

Mayor: Cr K Milne

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

Minutes

Planning Committee Meeting Thursday 1 August 2019

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - Section 4.15 Evaluation

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

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

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

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

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

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

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

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

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

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

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

(3A) **Development control plans**

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

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

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

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

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

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

(6) **Definitions**

In this section:

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

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The Meeting commenced at 5.32pm.

IN ATTENDANCE

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

Also present were Mr Troy Green (General Manager), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Mr Michael Chorlton (Executive Manager Finance, Revenue and Information Technology), Mr Shane Davidson (Executive Officer), Ms Stephanie Papadopoulos (Manager Corporate Governance) and Miss Janet Twohill (Minutes Secretary).

ABORIGINAL STATEMENT

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

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

PRAYER

The meeting opened with a Prayer read by Pastor Rob Stuttle, Living Waters Church.

"Dear Lord,

As Council sits today to preside over matters concerning the Tweed Shire, we seek your guidance, your direction and your favour. I thank you Lord that you know every person by name and your Goodness & Kindness is displayed towards the people of this beautiful land that we live in.

As Moses asked of you, so do we. We want to know your ways, know your presence and see Your glory. Guide every decision made here today so that we are directed by the will of Almighty God.

In Jesus name we Pray.

Amen."

APOLOGIES

Attendee Cr R Byrnes has informed the General Manager that his absence is caused by work commitments outside the Shire.

Attendee Cr W Polglase has informed the General Manager that his absence is caused by illness.

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Cr P Allsop
Cr C Cherry

RESOLVED that the apologies of Cr R Byrnes and Cr W Polglase be accepted and the necessary leave of absence be granted.

The Motion was **Carried**

FOR VOTE - Unanimous

DISCLOSURE OF INTEREST

General Manager, Troy Green declared a Non-Significant, Non-Pecuniary Interest in Item 3 Agenda Master (Minutes). The nature of the interest is that Mr Green is a member of Tweed Heads Bowls Club. Mr Green will manage the Interest by staying in the Chambers for this Item.

SUSPENSION OF STANDING ORDERS

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Cr K Milne
Cr C Cherry

RESOLVED that Standing Orders be suspended to deal with Items 1-6 and 10 of the Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

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

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

Nil.

ORDERS OF THE DAY

Nil.

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 1 [PR-PC] Development Application DA19/0265 for a Two Lot Boundary Adjustment including Consolidation of 3 Closed Road Lots at Lot 1 DP 183130, Lots 1-3 DP 1243056 and Lot 1 DP 583624 No. 520-522 Bakers Road, Byangum

ALTERNATE MOTION

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Cr C Cherry
Cr P Allsop

RECOMMENDED that Council:

1. Grant support for DA19/0265 to be assessed consistently with Councils previous interpretation of Clause 4.1(C)3 prior to receipt of the attached legal advice as this was the interpretation relied on by the applicant when the DA was submitted;
2. Advise the public that all DA's for boundary adjustments not already accepted by Council will be assessed on the new interpretation presented by the legal advice attached to this report;
3. Assess any Development Applications for Boundary adjustments that have already been accepted by Council before 01/08/19 on the interpretation of Clause 4.1(C)3 on their merits and using the interpretation publicly known at the time of their submission; and
4. Report Development Application DA19/0265 for a two lot boundary adjustment including consolidation of 3 closed road lots at Lot 1 DP 183130, Lots 1-3 DP 1243056 and Lot 1 DP 583624 No. 520-522 Bakers Road, Byangum to the next Planning Committee Meeting with draft conditions of consent which address the requirement to not provide an increase in future dwelling opportunities via a restrictive covenant applied to the future lots, which require unanimous support of Council to lift, to enable consideration for the application as proposed.

The Motion was **Carried**

FOR VOTE - Unanimous

ABSENT. DID NOT VOTE - Cr W Polglase, Cr R Byrnes

2 [PR-PC] Development Application DA19/0104 for an Attached Dual Occupancy and Two Swimming Pools at Lot 14 Section 6 DP 758571 No. 65 Kingscliff Street, Kingscliff

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**Cr P Allsop
Cr J Owen**

RECOMMENDED that Development Application DA19/0104 for an attached dual occupancy and two swimming pools at Lot 14 Section 6 DP 758571 No. 65 Kingscliff Street, Kingscliff be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and the following plans prepared by Smek Design and dated December 2018, except where varied by the conditions of this consent:

- Site analysis plan (amended in red) M273/DA1.01 Revision B;
- Site development plan M273/DA1.02 Revision C;
- Setback plan M273/DA1.03 Revision A;
- Ground floor plan M273/DA2.01 Revision A;
- First floor plan M273/DA2.02 Revision A;
- Roof plan M273/DA2.03 Revision A;
- Elevations M273/DA3.01 Revision B;
- Elevations M273/DA3.02 Revision A;
- Section A M273/DA4.01 Revision A;
- Section B M273/DA4.02 Revision A;
- Laneway fence elevation (not dated).

