

Mayor: Cr K Milne

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

Minutes

Planning Committee Meeting Thursday 7 February 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 5.35pm.

IN ATTENDANCE

Cr Katie Milne (Mayor), Cr Chris Cherry (Deputy Mayor), Cr Pryce Allsop, Cr Reece Byrnes, 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 Community and Natural Resources), Mr Michael Chorlton (Executive Manager Finance, Revenue and Information Technology), Mrs Suzanne Richmond (Executive Manager People, Communication and Governance), Mr Shane Davidson (Executive Officer), Mr Mathew Greenwood (Acting Manager Corporate Governance) and Miss Janet Twohill (Minutes Secretary).

ABORIGINAL STATEMENT

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

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

PRAYER

The meeting opened with a Prayer read by the General Manager.

"Almighty God,

We pray you will guide the Councillors and Council staff of the Tweed Shire Council as they meet together today; help them think calmly and carefully, decide wisely and may their decisions allow great benefit to flow to all people in our Tweed community and our natural environment.

In the name of Jesus Christ, we ask Amen."

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Nil.

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

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

Nil.

ORDERS OF THE DAY

Nil.

REPORTS THROUGH THE GENERAL MANAGER

Nil.

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 1 **[PR-PC] Development Application DA17/0836 for a Staged Development: Two Lot Subdivision (Stage 1) and 12 Lot Community Title Subdivision (Stage 2) and Associated Civil Works at Lot 12 DP 1208402 No. 79 Tamarind Avenue, Bogangar**

P 1

Cr W Polglase

Cr P Allsop

RECOMMENDED that Development Application DA17/0836 for a staged development: two lot subdivision (stage 1) and 12 lot community title subdivision (stage 2) and associated civil works at Lot 12 DP 1208402 No. 79 Tamarind Avenue, Bogangar be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and additional information received by Council on 16 May 2018, 7 September 2018 and 16 November 2018 and Plan Nos:
 - Proposed Subdivision Plan – Stage 1 Rev E Sheet 1 of 2 prepared by B & P Surveys and dated 23 August 2018;
 - Proposed Subdivision Plan – Stage 1 Rev E Sheet 2 of 2 prepared by B & P Surveys and dated 23 August 2018 annotated in red;
 - Concept Subdivision Plan - Revision P6 drawing number SK00 prepared by Cozens Regan Group and dated November 2018;
 - Concept Civil Works Plan - Revision P7 drawing number SK03 prepared by Cozens Regan Group and dated November 2018;
 - Proposed Subdivision Plan – Stage 1 Rev E prepared by B & P Surveys and dated 23 August 2018 annotated in red;

except where varied by the following staging:

The development shall be undertaken in the following stages.

Stage 1:

- Consists of:

- Subdivision of the subject site to create Lot 13 and residual Lot 14 as a conventional two lot Torrens title subdivision;
- Filling of the building pads for proposed Lot 13 and earthworks / filling works associated with the community title portion of the development and associated services for Lots 13 and 14;
- Establishment of a Conservation Area and landscaping.

Stage 2:

- Consists of:

- Subdivision of Lot 14 to create 11 residential lots and 1 Community Lot as a Community Title Scheme;
- Internal subdivision works which includes construction of private access road and provision of services to each Lot within the Community Title Scheme;

except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0125]

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. Sewer manholes are adjacent to this site. Manholes are not to be covered with soil or other material.

Should adjustments be required to the sewer manhole, then applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. Works will not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.

[GEN0155]

5. Council advises that the site is flood liable with a Design Flood Level of 3.0m AHD. The minimum habitable floor level for the site is RL 3.5m AHD, unless notified otherwise by Council.

[GEN0195]

6. Access

The intent of measures for property access for the Stage 2 Community Titled allotments is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation.

- (a) The property access to the proposed Stage 2 - Community Titled allotments off Tamarind Avenue shall comply with the provisions of this consent, Section 4.1.3 of 'Planning for Bush Fire Protection 2006' and Council's Development Control Plan

- Section A2 “*Site Access and Parking Code*” and Council’s “*Driveway Access to Property - Design Specification*” (current version), whichever is the most stringent.

- (b) Signage is required to be provided clearly nominating the access road as one way; stating no parking permitted along the access road and nominate parking spaces within Lot 1 Common Property to be made available to visitors at all times. [GEN0330]
7. The areas identified as Proposed Easement (Z) Vegetation Protection Covenant (Restriction) on Proposed Subdivision Plan Dwg. No. 21588 D Rev. E Sheet 2 of 2 dated 23 August 2018 prepared by B&P Surveys including annotations in red are to be collectively described as the Conservation Area for the purposes of this consent. [GENNS01]
8. The Conservation Area shall be managed for conservation purposes in perpetuity and subject to an approved Habitat Management Plan. [GENNS01]
9. Maintenance, management and ongoing rehabilitation of the Conservation Area is to be undertaken by the Developer and successors in title in accordance with the conditions of this consent and the approved Habitat Management Plan. This responsibility including funding requirements and responsibilities for that land identified as common property managed by the Community Association must be reflected within the Community Management Statement. [GENNS01]
10. The approved subdivision shall not result in any clearing of native vegetation without prior approval from the relevant authority. [GENNS01]
11. Stormwater management shall be in general accordance with the Stormwater Management Plan prepared by Cozens Regan Group dated Revised May 2018, except where varied by the conditions of this consent. [GENNS02]
12. Geotechnical investigations and assessment of the subject site shall be in accordance with the recommendations and requirements as specified in the Report On Preliminary Geotechnical Investigation for Proposed Residential Subdivision No. 77 Tamarind Avenue, Bogangar, prepared by Geotech Investigations Pty Ltd, dated May 2018, except where varied by the conditions of this consent.

The Report advises that significant settlements are likely to occur and ground improvements (possibly pre-loading) and settlement monitoring will be required.

All individual house sites are subject to further geotechnical testing at time of building approval. [GENNS03]

13. Prior to the issue of the Construction Certificate for Stage 1, evidence shall be provided to Council that the existing stormwater infrastructure servicing neighbouring Strata Plan SP76700 (77 Tamarind Avenue) that burdens the area of proposed Lots 2 and 13 has been lawfully relocated and no longer burdens the site. [GENNS04]

14. The existing Right of Footway 4 Wide (DP1208402) is to be retained, benefiting Tweed Shire Council.

[GENNS06]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

15. The developer shall provide a minimum of 8 Visitor car parking spaces (including parking for the disabled) in accordance with Tweed Shire Council's Development Control Plan Part A2 - *Site Access and Parking Code* for Stage 2 of the development.

