

**Mayor:** Cr K Milne

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

# Minutes

## Planning Committee Meeting Thursday 4 July 2019

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

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - Section 4.15 Evaluation

(1) **Matters for consideration—general**

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of:
  - (i) any environmental planning instrument, and
  - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
  - (iii) any development control plan, and
  - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
  - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
  - (v) any coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*),that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations, (e) the public interest.

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

(2) **Compliance with non-discretionary development standards—development other than complying development.**

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

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

and the discretion of the consent authority under this section and section 4.16 is limited accordingly.

(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:

- (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and
- (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

**Note.** The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).

(3A) **Development control plans**

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

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

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

(4) **Consent where an accreditation is in force**

A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the *Building Code of Australia* if the building product or system is accredited in respect of that requirement in accordance with the regulations.

- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).

(6) **Definitions**

In this section:

- (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
- (b) **non-discretionary development standards** means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

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The Meeting commenced at 5.30pm.

### **IN ATTENDANCE**

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

Also present were Mr 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), Ms Stephanie Papadopoulos (Manager Corporate Governance) and Ms Ann Mesic (Minutes Secretary).

### **ABORIGINAL STATEMENT**

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

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

### **PRAYER**

The meeting opened with a Prayer read by Pastor Ashley Smith.

#### ***"Thought:***

*He has shown you, O man, what is good;  
And what does the Lord require of you  
But to do justly,  
To love mercy,  
And to walk humbly with your God?  
Micah 6:8*

*Kind heavenly Father, as we meet here today to make decisions concerning our region, we humbly ask that you would grace us with your presence and give us the wisdom necessary. We pray that all the decisions made tonight are indicative of the constituents that we represent. Thank you for the position of authority that you have given us, may we bear that responsibility in a righteous way.*

*May this meeting be both productive and fruitful, keeping you in the forefront of our minds as we deliberate together. I thank you for every leader in this room and the value that they bring to our region. I ask that you may bless them and their families that they may be able to bear the load entrusted to them and yet commit necessary time to those most important to them.*

*We thank you that you have heard us and we thank you that you are with us. We pray this in Jesus' precious name. Amen."*

## **APOLOGIES**

Attendee Cr R Byrnes has informed the General Manager that his absence is caused by being out of the Shire due to work commitments.

### **P 30**

**Cr P Allsop**  
**Cr R Cooper**

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

The Motion was **Carried**

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

## **DISCLOSURE OF INTEREST**

Nil.

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

Nil.

## **ITEMS BY EXCEPTION**

Nil.

## **REPORTS THROUGH THE GENERAL MANAGER**

### **REPORTS FROM THE DIRECTOR PLANNING AND REGULATION**

- 1 [PR-PC] Development Application DA18/0663 for a Mixed Use Including Shop Top Housing Office and Boarding House Development at Lot 4 Section 5 DP 4043 No. 25 Beryl Street, Tweed Heads**

### **P 31**

**Cr R Cooper**  
**Cr J Owen**

**PROPOSED** that Development Application DA18/0663 for a mixed use including commercial, office, hotel suites, boarding house and shop top housing at Lot 4 Section 5 DP 4043 No. 25 Beryl Street, Tweed Heads be approved subject to the following conditions:

## GENERAL

- The development shall be completed in accordance with the original Statement of Environmental Effects, except where varied by the amended Statement of Environmental Effects of 19 February 2019 except where varied by the amended development received by Council on 3 May 2019 (including a hotel management plan), and the following plans:

Document/Plan Title	Drawn By	Job No	Ref No	Dated
Site Plan	Into Architecture	-	DA02B	03/05/2019
Ground Floor Plan	Into Architecture	-	DA03B	03/05/2019
Level 1 Floor Plan	Into Architecture	-	DA04B	03/05/2019
Level 2 Floor Plan	Into Architecture	-	DA05A	14/01/2019
Level 3 Floor Plan	Into Architecture	-	DA06B	03/05/2019
Level 4 Floor Plan	Into Architecture	-	DA07B	03/05/2019
Roof Plan & Site Plan	Into Architecture	-	DA08A	03/05/2019
Section A	Into Architecture	-	DA09B	03/05/2019
Section B	Into Architecture	-	DA10B	03/05/2019
Elevations North and South	Into Architecture	-	DA11B	03/05/2019
Elevations East and West	Into Architecture	-	DA12B	03/05/2019
Elevations Streetfront	Into Architecture	-	DA13B	03/05/2019
Colours and Materials	Into Architecture	-	DA19A	03/05/2019
Landscape Plan	Into Architecture	-	DA L-01	27/06/2018
Landscape Plan	Into Architecture	-	DA L-02	27/06/2018
Stormwater Notes and Drawing Schedule	Demlakian Engineering	218032	SW00 (P2)	29/06/2018
Stormwater Design	Demlakian Engineering	218032	SW01 (P3)	29/01/2019
Sediment and Erosion control Plan	Demlakian Engineering	218032	SW02 (P3)	29/01/2019
Sediment and Erosion Control Details	Demlakian Engineering	218032	SW03 (P2)	29/06/2018

except where varied by the conditions of this consent.

[GEN0005]

- Advertising structures/signs to be the subject of a separate development application (where statutorily required).

[GEN0065]

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

[GEN0115]

- 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]

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

[GEN0300]

6. All works shall comply with the Work Health and Safety Regulation 2017. [GEN0360]
7. Individual boarding rooms are not permitted to be strata subdivided. To this extent 5 boarding rooms (as nominated on the stamped approved plans) are to remain under one (1) management scheme. [GENNS01]
8. The driveway is to be constructed (subject to submission and approval under s138 Roads Act) to council's requirements and be at least 3.5m wide at the boundary and splay to 6.5m wide at the kerb. [GENNS02]
9. A vertical speed hump is to be installed and maintained within the driveway on the subject lot within 2m of the nature strip. [GENNS03]
10. The approved parking is according to the following land use/schedule:
- 10 parking Spaces allocated to Residential component;
  - Two spaces allocated to Commercial Office and;
  - One space allocated to Boarding House component. [GENNS04]
11. No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed without prior consent of Tweed Shire Council (as statutorily required). [GENNS05]

## **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### **12. Section 7.11 Contributions**

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 7.11 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

These charges include indexation provided for in the Section 7.11 Contribution Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 7.11 Contribution Plan current at the time of the payment.

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



(a) Tweed Road Contribution Plan:

Hotel, Boarding & Apartment Component  
 45.19 Trips @ \$921 per Trips \$41,619.99  
 (\$815 base rate + \$106 indexation)

Commercial Component  
 11.76 trips @ \$921 per Trips \$10830.96 – 40% (\$4332.38) = \$6,498.576

Total TRCP due: \$48,118.56

(\$4332.38 has been subtracted from this total as this development is deemed an 'Employment Generating Development' )

CP Plan No. 4  
 Sector1\_4

(b) Open Space (Casual):

8.75 ET @ \$659 per ET \$5,766  
 (\$502 base rate + \$157 indexation)  
 CP Plan No. 5

(c) Open Space (Structured):

6.4584 ET @ \$754 per ET \$4,870  
 (\$575 base rate + \$179 indexation)  
 CP Plan No. 5

(d) Shirewide Library Facilities:

8.75 ET @ \$985 per ET \$8,619  
 (\$792 base rate + \$193 indexation)  
 CP Plan No. 11

(e) Bus Shelters:

8.75 ET @ \$75 per ET \$656  
 (\$60 base rate + \$15 indexation)  
 CP Plan No. 12

(f) Eviron Cemetery:

8.75 ET @ \$140 per ET \$1,225  
 (\$101 base rate + \$39 indexation)  
 CP Plan No. 13

(g) Community Facilities (Tweed Coast - North)

