

**Mayor:** Cr K Milne

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

# Minutes

## Planning Committee Meeting Thursday, 5 December 2019

held at  
Harvard Room, Tweed Heads Administration Building, Brett Street, Tweed Heads  
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 5.30pm.

### **IN ATTENDANCE**

Cr Katie Milne (Mayor), Cr Chris Cherry (Deputy Mayor), Cr Pryce Allsop, 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), Ms Tracey Stinson (Director Sustainable Communities and Environment), Mr Warren van Wyk (Director Corporate Services), 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 Pastor Gavin Irvine, Kingdom Life Church.

*"Lord Jesus*

*We join together in prayer for this next session of Tweed Council.*

*Jesus, you have entrusted the affairs of the Tweed Shire with these Councillors. We ask for wisdom, guidance and great outcomes for Your name's sake and for the benefit of this area.*

*We thank you for the vision you have placed in the hearts of the leaders. We ask that You enlarge the vision, for this area has so much potential, as the people here carry that potential.*

*We ask for peace and clarity in decision making for this area.*

*Bless this time and bless these people in Your name. Amen."*

### **APOLOGIES**

Attendee Cr R Byrnes has informed the General Manager of his request for a leave of absence.

**P 90**

**Cr P Allsop**  
**Cr C Cherry**

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

The Motion was **Carried**

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr R Byrnes**

**DISCLOSURE OF INTEREST**

Nil.

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

Nil.

**REPORTS FROM THE DIRECTOR PLANNING AND REGULATION**

- 1 **[PR-PC] Pocket Herbs Noise Assessment - Lot 3 DP 1191598 No. 67 Howards Road, Burringbar**

**ALTERNATE MOTION**

**P 91**

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

**RECOMMENDED** that Council, in respect of DA13/0712, relating to land described as Lot 3 DP 1191598, No. 67 Howards Road Burringbar:

1. receives the current noise assessment done by JTA Noise Consultants and notes that further information has been requested in regards to the number of times and period of time noise from Pocket Herbs Pty Ltd is exceeding the Project Noise Trigger Level at the two nearest residences;
2. note that the current noise assessment done by JTA Noise Consultants and the noise verification testing provided by the proponent CRG Acoustics both identify that the machine(s) identified in the report as 14L Mister currently exceeds both the Noise Intrusiveness level and the Project Amenity Level as identified in these reports and instruct the proponent to replace these machines within 45 days with machines that comply with the conditions of consent;

3. require the proponent to submit an acoustic report within 90 days outlining feasible and reasonable mitigation measures which may be considered in order to manage the measured exceedance of the project noise trigger level once the updated data is provided by Council from JTA Consultants and demonstrate how operations will not generate offensive noise under the Protection of the Environment Act 1997;
4. provides written approval to Pocket Herbs to continue to operate Greenhouse 2 for a further 90 days from the date of this resolution for the purposes of further noise assessment; and
5. Council reinstall Council's Noise logging machines on the two closest residential receivers for the 90 day operational approval and provide a staff report regarding any noise levels exceeding the Project Noise Trigger levels.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr R Byrnes**

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- 2 **[PR-PC] Development Application DA13/0712.01 for an Amendment to Development Consent DA13/0712 for a Micro Herb Production Facility including Two Greenhouses, Two Pump Sheds, Potting Shed/Office, Water Tank, Driveway Access and Associated earthworks at Lot 3 DP 1191598 No. 67 Howards Road, Burringbar**

#### **ALTERNATE MOTION**

**P 92**

**Cr C Cherry  
Cr P Allsop**

**RECOMMENDED** that Development Application DA13/0712.01 for an amendment to Development Consent DA13/0712 for a micro herb production facility including two greenhouses, two pump sheds, potting shed/office, water tank, driveway access and associated earthworks at Lot 3 DP 1191598 No. 67 Howards Road, Burringbar be approved subject to the following amended conditions and new additional conditions:

1. The following new conditions are to be added:
  - 1.1 The development shall be completed in accordance with the following additional plans and Modification Report dated March 2018 (as amended in red):
    - Amended site plan submitted 7 March 2019 (Page 1);
    - Plan of additional structures dated 14 March 2018;
    - Photographs dated 14 March 2018;
    - Staff canteen building - Floor plan dated 14 March 2018;

- Staff canteen Section 1-1 dated 14 March 2018;
- Staff canteen Elevations A & 1 dated 14 March 2018;
- Staff canteen Elevations B & 2 dated 14 March 2018.

3.1. A Building Information Certificate is to be obtained for the following structures as indicated on Plan of additional structures dated 14 March 2018:

- Block work soil bays (item 1);
- Pump houses (item 2);
- 6 x 22,000 litre water tanks (item 3);
- Staff canteen (item 4);
- Generator shed (item 5);
- Shipping container (item 6);
- Insulated container (item 7);
- Hardstand area and soil bay (item 8) ;
- Composting toilet (item 9).

The Building Information Certificate application is to include:

- i) structural engineers certification in respect of the structures, and
- ii) demonstrate and/or provide certification the structures satisfy the requirements of the BCA - 2016.

9.1. Prior to the issue of a Building Information Certificate, permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) Details of stormwater management for the occupational or use stage of the development in accordance with Section D7.07 of Councils Development Design Specification D7 - Stormwater Quality.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
- (c) Specific Requirements to be detailed include:
  - (i) Runoff from all hardstand areas, (including driveway and hardstand parking areas and excluding roof areas) must be treated to remove oils, sediments and gross pollutants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized according to Council's Development Design Specification D7 - Stormwater Quality, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Building Certificate.

9.2. Within 90 days of the issue of this amended development consent, a detailed Surface Water Management Plan developed by a suitably qualified person shall be submitted for consideration and approval by Council's General Manager or delegate. The Surface Water Management Plan should include, but not be limited to:



- Detailed baseline data on water quality of the 3<sup>rd</sup> order stream intersecting the property (sampling points within the 3<sup>rd</sup> order stream should include, but not be limited to, the upstream boundary of the property, within the property, and downstream of the property);
- A detailed description of the water management system on site (including surface water, storm water, waste water);
- Detailed plans, including design objectives and performance criteria for the:
  - Permanent sediment and erosion control measures for all existing anthropogenic structures and disturbance/activities within the riparian zone;
- Detailed performance criteria for the following, including trigger levels\* for investigating any potentially adverse impacts associated with the operation:
  - The water management system;
  - Downstream surface water quality;
- A program to monitor and report on:
  - The effectiveness of the water management system;
- Reporting procedures for the results of the monitoring program;
- A plan to respond to any exceedances of the performance criteria, and mitigate any adverse surface water impacts of the operation.

\*Note: Trigger levels for investigation should additionally include post rain events.

9.3. Within 30 days of the date of issue of this amended development consent, a drinking water quality management plan or drinking water quality assurance program prepared in accordance with the Private Water Supply Guidelines NSW Health 2016 and the Public Health Regulation 2012 shall be prepared and maintained on site. All activities shall comply with the adopted assurance program and the program shall be made available to Council's Authorised Officer upon request.