The development is to be carried in the following stages:

- Stage 1 being the construction of the dual occupancy;
- Stage 2 being the construction of the pools and front fencing.

[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. This development consent does not include demolition of the existing structures on the subject site. A separate approval will need to be obtained for this purpose, as statutorily required. [GEN0305]
6. Vegetation removal shall be limited to that prescribed in the Arborists Report for 65 Kingscliff Street Kingscliff, prepared by TPZ Project Arborists and dated 12 June 2019, to facilitate the construction of the dwelling house. All other trees identified as “retain” shall retained and protected during construction in accordance with the recommendations of the Arborists Report prepared by TPZ Project Arborists for 65 Kingscliff Street dated 12 June 2019, unless otherwise approved by Council's General Manager or their delegate. [GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. 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 receipt confirming payment.

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

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

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

- | | |
|--|---------|
| (a) Tweed Road Contribution Plan: | |
| 1.3 Trips @ \$1354 per Trips | \$1,760 |
| (\$1,137 base rate + \$217 indexation) | |
| CP Plan No. 4 | |
| Sector6_4 | |

(b) West Kingscliff - Drainage: 0.0096 HA @ \$81789 per HA (\$5,664.10 base rate + \$76,124.90 indexation) DCP Section B4 CP Plan No. 7	\$785.17
(c) Shirewide Library Facilities: 0.75 ET @ \$985 per ET (\$792 base rate + \$193 indexation) CP Plan No. 11	\$739
(d) Bus Shelters: 0.75 ET @ \$75 per ET (\$60 base rate + \$15 indexation) CP Plan No. 12	\$56
(e) Eviron Cemetery: 0.75 ET @ \$140 per ET (\$101 base rate + \$39 indexation) CP Plan No. 13	\$105
(f) Community Facilities (Tweed Coast - North) 0.75 ET @ \$1624 per ET (\$1,305.60 base rate + \$318.40 indexation) CP Plan No. 15	\$1,218
(g) Extensions to Council Administration Offices & Technical Support Facilities 0.75 ET @ \$2195.88 per ET (\$1,759.90 base rate + \$435.98 indexation) CP Plan No. 18	\$1,646.91
(h) Cycleways: 0.75 ET @ \$555 per ET (\$447 base rate + \$108 indexation) CP Plan No. 22	\$416
(i) Regional Open Space (Casual) 0.75 ET @ \$1282 per ET (\$1,031 base rate + \$251 indexation) CP Plan No. 26	\$962
(j) Regional Open Space (Structured): 0.75 ET @ \$4500 per ET (\$3,619 base rate + \$881 indexation) CP Plan No. 26	\$3,375

[PCC0215]

8. 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.
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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: 0.6 ET @ \$11,091 = \$6,654.60

Sewer: 1.0 ET @ \$7,173 = \$7,173.00

[PCC0265]

9. A detailed Plan of Landscaping containing no priority weed species and with a minimum 80% of total plant numbers comprised of local native species to the Tweed Shire is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. Local native species are to comprise appropriate species selected from the Tweed Shire Native Species Planting Guide available online at: <http://www.tweed.nsw.gov.au/Controls/NativeSpeciesPlanting/Landing.aspx>
[PCC0585]
10. 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]
11. 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]
12. 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]
13. Where any existing sewer junctions are to be disused on the site, the connection point shall be capped off by Council staff. Applications shall be made to Tweed Shire Council and include the payment of fees in accordance with Councils adopted fees and charges.
[PCC1235]
14. Prior to the issue of a Construction Certificate, the existing sewer junction of Lot 14 Sec 6 DP 758571 shall be shown on the final design plans.
[PCCNS01]

15. Prior to issue of a Construction Certificate for Stage 2 of the works (construction of the 2 swimming pools, pool coping and front fencing), the Applicant must provide to Essential Energy, for its approval, plans prepared by an Accredited Service Provider (Level 3 Designer) to show the proposed underground powerline connections to each dual occupancy. These plans must comply with *ISSC 20*, any relevant Australian Standards and/or Essential Energy internal policies.