8.75 ET @ \$1624 per ET \$14,210  
 (\$1,305.60 base rate + \$318.40 indexation)  
 CP Plan No. 15

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

8.75 ET @ \$2195.88 per ET \$19,213.95  
 (\$1,759.90 base rate + \$435.98 indexation)  
 CP Plan No. 18

- (i) Cycleways:  
8.75 ET @ \$555 per ET \$4,856  
(\$447 base rate + \$108 indexation)  
CP Plan No. 22
- (j) Regional Open Space (Casual)  
8.75 ET @ \$1282 per ET \$11,218  
(\$1,031 base rate + \$251 indexation)  
CP Plan No. 26
- (k) Regional Open Space (Structured):  
6.4584 ET @ \$4500 per ET \$29,063  
(\$3,619 base rate + \$881 indexation)  
CP Plan No. 26
- (l) Tweed Heads Master Plan:  
13 MDU @ \$1047 per MDU \$13,611  
(\$1,047 base rate + \$0 indexation)  
CP Plan No. 27

[PCC0215]

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

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

**BELOW IS ADVICE ONLY**

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

Water: 5.452 ET @ \$13,926 = \$75,924.60

Sewer: 8.688 ET @ \$6,690 = \$58,122.70

[PCC0265]

14. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional runoff or ponding occurring within neighbouring properties.  
All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

15. A detailed landscape plan shall be submitted with the Construction Certificate application, the plan is to be generally in accordance with the stamped approved landscape plan however demonstrate that the selected species do not comprise of priority weed species and that a minimum 80% of total plant numbers comprised of local

native species to the Tweed Shire. Local native species are to comprise appropriate species selected from the Tweed Shire Native Species Planting Guide available online at: <http://www.tweed.nsw.gov.au/Controls/NativeSpeciesPlanting/Landing.aspx>

[PCC0585]

16. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include (but not limited to) engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

- (a) Vehicular access

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

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

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 138 of the Roads Act 1993 will then NOT be required.

[PCC0895]

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

[PCC0945]

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

- a) The Construction Certificate Application for Building Works shall include a detailed design plans 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.
- d) Specific Requirements to be detailed within the Construction Certificate application include:

- i) Detailed design plans for stormwater management devices;
- ii) Detailed design plans for earthworks and finished carpark levels;
- iii) Consider to include inlet baskets on the proposed carpark pits to decrease the sediment load on the proposed infiltration areas.

[PCC1105]

19. 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]

20. Stormwater

- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
- (b) Disposal of stormwater by means of infiltration devices must be carried out in accordance with Section D7.09 of Tweed Shire Council's Development Design and Construction Specification - Stormwater Quality.
- (c) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- (d) The infiltration rate for sizing infiltration devices shall be 3m per day:
  - \* As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- (e) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (f) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (g) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (h) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (i) All infiltration devices are to 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.

(j) All infiltration devices are to be designed to withstand loading from vehicles during construction and operation of the development.

(k) All infiltration devices are to be located clear of stormwater or sewer easements. [PCC1135]

21. 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.

[PCC1145]

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

(a) The Construction Certificate Application must include a detailed Erosion and Sediment Control Plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.

(b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

23. 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 equal or less than the pre-development condition flowrates. This can be achieved by On site stormwater detention (OSD) utilising above and or below ground storage. OSD devices including discharge control pits (DCP) are to comply with standards in the current version of The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

All stormwater must initially be directed to the DCP. Details are to be submitted with the Section 68 stormwater application.

[PCC1165]

24. Medium density mixed use developments with a combination of residential and non-residential development will be required to provide two water services at the road frontage; one bulk water meter for the residential component of the development and one meter for the non-residential component of the development. Individual metering beyond this point shall be managed by occupants. Application for the meters shall be

made to the supply authority detailing the size in accordance with Plumbing Code of Australia (PCA) 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]

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

[PCC1195]

26. 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]

27. Prior to issue of a Construction Certificate, the applicant is required to demonstrate the proposed stormwater pipe provides the minimum vertical clearance to the existing water main in Beryl Street in accordance with WSAA03-2011.3.1. A Construction Certificate shall NOT be issued by a Certifying Authority unless this requirement has been met.

[PCCNS01]

28. Prior to the issue of a construction certificate a detailed contaminated land site investigation prepared by a suitably qualified person in accordance with NEPM Schedule 1, Part 4 Asbestos Materials in Soil, shall be provided to Council to the satisfaction of the General Manager or his delegate. The report shall demonstrate that the site is free of contamination, or provide a remediation action plan for the site detailing those works required to make the site suitable. All works shall comply with the approved plan.

[PCCNS02]

29. A parking and manoeuvrability plan is to be provided to the PCA. The plan shall include detailed line marking and suitably demonstrate the parking space dimensions and vehicle manoeuvrability complies with AS2890.1. To this extent line marking detail shall ensure the following:

- Tandem parking spaces 9 and 11 on the stamped approved plan are to be allocated to either Apt 2, 3 or 4 (one of the 3 bed apartment).
- Tandem parking spaces 10 and 12 on the stamped approved plan are to be allocated to either Apt. 2, 3, 4 (one of the 3 bed apartment).

- Bicycle storage spaces are to be nominated and provide an area to suitably store a minimum of 10 bikes.

[PCCNS03]

## **PRIOR TO COMMENCEMENT OF WORK**

30. 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]

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

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

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

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

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

- (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
- (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

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

- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
- (ii) notified the principal certifying authority of any such appointment, and
- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

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

[PCW0225]

33. Residential building work:

(a) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

- \* in the name and licence number of the principal contractor, and
- \* the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

- \* the name of the owner-builder, and
- \* if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

(b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

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

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

[PCW0245]

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

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

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

[PCW0255]



36. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design. [PCW0665]
37. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land or is likely to effect the integrity of the adjoining land, the person causing the excavation to be made must comply with the following:
- (a) The person must, at the person's own expense:
    - (i) preserve and protect the building / property from damage; and
    - (ii) if necessary, underpin and support the building in an approved manner.
  - (b) The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work. [PCW0765]
38. A Dilapidation Report detailing the current general condition (including the structural condition) of the adjoining buildings/sites, infrastructure and driveways is to be prepared and certified by a suitably qualified and experienced structural engineer. The Report (supported by recent photos) is to be submitted to and accepted by the Principal Certifying Authority prior to commencement of ANY works on the site. [PCW0775]
39. Prior to commencement of building works a stormwater drainage plan is to be submitted to and approved by the Principal Certifying Authority. [PCW0955]
40. 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]

41. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to
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and approved by the Principal Certifying Authority prior to commencement of building works.

[PCW1005]

42. 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**

43. All proposed works are to be carried out in accordance with the conditions of development consent, any approved Management Plans, approved Construction Certificate, drawings and specifications.

[DUR0005]

44. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.

[DUR0015]

45. 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]

46. 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]

47. 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]
48. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).  
[DUR0375]
49. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
  - (b) The chute shall be located in a position approved by the Principal Certifying Authority.
  - (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.  
[DUR0385]
50. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.  
[DUR0395]
51. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 6.6 of the Environmental Planning and Assessment Act 1979.  
[DUR0405]
52. 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]
53. Excavation
- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
  - (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.  
[DUR0425]
54. If the work involved in the erection or demolition of a building:
- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - (b) building involves the enclosure of a public place,

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

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

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

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

[DUR0435]

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

[DUR0495]

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

[DUR0675]

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

[DUR0815]

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

[DUR0905]

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

[DUR0995]

60. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from:

- Noise, water or air pollution.
- Dust during filling operations and also from construction vehicles.
- Material removed from the site by wind.

[DUR1005]

61. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.  
[DUR1685]
62. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.  
[DUR1695]
63. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.  
[DUR1705]
64. Pursuant to the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility.  
[DUR1725]
65. 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]
66. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.  
[DUR1875]
67. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.  
[DUR2015]
68. 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]
69. 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]

70. During construction, a “Satisfactory Inspection Report” is required to be issued by Council for all s68h2 permanent Stormwater Quality Control Devices, prior to backfilling. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection.  
[DUR2445]
71. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
  - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - (c) external drainage prior to backfilling.
  - (d) completion of work and prior to occupation of the building.
- [DUR2485]
72. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
  - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.
- [DUR2495]
73. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.  
[DUR2505]
74. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.  
[DUR2525]
75. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.  
[DUR2535]
76. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.  
[DUR2545]
77. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50°C in all other classes of buildings.