12.1 This consent approves the use of an existing bore for irrigation purposes in association with the approved Rural Industry. The Applicant is to maintain all relevant licences and permits from State Agencies (e.g. Water NSW) as statutorily required while ever acting on this consent. The State licences are to cover the extraction amount authorised by this consent being up to a maximum of 5ML per year strictly for onsite irrigation purposes only.

The use of the bore for irrigation purposes shall not commence until all relevant State licenses are issued. A copy of any State licences shall be provided to Council once issued.

12.2 Groundwater volumes extracted from the site are to be continuously recorded in perpetuity whilst extraction operations for irrigation purposes are on-going. The following is required at a minimum:

- (a) A digital flow meter is to be installed and maintained at each extraction bore used for irrigation extraction so that pumping times and pumping volumes can be recorded. Data from the bores are to be downloaded at routine time intervals and kept for future reference.
- (b) A digital flow meter is to be installed and maintained within the pump line at

the point where water is pumped to the tanks. Data from the pumped line meter is to be downloaded at routine intervals and kept for future reference.

- (c) Access to the bores and monitoring equipment by Council or its representatives shall be available upon request at any time.

54. The 14L Mister is not authorised to be used for the additional growing pods and garden beds approved by the modification until the applicant has demonstrated that it will not produce offensive noise at the neighbouring properties.
55. Excavators and forklifts are to be operated in the additional areas approved by this modification in a manner that would not cause offensive noise at the neighbouring properties.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr R Byrnes**

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**3 [PR-PC] Development Application DA18/1052 for a Telecommunications Facility at Lot 1 DP 528102 No. 47 Terranora Road, Banora Point**

**P 93**

**Cr W Polglase  
Cr J Owen**

**PROPOSED** that Development Application DA18/1052 for a telecommunications facility at Lot 1 DP 528102; No. 47 Terranora Road Banora Point be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and the following plans:
- Site and Locality Plans (Drawing No. 240259 - P1 Rev L), prepared by CPS Global and dated 4 November 2019;
  - Site Setout Plan (Drawing No. 240259 - P2 Rev L), prepared by CPS Global and dated 4 November 2019;
  - Antenna Layout (Drawing No. 240259 - P2A Rev L), prepared by CPS Global and dated 4 November 2019; and
  - Site Elevation (Drawing No. 240259 - P3 Rev L), prepared by CPS Global and dated 4 November 2019,

except where varied by the conditions of this consent.

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

[GEN0005]

3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the Developer's expense. [GEN0115]
4. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines. [GEN0135]
5. Application shall be made to Council under Section 305 of the Water Management Act 2000 for a certificate of compliance for development to be carried out - i.e.: the provision of water and sewerage to the development. [GEN0300]  
Note:
- (a) Following this, requirements shall be issued by Council under Section 306 of the Water Management Act 2000.
- (b) Following this, any works needing to be undertaken will require a further application to be made to Council under Section 68 of the Local Government Act for the relevant water / sewer works.

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

6. All works shall not disrupt the continued provision of Water Supply services for Tweed Shire Council. [GEN0375]
7. The applicant shall remove all of their telecommunications equipment including antennas, radio communications dishes, cable ladders and associated steelwork from the water reservoir. It is a requirement of the lease that when the lease expires all equipment is to be removed and the lessee is required to make good, at its own cost, any damage to the property.
8. A minimum distance of three metres clearance between the telecommunications equipment and all reservoir infrastructure shall be provided to allow Council to circumnavigate the reservoir with a vehicle and/or crane structure.
9. The height of cable tray shall be a minimum of 2.4 meters clearance to ground level and supporting columns shall be of sufficient distance to allow ride on mowers and/or utility vehicles to manoeuvre under and around the proposed infrastructure for Council to maintain the existing lot.
10. The telecommunications facility shall be designed to ensure that neither the staircase nor the reservoir roof access areas will have EME levels above ARPANSA RPS3 public limit and can therefore be safely accessed by Tweed Shire Council at all times.
11. Any use of a crane or other equipment on this site that may exceed a top RL of 49.5 metres AHD would intrude into the prescribed airspace of Gold Coast Airport, and therefore represent a "controlled activity" under the Airports (Protection of Airspace) Regulations. The proponent must obtain approval for any temporary penetration of the airspace, via an application to be submitted to Gold Coast Airport Pty Ltd at least 6 [GENNS01]
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weeks before the intended commencement of the controlled activity.

[GENNS02]

12. The pole and all possible elements of the structure shall be painted in the same or as close to matching colour as the adjacent water reservoir. Maintenance painting shall occur at regular intervals throughout the life of the structure so that the colour is retained.

[GENNS03]

13. Tree removal shall be limited to those trees identified as Tree 3 and Tree 4 as shown in Figure 3 of the Arborist Report provided by TPZ Project Arborist dated 1 November 2019 for 47 Terranora Road Banora Point. No other vegetation shall be removed to facilitate or maintain the development unless otherwise approved by Council's General Manager or delegate.

[GENNS05]

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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

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

[PCC0125]

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

[PCC0865]

16. Details from a Structural Engineer are to be submitted to the Water Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the existing water reservoir and associated infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate. Such structural engineers design details are to confirm that the ~~fence~~ proposal has been designed to take account of all site issues including the site's soil and load bearing characteristics, wind and other applied loadings, long term durability of all components and compliance with Tweed Shire Council's policies and specifications for "Easements" and "Works in Proximity".

[PCC0935]

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

[PCC0945]

18. 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 works in proximity to water infrastructure, prior to the issue of a construction certificate.

[PCC1195]

19. If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.  
Applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. The arrangements and costs associated with any adjustment to water and wastewater infrastructure shall be borne in full by the applicant/developer.

The Section 68 Application must be approved by Council prior to the associated Construction Certificate being issued.

[PCC1310]

20. The proposed infrastructure in proximity to Council's Water Assets on the Setout/ Works Plan submitted are considered to be preliminary and are subject to change to meet Council requirements.
21. Prior to construction certificate, information will be provided to Council to outline how the applicant proposes to undertake the removal of the existing telecommunications equipment from the Reservoir, to ensure the protection of the Council asset. A minimum of a detailed program of work including timeframes, pre-dilapidation report of the scope of work, Safe Work Method Statement (SWMS), insurance(s), staff's induction tickets, Crane Lift plan (if required) and a redline drawing of the equipment to be removed will be submitted to Council for approval. Particular attention should be paid to repair works that may be required on Council's reservoir as a result of the removal and fulfilment of lease conditions. All documentation will be subject to change to meet Council requirements prior to commencement of the removal works.
22. Prior to construction certificate, the detail design plans of the layout, elevated cable infrastructure and any other proposed works in proximity to the reservoir infrastructure assets shall be provided to Council for review and approval.
23. Prior to construction certificate, information will be provided to Council to outline how the applicant proposes to undertake the construction of the new telecommunications facility. A detailed program of work including construction method, timeframes including where there may be interruptions to Council accessing the reservoir site, and protection of existing Council assets, shall be provided to Council. The document shall include a requirement for the applicant to contact the delegated Officer from Councils Water Unit with 48 hours' notice to confirm where Council access to the reservoir will be interrupted. All documentation will be subject to change to meet Council requirements prior to commencement of the works.
24. Prior to construction certificate the Radio Frequency (RF) Drawings for the proposed facility produced by an independent National Association of Testing Authorities (NATA) Certified assessor shall be provided to Council.

