, prior to any dwelling application development approval, consistent with the NSW Rural Fire Service document 'Guidelines for the Preparation of Emergency/Evacuation plans' and Australian Standard AS 3745 2010 'Planning for Emergencies in Facilities' including:
- trigger points for implementation of the emergency evacuation plan are to be developed and clearly stated.

- a procedure to contact the NSW Rural Fire Service District Office / NSW Fire Brigade and inform them of the evacuation and the location they will be evacuated to.
- vii. A copy of the emergency evacuation plan shall be:
- attached to the Coolamon Management Statement;
  - provided to the consent authority; and
  - provided to the Local Emergency Management Committee.

[GENNS05]

20. The proposed house site 17 is required to be designed by a qualified structural or civil engineer with a geotechnical assessment of the foundation material.

#### PRIOR TO COMMENCEMENT OF WORK

21. All imported fill material shall be from an approved source. Prior to the commencement of filling operations, 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.

[PCW0375]

22. Prior to start of works for each stage of development (as applicable) the engaged supervising Civil Engineer is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls (with that stage of development) 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]

23. Prior to commencement of work on the site all erosion and sedimentation control measures (as applicable to that stage of development) 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 erosion and sedimentation control plan endorsed by the engaged Civil Engineer and shall be adequately maintained throughout the duration of that stage of the development.

[PCW0985]

24. Prior to commencement of works, the Applicant must engage a practicing Civil Engineer with National Engineering Registration (NER) to supervise the construction of the ALL civil works, including roadworks, earthworks, drainage, building pads, batter and retaining wall construction.

Geotechnical investigations shall be undertaken, as directed by the engaged Civil Engineer for each stage of the development. Geotechnical investigations 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 preloading, removal of uncontrolled fill material or other forms of treatment.

25. Prior to the commencement of the Stage 1 works, 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 for the following required works:
- (a) Bitumen or concrete sealing the new access from the existing road carriageway to the property boundary to accommodate a 6m wide road carriageway. This is to include repair work to the existing bitumen seal.
26. Prior to commencement of works for each stage of development, an applicable, detailed Stormwater Management Plan, compliant with the provisions of Council's Design Specification D7 - Stormwater Quality must be prepared and accepted by the engaged Civil Engineer.
27. Prior to commencement of works for each stage of development, an applicable detailed Erosion and Sediment Control Management Plan, compliant with the provisions of Council's Design Specification D7 - Stormwater Quality must be prepared and accepted by the engaged Civil Engineer.

All Erosion and Sediment Control shall be designed, installed and maintained in accordance with Tweed Shire Council's Development Design Specification D7 - Stormwater Quality and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

28. Prior to the commencement of works as applicable to each stage of development, application shall be made to Tweed Shire Council under Section 68 of the Local Government Act for any drainage works (including connection of a private stormwater drain to a public stormwater drain or installation of erosion and sediment control works).
29. Where earthworks result in the creation of batters and/or cuttings greater than 1m high and/or slopes within allotments 17<sup>0</sup> (1:3.27) or steeper, such slopes shall be densely planted in accordance with a detailed Landscaping Plan endorsed by Council, prior to works commencing on the relative stage of development.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- (a) Contours and terraces where the height exceeds 1m.
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- (c) Densely plant with appropriate native species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
- (d) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subject allotment.

[PCWNS01]

30. All uncontrolled fill identified as potential high risk landslip areas in the Geotechnical report prepared by Geotech Investigations dated 24 May 2018 is to be removed and replaced with controlled fill material or a structurally engineered suitable alternative, as applicable to each stage of the development. Any alternative solutions such as retaining walls are to be designed by a qualified structural engineer and supported by a geotechnical assessment of the foundation material.

[PCWNS02]

31. Engineering drawings addressing the required civil works for each stage of the development are to be prepared by a civil engineer with National Engineering Registration (NER).

These drawings are to be supported by a geotechnical report with any recommendations from the geotechnical report incorporated within the design. The geotechnical report is to clearly state that the future constructed works will provide a 'low risk' in accordance with the AGS (Australian Geomechanics Guidelines).

[PCWNS03]

32. A Habitat Management and Restoration Plan ('HM&RP') shall be prepared for the following areas:

- a. Area described as the 24.45 ha Wildlife Corridor Reserve as identified on Dwg. No. 5.6 Site Plan - Landuse dated the 18 June 2018 prepared by MilesWinter
- b. A 20 metre radius buffer around the following threatened flora species Marks Cassia (*Cassia marksiana*) and White Lace Flower (*Archidendron hendersonii*) as identified on Figure 7 Vegetation Communities & Threatened Species Records in Ecological Assessment Buglars Quarry Lot 1 DP 1054943 Version 4 dated 16 May 2018 prepared by JWA Ecological Consultants Pty Ltd.

The HM&RP shall be prepared by a person suitably qualified in Bushland Regeneration or Ecological Restoration and with knowledge and experience in local vegetation communities in accordance with:

- Tweed Shire Council's Draft Habitat Restoration Plan Preparation Guideline - Site specific guidelines for the ecological restoration and ongoing management of habitat utilised by native flora and fauna dated February 2012.
- South East Queensland Ecological Restoration Framework: Code of Practice (Chenoweth EPLA and Bushland Restoration Services 2012)

A separate HM&RP may be submitted and approved by Council's General Manager or delegate prior to commencement of works associated with each stage of the development as shown on Dwg. No. 5.15 Site Plan - Staging dated June 2018 prepared by MilesWinter. Where the staged submission of the HM&RP is not to be pursued a single HM&RP addressing habitat restoration matters for the nominated areas must be submitted and approved by Council's General Manager or delegate prior to works commencing for Stage 1.