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

[DUR2555]

78. A hose tap shall be provided adjacent to each grease arrester for the purpose of cleaning the arrester. The water supply shall be fitted with a RPZD for the purpose of back flow prevention.

[DUR2675]

79. The Applicant shall submit the appropriate 'Application for Water Service Connection' form to Council's Water Unit to facilitate a property service water connection for proposed Lot 4 Sec 5 DP 4043, from the existing water main in Beryl Street. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

[DUR2800]

80. All trees that are nominated to be retained (including those on adjoining lands) are to be protected in accordance with the minimum tree protection standards prescribed under AS4970-2009.

[DURNS01]

### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

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

[POC0005]

82. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

83. A final occupation certificate is not to be issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been assessed by a properly qualified person and was found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building.

[POC0225]

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

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

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

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

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

[POC0265]

85. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein). [POC0355]
86. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with. [POC0435]
87. All landscaping work is to be completed in accordance with the approved plans prior to the issue of a final occupation certificate for the building. [POC0475]
88. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications. [POC0755]
89. Upon completion of all works on the site and prior to the issue of an Occupation (including interim) Certificate, a further dilapidation report is to be prepared and certified by a suitably qualified and experienced structural engineer detailing the condition including the structural condition of the adjoining buildings/sites, infrastructure and roads. The dilapidation reports shall take into consideration the findings of the original reports and advise if any damages have occurred that could be attributed to the work the subject of this development consent. If damages have occurred the PCA is to be provided with evidence that the damages have been satisfactorily repaired prior to the issue of an Occupation Certificate (including interim).
- A copy of the dilapidation report is to be provided to the Principle Certifying Authority/Council. [POC0825]
90. Prior to the issue of an Occupation Certificate, the applicant shall produce a copy of the "Satisfactory Inspection Report" issued by Council for all s68h2 permanent Stormwater Quality Control Devices. [POC0985]
91. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works. [POC1045]
92. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met. [POC1055]
93. A total of 13 off-street parking spaces are to be provided, linemarked and maintained for the development. The parking space dimensions and manoeuvring areas are to comply with AS2890.1 and AS2890.2 the Building Code of Australia and the Commonwealth Disability Discrimination Act. Of the 12 spaces, 1 parking spaces for persons with disabilities are to be provided in accordance with AS1428.1. [POCNS01]



94. A Plan of Management must be provided and approved by Tweed Shire Councils General Manager or his delegate. The approved plan of management is to be followed by the boarding house manager(s) and put on display and available at all times to lodgers. The plan is to outline ongoing management that ensures safety and wellbeing of the lodgers, how operations minimise impacts on surrounding neighbours, and complies with the Boarding House Act 2012. [POCNS01]
95. A Plan of Management must be provided and approved by Tweed Shire Councils General Manager or his delegate. The approved plan of management is to be followed by the hotel manager(s) and put on display and available at all times to hotel patrons. The plan is to outline ongoing management that ensures safety and wellbeing of the patrons, how operations minimise impacts on surrounding neighbours. [POCNS02]
96. 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]
97. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise. [USE0175]
98. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises. [USE0225]
99. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer. [USE0245]
100. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street. [USE0435]
101. All commercial / industrial / residential wastes shall be collected, stored and disposed of to the satisfaction of the General Manager or his delegate. [USE0875]
102. The boarding house accommodation shall be operated in accordance with the requirements of Local Government Act (General) Regulation 2005, Schedule 2, Boarding Houses Act 2012 and the Boarding Houses Regulation 2013.

103. The boarding house accommodation shall be operated in accordance with the requirements of Public Health Regulation 2012 Clause 45 and 46.
104. Prior to commencement of operation of the boarding house component, an inspection is to be arranged with Council's environmental Health Officer (Boarding Houses Act 2012 Section 16). [USENS01]
105. No backpacker's accommodation, is permitted in any part of the building. [USENS02]
106. No boarding room is to be occupied by more than 2 adult lodgers. [USENS03]
107. The communal living room nominated on the stamped approved plans is not to be used as a boarding room or bedroom. This room is to be available to all boarding house lodgers occupying the building and used for recreation purposes only. [USENS04]
108. The total number of occupants permitted to be occupying all boarding rooms at any one time is limited to 10 persons. [USENS05]

## AMENDMENT 1

### P 32

Cr K Milne  
Cr C Cherry

### RECOMMENDED that:

- A. Development Application DA18/0663 for a mixed use including commercial, office, hotel suites, boarding house and shop top housing at Lot 4 Section 5 DP 4043 No. 25 Beryl Street, Tweed Heads be approved subject to the following conditions:

### GENERAL

1. The development shall be completed in accordance with the original Statement of Environmental Effects, except where varied by the amended Statement of Environmental Effects of 19 February 2019 except where varied by the amended development received by Council on 3 May 2019 (including a hotel management plan), and the following plans:

Document/Plan Title	Drawn By	Job No	Ref No	Dated
Site Plan	Into Architecture	-	DA02B	03/05/2019
Ground Floor Plan	Into Architecture	-	DA03B	03/05/2019
Level 1 Floor Plan	Into Architecture	-	DA04B	03/05/2019
Level 2 Floor Plan	Into Architecture	-	DA05A	14/01/2019
Level 3 Floor Plan	Into Architecture	-	DA06B	03/05/2019
Level 4 Floor Plan	Into Architecture	-	DA07B	03/05/2019
Roof Plan & Site Plan	Into Architecture	-	DA08A	03/05/2019
Section A	Into Architecture	-	DA09B	03/05/2019
Section B	Into Architecture	-	DA10B	03/05/2019

Elevations North and South	Into Architecture	-	DA11B	03/05/2019
Elevations East and West	Into Architecture	-	DA12B	03/05/2019
Elevations Streetfront	Into Architecture	-	DA13B	03/05/2019
Colours and Materials	Into Architecture	-	DA19A	03/05/2019
Landscape Plan	Into Architecture	-	DA L-01	27/06/2018
Landscape Plan	Into Architecture	-	DA L-02	27/06/2018
Stormwater Notes and Drawing Schedule	Demlakian Engineering	218032	SW00 (P2)	29/06/2018
Stormwater Design	Demlakian Engineering	218032	SW01 (P3)	29/01/2019
Sediment and Erosion control Plan	Demlakian Engineering	218032	SW02 (P3)	29/01/2019
Sediment and Erosion Control Details	Demlakian Engineering	218032	SW03 (P2)	29/06/2018

except where varied by the conditions of this consent.

[GEN0005]

2. Advertising structures/signs to be the subject of a separate development application (where statutorily required).  
[GEN0065]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0115]
4. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. 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]
5. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.  
[GEN0300]
6. All works shall comply with the Work Health and Safety Regulation 2017.  
[GEN0360]
7. Individual boarding rooms are not permitted to be strata subdivided. To this extent 5 boarding rooms (as nominated on the stamped approved plans) are to remain under one (1) management scheme.  
[GENNS01]
8. The driveway is to be constructed (subject to submission and approval under s138 Roads Act) to council's requirements and be at least 3.5m wide at the boundary and splay to 6.5m wide at the kerb.  
[GENNS02]
9. A vertical speed hump is to be installed and maintained within the driveway on the subject lot within 2m of the nature strip.  
[GENNS03]

10. The approved parking is according to the following land use/schedule:

- 10 parking Spaces allocated to Residential component;
- Two spaces allocated to Commercial Office and;
- One space allocated to Boarding House component.

[GENNS04]

11. No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed without prior consent of Tweed Shire Council (as statutorily required).

[GENNS05]

## **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

12. Section 7.11 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 7.11 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

These charges include indexation provided for in the Section 7.11 Contribution Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 7.11 Contribution Plan current at the time of the payment.