[PCCNS01]

#### PRIOR TO COMMENCEMENT OF WORK

25. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and

ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

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

[PCW0215]

27. 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]

28. 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]

29. Prior to start of works Council and all affected property owners shall be given a minimum of ten working days written advance notice.
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- [PCWNS01]
30. Prior to commencement of any on-ground development works, final tree protection fencing and tree protection measures shall be inspected by Council's Biodiversity Planner to ensure compliance with *Australian Standard Protection of Trees on Development Sites AS4970-2009* and the *Arborist Report provided by TPZ Project Arborist dated 1 November 2019 for 47 Terranora Road Banora Point*.

[PCWNS05]

#### DURING CONSTRUCTION

31. 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]
32. Should any Aboriginal object or cultural heritage (including human remains) be discovered all site works must cease immediately and the Tweed Byron Local Aboriginal Land Council (TBLALC) Aboriginal Sites Officer (on 07 5536 1763) are to be notified. The find is to be reported to the Office of Environment and Heritage. No works or development may be undertaken until the required investigations have been completed and any permits or approvals obtained, where required, in accordance with the National Parks and Wildlife Act, 1974.

[DUR0025]

33. 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 5.00pm

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]

34. 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]

35. 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]

36. 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]

37. 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 2017.

[DUR0415]

38. Excavation

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

[DUR0425]

39. 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 2017.

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]

40. 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]

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

[DUR1875]

42. 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]

43. 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]

44. The exportation of waste (including fill or soil) from the site must be in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the Office of Environment and Heritage "*Waste Classification Guidelines*". Excavated material shall be disposed of at an approved landfill facility unless material has been demonstrated to be the subject of a resource recovery exemption under Clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2014*.

[DURNS01]

45. All works on the existing Water Reservoir shall be conducted in the presence of an Officer from Councils Water Unit at the applicant's expense. The applicant is to contact Council with 48 hours' notice to arrange inspections.



46. Where public safety is at risk due to damage or contamination of water or sewer infrastructure, it is the responsibility of the applicant to immediately notify Council. Cost to undertake emergency works shall be borne in full by the applicant/developer. If additional works to repair or relocate water or sewer infrastructure due to the damage are required, arrangements and cost shall be borne in full by the applicant/developer.
47. During construction all arboricultural management works are to be undertaken in accordance with Australian Standard Protection of Trees on Development Sites AS4970-2009 and the Arborist Report provided by TPZ Project Arborist dated 1 November 2019 for 47 Terranora Road Banora Point.

[DURNS01]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

48. 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.
49. 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).
50. 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).
51. On completion of work a certificate signed by a practising structural engineer is to be submitted to the Principal Certifying Authority to certify the structural adequacy of the structure.
52. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met.
53. Prior to the issue of occupation certificate or immediately prior to the commissioning of telecommunication facility (whichever occurs first), the nominated Project Arborist shall provide to Council's General Manager or delegate a certification report that includes the following information:
- a. Confirmation that all works have been undertaken in accordance with Australian Standard *AS4970 - 2009 Protection of trees on development sites*, industry best standards, and the Arborist Report provided by TPZ Project Arborist dated 1 November 2019 for 47 Terranora Road Banora Point and details of any remedial actions recommended by the Project Arborist to avoid/minimise disturbance of existing vegetation.
  - b. Brief assessment of the condition of the trees identified to be retained, details of any deviations from approved essential tree protection management actions/measures and if applicable, evaluation of any remedial actions undertaken to mitigate impact on existing vegetation as a result of project works.

[POC0005]  
[POC0205]  
[POC0355]  
[POC0805]  
[POC1055]  
[POCNS05]

#### USE

54. 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]

55. 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]
56. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.
- [USE0225]
57. In the event that the telecommunications facility is no longer required or the equipment becomes obsolete, it is to be removed and the site restored, to a condition that is similar to its condition before the facility was constructed.
58. The installation of the communications infrastructure must be in compliance with the following:
- (a) ARPANSA, Australian Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency fields - 3khz to 300GHz, in Radiation Protection Standard RPS3 2002, ARPANSA ; Australian, clause 5.7, pages 28-29, as amended from time to time: and
  - (b) The Australian Communication Industry Forum Code 'ACIF' C564:2004 (December 2004).
59. The applicant is to provide certification to the General Manager or his delegate of the operation of the telecommunications facility in accordance with the approved electromagnetic energy (EME) levels within thirty (30) days after the operation of the tower, and again at a twelve month interval.
60. The telecommunications facility is not to cause adverse radio frequency interference with any airport, port or Commonwealth Defence navigational or communications equipment.

[USENS01]

## **AMENDMENT 1**

**P 94**

**Cr C Cherry**  
**Cr R Cooper**

### **RECOMMENDED that**

1. this item be deferred to 20 February 2020 to seek further information from the Department of Education regarding their reasoning behind their policy on mobile telecommunications;
2. Council writes to Robert Stokes, Minister for Planning in regard to the Banora Point telecommunications tower;

3. Council requests more detailed information in regard to the potential alternative sites; and
4. the letters sent to the Department of Education, Minister for Planning and proponent be sent to Councillors.

Amendment 1 was **Carried** on the Casting Vote of the Mayor.

**FOR VOTE - Cr K Milne, Cr C Cherry, Cr R Cooper**  
**AGAINST VOTE - Cr W Polglase, Cr J Owen, Cr P Allsop**  
**ABSENT. DID NOT VOTE - Cr R Byrnes**

Amendment 1 on becoming the Motion was **Carried** on the Casting Vote of the Mayor- (Minute No P94 refers)

**FOR VOTE - Cr K Milne, Cr C Cherry, Cr R Cooper**  
**AGAINST VOTE - Cr W Polglase, Cr J Owen, Cr P Allsop**  
**ABSENT. DID NOT VOTE - Cr R Byrnes**

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- 4 **[PR-PC] Development Application DA19/0462 for the Demolition of Dwelling and Garage and Construction of 3 Storey Residential Flat Building Comprising 5 x 3 Bedroom Units at Lot 28 DP 21680 No. 44 Sutherland Street Kingscliff**

**P 95**

**Cr P Allsop**  
**Cr J Owen**

**RECOMMENDED** that Development Application DA19/0462 for the demolition of dwelling and garage and construction of 3 storey residential flat building comprising 5 x 3 bedroom units at Lot 28 DP 21680; No. 44 Sutherland Street Kingscliff be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and;
  - Plan Nos 18464 CD - A200 - Issue C - Ground + Basement prepared by Gibson Architects and dated 31/10/2019,
  - Plan Nos 18464 CD - A201 Issue A - Plan Level 1 + 2 prepared by Gibson Architects and dated 30/05/2019,
  - Plan Nos 18464 CD - A400 Issue A - External Elevations prepared by Gibson Architects and dated 30/5/2019,
  - Plan Nos 18464 CD - A400 Issue P9 - External Elevations Option 1B (External Paint Elevations 14/05/2019) prepared by Gibson Architects,

- Plan Nos 18464 CD - A401 Issue A - Street/Lane Elevations prepared by Gibson Architects and dated 30/5/2019,
- Plan Nos 18464 CD - A500 Issue A - Detailed Sections prepared by Gibson Architects and dated 30/5/2019,
- Plan Nos 18464 CD - A501 Issue A - Detention Tank Sections prepared by Gibson Architects and dated 30/5/2019,
- Plan Nos 18464 CD - A502 Issue A - Sections For Excavations prepared by Gibson Architects and dated 30/5/2019,  
except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the Developer's expense.