A HM&RP shall include the following components and associated detail:

Habitat Restoration Component

- a. A description of those areas the subject of the HM&RP including area estimates and an appraisal of the present condition of remnant vegetation.
- b. 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.
- c. The approach to restoration within the Wildlife Corridor Reserve as follows (with reference to vegetation communities identified in Figure 7 Vegetation Communities & Threatened Species Records in Ecological Assessment Buglars Quarry Lot 1 DP 1054943 Version 4 dated 16 May 2018 prepared by JWA Ecological Consultants Pty Ltd):
  - i. Assisted habitat restoration areas identified as Vegetation Communities 1 to 5 and 7.
  - ii. Reconstruction areas identified as Vegetation Communities 9.
  - iii. Combined assisted habitat restoration and reconstruction being areas identified as Vegetation Community 8.
- d. Management strategy for each of the zones, including the approach, methods and techniques to be used for vegetation restoration.
- e. A revegetation schedule of (1) plant per two (2) square metre of local native plant species reflective of the pre-european clearing vegetation community.
- f. Fauna friendly live-stock proof fencing to be installed along the boundary of the Wildlife Corridor Reserve (where required). Suitable delineation markers where fencing is not required.
- g. Details of habitat restoration activities consistent with the approved Vegetation and Fauna Management Plan and pursuant to Condition 33 and Condition 34 for each Wildlife Corridor Reserve crossing point of any internal road.
- h. Schedule of timing and program of works based on the following management phases:
  - i. Establishment Phase - Minimum of one (1) year
  - ii. Maintenance Phase - Minimum of five (5) years
- i. Details of primary establishment phase works and maintenance phase works as follows (yet may not be strictly limited to):
  - i. Primary Works - All planting, treatment of all environmental weeds (unless otherwise determined by Council), the installation of all fencing/delineation boundary markers, baseline monitoring and reporting
  - ii. Maintenance works - Supplementary planting (where required), continued

treatment and control of environmental weeds, maintenance of fencing, monitoring and reporting.

- j. Set of performance criteria for the establishment and maintenance phase with the objective of achieving site capture at the end of the 5 year maintenance period. The number of treatment rotations shall be adequate to successfully meet the objective.
- k. Maintenance, monitoring and reporting schedule with developer commitment for a period of not less than five (5) years;
- l. An adaptive management statement detailing how potential problems arising may be overcome and requiring approval of the General Manager or delegate for such changes.

Long-term Management Component:

- m. A schedule of activities not permitted within the Wildlife Corridor Reserve registered on title under an 88B Restriction as to User referred to in this consent.
  - n. Set of performance criteria to be achieved annually post the 5 year maintenance period.
  - o. A schedule of annual works to achieve post 5 year maintenance period performance criteria.
33. A Vegetation and Fauna Management Plan (V&FMP) shall be prepared by a suitably qualified ecologist/environmental scientist in consultation with a qualified arborist (minimum AQF Level 5 arboricultural qualifications) to be implemented during the construction and operational phase of all stages of the development. A V&FMP shall be submitted and approved by Council's General Manager or delegate for each stage of the development prior to works commencing for Stage 1. The V&FMP shall include (but not be limited to) the following:

Vegetation Management

- a. Particulars and locations of vegetation to be removed and vegetation to be retained in order to facilitate the development having regard for Condition 9.
- b. Location of threatened flora species as listed under the Biodiversity Conservation Act 2016 and/or Environment Protection and Biodiversity Conservation Act 1999
- c. Details of all proposed earthworks, services, stormwater infrastructure, retaining walls, stockpile/set-down areas, equipment storage facilities, land application areas etc.
- d. Reflect in the plan allowable asset protection zone clearing areas in accordance with Condition 6, and provide a tree survey of all trees greater than 200 mm girth (measured diameter at 1.4 m above natural ground) to be removed to comply with NSW RFS Standards for Asset Protection Zones . Environmental weed species shall be prioritised for vegetation removal to meet asset protection zone standards

- e. Details of strategies and methods to be implemented to protect vegetation to be retained during the construction phase in accordance with Australian Standard AS 4970-2009 Protection of trees on development sites and any recommendations made by the consulting arborist
- f. Direction of clearing
- g. Methods for the reuse of felled vegetation from the subject site
- h. Location, alignment and specifications of vegetation protection fencing consistent with AS4970:2009 Protection of trees on development sites
- i. Details of protection fencing to be installed around the approved Habitat Protection Areas
- j. 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)
- k. Provide details of any post construction management measures to be implemented in order to improve and/or maintain the health, long term viability and safety of those trees identified to be retained.