[PCCNS02]

16. Prior to the issue of a Construction Certificate for Stage 2 of the works (construction of the 2 swimming pools, pool coping and front fencing), evidence of all approvals required by Essential Energy must be provided to the Principal Certifying Authority.

[PCCNS03]

PRIOR TO COMMENCEMENT OF WORK

17. 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]

18. 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]

19. 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]

20. 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]

21. 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]

22. 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]

23. 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]

24. 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]

25. To ensure the building and any associated structures are correctly positioned on the site in accordance with the Development Consent, a report prepared by a registered surveyor is to be submitted to the principal certifying authority at footing stage and at the completion of the building.

[DURNS01]

DURING CONSTRUCTION

26. 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]

27. 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]

28. 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]

29. 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]

30. 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]
31. 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]
32. 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]
33. 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]
34. 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]
35. The finished floor level of the building should finish not less than 225mm above finished ground level.
[DUR0445]
36. 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]

37. 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]

38. 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]

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

[DUR0995]

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

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

[DUR1005]

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

[DUR1015]

42. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

43. 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]

44. Swimming Pools (Building)

(a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 - 2012 & AS 1926.3 -2010 & AS 1926.2-2007, the Swimming Pool Act 1992 and the Swimming Pool Regulation 2008.

(b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.

- (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
 - (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.
 - (e) Once your pool or spa is complete please register it at www.swimmingpoolregister.nsw.gov.au.
[DUR2075]
45. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.
[DUR2085]
46. 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]
47. 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]
48. 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]
49. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
[DUR2505]
50. 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]
51. 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]

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

[DUR2835]

53. The occupier of any premises in or on which a swimming pool (not including a spa pool) is being constructed must ensure that a sign is erected and maintained that:

- (a) bears a notice containing the words "This swimming pool is not to be occupied or used", and
- (b) is located in a prominent position in the immediate vicinity of that swimming pool, and
- (c) continues to be erected and maintained until a relevant occupation certificate or a certificate of compliance has been issued for that swimming pool.

Maximum penalty: 5 penalty units.

Note. The signage requirements in subclause (3) are in addition to any signage that may be required under the *Environmental Planning and Assessment Act 1979* or any other Act.

[DUR2845]

54. All landscaping is to be undertaken in accordance with the approved detailed plan of landscaping.

[DURNS01]

55. A Project Arborist who holds an Australian Qualification Framework Level 5 Arboriculture certificate must be appointed prior to commencement of any works onsite to:

- a. Oversee all arboricultural management works and measures in accordance with the Arborists Report for 65 Kingscliff Street prepared by TPZ Project Arborists and dated 12 June 2019, and Australian Standard AS4970 - 2009 Protection of trees on development sites.
- b. Recommend and supervise any required remedial works; and
- c. Certify works upon completion of the project.

[DURNS02]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

56. 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]

57. 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]
58. 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]
59. 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]
60. Upon completion of the pool the builder is to submit to the Principal Certifying Authority a certificate stating that the "Water Recirculation System" has been installed in accordance with AS 1926.3-2010. [POC0905]
61. 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]
62. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met. [POC1055]
63. The swimming pool or spa is required to be registered at www.swimmingpoolregister.nsw.gov.au prior to the issue of any occupation certificate for the swimming pool or spa. [POC1100]
64. Prior to the issue of an Occupation Certificate, the nominated Project Arborist shall provide to Council's General Manager or delegate a certification report that includes the following information:
- a. Confirmation that all works have been undertaken in general accordance with Australian Standard AS4970 - 2009 Protection of trees on development sites, industry best standards, the approved Arborists Report for 65 Kingscliff Street prepared by TPZ Project Arborists and dated 12 June 2019, and details of any remedial actions recommended/undertaken by the Project Arborist to avoid/minimise disturbance of existing vegetation.
 - b. Brief assessment of the condition of the trees, details of any deviations from approved essential tree protection management actions/measures, any on-going management measures for retained trees and if applicable, evaluation of any remedial actions undertaken to mitigate impact on existing vegetation as a result of project works. [POCNS01]

USE

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

[USE0125]

The Motion was **Carried**

FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr W Polglase, Cr R Byrnes

- 3 [PR-PC] Development Application DA17/0733 for a Two Lot Subdivision and Associated Civil Works at Lot 12 DP 803451 and Lot 121 DP 548088 No. 22-38 Florence Street, Tweed Heads**

DISCLOSURE OF INTEREST

General Manager, Troy Green declared a Non-Significant, Non-Pecuniary Interest in Item 3 Agenda Master (Minutes). The nature of the interest is that Mr Green is a member of Tweed Heads Bowls Club. Mr Green will manage the Interest by staying in the Chambers for this Item.