Full design detail of the proposed parking and maneuvering areas including integrated landscaping shall be submitted to Tweed Shire Council and approved by the General Manager or his delegate prior to the issue of a Construction Certificate for Subdivision Works for Stage 2.

[PCC0065]

16. The Construction Certificate Application for Subdivision Works for Stage 2 of the development shall include a detailed Stormwater Management Plan (SWMP) for the occupational or use stage of the proposed development, prepared in accordance with Section D7.07 of Council's *Development Design Specification D7 - Stormwater Quality*. Such plans are to include measures, monitoring and adaptive management actions to ensure appropriate stormwater quality outcomes are achieved.

Permanent stormwater quality treatment shall comply with the *Tweed Urban Stormwater Quality Management Plan* and Council's *Development Design Specification D7 - Stormwater Quality*. Variations to these standards shall only be accepted where they are supported by best practice water sensitive urban design principles entailed in the "Water By Design" guidelines (being a program of the South East Queensland Healthy Waterways Partnership).

Treatment basins must be provided with a facility to bypass major stormwater flow events (greater than the Q3 month storm event), or otherwise cater for major storm flows without disturbing captured pollutants or damaging the structure.

Proposed treatment measures other than "deemed to comply" measures as specified in Council's *Development Design Specification D7*, must be supported by engineering calculations, including MUSIC modelling, to confirm that acceptable capacity and efficiency is achieved.

An Operational Manual for all Stormwater Quality Control Devices must be provided as part of the SWMP. This manual must be updated as required during the Defects Liability ("On-Maintenance") Period for the device and the final version of the manual must be handed over to Council at the formal commissioning of the device, at the completion of the Defects Liability Period ("Off Maintenance").

[PCC0165]

17. Prior to the issue of a Construction Certificate for Subdivision Works for both Stage 1 and Stage 2, an applicable Cash Bond or Bank Guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works associated with that Construction Certificate, as set out in Council's fees and charges at the time of payment.

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

The bond will be refunded, if not expended, when the Subdivision Certificate for that stage of the development is issued.

[PCC0275]

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

[PCC0285]

19. Where earthworks result in the creation of batters greater than 1m high and/or slopes within allotments 17° (1:3.27) or steeper, such slopes shall be densely planted in accordance with a detailed Landscaping Plan endorsed by Council. This Plan shall accompany the Construction Certificate application for Subdivision Works, as applicable to each stage of the development.

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

- (a) Contours and terraces where the height exceeds 1m.
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- (c) Densely plant with appropriate native species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
- (d) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.
- (e) Feature 80% local native species.

[PCC0455]

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

[PCC0465]

21. All placed fill is to be graded at a minimum of 1% and must at no time result in additional runoff or ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject site. No retaining walls are approved as part of this consent.

[PCC0485]

22. Prior to the issue of a Construction Certificate for each stage of the development, a Detailed *Geotechnical Investigation* shall be undertaken by an appropriately qualified

practising professional Geotechnical Engineer, unless considered unjustified by the Geotechnical Engineer and supported in writing and endorsed by Council.

The investigation shall identify any areas of compressible clay materials, loose sands, landslip, instability, subsidence, uncontrolled fill or reactive soil profiles etc which may impact on construction or building activities, as well as providing site classification information.

If unsuitable materials are identified the investigation shall provide recommendations such as a preloading, remediation works or other forms of treatment necessary to achieve safe and stable building sites in accordance with AS 2870 (current version).

All consolidation resulting from preloading shall be monitored by settlement plates or detailed survey to determine consolidation/settlement characteristics.

[PCC0500]

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

[PCC0675]

24. A Traffic Control Plan in accordance with AS1742 and the latest version of the RTA publication "Traffic Control at Work Sites" shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate for Subdivision Works, as applicable to each stage of the development. Safe public access shall be provided at all times.

[PCC0865]

25. Prior to the issue of a Construction Certificate for Subdivision Works, as applicable to each stage of the development, the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
- (b) Detailed engineering plans and specifications, *prepared in accordance with Development Design Specification D13 - particularly Section D13.09*. The detailed plans shall include (but are not limited to) the following, unless approved otherwise by the PCA:

- earthworks
 - (a) Stage 1
 - filling of the building pad for proposed Lot 13 and earthworks / filling works associated with the community title portion of the development (to RL 3.4m AHD with 1:4 batters).
 - (b) Stage 2
 - associated with the conversion of Stage 1 Lot 14 to 12 Community Title allotments, including the private access road.
- roadworks/furnishings/access
 - (a) Stage 1

- provision of a standard vehicular access off Tamarind Avenue to service proposed Lot 13.
- provision of a 1.5m wide concrete footpath along the eastern boundary of the subject site to Council standards from Tamarind Avenue to the Crown Reserve to the north;
- (b) Stage 2
 - provision of a looped access road (presented as a driveway off Tamarind Avenue to identify that it is a private road and not a public road), of adequate width (minimum 6m wide) to comply with the provision of AS2890.1, the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 of this consent as well as safely accommodating standard 9.55m Garbage Truck and a 12.5m "Single Unit Truck/Bus". The access road (including any kerbing) is to offset a minimum 1.2m from the eastern property boundary, whilst maximising its clearance to the identified Bush Stone Curlew nesting area.
 - Provision of eight visitor car parking spaces.
 - Signage nominating the access road as one way; stating no parking permitted along the access road and nominate parking spaces within Lot 1 Common Property to be made available to visitors at all times.
- stormwater drainage
 - (a) Stage 1
 - provide applicable roofwater connection points into the kerb and gutter of Tamarind Avenue for proposed Lot 13;
 - provide a connection point to the existing drainage network in Tamarind Avenue for the Stage 2 development;
 - provide evidence that the site (including that areas of future Lots 2 and 13) is unburdened by pre-existing stormwater infrastructure benefiting SP76700 and that the stormwater infrastructure has been lawfully relocated.
 - (b) Stage 2
 - construction of the Stage 2 private stormwater system, including On Site Detention (OSD) under the driveway.
- landscaping works
 - (a) Stage 1
 - works to be undertaken in accordance with the approved Habitat Management Plan which features a 1.5m wide concrete footpath along the eastern boundary of the subject site;
 - (b) Stage 2
 - any works to be undertaken in accordance with the approved Habitat Management Plan;
 - provision of a 1m wide landscaped strip along the southern side of the internal driveway within Lot 1 Community Lot featuring native shrubs.
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure);

- (a) Including submission of electrical reticulation plans (on the opposite side to water mains), underground cables and all other electrical infrastructure including transformers and substations.