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

(a) Tweed Road Contribution Plan:

Hotel, Boarding & Apartment Component  
45.19 Trips @ \$921 per Trips    \$41,619.99  
(\$815 base rate + \$106 indexation)

Commercial Component  
11.76 trips @ \$921 per Trips    \$10830.96 – 40% (\$4332.38) = \$6,498.576

Total TRCP due:   \$48,118.56

(\$4332.38 has been subtracted from this total as this development is deemed an 'Employment Generating Development' )  
CP Plan No. 4  
Sector1\_4

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(b)	Open Space (Casual): 8.75 ET @ \$659 per ET (\$502 base rate + \$157 indexation) CP Plan No. 5	\$5,766
(c)	Open Space (Structured): 6.4584 ET @ \$754 per ET (\$575 base rate + \$179 indexation) CP Plan No. 5	\$4,870
(d)	Shirewide Library Facilities: 8.75 ET @ \$985 per ET (\$792 base rate + \$193 indexation) CP Plan No. 11	\$8,619
(e)	Bus Shelters: 8.75 ET @ \$75 per ET (\$60 base rate + \$15 indexation) CP Plan No. 12	\$656
(f)	Eviron Cemetery: 8.75 ET @ \$140 per ET (\$101 base rate + \$39 indexation) CP Plan No. 13	\$1,225
(g)	Community Facilities (Tweed Coast - North) 8.75 ET @ \$1624 per ET (\$1,305.60 base rate + \$318.40 indexation) CP Plan No. 15	\$14,210
(h)	Extensions to Council Administration Offices & Technical Support Facilities 8.75 ET @ \$2195.88 per ET (\$1,759.90 base rate + \$435.98 indexation) CP Plan No. 18	\$19,213.95
(i)	Cycleways: 8.75 ET @ \$555 per ET (\$447 base rate + \$108 indexation) CP Plan No. 22	\$4,856
(j)	Regional Open Space (Casual) 8.75 ET @ \$1282 per ET (\$1,031 base rate + \$251 indexation) CP Plan No. 26	\$11,218
(k)	Regional Open Space (Structured): 6.4584 ET @ \$4500 per ET (\$3,619 base rate + \$881 indexation) CP Plan No. 26	\$29,063

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- (l) Tweed Heads Master Plan:  
13 MDU @ \$1047 per MDU \$13,611  
(\$1,047 base rate + \$0 indexation)  
CP Plan No. 27
- (m) Tweed Heads Unsupplied Car Parking Space:  
0.33 of a space @ \$32,979 \$10,883.07  
CP Plan No. 23

[PCC0215]

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

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

**BELOW IS ADVICE ONLY**

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

Water: 5.452 ET ET @ \$13,926 = \$75,924.60  
Sewer: 8.688 ET @ \$6,690 = \$58,122.70

[PCC0265]

14. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional runoff or ponding occurring within neighbouring properties. All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

15. A detailed landscape plan shall be submitted with the Construction Certificate application, the plan is to be generally in accordance with the stamped approved landscape plan however demonstrate that the selected species do not comprise of priority weed species and that a minimum 80% of total plant numbers comprised of local native species to the Tweed Shire. Local native species are to comprise appropriate species selected from the Tweed Shire Native Species Planting Guide available online at:  
<http://www.tweed.nsw.gov.au/Controls/NativeSpeciesPlanting/Landing.aspx>

[PCC0585]

16. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include (but not limited to) engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

(a) Vehicular access

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

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

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 138 of the Roads Act 1993 will then NOT be required.

[PCC0895]

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

[PCC0945]

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

- a) The Construction Certificate Application for Building Works shall include a detailed design plans 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.
- d) Specific Requirements to be detailed within the Construction Certificate application include:
  - i) Detailed design plans for stormwater management devices;
  - ii) Detailed design plans for earthworks and finished carpark levels;
  - iii) Consider to include inlet baskets on the proposed carpark pits to decrease the sediment load on the proposed infiltration areas.

[PCC1105]

19. 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]

20. Stormwater

- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
- (b) Disposal of stormwater by means of infiltration devices must be carried out in accordance with Section D7.09 of Tweed Shire Council's Development Design and Construction Specification - Stormwater Quality.
- (c) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- (d) The infiltration rate for sizing infiltration devices shall be 3m per day:
- \* As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- (e) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (f) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (g) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (h) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (i) All infiltration devices are to 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.



- (j) All infiltration devices are to be designed to withstand loading from vehicles during construction and operation of the development.
- (k) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

21. 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.

[PCC1145]

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

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

[PCC1155]

23. 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 equal or less than the pre-development condition flowrates. This can be achieved by On site stormwater detention (OSD) utilising above and or below ground storage. OSD devices including discharge control pits (DCP) are to comply with standards in the current version of The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

All stormwater must initially be directed to the DCP. Details are to be submitted with the Section 68 stormwater application.

[PCC1165]

24. Medium density mixed use developments with a combination of residential and non-residential development will be required to provide two water services at the road frontage; one bulk water meter for the residential component of the development and one meter for the non-residential component of the development. Individual metering beyond this point shall be managed by occupants. Application

for the meters shall be made to the supply authority detailing the size in accordance with Plumbing Code of Australia (PCA) 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]

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

[PCC1195]

26. 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]

27. Prior to issue of a Construction Certificate, the applicant is required to demonstrate the proposed stormwater pipe provides the minimum vertical clearance to the existing water main in Beryl Street in accordance with WSAA03-2011.3.1. A Construction Certificate shall NOT be issued by a Certifying Authority unless this requirement has been met.

[PCCNS01]

28. Prior to the issue of a construction certificate a detailed contaminated land site investigation prepared by a suitably qualified person in accordance with NEPM Schedule 1, Part 4 Asbestos Materials in Soil, shall be provided to Council to the satisfaction of the General Manager or his delegate. The report shall demonstrate that the site is free of contamination, or provide a remediation action plan for the site detailing those works required to make the site suitable. All works shall comply with the approved plan.

[PCCNS02]

29. A parking and manoeuvrability plan is to be provided to the PCA. The plan shall include detailed line marking and suitably demonstrate the parking space dimensions and vehicle manoeuvrability complies with AS2890.1. To this extent line marking detail shall ensure the following:

- Tandem parking spaces 9 and 11 on the stamped approved plan are to be allocated to either Apt 2, 3 or 4 (one of the 3 bed apartment).

- Tandem parking spaces 10 and 12 on the stamped approved plan are to be allocated to either Apt. 2, 3, 4 (one of the 3 bed apartment).
- Bicycle storage spaces are to be nominated and provide an area to suitably store a minimum of 10 bikes.

[PCCNS03]

30. Prior to issue of a Construction Certificate the applicant is to prepare a revised plan showing:

- a minimum of two boarding rooms capable of being adapted for accessible use; and
- a minimum of two hotel rooms capable of being adapted for accessible use; and
- a minimum of two units capable of being adapted for accessible use.

The plan is to be submitted to Council for approval prior to any Construction Certificate being released.

31. Prior to issue of a Construction Certificate the applicant is to prepare a revised set of elevations depicting additional articulation by way of colours and variety of materials to reduce the dominance of the large blank southern elevation wall and define a more distinctive ground, middle and upper definition of front (street) elevation to reduce the overall mass and bulk. The front elevation may also include landscaping incorporated into the balcony design. The revised elevations are to be submitted to Council for approval prior to any Construction Certificate being released.

32. Prior to issue of a Construction Certificate and as part of the S138 Road Application the applicant is to prepare a streetscape plan which incorporates some landscaping to Beryl Street. This could consider planter boxes and or a reduced awning width to encourage street trees.

### **PRIOR TO COMMENCEMENT OF WORK**

33. 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]

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

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

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

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

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

[PCW0215]

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

[PCW0225]

36. Residential building work:

- (a) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - \* in the name and licence number of the principal contractor, and
    - \* the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - \* the name of the owner-builder, and
    - \* if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

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

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

[PCW0245]

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

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

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

[PCW0255]

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

[PCW0665]

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

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

[PCW0765]

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

[PCW0775]

42. Prior to commencement of building works a stormwater drainage plan is to be submitted to and approved by the Principal Certifying Authority.