ALTERNATE MOTION

P 45

Cr P Allsop
Cr C Cherry

PROPOSED that Development Application DA17/0733 for a two lot subdivision and associated civil works at Lot 12 DP 803451 and Lot 121 DP 548088 No. 22-38 Florence Street, Tweed Heads be deferred for a workshop. Board Members and the General Manager of the Tweed Heads Bowls Club to be invited to attend the workshop.

AMENDMENT 1

P 46

Cr J Owen
Cr P Allsop

RECOMMENDED that Council request that Tweed Heads Bowls club gives consideration to withdrawing the DA within 21 days and speaking to their members and board about ways in which they can:

1. Work with council staff to address current concerns in relation to car parking and satisfy car parking obligations for the site;

2. Resubmit DA when satisfactory options have been determined and the matter be reported to Council for determination; and
3. Should the Club not elect to withdraw the application and resolve the shortfall in parking requirements then the matter be determined under delegated authority.

Amendment 1 was **Carried**

FOR VOTE - Unanimous

ABSENT. DID NOT VOTE - Cr W Polglase, Cr R Byrnes

Amendment 1 on becoming the Motion was **Carried** - (Minute No **P46** refers)

FOR VOTE - Unanimous

ABSENT. DID NOT VOTE - Cr W Polglase, Cr R Byrnes

- 4 **[PR-PC] Development Application DA19/0099 for a Change of Use to Dual Use (Tourist and Permanent Residential) for 27 Units Creating Shop Top Housing at Lots 1, 2, 3, 7, 8, 11, 19, 22, 24, 25, 26, 27, 28, 29, 33, 34, 36, 40, 42, 44, 45, 46, 47, 50, 51 and 54 in SP 77096 No. 2-6 Pandanus Parade, Cabarita Beach**

P 47

Cr C Cherry

Cr K Milne

RECOMMENDED that Development Application DA19/0099 for a change of use to dual use (tourist and permanent residential) for 27 units creating shop top housing at Lots 1, 2, 3, 7, 8, 11, 19, 22, 24, 25, 26, 27, 28, 29, 33, 34, 36, 40, 42, 44, 45, 46, 47, 50, 51 and 54 in SP 77096 No. 2-6 Pandanus Parade, Cabarita Beach be refused for the following reasons:

1. The development does not satisfy Section 4.15(1) of the Environmental Planning and Assessment Act 1979, particularly Section (a)(iii) – the provisions of any Development Control Plan in that the development is inconsistent with the Development Control Plan Section A2 – Site Access and Parking Code of the Tweed Development Control Plan 2008 as:
 - a) The site has a shortfall in the required onsite parking;
 - b) The area is currently subject to high demand for recreational use experienced with the beach foreshore;
 - c) The subject site is within a tourist dominated precinct and has a high increase in visitors in summer (beach goers, markets, hotel patronage, nippers carnivals etc.) a shortfall in parking would be problematic;
 - d) The onsite parking is within an existing basement and is not highly visual/known; and

- e) The commercial precinct itself is small in scale and is comprised of a Woolworth's shopping centre, a number of small retail premises, cafes, restaurants and a hotel, beyond the commercial area are residential land uses, overflow of parking for tourists accessing the foreshore/commercial precinct would create conflict of uses.
2. The development does not satisfy Section 4.15(1) of the Environmental Planning and Assessment Act 1979, particularly Section (a)(i) – the provisions of any Environmental Planning Instruments in that the application has not considered SEPP 65 – The Design Quality of Residential Flat Development.
3. The development does not satisfy Section 4.15 of the Environmental Planning and Assessment Act, particularly Section 1(e) - *the public interest* in that the development is not considered to be in the public interest.

The Motion was **Carried** - (Minute No **P47** refers)

FOR VOTE - Unanimous

ABSENT. DID NOT VOTE - Cr W Polglase, Cr R Byrnes

AMENDMENT 1

P 48

Cr P Allsop

Cr J Owen

PROPOSED that Development Application DA19/0099 for a change of use to dual use (tourist and permanent residential) for 27 units creating shop top housing at Lots 1, 2, 3, 7, 8, 11, 19, 22, 24, 25, 26, 27, 28, 29, 33, 34, 36, 40, 42, 44, 45, 46, 47, 50, 51 and 54 in SP 77096 No. 2-6 Pandanus Parade, Cabarita Beach be deferred for a workshop.