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

[PCC0985]

26. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of to the satisfaction of Council's General Manager or delegate.

[PCC1065]

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

- (a) The Construction Certificate Application for Subdivision 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]

28. Disposal of stormwater by means of infiltration devices must be carried out in accordance with Section D7.09 of Tweed Shire Councils Development Design and Construction Specification - Stormwater Quality.

Surcharge overflow from the infiltration area to the street gutter must occur by visible surface flow, not piped.

[PCC1125]

29. 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]

30. 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".

A detailed Erosion and Sediment Control Plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality* shall be submitted with each Construction Certificate Application for Subdivision Works.

[PCC1155]

31. 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 no greater than pre-development rates. 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.

Details are to be submitted with the Construction Certificate and S68 stormwater application.

[PCC1165]

32. Lot 13 of Stage 1 shall be provided with an individual Council water connection off the main in Tamarind Avenue to allow for individual metering. Lot 14 of Stage 1 shall be provided with an individual Council water connection off the main in Tamarind Avenue to service the future, Stage 2 Community Title development.

Stage 2 of the development shall provide a private, internal water main within the private access road, sized to cater for the demands of the Community Title development (including fire-fighting requirements), with a bulk water meter at the road frontage and individual house connections for each allotment.

[PCC1175]

33. 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]

34. If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal

Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

Applications for these works must be submitted on Council's standard Section 68 Application 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]

35. Prior to the issue of a Construction Certificate for Subdivision Works as applicable to each stage of the development, 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.

- Following this, requirements shall be issued by Council under Section 306 of the Water Management Act 2000.
- 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. Approval of this application will be required prior to/in conjunction with issuing the Construction Certificate.

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.

[PCC1335]

36. The proposed water and sewer infrastructure on the Civil Works Plan submitted are considered to be preliminary and are subject to change to meet Council requirements.

[PCCNS01]

37. Stormwater

All stormwater outlets shall discharge to a lawful point of discharge, being a Council drainage system, existing watercourse or registered easement, compliant with Council's Design Specifications D5 - *Stormwater Drainage Design* and D7 - *Stormwater Quality*. The design and location of all stormwater outlets and related treatment and mitigation structures must consider and make provision for future access for maintenance, to the satisfaction of Council.

Allotments with adverse fall that cannot drain to a street shall provide a combination of infiltration and detention with level spreaders, to minimise adverse impacts on downstream property.

Where infiltration is adopted, the infiltration device must;

- (a) Comply with the provisions of Council's Design Specification D7 - Stormwater Quality, section D7.09.9.
- (b) Surcharge by visible surface flow, not piped.

- (c) Be sized to capture and infiltrate all storm events up to a Q20 ARI, unless agreed otherwise by Council.
- (d) Be designed to allow for cleaning and maintenance overhauls.
- (e) Be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (f) Be designed to withstand loading from vehicles during construction and operation of the development.
- (g) Be located clear of any sewer easements.

[PCCNS02]

38. Whilst a connection to the public stormwater system in Tamarind Avenue is generally supported connection at the location depicted in Cozens Regan Group drawing SK02 Rev P7 dated 11/18 is not approved. Council plans to upgrade this system and it is not clear if the proposed connection will be viable. The exact location of the sites stormwater connection to the public system shall be confirmed at detailed design stage (construction certificate or stormwater drainage works application).

[PCCNS03]

39. Prior to issue of the Construction Certificate for Subdivision Works for Stage 2, a draft Community Management Statement is to be submitted to Council. The statement is to include provisions for (but not be limited to) management of the Conservation Area, the use of the access road by emergency services, bona fide members of the public and public authorities. Additionally, the Community Management Statement must include the following:

- (a) Creation and incorporation of a Community Association to be responsible for the management and maintenance of common property;
- (b) Landscape guidelines specifying minimum landscape requirements for each dwelling to the satisfaction of Tweed Shire Council and including the requirement for a minimum of 90% of all landscaping to comprise local native species and prohibiting the planting of environmental weed species;
- (c) The approved Habitat Management Plan specifying methodology and funding source for the maintenance and monitoring of the Conservation Area on Common Property;
- (d) A Utility Services Plan, showing Works As Executed (WAE).
- (e) Minimum front setback provisions for future dwellings including 8m for Lots 3-7; 6m for Lots 8-10 and 4m for Lots 11 & 12.

[PCCNS03]

40. The applicant shall prepare a Habitat Management Plan (HMP) for the Conservation Area to include:

- (a) Construction phase and operational phase management measures to ensure protection of:
 - Vegetation classified as an Endangered Ecological Community;
 - Bush Stone-curlew individuals and habitat onsite.
- (b) Schedule and specifications of all habitat restoration/enhancement works to improve habitat conditions to be completed prior to issue of subdivision certificate for Stage 1 including:
 - (i) Suitable fencing or soft/hard landscape measures to clearly delineate the boundary of the Conservation Area. Such fencing and/or landscape

- measures shall be appropriately designed to ensure restriction of incompatible activities;
- (ii) Assisted habitat restoration of the Conservation Area extending across Lot 4, Lot 5 and Lot 6;
 - (iii) Bush Stone-curlew habitat enhancement elements;
 - (iv) Construction of a 1.5m wide concrete footpath along the eastern boundary to Council standards.
- (c) Details of Conservation Area maintenance responsibilities and protocols for the developer and successors in title;
 - (d) Details of a Bush Stone-curlew monitoring program;

The HMP shall be prepared by a suitably qualified ecologist with proven experience and knowledge of Bush Stone-curlew and Endangered Ecological Community management and be approved by Council's General Manager or delegate prior to issue of Construction Certificate for Stage 1 of the development.

[PCCNS04]

- 41. Prior to the issue of any Construction Certificate for the development, Development Consent D87/0874 as amended, shall be surrendered pursuant to Section 4.17(1)(b) and 5 of the Act and Clause 97 of the Regulations, that part of the Consent which is located within the subject site.

[PCCNS04]

PRIOR TO COMMENCEMENT OF WORK

- 42. 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]

- 43. Prior to the commencement of works for Stage 2, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-

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

[PCW0025]

- 44. Any imported fill material must be from an approved source.