[GEN0135]

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

[GEN0300]

5. All works shall comply with AS2601-2001 Demolition of Structures and the Work Health and Safety Regulation 2017.

[GEN0360]

6. Prior to demolition of the structure is commenced all asbestos material shall be identified and removed from the site by an asbestos removalist who is licensed to carry out the work by WorkCover NSW. All asbestos waste shall be disposed at a facility that is licensed to receive asbestos waste (all receipts related to disposal must be kept on site and provided to a Council Authorised Officer upon request).

[GEN0365]

7. All dwellings shall connect to the existing sewer junction located in Hungerford Lane.

[GENNS01]

8. A reflux valve shall be required on any sewer fixtures located within the basement.

[GENNS01]

9. Upon completion of demolition to slab level and prior to any construction works, sub-slab testing shall be undertaken in accordance with Council's Pre Demolition Testing Guideline by a suitably qualified person. Should testing reveal contaminants of potential concern associated with chemical termite treatment that exceed acceptable levels, remediation and validation of the site shall be carried out in accordance with the Remedial Action Plan for Lot 28 DP 216810, 44 Sutherland Street Kingscliff, prepared by HMC Environmental Consulting (ref: HMC2019.113) dated May 2019.

[GENNS02]

10. Demolition shall be undertaken in accordance with the revised Site Demolition and Removal Management Plan approved by the General Manager or delegate.

[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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11. The developer shall provide 12 parking spaces including parking for the disabled (as required) in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

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

[PCC0065]

12. 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.

(a) Tweed Road Contribution Plan: 13 Trips @ \$1354 per Trips (\$1,137 base rate + \$217 indexation) CP Plan No. 4 Sector6_4	\$17,602
(b) Open Space (Casual): 3.375 ET @ \$659 per ET (\$502 base rate + \$157 indexation) CP Plan No. 5	\$2,224
(c) Open Space (Structured): 3.375 ET @ \$754 per ET (\$575 base rate + \$179 indexation) CP Plan No. 5	\$2,545
(d) Shirewide Library Facilities: 3.375 ET @ \$985 per ET (\$792 base rate + \$193 indexation) CP Plan No. 11	\$3,324
(e) Bus Shelters: 3.375 ET @ \$75 per ET	\$253

(\$60 base rate + \$15 indexation)  
CP Plan No. 12

- (f) Eviron Cemetery:  
3.375 ET @ \$140 per ET \$473  
(\$101 base rate + \$39 indexation)  
CP Plan No. 13
- (g) Community Facilities (Tweed Coast - North)  
3.375 ET @ \$1624 per ET \$5,481  
(\$1,305.60 base rate + \$318.40 indexation)  
CP Plan No. 15
- (h) Extensions to Council Administration Offices  
& Technical Support Facilities  
3.375 ET @ \$2195.88 per ET \$7,411.10  
(\$1,759.90 base rate + \$435.98 indexation)  
CP Plan No. 18
- (i) Cycleways:  
3.375 ET @ \$555 per ET \$1,873  
(\$447 base rate + \$108 indexation)  
CP Plan No. 22
- (k) Regional Open Space (Casual)  
3.375 ET @ \$1282 per ET \$4,327  
(\$1,031 base rate + \$251 indexation)  
CP Plan No. 26
- (l) Regional Open Space (Structured):  
3.375 ET @ \$4500 per ET \$15,188  
(\$3,619 base rate + \$881 indexation)  
CP Plan No. 26

[PCC0215/POC0395/PSC0175]

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

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

**BELOW IS ADVICE ONLY**

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

Water: 2.35 ET @ \$11,091 = \$26,063.90

Sewer: 4.0 ET @ \$7,173 = \$28,692.00

[PCC0265]

14. A detailed Plan of Landscaping containing no priority weed species and with a minimum 80% of total plant numbers comprised of local native species to the Tweed Shire is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. Local native species are to comprise appropriate species selected from the Tweed Shire Native Species Planting Guide available online at: <http://www.tweed.nsw.gov.au/Controls/NativeSpeciesPlanting/Landing.aspx>

[PCC0585]

15. 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 frontages. Application shall include (but not limited to) engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

- (a) Vehicular access: construction of driveway access from the Hungerford Lane frontage, being 6.5m wide at the kerb line and tapering to approximately 5.7m wide at the boundary.
- (b) All existing driveway accesses and laybacks (excluding driveway reconstruction as may be associated with the prior Item) are to be removed and kerb and guttering reinstated to match existing. All disturbed footpath areas are to be turfed. This is applicable to both road frontages.
- (c) It is acknowledged that the existing grassed footpath area of Hungerford Lane has an excessively steep crossfall.

If not impacted by existing underground services, this footpath area is to be lowered and the crossfall flattened to better match Council's standard 2.5% crossfall requirement, in conjunction with the previously referenced driveway work and the site excavation works.

The footpath area reshaping will need to taper smoothly back to merge with the existing footpath area profile at each adjacent property frontage.

- (d) Construction of concrete path paving 1.2m wide for the full frontage of the site to Sutherland Street.

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

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic Control Plan (as applicable)

[PCC0895]

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

- (a) The Construction Certificate Application for Building Works shall include a detailed Stormwater Management Plan (SWMP) for the occupational or use stage of the

development in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.

- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
- (c) The stormwater and site works shall incorporate Water Sensitive Urban Design principles and where practical, integrated water cycle management.

[PCC1105]

17. A Construction Certificate application for works that involve any of the following:

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

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

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

[PCC1145]

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

- (a) The Construction Certificate Application must include a detailed Erosion and Sediment Control Plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

19. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. This can be achieved by On site stormwater detention (OSD) utilising above and or below ground storage. OSD devices including discharge control pits (DCP) are to comply with standards in the current version of The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

All stormwater must initially be directed to the DCP. Details are to be submitted with the S68 stormwater application.