Amendment 1 was **Lost**

FOR VOTE - Cr J Owen, Cr P Allsop

AGAINST VOTE - Cr K Milne, Cr C Cherry, Cr R Cooper

ABSENT. DID NOT VOTE - Cr W Polglase, Cr R Byrnes

5 [PR-PC] Development Application DA19/0232 for a Change of Use of Lot 55 (Unit 402) to Dual Use of Shop Top Housing and Serviced Apartments at Lot 55 SP 77096 No. 55/2-6 Pandanus Parade, Cabarita Beach

P 49

**Cr C Cherry
Cr R Cooper**

RECOMMENDED that Development Application DA19/0232 for a change of use of Lot 55 (unit 402) to dual use of shop top housing and serviced apartments at Lot 55 SP 77096 No. 55/2-6 Pandanus Parade, Cabarita Beach be refused for the following reasons:

1. The development does not satisfy Section 4.15(1) of the Environmental Planning and Assessment Act 1979, particularly Section (a)(iii) – the provisions of any Development Control Plan in that the development is inconsistent with the Development Control Plan Section A2 – Site Access and Parking Code of the Tweed Development Control Plan 2008 as:
 - (a) The site has a shortfall in the required onsite parking;
 - (b) The area is currently subject to high demand for recreational use experienced with the beach foreshore;
 - (c) The subject site is within a tourist dominated precinct and has a high increase in visitors in summer (beach goers, markets, hotel patronage, nippers carnivals etc.) a shortfall in parking would be problematic;
 - (d) The onsite parking is within an existing basement and is not highly visual/known; and
 - (e) The commercial precinct itself is small in scale and is comprised of a Woolworth's shopping centre, a number of small retail premises, cafes, restaurants and a hotel, beyond the commercial area are residential land uses, overflow of parking for tourists accessing the foreshore/commercial precinct would create conflict of uses.
2. The development does not satisfy Section 4.15(1) of the Environmental Planning and Assessment Act 1979, particularly Section (a)(i) – the provisions of any Environmental Planning Instruments in that the application has not considered SEPP 65 – The Design Quality of Residential Flat Development.
3. The development does not satisfy Section 4.15 of the Environmental Planning and Assessment Act, particularly Section 1(e) - *the public interest* in that the development is not considered to be in the public interest.

The Motion was **Carried**

FOR VOTE - Unanimous

ABSENT. DID NOT VOTE - Cr W Polglase, Cr R Byrnes

6 [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 50

**Cr P Allsop
Cr J Owen**

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:
2.6 Trips @ \$1570 per Trips
(\$1,317 base rate + \$253 indexation)
CP Plan No. 4
Sector9_4 | \$4,082 |
| (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

Stage 3

(a)	Tweed Road Contribution Plan: 2.6 Trips @ \$1570 per Trips (\$1,317 base rate + \$253 indexation) CP Plan No. 4 Sector9_4	\$4,082
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(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_{Aeq, 15 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 min} noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
- [DUR0215]
41. 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 51

Cr C Cherry
Cr K Milne

RECOMMENDED 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 deferred to receive legal advice regarding the development's permissibility with regards to being a multi-dwelling development on a battle axe lot. The core of the question is whether DCP A5 applies in regard to multi-dwelling development on battle-axe lots and whether the exemption clause located in DCP A5 applies.

Amendment 1 was **Carried**

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

AGAINST VOTE - Cr J Owen, Cr P Allsop

ABSENT. DID NOT VOTE - Cr W Polglase, Cr R Byrnes

Amendment 1 on becoming the Motion was **Carried** - (Minute No P51 refers)

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

AGAINST VOTE - Cr J Owen, Cr P Allsop

ABSENT. DID NOT VOTE - Cr W Polglase, Cr R Byrnes

10 [PR-PC] Request to Prepare a Planning Proposal - 225 Terranora Road, Banora Point

P 52

Cr K Milne

Cr C Cherry

RECOMMENDED that in respect of the request to prepare a Planning Proposal for Lot 16 DP 856265 at No. 225 Terranora Road, Banora Point, Council endorses that:

1. Council's resolution of 17 November 2016 stands;
2. The proponent be advised that their request is not supported; and
3. The Department of Planning, Industry and Environment be advised of Council's decision and provided with this report and the report of 17 November 2016.