#### Fauna Management

- l. 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
- m. 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)
- n. Considerations relating to time periods for when fauna is to be removed/flushed prior to clearing
- o. Details of special equipment required (such as cameras, elevated platforms etc.)
- p. Identification of general locations that wildlife will be relocated/translocated to if required based on habitat requirements and in accordance with licence/permit conditions
- q. 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
- r. Information on how water-bodies and/or inundation areas that may support aquatic species are to be dewatered and details of appropriate fauna management measures to be employed
  - s. Provide details of post clearing reporting by a suitably qualified ecologist engaged to oversee clearing works
  - t. Provide fauna friendly crossing solution where roads and infrastructure intercept and fragment the dedicated Wildlife Corridor Reserve
  - u. Fauna signage at entry points prohibiting the entry of cats and dogs
  - v. Details of short to long term vertebrate pest management measures
34. Detailed engineering design plans for each stage of the development must include design elements to encourage and allow for safe passage of fauna at points where roads and infrastructure intercept and fragment the dedicated Wildlife Corridor Reserve. Crossing design solutions should be in general accordance with Fauna Sensitive Road Design Manual: Volume 1 dated 2000 and Volume 2 dated June 2010 prepared by Qld Department of Transport and Main Roads. Crossing design elements must be approved by Council's General Manager or delegate prior to works for any Stage commencing.
35. A detailed plan of landscaping for each stage is to be submitted and approved by Council's General Manager or delegate prior to the commencement of works. The detailed plan of landscaping shall address the following areas of the site and meet a plant selection criterion of 100% locally occurring Australian native species suited to the site and conditions:
- i. Areas disturbed during construction of roads and installation of services.
  - ii. The quarry remediation area as shown on Dwg. No. 5.30 Quarry Rehabilitation Plan dated 18 June 2018 prepared by MilesWinter.
  - iii. Land between dwelling sites numbered 7, 13, 18 and the nearest side boundary shall have additional landscaping to screen these dwellings from adjoining properties. Any landscaping shall not adversely impact any necessary Asset Protection zones.
36. All pre-construction vegetation and fauna management measures shall be satisfactorily completed in accordance with the approved Vegetation and Fauna Management Plan for each stage of the development.
37. Where works involve tree removal or disturbance of wildlife habitat 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 for each stage of the development. 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.

38. Vegetation clearing at each stage of the development 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.
39. Prior to the commencement of works, the following amendments to the draft Community Management Statement shall be undertaken to the satisfaction of the General Manager or delegate;
- By-law 1.1- Any approval for a dwelling shall not be granted until all conditions of development consent 18/0001 have been complied with for the relevant stage.
  - By-law 1.2.6 - delete
  - By-law Section 4.3-The keeping of cats or dogs on the site is prohibited.
  - By-law Section 1.2 - No dwelling including the roof area shall exceed 8m in height
  - By-Law Section 1.3 Each dwelling site shall provide carspaces for a minimum of two vehicles.
  - By- Law Section 1.2 - Each dwelling shall not accommodate any more persons than the capacity of the respective onsite sewerage management system provided for the site.
  - By-law Part 6 - The approved use is for residential accommodation. The development consent does not permit any form of short term or holiday accommodation onsite.
  - By-law 4.4.2 - delete 14, 23, include 17
  - By-law 2.3 - change to wildlife corridor
  - By-Law 2.2 define reserve
  - Delete any references to fire trails
  - By-law 3.1.4- Amend speed limit to 40km per hour
  - By-law 3.4 - Include statement that the collection of waste must be at intervals sufficient to prevent any adverse odour or vermin infestations.
  - By- Law 3.5.3 - Add statement that generators must be suitably housed to prevent any noise impacts for residents upon the subject site or adjoining lands.
  - The Community Management Statement shall reference this development consent and require compliance with all conditions.

40. Section 7.11 Contributions

Payment of the following contributions pursuant to Section 7.11 of the Act and the relevant Section 7.11 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, works must NOT commence unless all Section 7.11 Contributions have been paid for the respective stage 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 S7.11 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 7.11 Plan current at the time of the payment.

A copy of the Section 7.11 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

Stage 1

(a) Tweed Road Contribution Plan: 22 Trips @ \$1942 per Trips (\$1,807 base rate + \$135 indexation) CP No. 4 Sector10_4	\$42,724
(b) Open Space (Casual): 4 ET @ \$564 per ET (\$502 base rate + \$62 indexation) CP No. 5	\$2,256
(c) Open Space (Structured): 4 ET @ \$645 per ET (\$575 base rate + \$70 indexation) CP No. 5	\$2,580
(d) Shirewide Library Facilities: 4 ET @ \$869 per ET (\$792 base rate + \$77 indexation) CP No. 11	\$3,476
(e) Eviron Cemetery: 4 ET @ \$127 per ET (\$101 base rate + \$26 indexation) CP No. 13	\$508
(f) Community Facilities (Tweed Coast - North) 4 ET @ \$1457 per ET (\$1,305.60 base rate + \$151.40 indexation) CP No. 15	\$5,828
(g) Extensions to Council Administration Offices & Technical Support Facilities 4 ET @ \$1935.62 per ET (\$1,759.90 base rate + \$175.72 indexation) CP No. 18	\$7,742.48
(h) Regional Open Space (Casual) 4 ET @ \$1132 per ET (\$1,031 base rate + \$101 indexation) CP No. 26	\$4,528
(i) Regional Open Space (Structured):	