Prior to commencement of filling operations (as applicable to each stage of the development), details of the source of the imported fill, must be submitted to the satisfaction of the General Manager or his delegate.

[PCW0375]

- 45. Subdivision work (as applicable to each stage of the development) in accordance with the development consent must not commence until:

- (a) a Construction Certificate for that subdivision work has been issued in accordance with Council's Development Construction Specification C101 by:
 - (i) the Consent Authority, or
 - (ii) an Accredited Certifier, and
- (b) the person having the benefit of the development consent:
 - (i) has appointed a Principal Certifying Authority,
 - (ii) has appointed a Certifying Engineer to certify the compliance of the completed works.

The Certifying Engineer shall be a Professional Engineer (Civil) with National Engineering Register (NER) or a Registered Surveyor. Documentary evidence is to be provided to Council demonstrating currency of the above accreditation, and

- (iii) has notified the Consent Authority and the Council (if the Council is not the Consent Authority) of the appointment,
 - (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Certifying Engineer is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and
- (c) the person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the subdivision work.

[PCW0815]

46. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the Defects Liability Period for the Stage 2 Subdivision works only.

[PCW0835]

47. 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]

48. 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

49. 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, as applicable to each stage of the development.

[DUR0005]

50. 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]

51. 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]

52. 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]

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

[DUR0415]

54. All earthworks and filling shall be carried out in accordance with AS 3798 (current version) to a Level 1 inspection regime and testing in accordance with Table 8.1.

The earthworks and filling shall also be undertaken in accordance with the recommendations provided in the *Geotechnical Investigation* (as required by Consent Condition 22) and monitored by a Registered Geotechnical Testing Consultant.

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

[DUR0795]

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

[DUR0985]

56. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material deposited on the roadway by construction vehicles will be at the Developers expense and any such costs are payable prior to the issue of each applicable Subdivision Certificate.

[DUR0995]

57. 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]

58. All works below 1.0m natural ground surface or will lower the water table beyond 1.0m below natural ground surface shall be carried out in accordance with Council's Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works.

[DUR1075]

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

[DUR1795]

60. Before the commencement of the relevant stages of private road construction for Stage 2, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.

- (a) That the pavement has been designed in accordance with Tweed Shire Council's Development Design Specification, D2.
- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
- (c) That site fill areas have been compacted to the specified standard.
- (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing (including trenches for services) has been completed in accordance with Table 8.1 of AS 3798-2007.

[DUR1805]

61. During the relevant stages of the Stage 2 access road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:
- (a) That the pavement layers have been compacted in accordance with Council's Development Design and Construction Specifications.
 - (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement. [DUR1825]
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 Council's 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]
63. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections (as applicable to each stage of the development) in accordance with Tweed Shire Council's Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:

Roadworks (Stage 2)

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

Water Reticulation, Sewer Reticulation, Drainage (as applicable to each stage of the development)

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

Stormwater Quality Control Devices (other than proprietary devices) (Stage 2)

For detail refer to Water By Design - Technical Guidelines

- (a) Earthworks and filter media
 - (b) Structural components
-

- (c) Operational establishment
- (d) Mechanical/electrical
- (e) Commissioning - On Maintenance
- (f) Off Maintenance

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

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

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

[DUR1895]

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

[DUR1905]

65. The developer/contractor is to maintain a copy of the development consent, approved Management Plans 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. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are maintained for each stage of the development until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

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 Stage 2 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. All works and measures shall be undertaken in accordance with the approved Habitat Management Plan

[DURNS01]

71. Vegetation protection fencing around the perimeter of the Conservation Area shall be installed prior to commencement of any Stage 1 works onsite in accordance with Australian Standard AS4970:2009 Protection of trees on development sites. Vegetation

protection fencing shall remain for the duration of the construction period unless otherwise approved by Council's General Manager or delegate

[DURNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

72. Prior to issue of a Subdivision Certificate for each stage of the development, all applicable works/actions/inspections etc required by other conditions or approved Management Plans or the like for that stage of the development shall be completed in accordance with those conditions or plans.

[PSC0005]

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

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

BELOW IS ADVICE ONLY

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

Stage 1:

Water: 1 ET @ \$13,632.00	= \$13,632.00
Sewer: 1 ET @ \$6,459.00	= \$6,549.00

Stage 2:

Water: 10 ET @ \$13,632.00	= \$136,320.00
Sewer: 10 ET @ \$6,459.00	= \$65,490.00

[PSC0165]

74. Section 7.11 Contributions

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

A Subdivision 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.

Stage 1

(a) Tweed Road Contribution Plan: 6.5 Trips @ \$1293 per Trips (\$1,145 base rate + \$148 indexation) CP Plan No. 4 Sector7_4	\$8,152.85*
(b) Open Space (Casual): 1 ET @ \$624 per ET (\$502 base rate + \$122 indexation) CP Plan No. 5	\$605.28*
(c) Open Space (Structured): 1 ET @ \$714 per ET (\$575 base rate + \$139 indexation) CP Plan No. 5	\$692.58*
(d) Shirewide Library Facilities: 1 ET @ \$933 per ET (\$792 base rate + \$141 indexation) CP Plan No. 11	\$905.01*
(e) Bus Shelters: 1 ET @ \$71 per ET (\$60 base rate + \$11 indexation) CP Plan No. 12	\$68.87*
(f) Eviron Cemetery: 1 ET @ \$135 per ET (\$101 base rate + \$34 indexation) CP Plan No. 13	\$130.95*
(g) Community Facilities (Tweed Coast - North) 1 ET @ \$1539 per ET (\$1,305.60 base rate + \$233.40 indexation) CP Plan No. 15	\$1,492.83*
(h) Extensions to Council Administration Offices & Technical Support Facilities 1 ET @ \$2187.14 per ET (\$1,759.90 base rate + \$427.24 indexation) CP Plan No. 18	\$2,121.53*
(i) Cycleways: 1 ET @ \$526 per ET (\$447 base rate + \$79 indexation) CP Plan No. 22	\$510.22*

(j) Regional Open Space (Casual)
 1 ET @ \$1215 per ET \$1,178.55*
 (\$1,031 base rate + \$184 indexation)
 CP Plan No. 26

(k) Regional Open Space (Structured):
 1 ET @ \$4264 per ET \$4,141.33*
 (\$3,619 base rate + \$645 indexation)
 CP Plan No. 26

Stage 2

(a) Tweed Road Contribution Plan:
 65 Trips @ \$1293 per Trips \$81,523.65*
 (\$1,145 base rate + \$148 indexation)
 CP Plan No. 4
 Sector7_4