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The following advices and recommendations are provided for serious reconsideration of the proposed stormwater system, prior to preparation of CC drawings:

- The proposed combined OSD and stormwater re-use system is considered to be highly problematic. While the intention of providing both a water re-use system and OSD system are supported, the conceptual implementation of combining both in the one structure are not. Main concerns with the proposed combined system are:
  - The High Early Discharge (HED) chamber needs to build up with stormwater inflow above the internal weir level prior to any stormwater entering the 're-use storage' component area of the system. Therefore the storage component will only seldomly be topped up.
  - When the 're-use storage' area is topped up, it is likely to become a mosquito breeding ground, due to the cool, wet and stagnant conditions and easy access by insects due to the 4 x large grated openings to the overall tank storage area.
  - It is unclear whether the note on dwg. C-405 about the sump pump being "*Activated automatically by float switch, or manually.*" is intended to facilitate the automatic and constant topping up of the storage area, just to enable the re-use on garden areas. This would be unnecessary.
- It is suggested that an alternative but separate OSD and stormwater re-use systems be provided, but still linked.

An example being part of the site (such as the western third, where the majority of landscaping is) be provided with rainwater tanks for water re-use and the overflow being directed to the OSD tank. The remainder of the site could then be directed straight to the OSD system. This concept is supported by the different roof pitches, and would enable a concise OSD-only system to be constructed. Rainwater tanks will need to be incorporated into the 'tight' design for this site but due to the variety of sizes and shapes available, should be able to be easily integrated.

- Other minor design-related matters for attention associated with the stormwater design are requested to be implemented as follows:
  - Confined spaces signage must be prominently displayed at all points of entry to the OSD system.
  - Inconsistent depiction of a small grated pit at the Hungerford Lane frontage, immediately prior to discharge of stormwater to the street, with dwgs C-401 and C-403 showing the pit, but dwg. C402 not. This pit is essential to ensure the pump-out line from the basement sump is not directly discharged to the K & G, as this could project stormwater discharge across the street. Gravity flow from the pit to the K & G is required.
  - The high level overflow pipe from the OSD system is required to be a fail-safe system so the pipe size will be required to accommodate at least the 1 in 100 year storm event.

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

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

[PCC1185]

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

[PCC1195]

22. If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.  
Applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. The arrangements and costs associated with any adjustment to water and wastewater infrastructure shall be borne in full by the applicant/developer.

The Section 68 Application must be approved by Council prior to the associated Construction Certificate being issued.

[PCC1310]

23. The existing sewer junction shall be located and shown on construction plans prior to construction works. Should the sewer junction be located where the driveway is proposed, the applicant shall raise or lower the riser to surface level and ensure that the lid and surround is trafficable, as shown on TSC SD252. If the use of the existing sewer junction is not able to be maintained, the junction shall be required to be permanently removed by Council staff and an 'Application for Sewer Junction Installation' be lodged to Council Water and Wastewater Unit for Council to install a new sewer junction.

[PCCNS01]

24. The existing water meter and the proposed upgraded bulk water meter are to be shown on construction plans prior to construction works. Should the water be located where the driveway is proposed, the applicant shall lodge an Application for Water Meter relocation so that the water meter is not located in a trafficable location.

[PCCNS01]

25. Prior to the issuance of a Construction Certificate design detail of the return fencing is to be provided to Council that demonstrates a maximum fence height of 1.5m around the natural ground level, a solid wall no higher than 600mm and an openness ration of 60% above the solid wall.

[PCCNS02]

26. Prior to the issue of a construction certificate the applicant is to provide a revised Site Demolition and Removal Management Plan to the satisfaction of Council's General Manager or delegate. The revised plan shall include:

- A statement that the slab on ground will not be removed or disturbed until sub-slab testing and reporting has been completed in accordance with Council's Pre Demolition Testing Guideline and the Remedial Action Plan for Lot 28 DP 216810, 44 Sutherland Street Kingscliff, prepared by HMC Environmental Consulting (ref: HMC2019.113) dated May 2019.
- Revised hours of 7am-6pm
- Reference NSW noise criteria

[PCCNS03]

#### PRIOR TO COMMENCEMENT OF WORK

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

[PCW0005]

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

[PCW0015]

29. An application is to be made to Council to temporarily "cap off" the existing building sewerage house drainage from Council's sewerage system, prior to any demolition work commencing. A Plumbing and Drainage Works on Private Land <<http://www.tweed.nsw.gov.au/Controls/Forms/Documents/SewerSepticForm.pdf>> application form shall be submitted to Tweed Shire Council and payment of fees in accordance with Councils adopted fees and charges.

[PCW0045]

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

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

- (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
    - (ii) notified the principal certifying authority of any such appointment, and
    - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]
31. 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]
32. 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]
33. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 15 persons employed at the site. Each toilet provided must be:
- (a) a standard flushing toilet connected to a public sewer, or

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

[PCW0245]

34. 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]

35. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

36. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land or is likely to effect the integrity of the adjoining land, the person causing the excavation to be made must comply with the following:

- (a) The person must, at the person's own expense:
  - (i) preserve and protect the building / property from damage; and
  - (ii) if necessary, underpin and support the building in an approved manner.
- (b) The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0765]

37. A Dilapidation Report detailing the current general condition (including the structural condition) of the adjoining buildings/sites, infrastructure and driveways is to be prepared and certified by a suitably qualified and experienced structural engineer. The Report (supported by recent photos) is to be submitted to and accepted by the Principal Certifying Authority prior to commencement of ANY works on the site.

[PCW0775]

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

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

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

[PCW0985]

39. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new (or modification of the existing) driveway access (or modification of access).

Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCW1170]

#### DURING CONSTRUCTION

40. 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]

41. 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]

42. Should any Aboriginal object or cultural heritage (including human remains) be discovered all site works must cease immediately and the Tweed Byron Local Aboriginal Land Council (TBLALC) Aboriginal Sites Officer (on 07 5536 1763) are to be notified. The find is to be reported to the Biodiversity and Conservation Division of the NSW Department of Planning, Industry and Environment. No works or development may be undertaken until the required investigations have been completed and any permits or approvals obtained, where required, in accordance with the National Parks and Wildlife Act, 1974.

[DUR0025]

43. 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]

44. 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<sub>Aeq, 15 min</sub> 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<sub>Aeq, 15 min</sub> 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]
45. 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]
46. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
  - (b) The chute shall be located in a position approved by the Principal Certifying Authority.
  - (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.
- [DUR0385]
47. 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]
48. 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]
49. 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 2017.
- [DUR0415]
50. Excavation
- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.

- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

51. If the work involved in the erection or demolition of a building:

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
- (b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.

[DUR0435]

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

[DUR0475]

53. To ensure that the building is correctly positioned on the site, a report prepared by a registered surveyor is to be submitted to the principal certifying authority at footings/formwork stage and at the completion of the structures indicating that the building has been correctly positioned on the site in accordance with the approved development consent plans (setbacks) /consent conditions and has been located clear of any easements/sewer main.

[DUR0495]

54. 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 2017.

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]

55. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake the works.