[PCW0955]

43. 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]

44. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.

[PCW1005]

45. 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**

46. All proposed works are to be carried out in accordance with the conditions of development consent, any approved Management Plans, approved Construction Certificate, drawings and specifications.

[DUR0005]

47. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.  
[DUR0015]
48. 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]
49. 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]
50. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.  
L<sub>Aeq, 15 min</sub> noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
- B. Long term period - the duration.  
L<sub>Aeq, 15 min</sub> noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.  
[DUR0215]
51. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).  
[DUR0375]
52. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
- (b) The chute shall be located in a position approved by the Principal Certifying Authority.

- (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.

[DUR0385]

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

[DUR0395]

54. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 6.6 of the Environmental Planning and Assessment Act 1979.

[DUR0405]

55. 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]

56. Excavation

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

[DUR0425]

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

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

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

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

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

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

[DUR0435]



58. To ensure the development is correctly positioned on the site, a report prepared by a registered surveyor is to be submitted to the principal certifying authority at footings/formwork stage and at the completion of the structures indicating the development has been correctly positioned on the site in accordance with the approved development consent plans/consent conditions and has been located clear of any easements/sewer main.  
[DUR0495]
59. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake the works.  
[DUR0675]
60. The use of vibratory compaction equipment (other than hand held devices) within 100m of any existing dwelling house, building or structure is strictly prohibited.  
[DUR0815]
61. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.  
[DUR0905]
62. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of an Occupation Certificate.  
[DUR0995]
63. 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]
64. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.  
[DUR1685]
65. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.  
[DUR1695]

66. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia. [DUR1705]
67. Pursuant to the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility. [DUR1725]
68. 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]
69. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1875]
70. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times. [DUR2015]
71. 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]
72. 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]
73. During construction, a "Satisfactory Inspection Report" is required to be issued by Council for all s68h2 permanent Stormwater Quality Control Devices, prior to backfilling. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection. [DUR2445]
74. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
  - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - (c) external drainage prior to backfilling.
  - (d) completion of work and prior to occupation of the building.

[DUR2485]

75. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
  - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.
- [DUR2495]
76. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
- [DUR2505]
77. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.
- [DUR2525]
78. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.
- [DUR2535]
79. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
- [DUR2545]
80. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50°C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.
- [DUR2555]
81. A hose tap shall be provided adjacent to each grease arrester for the purpose of cleaning the arrestor. The water supply shall be fitted with a RPZD for the purpose of back flow prevention.
- [DUR2675]
82. The Applicant shall submit the appropriate 'Application for Water Service Connection' form to Council's Water Unit to facilitate a property service water connection for proposed Lot 4 Sec 5 DP 4043, from the existing water main in Beryl Street. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.
- [DUR2800]

83. All trees that are nominated to be retained (including those on adjoining lands) are to be protected in accordance with the minimum tree protection standards prescribed under AS4970-2009.

[DURNS01]

### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

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

[POC0005]

85. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

86. A final occupation certificate is not to be issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been assessed by a properly qualified person and was found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building.

[POC0225]

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

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

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

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

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

[POC0265]

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

[POC0355]

89. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

90. All landscaping work is to be completed in accordance with the approved plans prior to the issue of a final occupation certificate for the building. [POC0475]
91. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications. [POC0755]
92. Upon completion of all works on the site and prior to the issue of an Occupation (including interim) Certificate, a further dilapidation report is to be prepared and certified by a suitably qualified and experienced structural engineer detailing the condition including the structural condition of the adjoining buildings/sites, infrastructure and roads. The dilapidation reports shall take into consideration the findings of the original reports and advise if any damages have occurred that could be attributed to the work the subject of this development consent. If damages have occurred the PCA is to be provided with evidence that the damages have been satisfactorily repaired prior to the issue of an Occupation Certificate (including interim).
- A copy of the dilapidation report is to be provided to the Principle Certifying Authority/Council. [POC0825]
93. Prior to the issue of an Occupation Certificate, the applicant shall produce a copy of the "Satisfactory Inspection Report" issued by Council for all s68h2 permanent Stormwater Quality Control Devices. [POC0985]
94. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works. [POC1045]
95. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met. [POC1055]
96. A total of 13 off-street parking spaces are to be provided, linemarked and maintained for the development. The parking space dimensions and manoeuvring areas are to comply with AS2890.1 and AS2890.2 the Building Code of Australia and the Commonwealth Disability Discrimination Act. Of the 12 spaces, 1 parking spaces for persons with disabilities are to be provided in accordance with AS1428.1. [POCNS01]

97. A Plan of Management must be provided and approved by Tweed Shire Councils General Manager or his delegate. The approved plan of management is to be followed by the boarding house manager(s) and put on display and available at all times to lodgers. The plan is to outline ongoing management that ensures safety and wellbeing of the lodgers, how operations minimise impacts on surrounding neighbours, and complies with the Boarding House Act 2012. [POCNS01]
98. A Plan of Management must be provided and approved by Tweed Shire Councils General Manager or his delegate. The approved plan of management is to be followed by the hotel manager(s) and put on display and available at all times to hotel patrons. The plan is to outline ongoing management that ensures safety and wellbeing of the patrons, how operations minimise impacts on surrounding neighbours. [POCNS02]
99. 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]
100. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise. [USE0175]
101. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises. [USE0225]
102. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer. [USE0245]
103. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street. [USE0435]
104. All commercial / industrial / residential wastes shall be collected, stored and disposed of to the satisfaction of the General Manager or his delegate. [USE0875]

105. The boarding house accommodation shall be operated in accordance with the requirements of Local Government Act (General) Regulation 2005, Schedule 2, Boarding Houses Act 2012 and the Boarding Houses Regulation 2013.

106. The boarding house accommodation shall be operated in accordance with the requirements of Public Health Regulation 2012 Clause 45 and 46.

107. Prior to commencement of operation of the boarding house component, an inspection is to be arranged with Council's environmental Health Officer (Boarding Houses Act 2012 Section 16).

[USENS01]

108. No backpacker's accommodation, is permitted in any part of the building.

[USENS02]

109. No boarding room is to be occupied by more than 2 adult lodgers.

[USENS03]

110. The communal living room nominated on the stamped approved plans is not to be used as a boarding room or bedroom. This room is to be available to all boarding house lodgers occupying the building and used for recreation purposes only.

[USENS04]

111. The total number of occupants permitted to be occupying all boarding rooms at any one time is limited to 10 persons.

[USENS05]

B. That the applicant and proponents of this development be asked to consider revising the current plans to incorporate a roof top garden and a green wall.

The roof top garden will require a revised roof pitch (flat), and a new roof access point with a roof top garden plan with management plans linked to one or all of the land uses below.

The green wall is to be located on the southern elevation.

Amendment 1 was **Carried**

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

**AGAINST VOTE - Cr J Owen, Cr W Polglase**

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

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

**AGAINST VOTE - Cr J Owen**

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

Amendment 1 on becoming the Motion was **Carried** - (Minute No P32 refers)

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**2 [PR-PC] Development Application DA18/0485 for Application for a Staged Development Consisting of Three Dwellings over Three Stages (One Dwelling Per Stage) at Lot 3 DP 371134 No. 141 Byangum Road, Murwillumbah**

**P 33**

**Cr P Allsop  
Cr W Polglase**

**PROPOSED** that Development Application DA18/0485 for application for a staged development consisting of three dwellings over three stages (one dwelling per stage) at Lot 3 DP 371134 No. 141 Byangum Road, Murwillumbah be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos DA2.0 issue E, DA2.3 issue E, DA2.4 issue E, DA(1)2.0 issue E, DA(1)2.1 issue E, DA(1)3.0 issue E, DA(1)3.1 issue E, DA(1)4.0 issue E, DA(2)2.0 issue C, DA(2)2.1 issue C, DA(2)3.0 issue C, DA(2)3.1 issue C, DA(2)4.0 issue C, DA(3)2.0 issue C, DA(3)2.1 issue C, DA(3)3.0 issue C, DA(3)4.1 issue C, DA(3)5.0 issue C, prepared by iphorm and dated September, except where varied by the conditions of this consent.  
[GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0115]
3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the Developer's expense.  
[GEN0135]
4. A sewer manhole is present on this site. Manholes are not to be covered with soil or other material.  