(b) Open Space (Casual):
 10 ET @ \$624 per ET \$6,052.80*
 (\$502 base rate + \$122 indexation)
 CP Plan No. 5

(c) Open Space (Structured):
 10 ET @ \$714 per ET \$6,925.80*
 (\$575 base rate + \$139 indexation)
 CP Plan No. 5

(d) Shirewide Library Facilities:
 10 ET @ \$933 per ET \$9,050.10*
 (\$792 base rate + \$141 indexation)
 CP Plan No. 11

(e) Bus Shelters:
 10 ET @ \$71 per ET \$688.70*
 (\$60 base rate + \$11 indexation)
 CP Plan No. 12

(f) Eviron Cemetery:
 10 ET @ \$135 per ET \$1,309.50*
 (\$101 base rate + \$34 indexation)
 CP Plan No. 13

(g) Community Facilities (Tweed Coast - North)
 10 ET @ \$1539 per ET \$14,928.30*
 (\$1,305.60 base rate + \$233.40 indexation)
 CP Plan No. 15

(h) Extensions to Council Administration Offices
 & Technical Support Facilities

10 ET @ \$2187.14 per ET (\$1,759.90 base rate + \$427.24 indexation) CP Plan No. 18	\$21,215.26*
(i) Cycleways: 10 ET @ \$526 per ET (\$447 base rate + \$79 indexation) CP Plan No. 22	\$5,102.20*
(j) Regional Open Space (Casual) 10 ET @ \$1215 per ET (\$1,031 base rate + \$184 indexation) CP Plan No. 26	\$11,785.50*
(k) Regional Open Space (Structured): 10 ET @ \$4264 per ET (\$3,619 base rate + \$645 indexation) CP Plan No. 26	\$41,418.19*

* Includes adjustments which effect compliance with the Directions from the Minister for Planning in relation to the maximum contribution payable per dwelling dated 13 January 2009 and 19 July 2009.

[PCC0215/POC0395/PSC0175]

75. Prior to the issue of a Subdivision Certificate for each stage of the development, a Defect Liability Bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

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

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

[PSC0215]

76. At the completion of the earthworks/filling and prior to the issue of the Subdivision Certificate for each stage of the development, an appropriately qualified practising professional Geotechnical Engineer shall provide an Engineering Certification that clearly states the following:

1. All earthworks and filling associated with that stage of the development have been supervised to a Level 1 standard in accordance with AS 3798 (current version) and in accordance with the recommendations of the detailed *Geotechnical Investigation* (as required by Consent Condition 22).
2. All allotments have achieved design bearing capacity strength in accordance with AS2870 (latest version) and are suitable for building purposes.
3. Trenches, including all trenches for services, have been compacted in accordance with Council's Construction Specifications.

The submission shall include copies of all undertaken test results, along with a site diagram identifying the location of each undertaken test.

[PSC0395]

77. Prior to the issue of the Subdivision Certificate for each stage of the development, an appropriately qualified, practising professional Geotechnical Engineer shall provide site classifications based on site reactivity for each individual residential allotment in accordance with AS2870 (current version). If the site classification for any individual allotments is found to be poorer than 'M', then all such affected allotments shall be burdened by a Restriction on Use pursuant to Section 88B of the Conveyancing Act advising future owners of the site classification.

[PSC0400]

78. Any damage to property (including pavement damage) during each stage of the development is to be rectified to the satisfaction of the General Manager or his delegate prior to the issue of the associated Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of the associated Subdivision Certificate.

[PSC0725]

79. Prior to the issue of a Subdivision Certificate for each stage of the development, applicable Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D13 - Engineering Plans.

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

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

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

[PSC0735]

80. A Subdivision Certificate for each stage of the development will not be issued by the General Manager until such time as all conditions of this Development Consent applicable to that stage of the development have been complied with.

[PSC0825]

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

[PSC0830]

82. The creation of Easements for services, Rights Of Carriageway and Restrictions as to user (including restrictions associated with planning for bushfire) as may be applicable to each stage of the development under Section 88B of the Conveyancing Act including (but not limited to) the following:

- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
- (b) Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006" Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.
- (c) A Restriction As To User advising that the roofwater from improvements on all allotments with adverse fall that cannot drain to a street, shall be connected to the approved infiltration pit (constructed as part of the subdivision) located on the subject property. All future owners are to maintain the infiltration systems in a satisfactory condition in perpetuity.
- (d) Retention of the existing Right of Footway 4 Wide (DP1208402) linking Tamarind Avenue to neighbouring Lot 466 DP 755701, benefiting Tweed Shire Council.
- (e) Restriction As To User regarding the formation and availability of 8 visitor car parking spaces on Common Property as per the approved Subdivision Plan.
- (f) A Restriction As To User enforcing that no dwelling shall be constructed on an allotment that has been classified with a rating of M or less unless it is in accordance with AS2870 and any other Australian Building Standard that may subsequently be adopted as industry practice. The associated Geotech Report shall be registered as a Memorandum on title.
- (g) In accordance with the development's Flood Response Assessment Plan and as required by TDCP-A3 - Development on Flood Liable Land, all dwellings on the site must be equipped with a PMF Refuge (second storey) in accordance with section A3.2.6 note 4.
- (h) Restriction As To User regarding the Conservation Area referred to in this consent Burdening Stage 1 Lot 14 and Stage 2 - Lots 4, 5, 6 and Lot 1 Common Property, benefitting Tweed Shire Council. The following activities are not permitted within this area unless otherwise authorised by the terms of any easement existing at the time of issue of this consent:
 - Clearing, lopping or removal of any native plants, whether existing at the date of this approval or planted pursuant to conditions of this approval unless otherwise required to establish and maintain asset protection zones to Lot 4, Lot 5 and Lot 6 as shown on the approved plan of subdivision;
 - Erection of any fixtures or improvements, including buildings or structures;
 - Construction or maintenance of access roads and any services
 - Depositing of any fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the Conservation Area unless required in accordance with the approved Habitat Management Plan
 - Keeping or permitting the entry of domestic animals or any other animals that are not indigenous into the Conservation Area; and
 - Performance of any other acts which may have detrimental impact on the values of the Conservation Area.
 - The area must be managed in accordance with the approved Habitat Management Plan.
- (i) Positive Covenant over the area described as Conservation Area referred to in this consent burdening Stage 1 Lot 14 and Stage 2 - Lots 4, 5, 6 and Lot 1 Common Property, benefitting Tweed Shire Council. This area shall be managed in accordance with an approved Habitat Management Plan for conservation purposes in perpetuity.
- (j) The car parking spaces within Lot 1 Common Property are to be made available to visitors at all times.