4 ET @ \$3974 per ET \$15,896  
(\$3,619 base rate + \$355 indexation)  
CP No. 26

Stage 2

- (a) Tweed Road Contribution Plan:  
19.5 Trips @ \$1942 per Trips \$37,869  
(\$1,807 base rate + \$135 indexation)  
CP No. 4  
Sector10\_4
- (b) Open Space (Casual):  
3 ET @ \$564 per ET \$1,692  
(\$502 base rate + \$62 indexation)  
CP No. 5
- (c) Open Space (Structured):  
3 ET @ \$645 per ET \$1,935  
(\$575 base rate + \$70 indexation)  
CP No. 5
- (d) Shirewide Library Facilities:  
3 ET @ \$869 per ET \$2,607  
(\$792 base rate + \$77 indexation)  
CP No. 11
- (e) Eviron Cemetery:  
3 ET @ \$127 per ET \$381  
(\$101 base rate + \$26 indexation)  
CP No. 13
- (f) Community Facilities (Tweed Coast - North)  
3 ET @ \$1457 per ET \$4,371  
(\$1,305.60 base rate + \$151.40 indexation)  
CP No. 15
- (g) Extensions to Council Administration Offices  
& Technical Support Facilities  
3 ET @ \$1935.62 per ET \$5,806.86  
(\$1,759.90 base rate + \$175.72 indexation)  
CP No. 18
- (h) Regional Open Space (Casual)  
3 ET @ \$1132 per ET \$3,396  
(\$1,031 base rate + \$101 indexation)  
CP No. 26
- (i) Regional Open Space (Structured):  
3 ET @ \$3974 per ET \$11,922  
(\$3,619 base rate + \$355 indexation)

CP No. 26

Stage 3

(a)	Tweed Road Contribution Plan: 13 Trips @ \$1942 per Trips (\$1,807 base rate + \$135 indexation) CP No. 4 Sector10_4	\$25,246
(b)	Open Space (Casual): 2 ET @ \$564 per ET (\$502 base rate + \$62 indexation) CP No. 5	\$1,128
(c)	Open Space (Structured): 2 ET @ \$645 per ET (\$575 base rate + \$70 indexation) CP No. 5	\$1,290
(d)	Shirewide Library Facilities: 2 ET @ \$869 per ET (\$792 base rate + \$77 indexation) CP No. 11	\$1,738
(e)	Eviron Cemetery: 2 ET @ \$127 per ET (\$101 base rate + \$26 indexation) CP No. 13	\$254
(f)	Community Facilities (Tweed Coast - North) 2 ET @ \$1457 per ET (\$1,305.60 base rate + \$151.40 indexation) CP No. 15	\$2,914
(g)	Extensions to Council Administration Offices & Technical Support Facilities 2 ET @ \$1935.62 per ET (\$1,759.90 base rate + \$175.72 indexation) CP No. 18	\$3,871.24
(h)	Regional Open Space (Casual) 2 ET @ \$1132 per ET (\$1,031 base rate + \$101 indexation) CP No. 26	\$2,264
(i)	Regional Open Space (Structured): 2 ET @ \$3974 per ET (\$3,619 base rate + \$355 indexation) CP No. 26	\$7,948

Stage 4

(a) Tweed Road Contribution Plan: 13 Trips @ \$1942 per Trips (\$1,807 base rate + \$135 indexation) CP No. 4 Sector10_4	\$25,246
(b) Open Space (Casual): 2 ET @ \$564 per ET (\$502 base rate + \$62 indexation) CP No. 5	\$1,128
(c) Open Space (Structured): 2 ET @ \$645 per ET (\$575 base rate + \$70 indexation) CP No. 5	\$1,290
(d) Shirewide Library Facilities: 2 ET @ \$869 per ET (\$792 base rate + \$77 indexation) CP No. 11	\$1,738
(e) Eviron Cemetery: 2 ET @ \$127 per ET (\$101 base rate + \$26 indexation) CP No. 13	\$254
(f) Community Facilities (Tweed Coast - North) 2 ET @ \$1457 per ET (\$1,305.60 base rate + \$151.40 indexation) CP No. 15	\$2,914
(g) Extensions to Council Administration Offices & Technical Support Facilities 2 ET @ \$1935.62 per ET (\$1,759.90 base rate + \$175.72 indexation) CP No. 18	\$3,871.24
(h) Regional Open Space (Casual) 2 ET @ \$1132 per ET (\$1,031 base rate + \$101 indexation) CP No. 26	\$2,264
(i) Regional Open Space (Structured): 2 ET @ \$3974 per ET (\$3,619 base rate + \$355 indexation) CP No. 26	\$7,948