[DUR0675]

56. All works shall comply with the Pre-Demolition Soil Contamination Investigation and Remediation Management Plan. Sub-slab contaminated material shall not be placed in



or below the groundwater table. Upon completion of sub-slab remediation (placement) works on site, Council shall be provided with a post remediation validation report to the satisfaction of the General Manager or his delegate. Construction works shall not commence until this report is reviewed and approved by the General Manager or his delegate.

[DUR0685]

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

[DUR0815]

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

[DUR0905]

59. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

60. 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]

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

[DUR1015]

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

[DUR1875]

63. Where existing kerb or footpath is to be removed for driveway laybacks, stormwater connections, kerb ramps or any other reason, the kerb or footpath must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR1905]

64. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection.

[DUR1925]

65. 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]

66. 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]

67. 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]

68. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.

[DUR2425]

69. During construction, a "Satisfactory Inspection Report" is required to be issued by Council for all s68h2 permanent Stormwater Quality Control Devices, prior to backfilling. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection.

[DUR2445]

70. The Applicant shall submit the appropriate 'Application for Water Service Connection' form to Council's Water Unit to facilitate a property bulk service water connection for Lot 28 DP 21680, from the existing water main in Hungerford Lane. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

[DUR2800]

71. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall be located, installed and operated so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2017.

[DUR2835]

72. The exportation or importation of waste (including fill or soil) 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". Any excavated material shall be disposed of at an approved landfill facility unless material has been demonstrated to be the subject of a resource recovery exemption under the Protection of the Environment Operations (Waste) Regulation 2014.

[DURNS01]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

73. Prior to the issue of an Occupation Certificate, the applicant shall produce a copy of the "Satisfactory Inspection Report" issued by Council for all works required under Section 138 of the Roads Act 1993.

[POC0745]

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

[POC0755]

75. Upon completion of all works on the site and prior to the issue of an Occupation (including interim) Certificate, a further dilapidation report is to be prepared and certified

by a suitably qualified and experienced structural engineer detailing the condition including the structural condition of the adjoining buildings/sites, infrastructure and roads. The dilapidation reports shall take into consideration the findings of the original reports and advise if any damages have occurred that could be attributed to the work the subject of this development consent. If damages have occurred the PCA is to be provided with evidence that the damages have been satisfactorily repaired prior to the issue of an Occupation Certificate (including interim).

A copy of the dilapidation report is to be provided to the Principle Certifying Authority/Council.

[POC0825]

76. The creation of a Positive Covenant and associated Restriction on Title relevant to the proposed On-site Stormwater Detention (OSD) system, by Transfer granting Easement or similar process.

Evidence of creation is to be provided to the PCA and Council prior to the issue of an Occupation Certificate (including interim).

The required terms can be sourced from the last edition of the 'Upper Parramatta River Catchment Trust On-site Stormwater Detention Handbook' and shall generally be:

- (a) Positive Covenant over the subject land for the perpetual maintenance requirements associated with the OSD system.

A detailed site-specific Maintenance Schedule is to be produced by the OSD designer and must form part of the Positive Covenant.

- (b) A Restriction As To User to ensure the OSD system is not altered or prevented from operating in a safe and efficient manner.

[POC0860]

77. Prior to the issue of an Occupation Certificate, the applicant shall produce a copy of the "Satisfactory Inspection Report" issued by Council for all s68h2 permanent Stormwater Quality Control Devices.

[POC0985]

## USE

78. 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]

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

[USE0225]

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

[USE0875]

81. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall not be operated if it can be heard in a habitable room of a residence during restricted hours or at other times should the noise from the article be deemed to be

offensive as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2017.

[USE1510]

The Motion was **Carried**

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr R Byrnes**

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**5 [PR-PC] Development Application DA13/0401.03 for an Amendment to Development Consent DA13/0401 for Integrated Housing Comprising of 12 Dwellings at Lot 14 DP 1252999 No. 4 Sunfish Lane (Private Road) Kingscliff (Previously known as Lot 35 DP 1145386 & Lot 36 DP 1145386 Cylinders Drive Kingscliff)**

**P 96**

**Cr P Allsop**

**Cr W Polglase**

**RECOMMENDED** that:

A. Development Application DA13/0401.03 for an amendment to Development Consent DA13/0401 for integrated housing comprising of 12 dwellings at Lot 14 DP 1252999 No. 4 Sunfish Lane (Private Road) Kingscliff (previously known as Lot 35 DP 1145386 & Lot 36 DP 1145386 Cylinders Drive Kingscliff) be approved subject to the following conditions:

1. Delete Condition No. 1 and replace with new Condition No. 1A which reads as follows:

*1A. The development shall be completed in accordance with the Statement of Environmental effects and Plans as listed in the table below. Except where varied by the conditions of this consent.*

<i>Title</i>	<i>Prepared By</i>	<i>Dated</i>
<i>Location Plan (DA01 Issue A)</i>	<i>Aspect Architecture</i>	<i>26/06/2013</i>
<i>Site Design Response (DA04, Rev C)</i>	<i>Aspect Architecture</i>	<i>03/04/2014</i>
<i>Site Coverage Diagram (DA05, Rev B)</i>	<i>Aspect Architecture</i>	<i>01/05/2014</i>
<i>Proposed Subdivision Plan (DA11, Rev A)</i>	<i>Aspect Architecture</i>	<i>26/06/2013</i>
<i>Proposed House Types (DA13, Rev B)</i>	<i>Aspect Architecture</i>	<i>01/05/2014</i>
<i>Building Plans and Sections (DA14, Rev E)</i>	<i>Aspect Architecture</i>	<i>01/05/2014</i>
<i>Building Plans and Sections (DA15, Rev E)</i>	<i>Aspect Architecture</i>	<i>01/05/2014</i>
<i>Building Plans and Sections (DA16, Rev D)</i>	<i>Aspect Architecture</i>	<i>01/05/2014</i>

<i>Title</i>	<i>Prepared By</i>	<i>Dated</i>
<i>Building Plans and Sections (DA17, Rev A)</i>	<i>Aspect Architecture</i>	<i>01/05/2014</i>
<i>Elevations (DA20, Rev B)</i>	<i>Aspect Architecture</i>	<i>20/01/2014</i>
<i>Elevations (DA21, Rev B)</i>	<i>Aspect Architecture</i>	<i>20/01/2014</i>
<i>Elevations (DA22, Rev D)</i>	<i>Aspect Architecture</i>	<i>01/05/2014</i>
<i><u>Site Plan - 4 Sunfish Lane (2019 09 – 01a)</u></i>	<i><u>Anstey Homes</u></i>	<i><u>01/07/2019</u></i>
<i><u>Ground Floor Dimension Plan - 4 Sunfish Lane (2019 09 – 06a)</u></i>	<i><u>Anstey Homes</u></i>	<i><u>01/07/2019</u></i>
<i><u>Ground Floor Plan - 4 Sunfish Lane (2019 09 – 04a)</u></i>	<i><u>Anstey Homes</u></i>	<i><u>01/07/2019</u></i>
<i><u>Elevations - 4 Sunfish Lane (2019 09 – 02a)</u></i>	<i><u>Anstey Homes</u></i>	<i><u>01/07/2019</u></i>
<i><u>Elevations - 4 Sunfish Lane (2019 09 – 02b)</u></i>	<i><u>Anstey Homes</u></i>	<i><u>01/07/2019</u></i>
<i><u>Sections - 4 Sunfish Lane (2019 09 – 03a)</u></i>	<i><u>Anstey Homes</u></i>	<i><u>01/07/2019</u></i>