Should adjustments be required to the sewer manhole, then applications for these works must be submitted on Council's standard Section 68 Application 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. The owner is to ensure that the proposed dwellings are constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.  
[GEN0300]



6. Bushfire Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- (a) Construction shall comply with Australian Standard AS3959-2009 'Construction of buildings in Bush Fire-prone areas', Bushfire attack Level (BAL) 12.5 for each dwelling.
- (b) The development is to be completed in accordance with the Bushfire threat Assessment Report prepared by Bushfire Certifiers dated 10 January 2018 Ref:8/002.

[GEN0335]

7. A minimum 3.0 metre easement shall be created over ALL the existing public sewerage infrastructure on the lot.

8. Water and sewerage reticulation for all dwellings shall be connected so that there is only connection to Council's public water and sewer infrastructure.

[GENNS01]

9. The development is to be in accordance with the Stormwater Management Plan by Northern Rivers Structure consulting engineers dated 18 April 2019.

[GENNS01]

10. Geotechnical investigations and assessment of the subject site shall be in accordance with the recommendations and requirements as specified in the Geotech Investigations Pty Ltd report, dated 11 December 2017, except where varied by the conditions of this consent.

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

[GENNS02]

12. Geotechnical investigations and assessment of the subject site shall be in accordance with the recommendations and requirements as specified in the Geotech Investigations Pty Ltd report, dated 11 December 2017, except where varied by the conditions of this consent.

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

[GENNS02]

13. The landscaping is to be undertaken in general accordance with the approved landscaping plans. The landscaping must contain no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species.

[GENNS03]

14. This consent relates to a staged development as follows:

- Stage 1 relates to the construction of dwelling number 1.
- Stage 2 consists of the construction of dwelling number 2.
- Stage 3 consists of the construction of dwelling number 3.

All conditions within this consent are to be applied to each relevant stage, where applicable.

[GENNS04]

15. No parking of vehicles is permitted within the Right Of Way.

[GENNS05]

## **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

16. Section 7.11 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 7.11 Contributions for each stage have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council (no contributions for stage 1 are required).

**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 2**

- |   |         |
|---|---------|
| (a) Tweed Road Contribution Plan:<br>2.6 Trips @ \$1570 per Trips<br>(\$1,317 base rate + \$253 indexation)<br>CP Plan No. 4<br>Sector9_4 | \$4,082 |
| (b) Open Space (Casual):<br>1 ET @ \$659 per ET<br>(\$502 base rate + \$157 indexation)<br>CP Plan No. 5                                  | \$659   |
| (c) Open Space (Structured):<br>1 ET @ \$754 per ET<br>(\$575 base rate + \$179 indexation)<br>CP Plan No. 5                              | \$754   |

- 
- (d) Shirewide Library Facilities:  
 1 ET @ \$985 per ET \$985  
 (\$792 base rate + \$193 indexation)  
 CP Plan No. 11
  - (e) Bus Shelters:  
 1 ET @ \$75 per ET \$75  
 (\$60 base rate + \$15 indexation)  
 CP Plan No. 12
  - (f) Eviron Cemetery:  
 1 ET @ \$140 per ET \$140  
 (\$101 base rate + \$39 indexation)  
 CP Plan No. 13
  - (g) Community Facilities (Tweed Coast - North)  
 1 ET @ \$1624 per ET \$1,624  
 (\$1,305.60 base rate + \$318.40 indexation)  
 CP Plan No. 15
  - (h) Extensions to Council Administration Offices  
 & Technical Support Facilities  
 1 ET @ \$2195.88 per ET \$2,195.88  
 (\$1,759.90 base rate + \$435.98 indexation)  
 CP Plan No. 18
  - (i) Cycleways:  
 1 ET @ \$555 per ET \$555  
 (\$447 base rate + \$108 indexation)  
 CP Plan No. 22
  - (j) Regional Open Space (Casual)  
 1 ET @ \$1282 per ET \$1,282  
 (\$1,031 base rate + \$251 indexation)  
 CP Plan No. 26
  - (k) Regional Open Space (Structured):  
 1 ET @ \$4500 per ET \$4,500  
 (\$3,619 base rate + \$881 indexation)  
 CP Plan No. 26

**Stage 3**

- (a) Tweed Road Contribution Plan:  
 2.6 Trips @ \$1570 per Trips \$4,082  
 (\$1,317 base rate + \$253 indexation)  
 CP Plan No. 4  
 Sector9\_4

(b) Open Space (Casual): 1 ET @ \$659 per ET (\$502 base rate + \$157 indexation) CP Plan No. 5	\$659
(c) Open Space (Structured): 1 ET @ \$754 per ET (\$575 base rate + \$179 indexation) CP Plan No. 5	\$754
(d) Shirewide Library Facilities: 1 ET @ \$985 per ET (\$792 base rate + \$193 indexation) CP Plan No. 11	\$985
(e) Bus Shelters: 1 ET @ \$75 per ET (\$60 base rate + \$15 indexation) CP Plan No. 12	\$75
(f) Eviron Cemetery: 1 ET @ \$140 per ET (\$101 base rate + \$39 indexation) CP Plan No. 13	\$140
(g) Community Facilities (Tweed Coast - North) 1 ET @ \$1624 per ET (\$1,305.60 base rate + \$318.40 indexation) CP Plan No. 15	\$1,624
(h) Extensions to Council Administration Offices & Technical Support Facilities 1 ET @ \$2195.88 per ET (\$1,759.90 base rate + \$435.98 indexation) CP Plan No. 18	\$2,195.88
(i) Cycleways: 1 ET @ \$555 per ET (\$447 base rate + \$108 indexation) CP Plan No. 22	\$555
(j) Regional Open Space (Casual) 1 ET @ \$1282 per ET (\$1,031 base rate + \$251 indexation) CP Plan No. 26	\$1,282
(k) Regional Open Space (Structured): 1 ET @ \$4500 per ET (\$3,619 base rate + \$881 indexation) CP Plan No. 26	\$4,500

[PCC0215/POC0395/PSC0175]

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

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

**BELOW IS ADVICE ONLY**

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

**Stage 1**

Water = Nil

Sewer = Nil

**Stage 2**

Water = 0.4 ET @ \$13,926 = \$5,570.40

Sewer = 1.0 ET @ \$6,690 = \$6,690

**Stage 3**

Water = 0.8 ET @ \$13,926 = \$11,140.80

Sewer = 1.0 ET @ \$6,690 = \$6,690

[PCC0265]

18. Prior to construction certificate of Stage One, details from a Structural Engineer are to be submitted to the Water Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.
19. Prior to construction certificate of Stages Two and Three, Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.
- [PCC0935]
20. The footings and floor slab to the dwelling/s is/are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.
- [PCC0945]
21. For developments containing less than four attached or detached strata dwellings having a Building Code classification of 1a, each premises must be connected by means of a separate water service pipe, each of which is connected to an individual Council water meter to allow individual metering. Application for the meters shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

[PCC1175]

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

[PCC1195]

23. 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]

24. Prior to the issue of a Construction Certificate for Subdivision Works, 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.

Note:

- (a) Following this, requirements shall be issued by Council under Section 306 of the Water Management Act 2000.
- (b) Following this, any works needing to be undertaken will require a further application to be made to Council under Section 68 of the Local Government Act for the relevant water / sewer works. 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]

25. Prior to Construction Certificate of Stage One, the applicant is required to physically locate the actual location of the 150mm diameter sewer pipeline infrastructure on Lot 3 DP 371134. A Construction Certificate shall NOT be issued by a Certifying Authority unless the Certifying Authority is satisfied that plans show the actual location of the sewer pipelines, actual depth of the sewer dead end and actual depth of the sewer manholes.