Stage 5

- |  |            |
|--|------------|
| (a) Tweed Road Contribution Plan:<br>6.5 Trips @ \$1942 per Trips<br>(\$1,807 base rate + \$135 indexation)<br>CP No. 4<br>Sector10_4                                      | \$12,623   |
| (b) Open Space (Casual):<br>1 ET @ \$564 per ET<br>(\$502 base rate + \$62 indexation)<br>CP No. 5   | \$564      |
| (c) Open Space (Structured):<br>1 ET @ \$645 per ET<br>(\$575 base rate + \$70 indexation)<br>CP No. 5   | \$645      |
| (d) Shirewide Library Facilities:<br>1 ET @ \$869 per ET<br>(\$792 base rate + \$77 indexation)<br>CP No. 11   | \$869      |
| (e) Eviron Cemetery:<br>1 ET @ \$127 per ET<br>(\$101 base rate + \$26 indexation)<br>CP No. 13  | \$127      |
| (f) Community Facilities (Tweed Coast - North)<br>1 ET @ \$1457 per ET<br>(\$1,305.60 base rate + \$151.40 indexation)<br>CP No. 15  | \$1,457    |
| (g) Extensions to Council Administration Offices<br>& Technical Support Facilities<br>1 ET @ \$1935.62 per ET<br>(\$1,759.90 base rate + \$175.72 indexation)<br>CP No. 18 | \$1,935.62 |
| (h) Regional Open Space (Casual)<br>1 ET @ \$1132 per ET<br>(\$1,031 base rate + \$101 indexation)<br>CP No. 26  | \$1,132    |
| (i) Regional Open Space (Structured):<br>1 ET @ \$3974 per ET<br>(\$3,619 base rate + \$355 indexation)<br>CP No. 26   | \$3,974    |

41. Surrender of Consent: Prior to commencement of works for Stage 1, Development Consents 98/212 and 91/141 relating to Buglers Quarry shall be surrendered in

accordance with Clause 97(1) of the Environmental Planning and Assessment Act Regulation 2000.

42. Prior to the commencement of any works, details of any stockpiled material from the Quarry shall be provided including cubic volumes and proposed use of this stockpiled material. A Plan of Management must be prepared and approved by the General Manager or delegate to ensure this stockpiled material is suitably contained and not susceptible to erosion. No further extraction of material from the quarry onsite will be permitted following the commencement of works onsite for Stage 1.

[PCWNS04]

#### DURING CONSTRUCTION

43. 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]

44. Commencement of work, including the switching on and operation of plant, machinery and 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]

45. 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]

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. All earthworks and filling shall be carried out in accordance with AS 3798 Guidelines on earthworks for commercial and residential developments (current version) to a geotechnical Level 1 inspection regime and testing in accordance with Table 8.1, unless advised otherwise by an engaged Civil Engineer.

[DUR0795]



48. 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 deposited on the roadway by construction vehicles will be at the Developers expense and any such costs are payable prior to the issue of an Occupation Certificate. [DUR0995]
49. 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]
50. 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]
51. 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]
52. All waste shall be collected, stored and disposed of in accordance with the provisions of Tweed Shire Council Development Control Plan Section 15 - Waste Minimisation and Management. [DUR2195]
53. 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]
54. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are maintained until the PCA is satisfied that the site is fully rehabilitated. [DUR2375]
55. All remediation works are to be carried out in accordance with the Remediation Action Plan approved by the NSW EPA Accredited Site Auditor.
56. All operations must comply with the approved Vegetation and Fauna Management Plan for each stage of the development. 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.

57. Where works involve tree removal or disturbance of vegetation 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 for all stages of the development. The Project Arborist will be responsible for completing certification of tree protection through the various stages of development (where required).
58. 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
59. 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 quarry.
60. Landscaping of the site shall be carried out in accordance with the approved detailed plan of landscaping.
61. All flora and fauna management and habitat restoration works shall be carried out in accordance with:
- a. The approved Vegetation and Fauna Management Plan; and
  - b. The approved Habitat Management and Restoration Plan
- [DURNS01]
62. A Site Audit Statement (SAS) completed by a NSW EPA Accredited Site Auditor in accordance with the provisions of the Contaminated Land Management Act 1997 is to be submitted to Council within thirty (30) days of completion of the Remediation and Validation Report. The SAS is to certify that the land is suitable for the proposed land use. Conditions imposed on the SAS shall form part of this consent. Where the SAS conditions, if applicable, are not consistent with this consent, a Section 4.55 application pursuant to the provisions of the Environmental Planning and Assessment Act 1979 will be required to ensure the conditions of the SAS form part of the consent conditions.
- [DURNS02]
63. The exportation or importation of waste (including VENM, ENM and General Solid Waste) from or to the site must be in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW Environmental Protection Authority "Waste Classification Guidelines".
- [DURNS03]

#### PRIOR TO COMMENCEMENT OF USE OF EACH STAGE

64. Prior to commencement of use for each stage of development, all works/actions/inspections etc required at that stage by other conditions or any approved management plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

65. Prior to the issue of an occupation certificate for Stage 1 of the development, 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.
66. Prior to the commencement of use for each stage of the development, a certificate of practical completion shall be obtained from Council’s General Manager or his delegate for all works required under Section 68 of the Local Government Act, as applicable to that stage of development.
67. Any damage caused to public infrastructure (roads etc) during construction of the development as applicable to each stage of the development shall be repaired in accordance with Council’s Development Design and Construction Specifications, prior to the issue of any Occupation Certificate for that stage.  
[POC0745]
68. Prior to the occupation of any building and prior to the issue of any occupation certificate requiring an on-site sewage management system within the landsharing community, approval to operate the on-site sewage management facility under Section 68 of the Local Government Act 1993 shall be obtained from Council.  
[POC1040]
69. Prior to the commencement of use for each stage, all conditions of consent are to be met.  
[POC1055]
70. Prior to the issue of an Occupation Certificate (including interim), 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.  
[POCNS01]
71. All primary habitat restoration works pursuant to Condition 32 for each stage of development must be completed in accordance with the approved Habitat Management and Restoration Plan (HM&RP) to the satisfaction of Council’s General Manager or delegate prior to issue of the first occupation certificate for each stage of the development.
- The maintenance of the habitat restoration area/s thereafter shall be undertaken in accordance with approved HM&RP.
72. Prior to commencement of use for any stage of the development the subject of this approval the applicant shall provide to Council certification from a suitably qualified Bushland Regeneration or Ecological Restoration professional that the necessary habitat restoration works have been successfully completed in accordance with the approved Habitat Management and Restoration Plan.
73. All landscaping shall be completed in accordance with the approved detailed plan of landscaping.
74. The following restrictions as to user under Section 88B of the Conveyancing Act 1919 are to be created to Council’s satisfaction prior to the issue of the first occupation certificate:

Restriction as to user relating to all areas referred to in Condition 8 of this consent collectively described as Habitat Protection Areas. The following activities are not permitted within the Habitat Protection Area:

- a. 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;
- b. Erection of any fixtures or improvements, including buildings or structures;
- c. Construction of any trails or paths;
- d. Depositing of any fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the Habitat Protection Area;
- e. Keeping or permitting the entry of domestic animals or any other animals that are not indigenous to the Habitat Protection Area; and
- f. Performance of any other acts which may have detrimental impact on the values of the nominated areas.

Burden: Part Lot 1. Benefit: Tweed Shire Council.

No cat or dog shall be kept either permanently or temporarily on the entire Lot burdened.

Burden: Lot 1. Benefit: Tweed Shire Council.

75. The following positive covenant under Section 88B of the Conveyancing Act 1919 is to be created to Council's satisfaction prior to the issue of the first occupation certificate:

A positive covenant shall be created over the areas referred to in Condition 9 as 24.45 ha Wildlife Corridor Reserve (shown on Dwg. No. 5.6 Site Plan - Landuse dated the 18 June 2018 prepared by MilesWinter) and 20 metre radius buffer around the following threatened flora species Marks Cassia (*Cassia marksiana*) and White Lace Flower (*Archidendron hendersonii*) (as shown on Figure 7 Vegetation Communities & Threatened Species Records in Ecological Assessment Buglars Quarry Lot 1 DP 1054943 Version 4 dated 16 May 2018 prepared by JWA Ecological Consultants Pty Ltd).

The nominated area must be subject to an approved ecological restoration program to be undertaken in accordance with an approved habitat management and restoration plan and managed as a natural area for conservation purposes in perpetuity.

Burden: Part Lot 1. Benefit: Tweed Shire Council.

[POCNS02]

76. Prior to the commencement of the use of any stage and following completion of the internal road access and building pads for any stage of the development a certificate signed by the engaged Civil Engineer is to be submitted to the Principal Certifying Authority to certify compliance with the consent and good engineering practice.

[POCNS03]

77. Prior to the issue of an Occupation Certificate (including interim) for each stage of the development, certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, is to be provided

to the PCA for ALL internal roads servicing the proposed dwellings, as applicable to that stage of development.

The certification is to state that ALL internal access roads comply with the NSW Rural Fire Service document "Planning for Bushfire Protection 2006'. The certification is to include surveyed longitudinal road sections to demonstrate compliance for each stage of the development.

[POCNS04]

78. Prior to the issue of an Occupation Certificate (including interim) for each stage of the development a geotechnical engineer is to certify that all earthworks and filling (as applicable to that stage of the development) have been carried out in accordance with AS 3798 Guidelines on earthworks for commercial and residential developments (current version) to a Level 1 inspection regime with testing in accordance with Table 8.1, unless advised otherwise by an engaged Civil Engineer.

Each of the proposed building sites for each stage shall also be given a site classification as defined by AS 2870 (current version).

79. Prior to the issue of an Occupation Certificate (including interim) for each stage of the development, certification signed by a practising Structural Engineer is to be provided for all proposed retaining structures in excess of 1.2m in height, as applicable to that stage of development. 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.
80. Prior to the issue of an Occupation Certificate for the development the road closure on the subject land is to be gazetted and the road closure parcels have been consolidated with adjoining lands.
81. The community management statement is to state that reticulated electricity and telecommunication/internet services have not been provided and individual dwellings are required to provide electricity and telecommunication/internet services at their own cost.
82. The Waste and Recycle Station shall be satisfactorily screened from adjoining properties. Acoustic screening will be required if the amenity of adjoining residents or residents on site are impacted by the location and operation of this Station. The Station should be provided with sufficient measures to prevent unauthorised disposal of waste.
83. The applicant must provide to Council at completion of habitat restoration works certification from a qualified habitat restoration professional that all works/measures have been completed in accordance with the approved Habitat Management and Restoration Plan.

[POCNS05]

## USE

84. 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]

85. 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]

86. A roof catchment water supply source shall be provided for domestic purposes where a Council reticulated supply is unavailable. Any domestic water supply roof collection system should be fitted with a first flush device. Minimum storage tank capacity shall be 20,000 litres for the first bedroom, then an additional 15,000 litres per bedroom thereafter and shall be in addition to any water volume requirements stipulated by the NSW Rural Fire Services. Installation, water collection, and maintenance of rainwater tanks used for drinking purposes must comply with NSW Health requirements.