The Motion was **Carried**

FOR VOTE - Unanimous

ABSENT. DID NOT VOTE - Cr W Polglase, Cr R Byrnes

ADJOURNMENT OF MEETING

Adjournment for dinner at 7.05 pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.47pm

RESUMPTION OF STANDING ORDERS

P 53

**Cr K Milne
Cr P Allsop**

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

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

7 [PR-PC] Development Application DA17/0564.01 for an Amendment to Development Consent DA17/0564 for Dwelling Alterations and Additions at Lot 1 DP 1241037 No. 125 River Street, South Murwillumbah

ALTERNATE MOTION

P 54

**Cr P Allsop
Cr J Owen**

RECOMMENDED that Development Application DA17/0564.01 for an amendment to Development Consent DA17/0564 for dwelling alterations and additions at Lot 1 DP 1241037 No. 125 River Street, South Murwillumbah be supported in principle and request a further report and conditions to be presented to Council for determination.

The Motion was **Carried**

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

- 8 [PR-PC] Development Application DA12/0170.16 for an Amendment to Development Consent DA12/0170 for Alterations and Additions to Motel (Staged) at Lot 100 DP 1208306 No. 19-25 Cypress Crescent, Cabarita Beach; Lots 1-2 Sec 4 DP 29748 Nos. 26-28 Tweed Coast Road, Cabarita Beach**

P 55

**Cr J Owen
Cr P Allsop**

RECOMMENDED that Development Application DA12/0170.16 for an amendment to Development Consent DA12/0170 for alterations and additions to motel (staged) at Lot 100 DP 1208306 No. 19-25 Cypress Crescent, Cabarita Beach; Lots 1-2 Sec 4 DP 29748 Nos. 26-28 Tweed Coast Road, Cabarita Beach be approved subject to the following condition being amended:

1. Insert new Condition 113D.1 which reads as follows:

113D.1. Hours of operation of the business are restricted to the hours and days referred to in Condition 113D, except on New Year's Day, when the hours of operation can extend to 2am.

The Motion was **Carried**

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

- 9 [PR-PC] Exhibition of Draft Planning Proposal PP18/0004 Removal of Enabling Clause 7.15 for Water Bottling Facilities**

P 56

**Cr K Milne
Cr C Cherry**

RECOMMENDED that:

1. Planning Proposal PP18/0004, being amendment No. 28 to the Tweed Local Environmental Plan 2014, as updated and provided in Attachment 1, be publicly exhibited.
2. The updated Planning Proposal be exhibited in accordance with the Gateway Determination issued on 13 May 2019, for a period of 28 days and the requirements of the Environmental Planning and Assessment Act 1979 and Regulations 2000.

3. The original wording of the objectives in former Clause 7.15 be included in the criteria for the threshold test for development consent and the Planning Proposal be amended accordingly.

The Motion was **Carried**

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

AGAINST VOTE - Cr J Owen, Cr P Allsop

ABSENT. DID NOT VOTE - Cr W Polglase, Cr R Byrnes

11 [PR-PC] Response to Notice of Motion (NOM) on the Potential for the Planning Policy to require new Development Applications for Service Stations to include Fast Charging Stations

P 57

Cr K Milne

Cr C Cherry

RECOMMENDED that Council:

1. Receives and notes the information, recognising that the provision of electric charging stations is permissible under the existing planning framework and occurring in response to market demand in strategic longer stay public parking areas, away from traditional service stations,
2. Investigates strategic public locations, costs and co-investment opportunities for installing fast charging stations at Tweed Heads, Murwillumbah, Tyalgum and Uki as envisaged by the *Power Up Northern Rivers Electric Vehicle Strategy* including assessment of the optimal ownership and or leasing arrangements for facilities on public land, cost implications and ongoing operational aspects, and
3. Considers within the next programmed review of the residential chapter of the Tweed DCP the inclusion of requirements for all new dwelling house, semi-detached dwelling, dual occupancies, residential flat building, multi-unit dwellings and commercial developments to, where appropriate and possible, install electric vehicle charging infrastructure or the capacity for electric vehicle charging points to be installed at a later time

The Motion was **Carried**

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

AGAINST VOTE - Cr J Owen

ABSENT. DID NOT VOTE - Cr W Polglase, Cr R Byrnes

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

P 58

**Cr C Cherry
Cr P Allsop**

RECOMMENDED that Council notes there are no variations for the month of July 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 W Polglase, Cr R Byrnes

There being no further business the Planning Committee Meeting terminated at 8.14pm.



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