26. Prior to Construction Certificate of Stage One, plans shall be provided to the Water Authority to demonstrate that the dwelling structures shall meet the Tweed Shire Council Development Design Specification D15 - Work in Proximity. Plans shall show that footings are located external to the sewer easement and also located below the sewer zone of influence.

[PCCNS01]

27. Safety rails, compliant with the Building Code of Australia are to be provided along the existing retaining wall (adjacent to the driveway) or any new constructed retaining walls where height exceeds 1.0m in height.

[PCCNS02]

28. Safety rails, compliant with the Building Code of Australia are to be provided along the existing retaining wall (adjacent to the driveway) or any new constructed retaining walls where height exceeds 1.0m in height.

[PCCNS02]

### **PRIOR TO COMMENCEMENT OF WORK**

29. 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]

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

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

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

[PCW0215]

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

[PCW0225]

- 32. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:

- \* in the name and licence number of the principal contractor, and
- \* the name of the insurer by which the work is insured under Part 6 of that Act,

- (ii) in the case of work to be done by an owner-builder:

- \* the name of the owner-builder, and
- \* if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

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

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

[PCW0245]

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

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



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

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

[PCW0255]

35. 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]

36. 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**

37. All proposed works are to be carried out in accordance with the conditions of development consent, any approved Management Plans, approved Construction Certificate, drawings and specifications.

[DUR0005]

38. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.

[DUR0015]

39. 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]

40. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.  
L<sub>Aeq, 15 min</sub> noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
  - B. Long term period - the duration.  
L<sub>Aeq, 15 min</sub> noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
- [DUR0215]
41. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).
- [DUR0375]
42. Building materials used in the construction of the dwelling/s is/are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.
- [DUR0395]
43. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 6.6 of the Environmental Planning and Assessment Act 1979.
- [DUR0405]
44. 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]
45. Excavation
- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
  - (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- [DUR0425]
46. The finished floor level of the building should finish not less than 225mm above finished ground level.
- [DUR0445]
47. The development is to be carried out in accordance with the current BASIX certificate/s and schedule of commitments approved in relation to this development consent.
- [DUR0905]

48. 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]
49. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1875]
50. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.
- [DUR1945]
51. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.
- [DUR2015]
52. 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]
53. All waste shall be collected, stored and disposed of in accordance with the provisions of Tweed Shire Council Development Control Plan Section 15 - Waste Minimisation and Management.
- [DUR2195]
54. 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]
55. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
  - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - (c) external drainage prior to backfilling.
  - (d) completion of work and prior to occupation of the building.
- [DUR2485]
56. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.

- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

57. An isolation cock is to be provided to the water services for each dwelling in a readily accessible and identifiable position.

[DUR2505]

58. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

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

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

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

[DUR2555]

60. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

61. The Applicant shall submit the appropriate 'Application for Water Service Connection' form to Council's Water Unit to facilitate a property service water connection for proposed Lot 3 DP 371134, from the existing water main in Byangum Road. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

[DUR2800]

62. Works in the vicinity of public infrastructure must comply with the following requirements;

- a) No portion of any structure may be erected within any easement or within one metre where no easement exists for public infrastructure over the subject site. All structures shall be designed and sited such that all structure loads will be transferred to the foundation material outside of the zone of influence of any public infrastructure.
- b) Surface treatment over the sewer pipe shall be limited to soft landscaping, noninterlocking paving, asphalt or similar treatments as specified by Council officers, to allow ready access to the pipe for excavation. Council will not be responsible for the reinstatement of plantings, unauthorised structures or decorative surfacing in the vicinity of the pipe in the event of pipe excavation or other maintenance works.
- c) Any fencing erected across the sewer main shall be designed and constructed with removable panels and footings located at least 1.0 metres horizontally clear of sewer main.

- d) Trees and other landscaping that will grow to over one metre in height at maturity are not permitted within the sewer easement or within one metre of the sewer if no easement exists, to prevent the tree roots intruding into sewer mains and internal sewer pipes. Landscaping over the sewer shall be of a minor nature designed to ensure they do not damage or interfere with any part of the pipeline.

[DURNS01]

## PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

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

[POC0355]

65. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:

- (a) The use of any accommodation shall be limited to only the people permitted by the restrictions of occupation provisions under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

[POC0860]

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

[POC1045]

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

[POC1055]

68. Prior to the issue of an Occupation Certificate, documentary evidence shall be provided to Council to confirm the registration of Easements for services, Rights Of Carriageway and Restrictions As To User, as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:

- (a) A 3m wide easement is to be registered over the existing sewer in favour of Council.

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

[POCNS01]

## USE

69. 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]
70. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise. [USE0175]
71. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises. [USE0225]
72. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street. [USE0435]
73. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building. [USE0735]
74. All wastes shall be collected, stored and disposed of to the satisfaction of the General Manager or his delegate. [USE0875]
75. All commercial / industrial / residential wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate. [USE0875]

## AMENDMENT 1

### P 34

Cr C Cherry

Cr K Milne

**RECOMMENDED** that this item be deferred for an on-site meeting with the proponent and the neighbouring residents to negotiate on an outcome that better addresses the concerns of the neighbours.

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

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

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

The Amendment 1 becoming the Motion was **Carried** on the Casting Vote of the Mayor (Minute No P34 refers)

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**3 [PR-PC] Development Application DA18/1056 for a Secondary Dwelling over Existing Shed and Carport at Lot 22 Section 8 DP 30043 No. 34 Hastings Road, Bogangar**

**P 35**

**Cr P Allsop**  
**Cr R Cooper**

**RECOMMENDED** that Development Application DA18/1056 for a secondary dwelling over existing shed and carport at Lot 22 Section 8 DP 30043 No. 34 Hastings Road, Bogangar be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects (undated) and the following plan prepared by Parameter Designs and dated 18 March 2019, except where varied by the conditions of this consent:

Plan No 2224D, Sheet 1 - Site Plan

Plan No 2224D, Sheet 5 - Secondary dwelling & carport floor plans

Plan No 2224D, Sheet 6 - Secondary dwelling & carport elevations

Plan No 2224D, Sheet 7 - Secondary dwelling section

Plan No 2224D, Sheet 8 - Carport section.

[GEN0005]

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

[GEN0115]

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

[GEN0135]

4. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.  
[GEN0300]
5. Water and sewerage reticulation for the secondary dwelling shall be connected to the existing internal water and sewerage of the lot, ensuring the lot only has one connection to Council's public water and sewer infrastructure.  
[GEN0135]
6. The car port shall remain open on three sides and shall not be enclosed or fitted with a door, gate or enclosing device or any kind.  
[GENNS02]

### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

7. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a Construction Certificate.  
[PCC1195]
8. 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]

9. Prior to the issue of a Construction Certificate, amended plans for the secondary dwelling shall be submitted to the Principal Certifying Authority providing for a privacy screen with a minimum height of 2.4m above finished floor level on the front (south-eastern) elevation of the verandah for a distance of 1.5m from the north eastern side elevation as annotated on the stamped plans.
10. Prior to issue of Construction Certificate the applicant is to submit to the Principal Certifying Authority a list of the finished building colours for the secondary dwelling for approval.

Acceptable colours for the weatherboard are white, cream, light sandstone, pastel shades of blue, brown and purple/magenta. The roof of the secondary dwelling and carport shall match that of the existing dwelling.