[USE1470]

87. The Waste and Recycle Station should be provided with sufficient measures to prevent unauthorised disposal of waste. The Station shall be suitably managed by the community and waste must be collected at intervals that will prevent adverse odours or the attraction of vermin.

88. Woodfords Road shall be gated at the property entry to ensure this public road is used for emergency exit only.

89. No dogs or cats are permissible upon the subject site.

90. The Rural Landsharing Community shall be managed in accordance with the conditions of this consent, the Community Management Statement, the Habitat Management and Restoration Plan and the Vegetation and Fauna Management Plan for the life of the development.

[USENS01]

## **AMENDMENT 1**

### **P 55**

**Cr K Milne**  
**Cr C Cherry**

**RECOMMENDED** that Development Application DA18/0001 for a rural land sharing community comprised of 13 dwelling sites over 5 Stages at Lot 1 DP 1054943 No. 54 Wallum Court, Clothiers Creek, be refused for the following reasons:

1. Pursuant to Section 4.15 (1) (a) (i) the development proposal is considered to be inconsistent with the aims of Schedule 1 of SEPP (Integration and Repeals) 2016.
2. Pursuant to Section 4.15 (1) (b) the development proposal is considered to be inconsistent with the aims of the Tweed Shire Urban Land Release Strategy 2009 in regard to not relying on rural land urbanisation due to emerging issues with landholders,

the volume of allotments will not meet housing demand, and the inability of Council to adequately service fragmented developments.

3. Pursuant to Section 4.15 (1) (b) the development proposal is considered to be inconsistent with the Draft Tweed Shire Rural Land Strategy that acknowledges and supports the protection of rural land not its removal for housing.
4. Pursuant to Section 4.15 (1) (b) the development proposal is considered to be inconsistent with the aims of the North Coast Regional Plan 2036, in regard to focusing growth in cities and centres to protect the sensitive coastal strip, productive farmland and land with significant environmental and cultural values.
6. Pursuant to Section 4.15 (1) (c) the development proposal does not provide a sufficient level of detail.
7. Pursuant to Section 4.15 (1) (d) the development proposal is not considered to be in the public interest.

Amendment 1 was **Carried**

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne**  
**AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop**

Amendment 1 on becoming the Motion was **Carried** - (Minute No **P 55** refers)

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne**  
**AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop**

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- 6 **[PR-PC] Compliance - Development Application DA02/1983.17 for an Amendment to Development Consent DA02/1983 for the Use of Property for Filming and Producing a Television Program at Lot 77 DP 755715 Dungay Creek Road, Dungay; Part Lot 74 DP 755715 No. 366 Dungay Creek Road, Dungay; Lot 93 DP 755715 No. 486 Dungay Creek Road Dungay**

**P 56**

**Cr R Byrnes**  
**Cr J Owen**

**RECOMMENDED** that:

1. A second singular Penalty Infringement Notice be issued to the applicant for breaching Condition 1.6 of DA02/1983.17 (6 instances throughout January based on the adapted data) at Lot 77 DP 755715 Dungay Creek Road, Dungay; Part Lot 74 DP 755715 No. 366 Dungay Creek Road, Dungay; Lot 93 DP 755715 No. 486 Dungay Creek Road Dungay.

and

2. Council work with the applicant to review options for traffic management at the subject site. This could involve a further modification of DA02/1983 to increase the allowable traffic associated with the development or better traffic management (more buses) to accommodate the development as required.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**AMENDMENT 1**

**P 57**

**Cr C Cherry**

**Cr K Milne**

**PROPOSED** that:

1. A second singular Penalty Infringement Notice be issued to the applicant for breaching Condition 1.6 of DA02/1983.17 (6 instances throughout January based on the adapted data) at Lot 77 DP 755715 Dungay Creek Road, Dungay; Part Lot 74 DP 755715 No. 366 Dungay Creek Road, Dungay; Lot 93 DP 755715 No. 486 Dungay Creek Road Dungay.

and

2. Council work with the applicant to review options for traffic management at the subject site. This could involve a further modification of DA02/1983 to increase the allowable traffic associated with the development for the three-week filming window for each production or better traffic management (eg use of electric vehicles and/or more buses) to accommodate the development as required while balancing the amenity of the neighbouring residents.

Amendment 1 was **Lost**

**FOR VOTE - Cr C Cherry, Cr R Cooper, Cr K Milne**

**AGAINST VOTE - Cr R Byrnes, Cr J Owen, Cr W Polglase, Cr P Allsop**

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- 7 **[PR-PC] Development Application DA04/0162.03 for an Amendment to Development Consent DA04/0162 for Expansion and Amalgamation of Existing Quarries at Lot 28 DP 1079480 Pollards Road, Dulguigan**

**P 58**

**Cr W Polglase**

**Cr P Allsop**

**PROPOSED** that:



1. Council in regard to DA04/0162.03 for an Amendment to Development Consent DA04/0162 for Expansion and Amalgamation of Existing Quarries at Lot 28 DP 1079480 Pollards Road, Dulguigan:
  - a) Endorses the Draft letter to Tumbulgum Community Association which forms Attachment 6; and
  - b) Seeks legal advice on the interpretation of the consent and allegations of non-compliance (in regard to extraction volume in situ v bulked) to determine the prospects of prosecution or the prospects of restraining actions; and
  - c) Determines DA04/0162.03 by way of approval to acknowledge past breaches by deleting Condition 3 and replacing it with a new Condition 3A which states:

3A. The average number of trucks departing the quarry is to be 40 vehicles per day, and all trucks are to be fitted with airbag suspension and residential grade mufflers.