- (k) Any future dwelling houses must be designed to comply with the following minimum front setbacks: 8m for Lots 3-7; 6m for Lots 8-10 and 4m for Lots 11 & 12.
- (l) Any future dwelling houses must be designed to provide a minimum of 2 car parking spaces within the private lots.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating a Right Of Carriageway or Easement shall make provision for maintenance of the Right Of Carriageway or Easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis (as applicable).

Any Section 88B Instrument creating Restrictions as to user, Right Of Carriageway or Easements which benefit Council shall contain a provision enabling such Restrictions, Easements or Rights Of Carriageway to be revoked, varied or modified only with the consent of Council.

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

[PSC0835]

- 83. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) for each stage of the development shall show the approved street address for each lot in the new Deposited Plan.

[PSC0845]

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

[PSC0855]

- 85. Prior to registration of the Plan of Subdivision for each stage of the development, a Subdivision Certificate shall be obtained.

The following information must accompany an application:

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

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

[PSC0885]

- 86. In conjunction with the application for a Subdivision Certificate for each stage of the development, the Applicant must also apply to Council (OR PCA if applicable) for a Compliance Certificate for Subdivision Works, as applicable to that stage of the development.

This may require obtaining individual Compliance Certificates for various civil works components such as (but not limited to) the following (as applicable):

- (a) Roads / Private Access (Stage 2)
- (b) Water Reticulation
- (c) Sewerage Reticulation
- (d) Drainage
- (e) Bulk Earthworks / Site Regrading

Note:

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

[PSC0915]

87. The six (6) months Defects Liability Period for the Subdivision Works commences upon the registration of the Plan of Subdivision, as applicable to each stage of the development.

[PSC0925]

88. Prior to issue of Subdivision Certificate for Stage 2, a final Community Management Statement is to be submitted to and approved by Council. The statement is to include provisions for (but not be limited to) management of the Conservation Area, the use of the access road by emergency services, bona fide members of the public and public authorities. Additionally, the Community Management Statement must include the following:

- (a) Creation and incorporation of a Community Association to be responsible for the management and maintenance of common property;
- (b) Landscape guidelines specifying minimum landscape requirements for each dwelling to the satisfaction of Tweed Shire Council and including the requirement for a minimum of 90% of all landscaping to comprise local native species and prohibiting the planting of environmental weed species;
- (c) The approved Habitat Management Plan specifying methodology and funding source for the maintenance and monitoring of the Conservation Area on Common Property;
- (d) A Utility Services Plan, showing Works As Executed (WAE).
- (e) Minimum front setback provisions for future dwellings including 8m for Lots 3-7; 6m for Lots 8-10 and 4m for Lots 11 & 12.

[PSC1005]

89. Prior to the issue of a Subdivision Certificate and also prior to the end of Defects Liability Period, a CCTV inspection of any stormwater pipes and gravity sewerage systems installed approved under the Construction Certificate for Subdivision Works for each

stage of the development (including joints and junctions) will be required to demonstrate that the standard of the infrastructure is acceptable to Council.

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

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

[PSC1065]

90. Prior to issuing a Subdivision Certificate as applicable to each stage of the development, reticulated water supply and outfall sewerage reticulation (including household connections) shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.

Fire Hydrants spacing, sizing and pressures for Stage 2 shall comply with Council's DCP - Section A5 - Subdivision Manual, associated Development Design and Construction Specifications and AS2419.1-2005.

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

[PSC1115]

91. The production of written evidence from the local telecommunications supply authority certifying that the provision of underground telecommunications at the front boundary of all allotments intended for residential use, has been completed, as applicable to each stage of the development.

Unless agreed otherwise by Council, an acceptable form is Telstra's "*Telstra Network Infrastructure Letter*" or NBN's "*Provisioning of Telecommunication Services - Confirmation of final payment*" letter (for small subdivisions) / "*Certificate of Practical Completion of NBN network infrastructure*" letter (for large subdivisions) (as applicable to the development).

The NBN letter must reference:

- Over which Lot and Deposited Plan the agreement applies to,
- Identification of the number of lots to be serviced,

[PSC1165]

92. Electricity

The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity has been provided adjacent to the front boundary of each allotment intended for residential use, as applicable to each stage of the development.

An acceptable form is Essential Energy's "Notice of Arrangement".

Unless agreed otherwise by Council, the form must reference:

- Over which lot and Deposited Plan did the arrangement for the provisioning of electricity (and street lighting, as applicable) apply to;
- Identification of the proposed lots to be created that have been serviced, or the development stage to which the arrangement applies.

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

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

[PSC1185]

93. In accordance with the Federal Government's National Broadband Network (NBN) initiatives, the Developer is required (at the Developer's expense) to install a fibre ready, pit and pipe network (including trenching, design and third party certification) to NBN CO's Specifications, to allow for the installation of Fibre To The Home (FTTH) broadband services to each allotment intended for residential use, as applicable to each stage of the development.

[PSC1205]

94. Prior to the issue of the Stage 2 Subdivision Certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all installed s68h2 permanent stormwater quality control devices (includes gross pollutant traps, infiltration systems and onsite detention systems).

[PSCNS01]

95. Prior to the issue of a subdivision certificate the private stormwater issue between the subject lot and SP 76700 (77 Tamarind Avenue) relating to stormwater disposal infrastructure within proposed Lot 2 shall be resolved and all works required completed.

If the matter is not resolved, a positive covenant must be applied to the title of proposed lot 2 that prohibits further development on the lot that would interfere with the existing stormwater disposal infrastructure and point of discharge until such time as an alternative stormwater discharge solution is implemented for SP 76700 (77 Tamarind Avenue).

[PSCNS01]

96. All works shall be completed in accordance with the approved Habitat Management Plan to the satisfaction of Council's General Manager or delegate prior to issue of Stage 1 subdivision certificate

[PSCNS01]

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

1. The development proposal is to comply with the following, except where modified by this bush fire safety authority:
- subdivision layout identified on the drawing prepared by B & P Surveys titled 'Stage 1, Proposed Subdivision Plan of Lot 12 in DP1208402, Tamarind Avenue, Bogangar', drawing number 21588 D, Revision E, sheet 1 of 2 and dated 23rd August, 2018; and

- subdivision layout identified on the drawing prepared by B & P Surveys titled 'Stage 2, Proposed Subdivision Plan of Lot 12 in DP1208402, Tamarind Avenue, Bogangar', drawing number 21588 D, Revision E, sheet 2 of 2 and dated 23rd August, 2018.