[PCCNS01]



## PRIOR TO COMMENCEMENT OF WORK

11. 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]
12. The erection of a building in accordance with a development consent must not be commenced until:
- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (c) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
    - (ii) notified the principal certifying authority of any such appointment, and
    - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work. [PCW0215]
13. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing. [PCW0225]
14. Residential building work:
- (a) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to

which the work relates (not being the council) has given the council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

- \* in the name and licence number of the principal contractor, and
- \* the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

- \* the name of the owner-builder, and
- \* if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

(b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

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

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

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

[PCW0255]

## **DURING CONSTRUCTION**

16. All proposed works are to be carried out in accordance with the conditions of development consent, any approved Management Plans, approved Construction Certificate, drawings and specifications.

[DUR0005]

17. 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]

18. 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]

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

[DUR0375]

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

[DUR0395]

21. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 6.6 of the Environmental Planning and Assessment Act 1979.

[DUR0405]

22. 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]

23. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Work Health and Safety Regulation 2017.

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

[DUR0645]

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

[DUR0905]

25. 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]
26. In the event that excavation on site extends more than 1 metre below the natural ground level, all works shall be carried out in accordance with Councils Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works.
- [DUR1075]
27. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1875]
28. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.
- [DUR2015]
29. 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]
30. Air conditioning units and the like shall be located, installed and operated so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2017.
- [DUR2835]
31. Works in the vicinity of public infrastructure must comply with the following requirements;
- a) No portion of any structure may be erected within any easement or within one metre where no easement exists for public infrastructure over the subject site. All structures shall be designed and sited such that all structure loads will be transferred to the foundation material outside of the zone of influence of any public infrastructure.
- [DURNS01]

## **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

32. Prior to issue of an Occupation Certificate, all works/actions/inspections etc required at that stage by other conditions or any approved Management Plans or the like shall be completed in accordance with those conditions or plans.
- [POC0005]

33. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [POC0205]
34. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein). [POC0355]
35. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with. [POC0435]
36. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works. [POC1045]
37. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met. [POC1055]

## USE

38. 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]
39. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise. [USE0175]
40. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises. [USE0225]
41. Upon receipt of a noise complaint related to the use of the secondary dwelling that Council deems to be reasonable, the owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer. [USE0245]

42. The shed must not be used for human habitation or occupation, and must only be used in association with the use of the principal dwelling.

[USE0475]

43. Subdivision of the development, including strata subdivision, is not permitted.

[USE1255]

The Motion was **Carried**

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

**AGAINST VOTE - Cr C Cherry**

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

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**4 [PR-PC] Lot 156 Creek Street Hastings Point - Consideration of Buffers, Potential Subdivision Configuration and Residual Riparian Lands**

**ALTERNATE MOTION**

**P 36**

**Cr K Milne  
Cr C Cherry**

**RECOMMENDED** that:

1. The Tweed Shire Council Preferred Site Plan (Figure 2) and Preferred Subdivision Configuration (Figure 3) is supported for the purpose of informing a new land owner initiated development application over Lot 156 DP 628026 for 11 lot Torrens titled allotments (11 residential lots and 1 dedicated residual riparian lot). This includes a relaxation of the 75m environmental buffer line in the south east and south west corners of the developable envelope to 50m;
2. The lodgement of any future development application be preceded by the withdrawal of the existing DA17/0101 and consultation between the land owner proponent and local residents;
3. Any future development application include the dedication of the residual environmentally significant riparian lands (approximately 16.3ha) to Council which along with any agreed rehabilitation and on-going maintenance costs would be facilitated through a planning agreement. In order to provide the rehabilitation and enhancement of degraded habitat, a detailed rehabilitation plan would form part of a future development application involving an establishment period plus 5 years maintenance commitment by the developer;

4. Any future subdivision development application make provision for:
  - (a) The establishment of a drainage reserve adjoining Creek Street (approximately 36m wide) and between the development site and the western most existing allotment along Creek Street (approximately 18m from allotment to edge of road reserve);
  - (b) A minimum 13.0m road reserve to form the interface edge of the development;
  - (c) A maximum yield of 12 allotments including 10 new residential allotments, creation of an allotment relating to the existing dwelling and creation of a singular residual allotment for environmental protection;
  - (d) Restriction of site fill to achieve minimum required design floor level and stormwater fall;
  - (e) Each lot to demonstrate it can supply gravity sewerage to the existing main in the lot or if this is not possible, to install a private pressure sewerage system with an individual pressure sewer pumping station on each residential lot to connect to Councils existing gravity sewerage system; and
  - (f) Provide water supply services to meet Tweed Shire Council specifications to the lot with the construction of a 100mm water reticulation main from the lot along Creek Street to connect to the existing 250mm trunk water supply main Tweed Coast Road.
5. Whilst Council agrees in principle to the current proposed footprint and numbers of lots, the applicant be requested in the subdivision application process to minimise intrusions into the buffer areas, if possible, through good design of infrastructure such as minimising stormwater detention basins or relocating these basins into the Creek St drainage reserve if appropriate.
6. Any future development application that proposes to increase the number of lots, reduce the size of lots or vary any other developments controls to intensify yield or the development footprint or further impact on the buffer or environmental areas will not be looked on favourably by Council.

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

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

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**5 [PR-PC] Planning Proposal PP19/0003 Amendment to Permit the Staged Development of a New Long-term Tweed Pound and Rehoming Centre**

**P 37**

**Cr K Milne**

**Cr P Allsop**

**RECOMMENDED** that in relation to the Planning Proposal PP19/0003 Amendment to Permit the Staged Development of a New Long-term Tweed Pound and Rehoming Centre:

1. The preparation of a draft planning proposal seeking an amendment to the Tweed Local Environmental Plan 2014, amending the Local Environmental Plan requirements to only require a Part 5 approval relating to a Council pound as the primary use and rehoming centre ancillary to that, is endorsed;
2. Once finalised, the draft planning proposal is to be referred to the NSW Department of Planning and Environment for Gateway Determination, in accordance with s3.34 of the Environmental Planning and Assessment Act 1979;
3. On receipt of the Minister's Gateway Determination Notice to continue, any Gateway conditions or other identified study or work is to be duly completed and included within the material for public exhibition;
4. Public exhibition is to occur for a period of not less than 28 days; and
5. Submissions received during public exhibition are to be reported to Council at the earliest time and detailing the issues raised and a recommended planning response.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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

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**6 [PR-PC] Planning Proposal PP19/0004 and PP19/0005 for Site Specific Amendment to Lot 12 DP 803451 No. 22-38 Florence Street Tweed Heads and Lot 3 SP 74283 and 5 SP 83483 No. 49-61 Bells Boulevard, Kingscliff**

**P 38**

**Cr P Allsop**

**Cr R Cooper**

**RECOMMENDED** that:

1. The intent of the amendments to Tweed Local Environmental Plan 2014 and Tweed City Local Environmental Plan 2012 detailed in this report are endorsed;



2. The planning proposals once prepared are to be referred to the NSW Department of Planning & Environment for a Gateway Determination, in accordance with s3.34 of the *Environmental Planning & Assessment Act 1979*;
3. On receipt of the Minister's Gateway Determination Notice to proceed all, if any, Gateway conditions or other identified study or work is to be duly completed and included within the material for public exhibition;
4. Public exhibition is to occur consistent with the Gateway Determination and for a minimum of 28 days.

The Motion was **Carried**

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

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**7 [PR-PC] Short Term Rental Accommodation - Update on Compliance Actions for Alleged Unauthorised Short Term Rental Accommodation**

**ALTERNATE MOTION**

**P 39**

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

**RECOMMENDED** that:

1. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (a) personnel matters concerning particular individuals (other than councillors).
2. Due to a major increase in complaints regarding unauthorised short term holiday letting activity, Council's Compliance Unit will continue to investigate and deal with these complaints and prioritise taking action on complaints where it can be demonstrated that such uses are having an unreasonable impact on the amenity of adjoining or surrounding neighbours as determined by Council and that Council sends warning letters for those short term holiday lets where the complaints have not relayed any amenity impacts.

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

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

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

**P 40**

**Cr P Allsop**

**Cr K Milne**

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

The Motion was **Carried**

***FOR VOTE - Unanimous***

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

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There being no further business the Planning Committee Meeting terminated at 6.39pm.

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