[GEN0005]

2. Insert new Condition No. 26.1 which reads as follows:

26.1 *Prior to the issue of a Construction Certificate for the dwelling on Lot 14 DP 1252999; No. 4 Sunfish Lane, evidence has been submitted to the General Manager or his delegate that the Variation of Restriction on the Use of Land tenthly referred to in DP 1222073 relating to Lot 14 in DP 1252999 has been registered.*

[PCCNS02]

3. Delete Condition No. 107 and replace with new Condition No. 107A which reads as follows:

107A. *The development proposal is to comply with the subdivision layout and details identified on:*

- *the drawings prepared by Aspect Architecture, reference Job No. 13383 (Drawing No DA04(C) dated 03/04/2014, DA11(A) dated 26/06/2013, DA14(E) dated 01/05/2014, DA15(E) dated 01/05/2014, DA16(D) dated 01/05/2014 and DA17(A) dated 01/05/2014; except as modified by:*
- *the plan set for Lot 14 DP 1252999 prepared by Anstey Homes (Ref: 2019-09).*

4. Delete Condition No. 110 and replace with new Condition No. 110A which reads as follows:

110A. *New construction on proposed Lots 2 to 10 (inclusive) shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of Planning for Bush Fire Protection 2006.*

5. New condition 10.1 which reads as follows:

10.1 All uncovered paved areas on Lot 10 DP 1252999 (No. 4 Sunfish Lane) to be constructed as permeable paving.

B. Council approves the variation of Restriction on the Use of Land tenthly referred to in DP1222073 over Lot 14 in DP 1252999 so that it states:

*“No dwelling house shall be constructed on the subject parcel unless it is as per the dwelling house approved under Tweed Shire Council Integrated Housing Consent DA13/0401 or as subsequently modified by Council.”*

C. Council executes all necessary documentation under the Common Seal of Council.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr R Byrnes**

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**6 [PR-PC] Development Application DA16/0852.01 for an Amendment to Development Consent DA16/0852 for a Dwelling House and Secondary Dwelling at Lot 2 DP 1201210 No. 5 North Hill Court Tanglewood**

**P 97**

**Cr P Allsop  
Cr W Polglase**

**PROPOSED** that Development Application DA16/0852.01 for an amendment to Development Consent DA16/0852 for a dwelling house and secondary dwelling at Lot 2 DP 1201210 No. 5 North Hill Court Tanglewood be approved subject to the following conditions.

1. Condition 1 be removed and replaced with new Condition 1A which references the new plans:

1A. The development shall be completed in accordance with the Statement of Environmental Effects, all supplementary material provided throughout the assessment of the original application and the Modification Report dated 3 June 2019 the following plans prepared by Bischoff Building Design dated 2 October 2019, except where varied by conditions of this consent.

- Site plan Drawing No. DA.2.02 Revision C;
- Carport floor plan Drawing No. DA.3.01 Revision C;
- Ground floor plan Drawing No. DA.3.02; Revision C;
- Roof plan Drawing No. DA.3.03 Revision B;
- Elevations Drawing No. DA.4.01 Revision C;
- Elevations Drawing No. DA.4.02 Revision C;
- Sections Drawing No. DA.5.01 Revision C;
- Sections Drawing No. DA.5.02 Revision B;
- Sections Drawing No. DA.5.03 Revision B;
- Granny flat floor plan Drawing No. DA.8.02 Revision C;

- Granny flat roof plan Drawing No. DA.8.03 Revision C;
  - Elevations Drawing No. DA.8.04 Revision C;
  - Sections Drawing No. DA.8.05 Revision C;
  - Tool shed plans Drawing No. DA.9.01 Revision C.
2. Delete Condition 28 which previously specified that *“The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.”*
  3. Insert new Condition 44.1
    - 44.1. Any damage caused to the Right of Carriageway used to access the property during construction of the development shall be repaired to restore the ROC to its original condition.

## **AMENDMENT 1**

**P 98**

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

**RECOMMENDED** that Development Application DA16/0852.01 for an amendment to Development Consent DA16/0852 for a dwelling house and secondary dwelling at Lot 2 DP 1201210 No. 5 North Hill Court Tanglewood be approved subject to the following conditions:

1. Condition 1 be removed and replaced with new Condition 1A which references the new plans:
  - 1A. The development shall be completed in accordance with the Statement of Environmental Effects, all supplementary material provided throughout the assessment of the original application and the Modification Report dated 3 June 2019 the following plans prepared by Bischoff Building Design dated 2 October 2019, except where varied by conditions of this consent.
    - Site plan Drawing No. DA.2.02 Revision C;
    - Carport floor plan Drawing No. DA.3.01 Revision C;
    - Ground floor plan Drawing No. DA.3.02; Revision C;
    - Roof plan Drawing No. DA.3.03 Revision B;
    - Elevations Drawing No. DA.4.01 Revision C;
    - Elevations Drawing No. DA.4.02 Revision C;
    - Sections Drawing No. DA.5.01 Revision C;
    - Sections Drawing No. DA.5.02 Revision B;
    - Sections Drawing No. DA.5.03 Revision B;
    - Granny flat floor plan Drawing No. DA.8.02 Revision C;
    - Granny flat roof plan Drawing No. DA.8.03 Revision C;
    - Elevations Drawing No. DA.8.04 Revision C;
    - Sections Drawing No. DA.8.05 Revision C;
    - Tool shed plans Drawing No. DA.9.01 Revision C.

2. Delete Condition 28 which previously specified that *“The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.”*
3. Insert new Condition 44.1
  - 44.1. Any damage caused to the Right of Carriageway used to access the property during construction of the development shall be repaired to restore the ROC to its original condition.
4. Insert new condition 10.1
  - 10.1 The existing cladding on the north wall of the boat port is to be replaced with alternate cladding with a muted tone surface or the existing cladding painted with a muted tone colour to be approved by Council prior to installation. The alternate cladding or colour is to be submitted to Council for approval within 60 days of the date of the amended consent and installed with 30 days of the date of approval.

Amendment 1 was **Carried**

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr R Byrnes**

Amendment 1 on becoming the Motion was **Carried** - (Minute No P98 refers)

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr R Byrnes**

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## PROCEDURAL MOTIONS

**P 99**

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

**RESOLVED** that Items 7, 8, 9 and 11, with the exception of Item 10, be considered in block.

The Motion was **Carried**

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr R Byrnes**

**P 100**

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

**RESOLVED** that Items 7, 8, 9 and 11, with the exception of Item 10, be moved in block.

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The Motion was **Carried**

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr R Byrnes**

**7 [PR-PC] Helipads and Heliports Design and Assessment Guide**

**P 101**

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

**RECOMMENDED** that Council endorses the *Helipad and Heliports Design and Assessment Guide* and the *Development Applicant Checklist Helipads and Heliports* for use by applicants seeking development consent for a helipad or heliport.