With the exception of the:

- 2015/2016 consent year where the total number of trucks departing the quarry shall not exceed 15870, being an average of 43.5 vehicles per day.
- 2016/2017 consent year where the total number of trucks departing the quarry shall not exceed 16,200, being an average of 44.5 vehicles per day.

The applicant is to liaise with Council in finding a suitable location for a traffic counter at the quarry.

The traffic counter is to be installed at the applicant's expense within 4 months of DA04/0162.03 being determined.

The quarry is to forward quarterly reports to Council demonstrating the traffic counter data, demonstrating a comparison of the traffic counter data with the weighbridge data, explanatory notes to interpret the data and demonstrating the likely level of compliance in any given quarter based on future projections.

[GENNS01]

2. ATTACHMENTS 7 and 8 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

**AMENDMENT 1**

**P 59**

**Cr K Milne  
Cr R Byrnes**

**RECOMMENDED** that Council in regard to DA04/0162.03 for an Amendment to Development Consent DA04/0162 for Expansion and Amalgamation of Existing Quarries at Lot 28 DP 1079480 Pollards Road, Dulguigan:

1. This matter be deferred for legal advice on the interpretation of the consent and allegations of non-compliance (in regard to **allowable movements of truck loads leaving the quarry** and **extraction volume** in situ v bulked) to determine if any breaches have occurred and if so what are the prospects of prosecution or the prospects of restraining actions and a further report be brought back to Council.
2. ATTACHMENTS 7 and 8 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Amendment 1 was **Carried**

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne  
AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop**

Amendment 1 on becoming the Motion was **Carried** - (Minute No **P 59** refers)

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne  
AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop**

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**8 [PR-PC] Request to Prepare a Planning Proposal - Lot 1, 2 and 3 Section 4 DP 29748 and Lot 100 DP 1208306 Cypress Crescent and Tweed Coast Road, Cabarita Beach**

**P 60**

**Cr W Polglase  
Cr P Allsop**

**RECOMMENDED** that Council, in respect of the Planning Proposal and Development Application recently received for the site, Lot 1, 2 and 3 Section 4 DP 29748 and Lot 100 DP 1208306 Cypress Crescent and Tweed Coast Road, Cabarita Beach, determine to resolve one of the following two options:

**Option 2**

1. The proposed Development Application be rejected as it is prohibited in the R2 Zone and provide written advice to the proponent providing a 14 day option to agree to update

their request for a smaller scale Planning Proposal that only deals with the immediate compliance issues relating to the use of the Halcyon House site, situated principally off Tweed Coast Road and Cypress Crescent Cabarita.

The request for a Planning Proposal is to be updated to only include an amendment to Schedule 1 of Tweed Local Environmental Plan for Lot 100 DP 1208306 to enable additional permitted use for a restaurant at Lot 100 DP1208306 and a carpark for the restaurant on Lot 1 and Lot 2 Section 4 DP 29748. This amendment would potentially resolve the existing prohibition for the 'Paper Daisy' restaurant to the extent that it is currently operating outside of the development consent. The updated request would be referred for a 'Gateway' determination, as administered by the NSW Department of Planning and Environment and;

- a. The Minister for Planning and Environment is advised that Tweed Shire Council is not seeking plan making delegations for this planning proposal;
- b. The Minister for Planning and Environment is advised that the minimum exhibition period for the Planning Proposal should be for a period of 28 days;
- c. Upon receiving an affirmative Gateway Determination Notice all additional studies or work is to be completed prior to and made available with the public exhibition;
- d. Following public exhibition of the Planning Proposal a report is to be submitted to Council at the earliest time detailing the content of submissions received and how those, if any, issues have been addressed.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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**9 [PR-PC] Planning Proposal PP18/0001 (Minor Zoning Amendments for Various Lots) Report on the Public Exhibition**

**P 61**

**Cr P Allsop**

**Cr J Owen**

**RECOMMENDED** that:

1. Planning Proposal PP18/0001, being amendment No. 10 to the Tweed Local Environmental Plan 2014 is to be updated to incorporate the recommendations contained within this report, including the deletion of Item 1 - 5 Yao Street, Kingscliff and the relabelling of the current zoning of Item 8 – Murwillumbah Hospital (8-10 York Street, Murwillumbah) from "*Emergency Services Facility*" to "*Health Services Facility*";
2. The updated Planning Proposal be referred to the Minister for Planning and Environment to be made under Section 3.36 of the *Environmental Planning and Assessment Act 1979*.

The Motion was **Carried**

**FOR VOTE - Cr R Byrnes, Cr R Cooper, Cr K Milne, Cr J Owen, Cr W Polglase, Cr P Allsop**

**AGAINST VOTE - Cr C Cherry**

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

**P 62**

**Cr J Owen  
Cr K Milne**

**RECOMMENDED** that Council notes the July 2018 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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There being no further business the Planning Committee Meeting terminated at 6.37pm.