Asset Protection Zones

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

2. At the issue of subdivision certificate and in perpetuity the entire property shall be managed as an inner protection area (IPA), except where indicated as a vegetation protection covenant on the plan titled 'Stage 2, Proposed Subdivision Plan of Lot 12 in DP1208402, Tamarind Avenue, Bogangar', drawing number 21588 D, Revision E, sheet 2 of 2 and dated 23rd August, 2018.

Asset protection zones shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

3. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed upon proposed Lots 2 & 3 identifying a 15 metre asset protection zone on the northern boundary, as indicated on the plan titled 'Stage 2, Proposed Subdivision Plan of Lot 12 in DP1208402, Tamarind Avenue, Bogangar', drawing number 21588 D, Revision E, sheet 2 of 2 and dated 23rd August, 2018.

The terms of the restriction to land use shall require the asset protection zone to be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'. The asset protection zones shall be established prior to the issue of a subdivision certificate.

4. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed upon proposed Lots 4 to 12 identifying a 21 metre asset protection zone on the northern boundary, as indicated on the plan titled 'Stage 2, Proposed Subdivision Plan of Lot 12 in DP1208402, Tamarind Avenue, Bogangar', drawing number 21588 D, Revision E, sheet 2 of 2 and dated 23rd August, 2018.

The terms of the restriction to land use shall require the asset protection zone to be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'. The asset protection zones shall be established prior to the issue of a subdivision certificate.

Water and Utilities

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

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

Access

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

6. The internal road is to comply with section 4.2.7 and section 4.1.3(1) of 'Planning for Bush Fire Protection 2006', except no perimeter road is required and a 6 metre wide unobstructed width is acceptable.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

AMENDMENT 1

P 2

**Cr K Milne
Cr C Cherry**

PROPOSED that Development Application DA17/0836 for a staged development: two lot subdivision (stage 1) and 12 lot community title subdivision (stage 2) and associated civil works at Lot 12 DP 1208402 No. 79 Tamarind Avenue, Bogangar be deferred for a workshop.

Amendment 1 was **Lost**

FOR VOTE - Cr K Milne, Cr C Cherry, Cr R Byrnes

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

The motion was **Carried**. (Minute number P 1 refers).

2 [PR-PC] Development Application DA18/0665 for a Change of Use of Lot 18 (Unit 205) to Dual Use of Shop Top Housing and Serviced Apartments at Lot 18 SP 77096 No. 18/2-6 Pandanus Parade, Cabarita Beach

P 3

**Cr W Polglase
Cr P Allsop**

RECOMMENDED that Development Application DA18/0665 for a change of use of Lot 18 (unit 205) to dual use of shop top housing and serviced apartments at Lot 18 SP 77096 No. 18/2-6 Pandanus Parade, Cabarita Beach be approved subject to the following conditions:

GENERAL

1. The development approves the change of use of one tourist accommodation unit into a dual use unit which can be used either as a residential unit (defined as shop top housing) or as a tourist accommodation unit (defined as a serviced apartment). The affected unit is Lot 18 in SP 77096 (level 2).

The development shall be completed in accordance with the Statement of Environmental Effects and associated plan titled Change of use of Lot 18 in SP 77096 (level 2) into a dual use unit which can be used either as a residential unit (defined as shop top housing) or as a tourist accommodation unit (defined as a serviced apartment). Received by Council 3/8/2018.

[GEN0005]

2. The development shall be completed in accordance with the plans approved by Council, except where varied by conditions of this consent.

[GEN0015]

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

[GEN0115]

PRIOR TO OCCUPATION

4. Section 7.11 Contributions

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

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 7.11 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

These charges include indexation provided for in the 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) Shirewide Library Facilities:
0.875 ET @ \$933 per ET \$816
(\$792 base rate + \$141 indexation)
CP Plan No. 11
- (b) Bus Shelters:
0.875 ET @ \$71 per ET \$62
(\$60 base rate + \$11 indexation)
CP Plan No. 12
- (c) Eviron Cemetery:
0.875 ET @ \$135 per ET \$118
(\$101 base rate + \$34 indexation)
CP Plan No. 13
- (d) Community Facilities (Tweed Coast - North)
0.875 ET @ \$1539 per ET \$1,347
(\$1,305.60 base rate + \$233.40 indexation)
CP Plan No. 15
- (e) Extensions to Council Administration Offices
& Technical Support Facilities
0.1848 ET @ \$2187.14 per ET \$404.18
(\$1,759.90 base rate + \$427.24 indexation)
CP Plan No. 18
- (f) Regional Open Space (Structured):
0.875 ET @ \$4264 per ET \$3,731
(\$3,619 base rate + \$645 indexation)
CP Plan No. 26

[POC0395]

5. Prior to occupation of Lot 18 for permanent residential use (shop top housing) documentary evidence shall be submitted to Tweed Shire Council demonstrating that a PO Box has been obtained for the use of permanent residents.

[POCNS01]

USE

6. 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]

The Motion was **Carried**

FOR VOTE - Unanimous

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

ALTERNATE MOTION

P 4

Cr C Cherry

Cr K Milne

RECOMMENDED that Council, in respect of the compliance actions taken in respect of DA13/0712, relating to land described as Lot 3 DP 1191598 No. 67 Howards Road, Burringbar, receives and notes this report on the alleged noise impacts from the operation and that:

- a. Council provides written approval to use Greenhouse 2 for a trial period of 6 months in accordance with part '4' of the Council resolution of 3 August 2017;
- b. Council officers liaise with the site owners to ensure that "Within 30 days from the commencement of operation of greenhouse 2 the operator is required to provide verification testing against the approved noise criteria for the operation of both greenhouses and include recommendations for further mitigation where required;"
- c. Council officers to undertake noise logging at the two nearest impacted residences to Pocket Herbs for a period of 6 months and noise logging is to include one 2 week monitoring assessment by an independent consultant. The assessment is to use logging equipment, with audio recording capability and data analysis methodology that will determine compliance with the current consent conditions.
- d. Council officers respond to community noise complaints in the trial period and undertake any compliance action under the POEO Act as required.
- e. During the trial period the proponent provide a log book identifying all noise related activities and the neighbours be invited to provide a log of their experienced noise.