The Motion was **Carried**

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr R Byrnes**

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**8 [PR-PC] Request to Prepare a Planning Proposal - 824 Terranora Road Bungalora - Activity and Development Without Consent**

**P 102**

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

**RECOMMENDED** that:

1. Council officers undertake all necessary investigations on Lot 1 DP 792256, 824 Terranora Road, Bungalora, regarding the legality of the fill, shed construction, pool and associated work and implement any required compliance actions as appropriate to the outcome of the assessment;
2. No further work be undertaken on the planning proposal for 824 Terranora Road Bungalora until item 1 above is finalised;
3. The applicant and the Department of Planning, Industry and Environment be advised of items 1 and 2 above; and
4. A further report be brought back to Council advising of the outcomes of items 1, 2 and 3 above prior to seeking a resolution from Council to recommence work on this planning proposal.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr R Byrnes**

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**9 [PR-PC] Draft Tweed Local Strategic Planning Statement - For Exhibition**

**P 103**

**Cr K Milne**

**Cr C Cherry**

**RECOMMENDED** that:

1. Council endorse preparation of a draft Tweed Local Strategic Planning Statement (LSPS) consistent with advice in this report and that it be placed on public exhibition for a period of not less than 28 days, as early as possible in 2020;
2. an exhibition ready version of the draft LSPS be provided to Councillors prior to public exhibition;
3. following public exhibition, a further report detailing and responding to feedback received during the exhibition and any changes to the draft LSPS in response, be submitted to Council at the earliest time; and
4. the LSPS be forwarded to the Department of Planning, Industry and Environment to be finalised before 1 July 2020 for publishing on the NSW Planning Portal, as required by section 3.9 of the *Environmental Planning and Assessment Act, 1979* (NSW).

The Motion was **Carried**

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr R Byrnes**

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

**P 104**

**Cr K Milne  
Cr C Cherry**

**RECOMMENDED** that Council notes there are no variations for the month of November 2019 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

**FOR VOTE - Unanimous  
ABSENT. DID NOT VOTE - Cr R Byrnes**

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**10 [PR-PC] Small, Smart, Sustainable Housing Proposal - Enquiry by Design Workshop Report**

**ALTERNATE MOTION**

**P 105**

**Cr R Cooper  
Cr C Cherry**

**RECOMMENDED** that Council endorses:

1. Design principles in the *Small, Smart, Sustainable Housing Village Workshop Outcomes Report*, prepared by Deicke Richards Pty Ltd, (as provided in Attachment 1 to this report) for the purpose of guiding the completion of a concept plan with the following amendments;

**Item 1**

On page 280 of the report, under the heading "Sustainability" second dash from the top, which reads:

*"Household water consumption is minimised and includes reduced water toilets"*

Is to be amended to read:

*"Household water consumption is minimised and may include the use of composting toilets or reduced water toilets."*

**Item 2**

On page 280 of the report, under the heading "Governance" last dash from the top, which reads:

*"Housing tenure supports sustainable and affordability objectives. There are opportunities for a mix of tenure including – social rental, affordable rental, affordable home ownership (shared equity), market rental, short term rental."*

Is to be amended to read:

*"Housing tenure supports sustainable and affordability objectives. There are opportunities for a mix of tenure, which may include: social rental, affordable rental, market rental or short term rental or similar."*

**Item 3**

On page 280 of the report, under the heading "Affordability" second dash from the top, which reads:

*"Modular and relocatable housing models are supported within the community."*

Is to be amended to read:

*"Modular relocatable houses are preferred. Other designs to be considered on their merits. "*

On page 280 of the report, under the heading "Affordability" last dash, which reads:

*"There are opportunities for creating income from home gardens, home business."*

Is to be amended to read:

*"There are opportunities for community gardens and home and community businesses."*

**Item 4**

On page 280 of the report, under the heading "Infrastructure" first dash, which reads:

*"In consideration of infrastructure cost efficiencies utilise existing or close proximity infrastructure connections where available including town water supply and a fail-safe sewerage connection."*

Is to be amended to read:

*"The sustainable, off-grid model is preferred but if Council can deliver reticulated water and an Electricity Company can provide power in a timely way and at a reduced immediate and long term cost it will be considered."*

2. Land over which the concept plan is to be prepared is to include the entirety of Lot 1 in DP1069561, Wardrop Valley Road, comprising that part of the property currently being rezoned under Planning Proposal PP19/0002;

3. The General Manager instructs Deicke Richards Pty Ltd to proceed with preparing the concept plan for the land detailed in the Outcomes Report described above;
4. Establishment of the project's Community Reference Group (CRG) through an advertised expression of interest process;
5. Council requests the Deicke Richards Pty Ltd consult a specialist in community development/social inclusion to refine the layout of the village to achieve the best possible casual interaction of residents; and
6. Council advise Diecke Richards of the minor changes to the Design Principles.

The Motion was **Carried** on the Casting Vote of the Mayor.

**FOR VOTE - Cr K Milne, Cr C Cherry, Cr R Cooper**  
**AGAINST VOTE - Cr W Polglase, Cr J Owen, Cr P Allsop**  
**ABSENT. DID NOT VOTE - Cr R Byrnes**

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## **LATE ITEMS**

### **LATE ITEM**

#### **P 106**

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

**RESOLVED** that Item 12 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr R Byrnes**

**12 LATE [PR-PC] Breach of Condition of Consent DA06/1014.11 at Lot 3 DP 541945 64 Mount Warning Road, Mount Warning (Mavis's Kitchen)**

**P 107**

**Cr K Milne  
Cr C Cherry**

**PROPOSED** that Council, in respect of the breach of condition 76 of consent DA06/1014.11 at Lot 3 DP 541945 64 Mount Warning Road, Mount Warning (Mavis's Kitchen), endorse the following:

1. The property owners be issued with a Penalty Infringement Notice under the *Environmental Planning and Assessment Act 1979* for Development not in accordance with consent – individual being \$3000.00.
2. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

**AMENDMENT 1**

**P 108**

**Cr W Polglase  
Cr J Owen**

**RECOMMENDED** that Council send a warning letter to the property owner regarding compliance with the conditions of the development consent and if further breaches are found, a penalty infringement notice/s will be issued.

Amendment 1 was **Carried**

**FOR VOTE - Unanimous  
ABSENT. DID NOT VOTE - Cr R Byrnes**

Amendment 1 on becoming the Motion was **Carried** - (Minute No P108 refers)

**FOR VOTE - Unanimous  
ABSENT. DID NOT VOTE - Cr R Byrnes**

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There being no further business the Planning Committee Meeting terminated at 7.20pm