The Motion was **Carried**

FOR VOTE - Unanimous

4 [PR-PC] Unauthorised Earthworks and Unauthorised Vegetation Clearing at Lot 2 DP 596914 No. 115 Murwillumbah Street, Murwillumbah

P 5

Cr C Cherry

Cr K Milne

RECOMMENDED that:

1. ATTACHMENTS 7 & 8 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.
2. Council, in respect of the unauthorised earthworks and unauthorised vegetation clearing at the rear of the premises occupied by the Imperial Hotel, Lot 2 DP 596914, No. 115 Murwillumbah Street, Murwillumbah, endorse the following:
 1. The property owner be requested in writing to submit an interim works plan to Council that includes stabilisation of the bank and the protection and stabilisation of Council's road asset being the Road Reserve. Upon approval from The General Manager and/or Delegate, the property owner be directed to carry out the works;
 2. Council engages Solicitors to provide advice on the appropriate Penalty Infringement Notice/s that should be issued for the unauthorised works and tree vegetation removal and to recommend options for seeking the replacement of the illegally cleared vegetation to be incorporated into the slope stabilisation works of appropriate local native species;

In the event that the property owner does not comply with Council's directions to submit an interim works plan, Council engage Solicitors to commence appropriate action against the property owner of Lot 2 DP 596914 to require stabilisation of the bank and Road Reserve.

The Motion was **Carried**

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

AGAINST VOTE - Cr P Allsop

5 [PR-PC] Draft Tweed Development Control Plan 2008 Amendment to Section A1 Residential and Tourist Code arising from the Fingal Head Building Heights Review

P 6

**Cr K Milne
Cr P Allsop**

RECOMMENDED that Council:

1. Adopts the Tweed DCP 2008 Section A1 Residential and Tourist Development Code Parts A Dwellings, Dual Occupancy, Secondary Dwellings and Alterations and Additions and Part D Additional Site Specific Controls for Fingal Head as amended and provided in Attachments 1 and 2 to this report respectively;
2. Gives public notice of its decision and the date of commencement of the DCP amendment in accordance with Clause 21 of the Environmental Planning and Assessment Regulation 2000; and
3. Provides a copy of the DCP amendment to the Department of Planning and Environment within 28 days in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000.

The Motion was **Carried**

FOR VOTE - Unanimous

6 [PR-PC] Planning Proposal PP16/0004 The Palms Village Caravan Park - Lot 1 DP 777875 Dry Dock Road, Tweed Heads South - Unauthorised Fill and Recommendation to Proceed to Gateway

P 7

**Cr K Milne
Cr J Owen**

RECOMMENDED that Council endorses:

1. The attached planning proposal for Lot 1 DP 777875 (132-134 Dry Dock Road Tweed Heads South) be sent to the Department of Planning and Environment for a Gateway determination;
2. A planning agreement which ensures that the site is rehabilitated and any waste/fill removed from the site is disposed of safely, and to restrict residential or tourism accommodation be finalised and placed on public exhibition simultaneously with the planning proposal, and

3. The planning agreement be executed prior to finalisation of the planning proposal and making of the plan.

The Motion was **Carried**

FOR VOTE - Unanimous

7 [PR-PC] Planning Proposal to Prohibit Water Extraction and Bottling

ALTERNATE MOTION

P 8

Cr K Milne
Cr C Cherry

RECOMMENDED that Council provides endorsement to forward the attached planning proposal, to remove clause 7.15 of the Tweed Local Environmental Plan 2014 to prohibit water extraction for commercial water bottling, to the NSW Department of Planning and Environment's Local Environmental Plan Review Panel for Gateway determination with the following amendments:

1. 1st paragraph of Section a) - It is both the role of Council and the Office of Water through their respective regulatory functions to ensure the suitability and/or sustainability of water extraction development both at the time of considering the issue of a licence to extract water as well as at the time of assessing a development application for above ground works. This includes impacts that arise both above and below the ground surface and whether on the physical or natural environment or the public in general.
2. Top of page 8 - (Remove- And of itself does not fall within any of the statutory functions bestowed on councils by Parliament. Consequently) The impacts arising from the extraction of water are considered by the Office of Water in the objectives of the Water Management Act 2000, and are soon to be further investigated by the NSW Chief Scientist as discussed above,(Remove - and are therefore outside the scope of strategic justification for this planning proposal).
3. Second para page 8 - (Remove- Unlike the 'extraction' of water per se,) Its 'use' may also be regulated by councils....
4. Include:

Lack of Data

The Tweed Shire is poorly studied in terms of groundwater. Examination of the North Coast Fractured Rock Aquifer Water Sharing Plan (The WSP) and associated documents reveals that:

- * There is no data on recharge rates in the shire and a statewide default figure of 6% recharge is used,

- * There is no data on local aquifers, rather The WSP uses a volumetric limit for the entire area based on the flow rates in the Tweed River,
- * There is no data on local impacts potentially associated with extraction except three proponent commissioned pumping studies. These studies are neither adequate to determine local impacts nor likely to be correct in their view that the bores and nearby surface waters are not connected,[1]
- * The WSP was never intended to address more local impacts and aquifers. As the WSP notes, it is intended as a macro document and should be understood as useful in that respect. [2]

As the National Groundwater Strategy 2016-2026 notes, “In many areas, fundamental research regarding the physical nature of groundwater systems, their natural recharge and discharge regimes, groundwater resource characteristics (such as the size, location, dynamics and sustainability of extraction) and vulnerability to hydrological perturbations are needed to inform management.”[3] None of these fundamental studies have been undertaken in this shire.

There have been no studies of groundwater dependent ecosystems (GDEs) in the area nor identification of priority groundwater dependent ecosystems. The WSP presumes that a number of areas are GDEs, but once again there is no data on their nature, scale or importance. In light of the fact that the area has numerous World Heritage listed Gondwanan rainforests with numerous endangered and threatened species and ecosystems, a precautionary approach to protecting their access to groundwater is clearly justified.

[1] Cook, P. (2018) Potential Impact of Groundwater Pumping on Rowlands Creek

[2] NSW DPI Water (2016) Water Sharing Plan for the North Coast Fractured and Porous Rock Groundwater Sources: Background document, p. v

[3] National Groundwater Strategy 2016-2026, section 3.1.2

The Motion was **Carried**

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

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

P 9

Cr K Milne

Cr J Owen

RECOMMENDED that Council notes there are no variations for the month of December 2018 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

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

